

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR MAY 18, 2005

- A. OPENING BUSINESS**
- B. PRESENTATION/DISCUSSION ON WETLANDS**
- C. PRESENTATION/DISCUSSION ON STREAM TYPING**
- D. ADJOURNMENT**

A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 6:30 p.m. by Vice Chair Jim Hagen. Planning Commission members present were Phil Flynn, Dennis Schultz, Bud Schindler, Peter Downey, Mike Whittaker, and Bill Miller. Allen Panasuk and Edel Sokol were excused.

DCD staff present were Al Scalf, Josh Peters, Neil Harrington, and Cheryl Halvorson, secretary. County Commissioners Pat Rodgers and Phil Johnson were also present.

There were about fifteen members of the public present. Those who signed the guest list were Jill Silver, Norman MacLeod, Susan Porto, Jerry Gorsline, Rian Myers, Pat Pearson, Stephanie Reith, and Jeffree Stewart.

The minutes for April 6, 2005, were approved as submitted.

Concerning the minutes for April 20, 2005, Jim Hagen noted that an item concerning the County-wide Planning Policy [CWPP] had been tabled and was to be taken up again at this meeting. He suggested that the Planning Commission further table that discussion until a later meeting.

Bud Schindler moved that the Planning Commission table the discussion on the CWPP until a future meeting. Phil Flynn seconded the motion which carried unanimously.

Bud Schindler stated that he had some additional questions regarding the CWPP and would hold them until the commission took the issue up again. He stated that he was still of the opinion that the CWPP were no longer needed.

The minutes for April 20, 2005, were approved as submitted.

The Vice Chair invited staff reports.

Al Scalf reported that the department had issued a Final SEIS for redevelopment of the resort area at Port Ludlow. He stated that it was available at the department for the commissioners to review if they wished.

B. PRESENTATION/DISCUSSION ON WETLANDS

Josh Peters introduced several people who would be making presentations on the wetlands issue. They included Gretchen Lux and Donna Bunten, Department of Ecology, and Dr. Robert Crittenden. He stated that a wetland specialist with experience in the new rating system may also be present. Mr. Peters also introduced Ross Goodwin, Department of Natural Resources, who would be talking about the new stream typing system later in the meeting.

Gretchen Lux provided a PowerPoint presentation on DOE's wetlands protection recommendations. Four handouts were provided. One listed links to DOE's guideline documents on wetlands. Another was a copy of the PowerPoint slides. Another was a CD of the Western Washington Wetland Rating System. And a fourth was a blow-up of two of the PowerPoint slides.

Gretchen Lux then made the PowerPoint presentation. She described the three general functions that would be evaluated in the 2004 rating system. They included water quality, hydrologic, and habitat. She described the point system used, which considered both potential and opportunity, and further

described those two issues. She stated that habitat scores were one of the key points in the new rating system. The reason was because they had found that the wider buffer widths they recommended were those that were protective of high and moderate functioning wetland systems. She described the habitat evaluation that would be followed. She noted that DOE did not have a tool for addressing saltwater estuaries; their rating tools were based upon earlier work with functional assessment models in freshwater systems only.

Gretchen Lux stated that, historically, local jurisdictions relied on regulations to protect wetlands by categorizing a wetland and then applying standard buffers. She then began describing strategies for improving wetland protection, including a comprehensive approach and updating regulations based on protections. She described the four step framework for managing and protecting wetlands: (1) Analyze the landscape and its wetlands, (2) Prescribe solutions, (3) Take actions, and (4) Monitor results.

Gretchen Lux discussed examples of landscape scale processes often associated with wetland functions.

Gretchen Lux continued with a discussion of best available science [BAS] and buffers. She stated that the scientific literature was fairly consistent on the issue of buffers and what it took to protect wetlands functions. She described the recommended buffer widths, which were based on a moderate risk approach. She stated that the buffer widths recommendations were based on the category determined by the 2004 rating system, the proposed land use intensity, and the habitat score from the 2004 rating system. A table was displayed that showed a comparison of two recommended buffer strategies based on category and functions determined by the 2004 rating system. She stated that the habitat rating had an impact on the size of the buffer, with low quality habitat having a smaller buffer and high quality habitat having a larger buffer.

Gretchen Lux answered several questions from the commissioners and audience about ratings and possible variability between raters. Ms. Lux stated that, while there were differences between raters, as you would have with any quick assessment tool, the caveats were that the person doing the rating had to have a good natural resources background and they needed to be trained in the rating system. She admitted that it was a process to learn how to use the rating system. Bud Schindler commented that as the complexity grew, the variability and results would also grow. Ms. Lux described the training program DOE was providing.

Gretchen Lux displayed slides depicting examples of types of land use intensity - high, moderate, and low. She then displayed a slide on buffer recommendations based on special wetland characteristics.

Gretchen Lux described the pros and cons of Alternative 3 buffers, which provided for flexible widths and incentives. She discussed a comparison of Jefferson County's current and 2004 draft buffers and DOE's Alternative 3 buffers. Ms. Lux explained the Alternative 3 buffer concept, which used three buffer widths based on habitat scores. There was also an Alternative 3A, which provided a graduated scale of buffer widths based on habitat scores. She then discussed the conditions under which you could decrease the buffer widths.

Following her formal presentation, the commissioners and public held a question and answer period with Ms. Lux. Issues discussed were specific

impacts to be protected against and whether the rating tool could be used in that manner; the frequency of occurrence of wetlands in the landscape and the effect of the associated buffers on the available land; corridors between wetlands through purchase of conservation easements; ways to provide incentives where there was an opportunity to use strategies that connected habitat; the effect of density (parcel size) on the high, moderate, and low rating; whether the 89% of the county that was unavailable for development could be considered a mitigation bank to lighten the regulatory impact on the small percentage (11%) that was available for development; the difference in impacts between wetlands in the lowlands and wetlands in the forest area; how to implement the rating tool and its use by the jurisdiction; and whether there was an impact on the buffers by threatened and endangered species.

An audience member, speaking about the 89% of the county that was unavailable for development, commented that forestry was not a no-risk or low-risk use; it could have great impact on wetlands and habitat. She stated that wetlands provided huge benefits for the landscape in the functions of flood control and water quality. She stated that water would go somewhere and it would cause impacts to the land. She encouraged the Planning Commission to think about the impact downstream from not regulating wetlands.

Al Scalf described how the county currently processed permits as they related to wetlands. Also discussed was what and how things might be done under the new rating system.

Jim Hagen raised the issue of a small county like Jefferson County having the financial wherewithal to fully implement the new rating system and associated regulations. Gretchen Lux responded that she could provide DOE technical support. Al Scalf stated that under the GMA the county had a statutory obligation to implement best available science. In terms of complexity to the staff, he thought it was feasible for the county to take it on. He provided the county's action on the Stormwater Manual as a similar example. Mr. Scalf stated that the key was to get a policy to the BOCC that everyone could agree upon that fit this county. He offered the opinion that wetlands management was not any more difficult than stormwater management.

Josh Peters answered a question about compensatory wetlands. He stated that, currently, the county could reduce a buffer a certain percentage with a habitat management plan.

Dennis Schultz asked if the county was obligated to use the new rating system in evaluating wetlands. Gretchen Lux replied that the county was not; it was up to the jurisdiction to decide how they wanted to characterize the wetlands. Mr. Schultz asked if the county could modify the rating system. Ms. Lux replied that if the rating system was modified, there was no guarantee that it would rate anything the way it was supposed to. She stated that a lot of work went into the rating system to make it calibrated so that it would work like the more extensive and complex model in the assessment tool. Mr. Schultz stated that the second part of his question related to the parcel size issue, stating that one house per acre really did not fit this county. Josh Peters responded that parcel size did not relate to the rating system. He stated that there were three parts. One was the delineation process. The second was the rating system. And the third was how you applied the rating system in the management program. That was where the land use intensity issue came in and was where the county had more discretion.

Bud Schindler asked about a situation where a wetland was created by the improper installation of a culvert. He thought there ought to be something in the regulations that took into account such extenuating circumstances. Also, in his example, the adjoining parcel was now undevelopable because it was inaccessible due to the created wetland. An opinion was offered that such a wetland would have a very low function.

Jim Hagen raised an issue with a very small, naturally occurring wetland (less than 1/10th acre) that may have a high habitat function, for example, that would require a large buffer, which could eliminate most of the land use, especially on a smaller property. Gretchen Lux responded that most small wetlands would not have a high habitat function.

Gretchen Lux discussed the culvert example, stating that a wetland thus created, unless it had been there for many years, would not typically exhibit the basic characteristics of a wetland, which included hydric soils. Such a created wetland would not typically be a jurisdictional wetland. However, sometimes a small existing wetland may be expanded through such development. Ms. Lux stated that there were some nuances to the definition of a jurisdictional wetland that took into consideration extenuating circumstances, such as a road backing up water, which in turn created a wetland.

An audience member asked how the county would handle a situation where the county's wetland expert provided a wetland report that was different from the landowner's expert report. Josh Peters responded that he thought the county would probably require a third opinion, if the two reports were significantly different. Al Scalf stated that the code included a section on special reports and what must be included in such reports. If a report did not include a required item, the report would be turned back to the applicant for completion. Mr. Scalf stated that in the case of dueling peer reviews, the Administrator had the ultimate authority to determine the adequacy of the special reports. If the party was still aggrieved, there was a process for them to follow. Mr. Peters stated that the code specified the qualifications for the preparer of a special report. Mr. Scalf stated that, currently, if the county received a special report from a qualified specialist and the report addressed the ten items specified in the code, the county would accept the report with the professional's signature.

Mike Whittaker commented that Ms. Lux had indicated that the rating system might not work well for a small wetland (less than 4,000 square feet). He asked if there was a threshold size in which the rating system became adequate. Gretchen Lux replied that the rating tool would characterize the wetland. What she meant to indicate was that she would have a hard time imagining a small wetland system that would be a Category I because of the kind of physical structure that had to be there to gain those points. Al Scalf stated that what he heard from the conversation was that such a wetland would probably end up in the low habitat area with small buffers. He stated that what was good for the public was that it had more flexibility, because right now we were very prescriptive. Now with the habitat feature, if a wetland had high quality habitat, of course we wanted to give it high protection. But, if it did not have high habitat, we could drop the buffer width to a lower protection standard.

An audience member commented that she liked the habitat that wetlands provided for birds, frogs, etc. She thought it enhanced her rural character experience to hear the birds and frogs. She offered the perspective that

rather than a landowner being cursed with a wetland, the landowner was really blessed with a wetland, and asked the Planning Commission to consider that.

Rian Myers, principal of Myers Biodynamics, described his experience with the new rating system. He stated that we were certainly left with the estuarine issue, which was not addressed in the new rating system. Al Scalf stated that the estuarine issue would add the facet of fish and wildlife habitat, which would include the threatened and endangered species aspect. Robert Crittenden stated that, while the threatened or endangered species may require the estuary itself, he wondered about the need for a large buffer.

Seasonal wetlands were discussed. Gretchen Lux stated that many seasonal wetlands would be jurisdictional wetlands because they held standing water during the growing season. They may not get many points under the rating system, however.

C. PRESENTATION/DISCUSSION ON STREAM TYPING

Josh Peters introduced Ross Goodwin, Department of Natural Resources, who was to speak on the new stream typing system.

Ross Goodwin explained the differences between the old system and the new system, which came into effect with the Forest and Fish Agreement. He stated that the parameters of the new model would be applied to all of Western Washington and was designed to identify fish habitat.

Ross Goodwin stated that the old system used five stream types and described them. Type I was shorelines of the state as defined by DOE. Types II and III were fish-bearing streams. Type IV were streams that did not contain fish. Type V were seasonal streams.

Ross Goodwin stated that the new typing system would use a lettering system - "S", "F", and "N". "S" stood for streams of the state. "F" stood for fish-bearing streams. "N" stood for non-fish bearing streams and was divided into perennial (the old Type IV) and seasonal (the old Type V).

Ross Goodwin provided information on the field verification trials that were used, stating that they had found that in some places it did model as predicted. In "gray" areas, it either greatly underestimated or overestimated fish habitat. He stated that it was still an ongoing process. Mr. Goodwin stated that the model had been partially implemented on March 1, but they were still able to modify the stream types this year. He stated that once the model was finalized and implemented, it would be very difficult to get a stream type changed.

Bud Schindler asked if the state was in a phase where it was fine-tuning the model. Ross Goodwin replied that the labeling basically converted straight across. He stated that the model was intended to predict fish habitat. He explained that the old system basically just predicted the absence or presence of fish. The new system would be a model to measure habitat. It would do away with shocking.

Jill Silver explained how the new model was developed. The model was based on elevation, gradient, stream width, and fish presence. She stated that "fish" used to be just salmonids. Now it was all species of fish. What it did not take into account was depressed stocks or habitat degradation.

Ross Goodwin explained the reasons and intent behind the new model. He explained that unnatural stream blockages were not counted under the new model. He did not know how natural barriers were tracked. Jill Silver stated that a lot of them were already mapped by the WDFW.

Al Scalf stated that, from a permitting perspective, the county dealt with far more streams than wetlands. He explained how the county used the data, stating that the stream typing came from the DNR. The stream type then determined the buffer width.

Jim Hagen asked about the buffers for streams and whether there was a difference based on the functions and value of the stream within a classification, similar to what was done for wetlands. Josh Peters responded that staff was unaware of a tool that was as sophisticated as the wetland tool in terms of applying graduated buffers. We now had standard buffers for each type of stream. If someone wanted to encroach on that standard buffer, the county would require a more sight specific report through a habitat management plan. Al Scalf described the buffer sizes for the various current stream types. He stated that the county would be taking over Class IV forest practice permits (conversions), which posed another complication to the stream buffers, because forest practices dictated a completely different set of stream buffers.

Ross Goodwin described the differences between a stream and an associated wetland and the buffers that would apply. Josh Peters stated that under the current county code, where there was a confluence of critical areas, the county applied the biggest buffer.

Peter Downey commented that he got the feeling that Mr. Goodwin did not have a lot of confidence in the new model and asked what was being done to raise the level of confidence. Ross Goodwin stated that DNR staff did have concerns, but he did not know what was being done about it. The concerns were the reason the model was not fully adopted.

Jim Hagen raised the issue of how changes to the model would affect any adopted critical areas regulations in the county. Al Scalf stated that one way to do it would be similar to what the county did with the Stormwater Manual, which was to adopt it and regulatorily say "as amended". Then as the model changed, the county would automatically incorporate the new information. The other way would be to adopt a prescriptive regulatory scheme and follow it until the county changed it. Josh Peters stated that the new stream type designations [the labels] had been adopted effective March 1. There may be a situation where there was a question about the proper stream types for certain streams. In the interim period, until the model was further ground-truthed, it may be necessary to field verify a stream.

Mike Whittaker asked whether the buffers would change. Al Scalf stated that issue was still to be addressed. Josh Peters stated that the comment on stream buffers the county received last year actually came from WDFW and not from DNR.

Jim Hagen thanked the presenters for their participation.

Dr. Robert Crittenden cited a 2002 court case against the City of Camas. It created between 25 and 30 new legal doctrines that affected land use management. One of the things it said was that all restrictions on use

permits had to be specific to the parcel, and you had to identify the functions and values you were protecting, and you had to demonstrate the nexus and proportionality, and the onus was on the county. He thought it changed the whole landscape of how critical areas codes needed to be written.

Robert Crittenden discussed the functions and values of buffers. He stated that grass was the best buffer because the grass roots took the nutrients out of the water and trapped particles very effectively. He stated that most of the function and value of a grass buffer was in the first few feet. His review of the literature led him to the idea that the first six to twelve feet of a grass buffer was capable of removing 50% to 80% of the nitrates, depending upon the geography. To get the rest out (20% to 50%), you needed deeper rooted plants. He stated that a buffer should look like six to twelve, or maybe twenty-five, feet of grass and then some forest, perhaps 150 feet of forest. The answer to the question of removing pollutants was to not have the pollutants there in the first place. He described a landowner using organic practices in their parcel, which would result in nothing to buffer. He stated that under the doctrines of the cited court case, if a landowner was using such practices, from the point of view of filtration, you did not need a buffer.

Robert Crittenden discussed the issue of solar loading and the effect on streams. His point was that we did not get that much solar loading in this part of the country. As far as stream temperature was concerned, the county may not have a problem. He stated that shading streams could be accomplished with natural alders in a fairly narrow buffer, offering the opinion that would be sufficient.

Concerning large woody debris, Robert Crittenden stated that naturally occurring log jams caused more problems with flooding and erosion and was devastating to landowners. He stated that what was much better in terms of large woody debris was to have them deliberately placed and to anchor them in place. Then you would get the small pools and habitat that fish needed.

Robert Crittenden stated that a stream could be managed with strategically placed large woody debris that was well anchored and shade trees. He advocated cutting the alders (shade trees) along the stream bank to about four feet in height. That would prevent the trees from falling into the stream and creating unwanted log jams and they would hold the bank against erosion better. He stated that his view of large woody debris was that you only needed a fairly narrow and managed forest buffer. The alders, in particular, would provide a nitrogen source, along with salmon carcasses.

Robert Crittenden stated that wildlife demanded the largest buffers. He stated that the GMA did not say which wildlife must be protected. He did not know whether that direction must come from the state or whether the county could make that determination.

Robert Crittenden discussed micro-climatic zones. The question was how far such a zone existed. He described a micro-climatic zone and its functions.

Jim Hagen thanked everyone for their participation.

D. ADJOURNMENT

The commissioners agreed to delete the UDC Committee item from the agenda and save it for another time.

Josh Peters reviewed the topics for the next two Planning Commission meetings, which would be workshops on other critical areas topics. The June 1 topics would be on channel migration zones and shoreline inventory and analysis. The June 15 topics would be wildlife and conservation planning.

The meeting was adjourned at 9:28 p.m.

E. APPROVAL OF MINUTES

These minutes were approved this _____ day of June, 2005.

Jim Hagen, Vice Chair

Cheryl Halvorson, Secretary