

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR OCTOBER 1, 2003

- A. OPENING BUSINESS
- B. PUBLIC HEARING - 2003 COMP PLAN SUGGESTED AMENDMENTS
- C. STAFF UPDATES
- D. ADJOURNMENT

A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 6:30 p.m. by Chair Tom McNerney. Planning Commission members present were Phil Flynn, Eileen Rogers, Edel Sokol, Jenny Davis, and Robert Morgan. David Whipple and Dennis Schultz were excused.

DCD staff present were Josh Peters, Randy Kline, Karen Driscoll, and Cheryl Halvorson, secretary.

There were about seven members of the public present for portions of the meeting. Most left upon being informed that the hearing would not include the airport noise overlay issue. Those who signed the guest list were C. Monson, Dave Heinzinger, Mary Tyler, and Barney Burke of the Leader.

B. PUBLIC HEARING - 2003 COMP PLAN SUGGESTED AMENDMENTS

Tom McNerney announced that the agenda for this hearing did not include anything on the airport, contrary to the article in the Leader of this date. Barney Burke apologized for the error in the article.

MLA03-209, Jefferson County (Agricultural Lands)

Tom McNerney opened the public hearing to testimony on the Ag Lands proposal. There was no testimony received.

MLA03-210, Jefferson County (Seawater Intrusion)

Tom McNerney opened the public hearing to testimony on the Seawater Intrusion proposal. There was no testimony received.

The Chair announced that the hearings would remain open to testimony for part of the meeting in order to give other members of the public who may arrive a bit late an opportunity to speak.

The Chair invited a report from the Seawater Intrusion Committee.

Phil Flynn stated that he had some questions. The questions related to monitoring, a MOU [memorandum of understanding] with the PUD #1, map progress, and adaptive management.

Phil Flynn referred to Page 2-30 of the Staff Report and SEPA Addendum under Voluntary and Mandatory Measures, #2 Subdivisions, and asked staff to provide an explanation about the status of implementing the first sentence. Josh Peters responded that it was a policy adopted by the BOCC in September, 2002. He stated that, in that policy, there were general policy statements that related to current Comp Plan policy language and there were some new policy statements. Those new policy statements were what we were now trying to integrate into the Comp Plan through this proposal. He stated that there was also language that went straight into the UDC. The subject language to which Mr. Flynn referred was an example of language that went into the UDC. That being said, the UDC had been amended again earlier this year in response to a Hearings Board compliance order. He pointed out that Section 3.6.5 of the UDC was included in the Appendix of the staff report on Page 5-8. That was the language that was in effect. He pointed out that any reference to a net density had been removed. He also noted that the Marrowstone Island subdivision moratorium was also in place. Mr. Peters stated that there were probably some other things in the 2002 policy that were essentially out of

date. That was why staff was recommending that the policy itself sunset as a historical document and that the Comp Plan policies reign supreme as well as the UDC regulations. Mr. Flynn stated that the committee had discussed the issue and he just wanted to bring it up to the full Planning Commission.

Phil Flynn referred to Page 2-32 of the Staff Report and SEPA Addendum in about the middle of the page where it said "Mandatory" under At Risk SIPZ. The pertinent subsection referred to use of an individual well as proof of potable water subject to chloride concentration of a laboratory certified well water sample submitted with the building permit application. The committee had a concern with that in that the person who asked for the building permit would submit a sample. He stated that the committee's thinking was that it would probably fall under Health and it would probably be strengthened. He stated that the concern was that someone could bring in a sample that had been altered. He stated that the committee hoped the Health Department would shore that up a bit so that the county or a contractor or the PUD would take the sample.

Phil Flynn stated that the committee had the same question under High Risk SIPZ.

Phil Flynn referred to Page 2-33 where it addressed a MOU with the PUD. He asked about that. Josh Peters replied that the county had a MOU with the PUD now for voluntary monitoring. Mr. Flynn asked about the 75 wells recommendation from the Planning Commission. Mr. Peters replied that there was no direct connection; it was a non-regulatory, voluntary program. Mr. Flynn asked where the 75-well monitoring program was. Mr. Peters replied that it was nowhere. It was only in a recommendation from the Planning Commission to the BOCC. Eileen Rogers asked when the BOCC would act on that recommendation. Mr. Peters replied that he did not know. He stated that the BOCC acted on the part of the recommendation that had to do with amending the UDC. However, there were some elements of the commission's recommendation that included other things, such as Health policies. Regarding the suggested well monitoring program for 75 wells, Mr. Peters stated that staff provided some cost estimates to the BOCC, but no money had been appropriated by them. Mr. Flynn stated that there was a reference in the policies to "when funding is available".

Josh Peters referred to the County Administrator's budget for 2004. He noted that the County Administrator stated in that budget that he took into consideration the survey that went out to the county residents. The results of that survey did not list land use as a high priority among the citizens in general. Therefore, they were making budget decisions accordingly. Mr. Peters reported that, in fact, Long Range Planning funding was being cut; the department was certainly not receiving more money than the department had last year.

Phil Flynn commented that a question the Planning Commission could ask was whether the Health Department would seek a grant to help with the monitoring program. He questioned how you could establish if there was an increase in degradation, or if there was degradation at all, without a monitoring program. Josh Peters stated that, in terms of a monitoring program, the county had voluntary monitoring through the PUD. We also had, in effect, mandatory monitoring in association with building permits in At Risk or High Risk SIPZ. He stated that there had been no finalized building permits since adoption of the latest code this year. There were some in process. Mr. Peters reported that Dave Christensen of Natural Resources had factored into his budget a certain amount of resources to handle a relatively small number

of building permits. In terms of the Hearings Board, Mr. Peters stated that there was nothing in the GMA that said we must spend "X" amount of money on monitoring wells that were already in existence. It remained to be seen whether that came up in a compliance hearing.

Jenny Davis stated that right now there was a moratorium on subdivision on Marrowstone Island. The only way that could be lifted was if the monitoring program was completed. She stated that the monitoring program needed to continue so that we could determine what was happening on Marrowstone. She stated that right now no one was doing anything to see if there was seawater intrusion or if there was not. Phil Flynn stated that it would take an ongoing monitoring program of up to five years. Ms. Davis stated that the commission had not just suggested using new wells through the building permits. The commission was talking about the 75-well monitoring program. Josh Peters stated that people understood the commission's intentions.

Eileen Rogers stated that the county was trying to make an honest effort to find out if there was indeed salt water intrusion. The only way we could establish a baseline was to start this monitoring program. She stated that we had one group saying there was a tremendous seawater intrusion problem and another group saying there was no problem and the county was trying to find out if there was. She stated that what she heard from staff was that the issue was just sitting idle with no money or resources. She asked if that was true. Josh Peters responded that, to his knowledge, there was no money appropriated for a monitoring program beyond monitoring in association with building permits or the PUD voluntary program. Ms. Rogers stated that the PUD program was separate from what the commission's suggested monitoring program would try to establish. She stated that it cost the residents of Marrowstone Island when you established a moratorium.

Jenny Davis stated that someone had already determined that seawater intrusion already existed on Marrowstone without a monitoring program, hence the moratorium. Phil Flynn stated that there were only two alternatives. One was to do a monitoring program which may prove that degradation is not a factor and, in fact, is not increasing. The other was to develop public water.

Tom McNerney stated that the Hearings Board had said that seawater intrusion must not get any worse. They did not say that there was none. Their order was to stop any further degradation. However, we had no way of knowing if it was getting worse without a monitoring program.

Edel Sokol asked if there was a way that the residents of Marrowstone Island could create a taxing district to pay for the monitoring. Phil Flynn stated that there were a couple of ways. One was a Groundwater Management Area and another was an Aquifer Protection District. He stated that they had not done either one of those. Mr. Flynn stated that he did not know that the PUD had done more than one or two well samples, offering the opinion that was not any type of monitoring program at all.

Phil Flynn stated that another Planning Commission recommendation had been that we re-sample all of the High Risk and At Risk wells in the county in order to establish a modern, new baseline. Mr. Flynn stated that we ought to be at least looking for money from state agencies to further the monitoring program.

Phil Flynn suggested that the Planning Commission should review what its advice to the BOCC was. Jenny Davis commented that it seemed like it should

be a priority. Tom McNerney stated that the Planning Commission did not have to accept or reject the current suggested amendment language; the commission could modify it. He suggested that the Seawater Committee review the suggested amendment further and modify it for full Planning Commission review. It needed to be something the commission would feel could be passed by the BOCC.

Josh Peters stated that when the Planning Commission made the earlier recommendation to the BOCC on the development regulations, the commission included some findings that were generally policy statements. Mr. Peters thought that Mr. McNerney's point was that, if the Planning Commission felt a certain way about policy statements, this may be the opportunity to actually make those recommendations.

Phil Flynn stated that the Seawater Committee would meet and propose some suggested language.

Edel Sokol asked about how a Groundwater Management Area would be formed. Josh Peters replied that his understanding was that you would petition the DOE to form such an area. He stated that it was not a taxing district; it was a mechanism by which stakeholders were brought together to discuss problems and try to reach resolutions. Mr. Peters stated that he knew there had been a few developed in the state. Tom McNerney asked if it had to be done by the DOE. Mr. Peters replied that he believed that, statutorily, DOE would be the agency to set it up. Mr. McNerney stated that he would be surprised if the DOE would have the money to take on such additional work.

Tom McNerney referred to the hearing before the Hearings Board which had occurred a couple of weeks before. He asked if staff had heard anything from them. Josh Peters replied that the county had been told it could take eight to ten weeks. Staff thought the county could expect a response in late October. Mr. McNerney thought that if the Planning Commission revised the suggested amendment now, we might be in a better position when the county heard from the Hearings Board. Mr. Peters agreed that may be possible, if the Hearings Board decision said something about Comp Plan policies. He stated that staff would certainly recommend addressing whatever direction the county was given by the Hearings Board. Unfortunately, the timing was such that he doubted the Planning Commission would have the opportunity to incorporate any Hearings Board decision.

Josh Peters stated that Mr. Flynn had referred to an existing policy that was established in 1998 that talked about "as funding was available". It also had to do with getting more information. He pointed out that it was in ENP 2.8. Mr. Peters stated that, at this point, the Planning Commission could suggest modifying policies or adding new policies related to seawater intrusion. He stated that the current suggested amendment language was an attempt by staff to take whatever statements that were in the 2002 policy document that were not covered in existing general policy language in the Comp Plan and insert statements about them. He noted that one of those was to refer to the Sen's Slope Indicator Test as one of the statistical analysis mechanisms.

Tom McNerney stated that one direction from the Hearings Board had been that the county should put that 2002 policy in the Comp Plan or UDC, which basically meant they wanted it someplace where they had a right to review it. Josh Peters agreed that was basically the direction; to make it a GMA action. He thought the Hearings Board was confused with having a policy document that was not part of the Comp Plan or UDC. He stated that many of the items in

that policy document became part of the UDC, although the adaptive management portion was not part of either the Comp Plan or UDC. Mr. Peters stated that staff had taken that language, refined it a bit, and put it in the Comp Plan where staff thought it appropriate, basically under Goal 3.0.

Tom McNerney asked if the Seawater Committee would have time to develop alternative language. Josh Peters stated that the review timeline had two meetings (October 15 and November 5) after this hearing to arrive at its recommendation to the BOCC. Mr. McNerney suggested that the Seawater Committee could have about a month to arrive at a revised recommendation for the full commission's review.

Phil Flynn referred to Page 2-27 of the staff report which addressed Action Items. He thought some may be modified, but asked what the result would be. Josh Peters replied that it would change the language in the Comp Plan and would lay out a path, if the BOCC accepted the modified language. Tom McNerney asked how much of it would go into the UDC as opposed to the Comp Plan. Mr. Peters responded that it would be up to the Planning Commission to make a judgment about that. Mr. Peters stated that, in his opinion, if we were talking about a monitoring program that was not associated with a building permit, it was a policy decision and not a regulation. Mr. Peters stated that his point was that, even if we had all the money we needed to do all the monitoring we wanted to do, it still did not guarantee the county the ability to get those wells, unless the property owner was willing to let the county come onto their property to take samples. He stated that the Prosecuting Attorney had found cases where a warrant was needed. He did not think that would ever happen, that the county could get a warrant to enter someone's property to monitor a well. Mr. Flynn stated that it had come out several years before that, unless there was a health problem, it would be very difficult to do mandatory monitoring. Mr. McNerney added that either a health problem or an ecology problem might trigger it.

Josh Peters stated that this was a very strange mixture of land use and water resource law. He stated that water resources were handled by the state, but the state passed a law that said counties and cities were responsible for environmental protection, at least to a certain degree. That created a nexus. He stated that counties were responsible for reviewing for potable water when a building permit came in, but counties generally did not require permits to drill a well. In order to drill a well, a person simply had to notify the DOE that they were going to do so. If it was going to serve a house and you were going to use less than 5,000 gallons, you did not need a water right. Mr. Peters stated that there were some regulations about where you could put a well. One of those regulations said the well had to be at least 100 feet away from a sea or salt water intrusion area. He stated that the DOE had told the county that meant the marine shoreline and nothing else. Mr. Peters stated that the DOE could chose to designate all of Marrowstone Island a sea salt water intrusion area and not allow any more wells, but they had not chosen to do that. He did not think they had the data to do it, even though some data indicated there was a problem in certain areas. Phil Flynn stated that he thought the DOE had said it was 100 feet from a shoreline or 100 feet from a High Risk well. Mr. Peters responded that they had accepted this county's interpretation of that WAC, which was their WAC.

Phil Flynn stated the commission would need to strategize on how to do a monitoring program. Jenny Davis stated that mandatory monitoring should not be a topic, because we had talked about that with no results. She thought we needed to talk about voluntary monitoring. She stated that the problem was a lack of public outreach on Marrowstone Island. She thought no one on

Marrowstone Island had a clue about what the commission was talking about. She questioned how people could volunteer when they did not know about the program. Tom McNerney questioned how you could get a scientifically valid sampling to prove or disprove degradation if you had a voluntary basis and had one well in one spot and maybe two or three wells in another. Ms. Davis asked if it was the commission's job to come up with a plan and strategy for how to implement a program. Mr. McNerney responded that the commission's job was to arrive at a recommendation for modification to the Comp Plan and/or the UDC. If the BOCC accepted it, it would be up to the county to implement it.

Edel Sokol offered the opinion that a Groundwater Management Area designation would assist in resolving the problem. Tom McNerney suggested that was one recommendation the commission might make. Jenny Davis stated that she would not want to recommend it until it had been researched. Phil Flynn stated that was something the Seawater Committee could do.

Phil Flynn stated that the problem with the Hearings Board was that they wanted some way of determining what was going on with the wells. Short of monitoring, he did not know how you could accomplish that. The commissioners discussed a monitoring program. Edel Sokol stated that it sounded to her that in order to get 100% monitoring on Marrowstone, a Groundwater Management Area would need to be designated. Mr. Flynn pointed out that did not address the rest of the county, however. He stated that the problem needed to be addressed on a county-wide basis. Josh Peters stated that, from strictly a staff perspective and not a management perspective, it seemed that you would have to budget the resources, either through the budget or a grant, and shift the existing staff priorities or hire someone temporarily or contract it out. Mr. Peters pointed out that the direction on the budget was for no new full time employees being added to the staff. Mr. Flynn stated that the committee would come up with some suggestions.

Tom McNerney re-opened the hearing to testimony on MLA03-209 regarding ag lands. There was none received. He then re-opened the hearing to testimony on MLA03-210 regarding seawater intrusion. There was none received. Mr. McNerney closed the hearing to public testimony on both Comp Plan amendments.

Tom McNerney directed that the Seawater Committee meet and work on the seawater intrusion issue and prepare a report to the full Planning Commission by the first meeting in November.

Tom McNerney reported that the Agricultural Lands Committee had met and reviewed the proposed Comp Plan language, suggested some modifications, and staff had prepared those modifications. Josh Peters stated that the modifications were included in the Staff Report and SEPA Addendum beginning on Page 2-5.

Josh Peters stated that the Agricultural Lands Committee was beginning work on the UDC amendments that would go along with the Comp Plan amendment, although those amendments would not come before the Planning Commission until a later date. He stated that if the BOCC took a different direction from the current Comp Plan amendment, then the UDC amendments would need to be modified as well.

The commissioners briefly discussed whether to make a recommendation on the ag lands amendment at this meeting. Cheryl Halvorson pointed out that the Planning Commission had typically not taken action on an issue at the same meeting as the public hearing on that issue, although it was lawful to do so.

It was noted that the written comment period was open until the close of the public hearing. Ms. Halvorson noted that the county had received no written comments on either of the suggested amendments.

Josh Peters briefly reported on the meeting sponsored by the American Farmland Trust concerning how to save farmlands.

Phil Flynn asked about the effect on the tax roles of this ag lands proposal. Josh Peters replied that zoning did not have a direct influence on property value. The value was more related to the actual use of the land. He stated that there was the Open Space tax program which was separate from zoning. The Open Space tax program would have an effect on the tax roles. He stated that someone could enter that tax program regardless of the zoning. Karen Driscoll stated that she had raised that question with the Assessor because people had been asking her about it. She reported on that conversation. She stated that the value of vacant land may differ depending upon the zoning, citing commercial versus residential land as an example. Ms. Driscoll pointed out that people could practice agriculture, even commercial agriculture, on residentially zoned land, so there would not be a difference in the property values. She stated that there were some subtle differences, however, but she did not think it would make a difference in the value of the land because it may be agriculturally zoned. Ms. Driscoll stated that two examples of subtle differences were the right to farm and the relaxation of the buffer zones.

Phil Flynn stated that his question had to do with whether someone could reduce their taxes through applying for the Open Space tax program based upon their zoning as agriculture, even though their ag property may be small. Karen Driscoll replied that someone could get the tax status reduction without having ag zoning. Ms. Driscoll stated that the question became whether there would be a net loss of revenue to the county. She did not know that there would be a loss, stating that the policy had been in effect before. What was happening was that people were learning about the tax program through their inquiries into this Comp Plan amendment process, so a few more people would probably sign up for the tax program. In answer to Tom McNerney's question, Ms. Driscoll explained how the Open Space tax program worked. If a person changed the status after a given number of years, they had to pay back the taxes for a certain number of years. Tom McNerney pointed out that the tax program was separate from this Comp Plan amendment proposal although it was related.

Tom McNerney stated that the Agriculture Lands Committee had already reviewed this ag lands proposal so the full Planning Commission would take up the proposal at the next meeting for possible approval.

C. STAFF UPDATES

The minutes for September 17, 2003, were approved as submitted.

It was reported that there was one applicant for the vacant Planning Commission District 3 position. That person would be interviewed by the BOCC on October 6. If no appointment was made, then the position would have to be advertised again.

Tom McNerney asked for an update on the UGA planning.

Randy Kline stated that a Fact Sheet on the UGA had been mailed to about 1800 households with the PUD bills. That was the first real public outreach

piece. It provided enough information so that people could decide if they wanted to get more involved. He reported that the PUD would allow the county to put one sheet of double sided paper in each of their monthly bills. Mr. Kline stated that the plan was to send out information in each of the October, November and December PUD bills. The thinking was that it would be an effective way to get the information out to the public in the UGA.

Randy Kline stated that the other information pieces being worked on were a comment form and a frequently asked question sheet [FAQ]. He stated that the UGA Committee had fine tuned his draft and then the BOCC and County Administrator had further suggestions for refinements. He stated that the FAQ was expected to go out in the November PUD bills. Mr. Kline stated that the other item was a survey sheet to try to get some feedback from the citizens of the UGA. He stated that we would begin by sending out the questionnaire to the interested persons who had been attending the UGA Committee meetings as well as some business owners. The purpose would be to get some feedback on the questionnaire itself before doing a general mailing. Along with that document, the Chair had drafted a cover letter.

Tom McNerney handed out a revised questionnaire for consideration. It contained some suggested wording revisions from the previous versions. The suggestions were agreed to by the commissioners.

Tom McNerney handed out a draft cover letter to accompany the questionnaire for consideration. The commissioners suggested a few minor revisions.

Tom McNerney suggested that staff make the corrections and e-mail the revised documents to the Planning Commission for final review and approval. Then the material could be mailed to the interested parties list for feedback prior to sending the questionnaire out to all of the residents in the UGA.

Randy Kline thanked the UGA Committee for working on the questionnaire and FAQ, stating that they were better documents.

Randy Kline reported that staff had developed a dedicated UGA web site. He described some of the information on it.

Randy Kline stated that he would be giving a UGA presentation to the county EDC on October 3. He reported on the other presentations he had done. He stated that through those presentations, the direct mailings, and the planned open houses, staff thought we would have a more effective job of getting the word out than we had in the past.

Randy Kline reported that he had put in an agenda request to the BOCC for October 10 to update them on the UGA public outreach process. He invited the UGA Committee members and any other Planning Commission members to attend.

Edel Sokol suggested that the county do some outreach to the Chimacum High School seniors because they would be looking for jobs and may want to stay in the Tri Area. Randy Kline thought it was a good idea.

Phil Flynn stated that a few months before the UGA Committee had asked for information on the technology for sewers. The committee had not received that information yet. He asked about the status of that request. Randy Kline replied that staff had wound that request into the scope of the general sewer planning. He stated that the consultant was required to consider at least three types of methods and make a recommendation on the one that made the most sense based upon the specific circumstances.

Tom McNerney referred to the draft Planning Commission report to the BOCC on the site-specific Comp Plan amendments. He noted that it did not contain findings of fact and asked that staff prepare them and resubmit the report to the commission for approval. It was pointed out that findings of fact were required under the RCW and the commission's by-laws.

D. ADJOURNMENT

Tom McNerney invited public comment.

Mary Tyler, Irondale, stated that she thought this hearing would be on the airport noise overlay. Tom McNerney stated that the Leader article was in error; it was not on the commission's meeting agenda. Ms. Tyler asked when the Planning Commission might take up that issue. Mr. McNerney stated that the commission would not take up the issue until it received a complete staff report. Randy Kline stated that Ms. Tyler could contact him about the timing on the issue.

There being no other public comments, the Chair closed the public comment period.

The commissioners and staff discussed the agenda for the next meeting. It was pointed out that the commission was up to date on its Comp Plan amendment work, having held hearings on all amendments for which it had received staff reports. The next meeting will be devoted to a discussion and/or recommendation on the suggested amendments and possibly on the Planning Commission report for the site-specific amendments.

The commissioners and staff discussed the meeting schedules for the various Planning Commission committees. It was agreed that the Ag Lands Committee and the Seawater Committee could alternate, using the Monday evenings that were already scheduled at the Tri Area Community Center. Tom McNerney pointed out that the work the Ag Lands Committee was now undertaking was not as critical as the Seawater Committee's work. It was agreed that the secretary would e-mail a schedule of the various meetings to the Planning Commissioners.

The meeting was adjourned at 8:05 p.m.

E. APPROVAL OF MINUTES

These minutes were approved this _____ day of October, 2003.

Thomas McNerney, Chair

Cheryl Halvorson, Secretary