

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR JUNE 21, 2006

- A. OPENING BUSINESS
- B. PUBLIC HEARING (Continued from 6/7/06) - CODE AMENDMENT PROPOSAL FOR PROTECTION OF CRITICAL AREAS, MLA06-242
- C. ADJOURNMENT

A. OPENING BUSINESS

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

DCD staff present were Josh Peters, Rachel McHugh, and Cheryl Halvorson, secretary.

There were about eighty (80) members of the public present. Those who signed the guest list were: Lorna Ward, Don Ward, Catherine Hendy, Kathy Dickson, Dave Dickson, James Fritz, Diane Johnson, Gary Patterson, M. L. Northup, Harold Elyea, N. Corley, Aaron Amsdill, Ian McFall, Gerry McFall, Alan Baldwin, Jim Storey, Cathy Storey, Carol Young, John Anderson, Herb Beck, Fred Beck, Leonard E. Sarin, Robert Barrett, Robert Crittenden, Paul Heinzinger, Clair Candler, John G. Boulton, G. Randy Okerman, Bill Leavitt, Preston Drew, Bill Wheeler, R. K. Alexander, Teren MacLeod, John Hall, Gay Boltinghouse, Jim Pivarnik, Norman MacLeod, Earl Kong, Finis Brewer, Bill Garrett, Melanie D. Lewis, Eric Toews, George R. Hansberry, Dennis Pownall, Fern Strokle, Mike McNickle, Terry Telling, Dick Bergenen, Bill Roesler, Rodger Schmitt, Jill Silver, Denver Shoop, Tom Seavoy, Mike Belenski, Ron Corbin, Bob Pontius, Roger Hauf, Roger Eichman, Larry Hess, Linda Germeau, Tim Hauf, John Stuhlmiller, Roger Short, Gary Joiner, John English, Karen Driscoll, Richard Hildt, John Pontius, and Roger Kitchen.

The minutes for June 7, 2006, were approved as submitted.

There were no staff updates.

The Chair invited committee reports. Dennis Schultz referred to the agricultural lands award the county had received. He stated that he had received a nice certificate. He stated that Jenny Davis, a former Planning Commissioner who worked on the ag lands issue, and Edel Sokol should be recognized as well.

B. PUBLIC HEARING (Continued from 6/7/06) - CODE AMENDMENT PROPOSAL FOR PROTECTION OF CRITICAL AREAS, MLA06-242

The Chair opened the continued public hearing by reading the hearing procedure. He then invited a staff presentation.

Josh Peters provided an overview of the timeline of events to this date, including the two appeals by Washington Environmental Council [WEC] to the Hearings Board concerning critical areas. He explained the reason the county decided to enter into a Settlement Agreement with WEC. The county thought that if we went before the Hearings Board, this county would not be able to keep the agricultural exemptions for standard stream and wetland buffers. Similar exemptions in Clallam County and Skagit County had been invalidated by the Hearings Board and the Skagit County case was now before the State Supreme Court. He stated that the majority of the proposal before the public now resulted from the Settlement Agreement. Mr. Peters addressed the proposed 90-day extension, stating that it still needed to be negotiated with WEC. If an extension could not be obtained, the case would go directly before the Hearings Board and then on to the courts. He addressed the wetland buffer issue, explaining that the largest buffer you could have was 300 feet for a Category 1 wetland. If a person wanted a waiver from having

to do a wetland delineation, the maximum buffer distance would be 450 feet if you had the very best of the best wetlands (a Category 1). He stated that some wetland buffers could actually go down under this proposal, depending upon how a particular wetland was rated and scored. He explained that the waiver provisions would only apply where a property owner had ample property and did not want to do a wetland delineation, which entailed hiring and paying a wetland biologist. He explained that new buildings were not exempt from the buffers; only agricultural activities like plowing of fields, cultivating crops, and having livestock would be exempt activities. Mr. Peters explained that the county was proposing to use the 2004 Department of Ecology [DOE] Guidance. He explained how the county was identifying the core wildlife habitat areas and corridors in the county under the proposal. He explained the channel migration zone [CMZ] proposal, clarifying that we currently only had CMZ mapping for the South County rivers. He added that we did not have CMZ maps for the West End rivers. He stated that the proposal would adopt the revised stream typing system adopted by the State Department of Natural Resources [DNR]. The buffers would stay the same as before, except for the old Type 3 streams, which would have a 50-foot increase in buffers. Mr. Peters stated that staff, through their own notes and the meeting minutes, would list the questions received and answer them as we proceeded through this process.

Jim Hagen announced that the close of oral public comments would be at the end of this public hearing. Written comments to the Planning Commission were scheduled to close at the close of this public hearing as well. Subsequent written comments would be submitted to the BOCC for their consideration.

The secretary listed the handout materials and the comment letters received, including some comments received at this hearing. Other than comment letters, handouts included copies of three court rulings, WAC citations on critical areas, and an e-mail from Peter Downey with a suggestion for Table 3-3. The secretary invited anyone who wished to submit written comments for the record to provide them to her.

An audience member asked for clarification about submitting written comments to the Planning Commission. Jim Hagen explained that the commission's motion was to continue the hearing to this meeting and to close written comments to the Planning Commission at the close of this hearing.

Bud Schindler asked about the implications of the 90-day extension on the public comment period, whether the written comment period to the Planning Commission could be extended. Josh Peters responded that he was at a disadvantage because he had just learned about the BOCC's action on the 90-day extension. He explained that the original schedule was for the Planning Commission to formulate its recommendation to the BOCC, the BOCC would then hold another public hearing, including an additional written comment period, and then take action before July 18. His understanding was that the BOCC wanted to extend that schedule by another 90 days. He stated that his instructions from the Planning Director were that the Planning Commission could take more time if it wanted to. What was unclear, however, was how that related to an extension of the public comment period. He thought that if there was an extension of time, it would not be inappropriate for the Planning Commission to extend its public comment period, if it chose to do so. He stated that if the Agreement fell apart, the county would probably not take action; it would probably go straight to the Hearings Board.

The Chair opened the hearing to public comments.

Carol Young, West End, submitted a petition from West End citizens opposing the new proposals. She stated that the county listings in their telephone book did not list the Port Townsend county offices numbers. She stated that everyone in the West End got the Forks Forum, which the county did not use for advertising or noticing to the public. She stated that she had a very hard time getting information from the county web site. She stated that the code language was difficult to understand. She stated that the critical areas descriptions and maps basically described the West End. She stated that she could not find anything for the West End on the basin by basin best management practices plans. She stated that best available science [BAS] changed over time. She thought that at some time in the future, the BAS might say that people should not live there because it affected the fish. She referred to two priority legislative bills. One related to GMA timelines and the other related to accessory agricultural uses. She stated that her concern was that, where they lived, they were sort of in the dark about things happening in the county and they needed to be informed.

Dave Dickson, Oil City Road, Forks, stated that they lived on the family homestead. Their family had lived there for 100 years. He stated that, as farmers, loggers and ranchers, they were used to dealing with Mother Nature. They could put up with the loss of a calf to a cougar or other losses to wildlife and natural events, but they could not lose the land. He thought this proposal would take the use of the land away from them. He asked the Planning Commission to please consider that.

Kathy Dickson, Oil City Road, Forks, stated that her biggest concern was the lack of maps. There apparently were no maps for the West End. She thought that we should not put a proposal through with no maps. She stated that the lack of maps for the West End had been a continuing problem for years.

Jill Silver, Forks and Port Townsend, provided written comments for the record supporting the proposed amendments. She stated that the reason she supported the proposal was that we all lived on this land together. She stated that the farming community was well represented at the hearing and they had certain concerns. Had the audience been primarily fishermen, a different set of concerns would be expressed. She stated that we all shared the precious water; it was more precious than oil. She stated that wetlands stored water on the landscape. She stated that our climate was changing. She stated that we could not all understand all of the science that informed regulation, but well written regulations, crafted on well constructed science, benefited all of us. It protected our land from channel migration. They protected our water sources. She stated that these regulations were very carefully crafted to protect all of us from ourselves and the unintended consequences of our own development and our own uses. She stated that we may all be selfish and think that our land is our land, but it was not. We had air and water that we shared, and we shared the salmon. She encouraged the county to support these regulations because they protected our common resource, the water.

Gary Amsville, Forks, stated that he had lived there basically all of his life. He stated that he raised his own animals for his own use. He stated that the way these laws kept changing, he did not know what to do. He stated that he was speaking for more than just himself. He stated that the Bogachiel River was constantly changing. He stated that he was irritated at someone, although he did not know who to be irritated at. He wanted to be more informed about what was going on. He stated that, for himself and

others who lived by him who could not be present, he wanted to know what was happening that affected them. The county had not done a good job of informing the West End citizens. He thought it should be publicized in the Forks Forum in order to inform the West End people. He stated that information should be easy to obtain.

Gary Patterson, Hoh Road, West End, stated that his family had been in Jefferson County for eighty years. He was representing his family as well as five other people from the West End. He stated that his family owned about 600 acres. The other people represented businesses such as tree farming, cattle ranching, a retail store, café, and raft guiding. Of their family's 600 acres, 200 acres was given over exclusively to fish and wildlife. The non-resource based businesses they started were started in response to limitations imposed on natural resource use. He stated that the new restrictions were not only aimed at their cattle and timber businesses but at their tourist related business as well, since the entire Upper Hoh River Valley was within the migration zone of the river plus the potential buffer. When you added the tributaries of the Hoh and the wetlands and their potential buffers, there was really nothing left in the Hoh Valley for people, livestock, and business. All of the Upper Hoh businesses were within these potential buffers, including most of the Upper Hoh Road. He stated that their potential for sustainability would be severely compromised by any further regulation. He asked the county not to do this to them if you were a friend of agriculture and small, green business. He stated that what he had heard so far from the Planning Commission was worse than he had feared. First, he had been told that his agriculture practice was frozen as of 2003. That meant that, since he had not done any pasturing since then, he could no longer in the future improve the pasture (plowing and seeding). The second question he had related to the open range use on the Upper Hoh. He asked about the effect of the regulations on the open range use.

Preston Drew, King County, stated that he was the Vice President of the Citizen's Alliance for Property Rights. He stated that WEC followed the pattern of many environmental groups. Their board held many environmental attorneys who were very aggressive. He stated that they made a practice and pattern of suing local governments until they could no longer afford to defend themselves and had to capitulate. He stated that this was a very important land use decision that should be out in the open and should be debated. Concerning best available science, he referred to their web site, stating that their own scientists analyzed the King County critical areas ordinance. He stated that there was a whole scientific argument against it. He stated that this was an assault on your freedom and liberty. Your property rights were the guardian of every citizen's rights; they needed to be protected. He stated that the people needed to send a message to the BOCC that, if they supported these amendments, they would un-elect them next time and put someone else in office who would protect their property. He stated that he had been in the logging business for thirty years and that industry had been despoiled by this kind of mindset. It was not a just destruction of the industry. He stated that the logging business was an honorable business and blood was still running over its demise. He stated that the people needed to send a message to the BOCC that they needed to protect and support your property rights or they would be un-elected next time. He described what they were doing in King County.

Roger Short, Chimacum, read a letter from Forks resident Marilyn Lewis who lived on the Upper Hoh Road in the West End. She opposed the proposed amendments, particularly the buffers on the CMZs. She likened the buffers as

a taking of private property. A copy of the letter was submitted for the record.

Norman MacLeod, Port Townsend, offered to share the messages of the West End folks with the BOCC as he sat in on most of their meetings on Monday mornings. He read his comments into the record and provided a copy for the record. He also provided copies of two studies relating to buffers as science from reliable sources that could be considered as best available science. He also submitted a copy of a letter from the Secretary of Agriculture to Rep. Rick Larson regarding the CREP program.

Lorna Ward, Quilcene, agreed with everything that Mr. MacLeod had said. She felt this proposal was thievery and the county was stealing her grandchildren's inheritance.

William Wheeler, Quilcene, stated that he owned twenty acres of forested property in Quilcene. He strongly opposed many of the amendments proposed. He stated that the basis of his objection was his concern with the heavy handed regulatory approach proposed which would result in a net loss of the environmental stewardship across the county. He stated that the county had approximately 700 small forest landowners that controlled approximately 70,000 acres. More than half of the landowners already lived on their land or intended to do so in the future. Contrary to the impression that many people had of such landowners, as a group, they were neither interested in harvesting their land nor in converting it into houses. Most considered environmental stewardship a personal responsibility. They spent time, money and effort toward maintaining their property in an environmentally responsible way. Because of their efforts, they had far greater involvement with their property than did many people who lived in the city. Theirs was usually a long-term commitment, whether in planting trees, removing scotch broom and fire prone brush, or planning the best location for the house they wanted to build. Because of their involvement with their land, they had little tolerance for the kind of over-reaching regulations and restrictions the proposed amendments represented. The tenure of the regulations, the way they were presented, and the way they may be adopted was a slap in the face for their efforts towards environmental stewardship. In addition, it was a real threat to their dreams as a landowner. He stated that, recently, progressive environmental groups had come to recognize that building alliances with small forest landowners and agricultural communities was a way to ensure environmental stewardship rather than decrease it. He saw this proposal as a step backwards in developing a comprehensive and effective way to deal with critical areas in the community.

Catherine Hendy, owner of the Center Valley Mill, displayed a map of their Center property. She stated that due to a wetland on the property, the current buffer reduced the usable property from 10.73 acres to 3.80 acres. Now, with the proposed new buffers, their land would be totally unusable. As an aside, she stated that seventy-five percent (75%) of the allowed uses for the property were county uses, such as maintenance areas for the county. There were very few uses allowed for the property, even though it was used for heavy industrial at one time.

Roger Short, Chimacum, stated that he was a long time dairy farmer that was put out of business due to over regulation of environmental issues. After giving up his dairy, he stated that he tried to start an organic cheese processing facility and dairy. Due to county regulations, he was unable to start that business, even after spending \$40,000 to \$50,000. He next tried

to do swan habitat in the valley floodplain. The county regulation was too stringent to do that. Now he was trying to do composting, which was an allowable use in agricultural areas, but it was costing tens of thousands of dollars to meet the regulations for stormwater, etc. He stated that he had spoken with Al Latham at the Conservation District, whom he respected, who had told him that existing and on-going agriculture was exempt from the new critical areas regulations. He stated that he went to the Planning Department and talked to Mr. Peters who indicated that he was exempt. Mr. Short stated that the way he read the proposal, he was included in many, many things. He stated that he had gone to the BOCC and asked for the minutes of how the WEC Settlement Agreement came about. He was told that it was done in executive session so there were no notes or minutes. He could accept that. Then he returned to the Planning Department to talk with Mr. Peters but learned that he had been called out of town. He understood that Mr. Peters was in charge of most of the drafting of the amendments. He had some questions for Mr. Peters and had been advised by others to direct his questions to him, but he was out of town on county business. He thought that was convenient. While he had tried to study and understand the ordinance, he just could not do it and had given up. He offered the opinion that this was the most devastating thing that could happen to this county. He did not think there would be any agriculture left in this county under these regulations. He stated that even people who had a 5-acre, lifestyle type of farm that produced a few hundred dollars worth of produce would be affected by this ordinance. Because of how he had been affected, he could not believe a word of what was being said about this ordinance. He stated that Katherine Baril of WSU was an attorney, so she should be able to understand the ordinance language. He reported that she had said that she could not understand the ordinance, so he questioned how he was expected to understand it. Mr. Short provided a copy for the record of a CD from the Washington Farm Bureau on best management practices, buffers, etc.

Diane Johnson, Tarboo Valley, stated that her family had lived on their family farm for several generations. Their family had been mostly loggers, but they had kept the land open and in use as a farm. She stated that farmers cared for the land. She stated that there were a lot of small farmers in this county. She was concerned about the future of any kind of rural farming in this community. While we could buy things from out of the country, it would be at a price, both in quality and price. She stated that if they could not farm the Tarboo Valley any more, it would become a stand of alder. She asked what that meant for people. It probably meant they could not harvest the alder. She hoped it meant she would not pay as much tax. She wondered where the representatives of the Conservation District were. She stated that she was glad to see the people from the West End here, stating that the last time the farmers were all before the Planning Commission, the commission listened to the people. They came up with a plan to work watershed by watershed and individual landowner by individual landowner. She thought that was so reasonable and so sensible. However, it seemed like that had all gone away. She stated that the Conservation District had a lot of data from all the small farmers on how they had been managing their properties. They had a lot of local science available. She hoped the Conservation District would be involved in this process. She encouraged the county to stick to the original plan that was so sensible.

John Boulton, Leland Valley, stated that he had lived on his farm since 1950. He stated that he had completed fifty years on the Conservation District. He stated that the Conservation District had worked very hard monitoring streams and sponsoring best management practices with agriculture in the county. He

stated that we had come a long way since the first environmental regulations that started in the 1970's. He stated that if the county wanted to spend some money and enlarge the water monitoring program, he thought it would be a good program to do. That seemed to him to be an area that could be improved on. He stated that Andrews Creek ran through his farm. He stated that the water quality was better after it left his farm than when it came onto the farm. He thought that some of the problems that seemed to concern the environmentalists did not seem to concern the fish or the stream. He stated that there were more fish in the stream this year than there had been in a long time. He stated that they had worked with Fisheries and the salmon group to plant salmon in the drainage ditch on his farm. They fed down into Andrews Creek and then into Crocker Lake and Snow Creek. They came back in sizable numbers this year. He stated that most of the people who had spoken voiced the same concerns he had. He stated that environmental laws liked large, straight line buffers whether they needed it or not, because that was easier to monitor and administer. He stated that most people who farmed the land would rather that the county would be more site specific. He thought that from the size of the crowd present tonight, it was obvious that a lot of people were pretty unhappy with the proposal. He thought that if you were going to adopt new regulations, they should be published. The people should know about it ahead of time and be able to evaluate it. He suggested that county government people should seek out some of those who had been around for a long time and point out some of the problems they thought we were having, which he did not see.

Eric Toews, Cascadia Community Planning Services of Port Townsend, stated that he represented the Port of Port Townsend. He stated that he deeply empathized with some of the concerns expressed by the people. He also deeply empathized with staff, stating that it was unfair to allow personal attacks on staff because they were in a difficult position trying to do the best they could with a difficult issue. He stated that the Port had a number of concerns with the proposal. He stated that they would be submitting more detailed written comments, either to the Planning Commission if allowed or to the BOCC. He referred to 18.15.340(5)e and f concerning wetland buffers. He stated that the Port had adopted an Airport Master Plan in 2002 after an extensive public and agency process. It described the future development plans for the airport. He stated that the county, in both its Comp Plan and the zoning chapter of the code, adopted land use policies and regulations that were supportive of the uses envisioned under the Master Plan consistent with the airport's status as an Essential Public Facility under the GMA. Among other things, the Airport Master Plan called for the construction of sixty-five (65) aircraft hangers on the Northeastern portion of the property in proximity to wetlands that had been delineated and classified as Category 4 wetlands. He stated that Table 3-4A classified all industrial uses, presumably including storage uses like aircraft hangers, as high intensity land uses. Table 3-4B proposed that buffers for such uses be fifty feet (50') from the delineated wetland edge. The current county code applied a twenty-five foot (25') buffer. He stated that the Airport Master Plan was developed in anticipation of the current 25-foot buffer. A 50-foot buffer, depending on how it was applied by the county, could effectively bar the construction of up to six aircraft hangers, thereby frustrating much needed improvements to the airport EPF, to say nothing of economic development, which was also a GMA and county policy objective. He stated that the Port had obtained a \$1.5 million Federal grant for the airport improvements, which could be jeopardized by any significant deviation from the Port and FAA approved Master Plan. He stated that the Port had made application to the Corp of Engineers for the permits needed to proceed with its Master Plan.

However, under the critical areas ordinance, the Port may not make application for critical areas approval until after the Corp approval was obtained. He stated that the Corp permitting process was lengthy and involved. It was possible, if not likely, that the Port would not be able to vest permit applications with the county until well after the update of the critical areas ordinance was complete. In that context, the Port strongly urged the Planning Commission, staff and BOCC to carefully weigh the potentially far reaching implications of these proposed buffer width regulations and to strike an appropriate balance between the GMA mandates to protect critical areas using BAS and promote economic development, a statewide planning goal. He asked for clarification from county staff as to how and whether buffer width averaging and/or on or offsite compensatory wetland mitigation might be employed to address situations like the one addressed.

Herb Beck, Quilcene, stated that the farm he lived on was patented in 1864. He stated that he had the names of the ownership since then and up to the present time. It had always been in agriculture and had never been broken up. He stated that his family bought the property in 1917. It consisted of about 72 acres with a half mile of river frontage. He stated that there had always been a 25 to 35 to 40-foot buffer on the stream. At the present time it was in alders, willows and brush. There had never been any problem. He stated that the only problem he had ever seen was the over-fishing of the stream. He stated that they were currently operating a cow-calf operation, stating that they could only raise so many animals on the land. He stated that the buffers had been in place since his family bought the property. He stated that they plowed the fields and reseeded periodically over the years. He stated that no one had ever asked him about the buffers. He stated that he had a map from 1865 that showed the stream. The river had not moved that much in all that time. The problems he saw coming, even though he knew there were agriculture exemptions, was that the "goal posts" kept moving. He stated that he needed every square inch of his land for his cattle business. He could not afford to give that land away. He stated that no one paid him for the current buffer; he did that on his own (taking the land out of production). He provided a document containing sections of the State constitution and read it into the record. It talked about due process. He stated that he had been thinking about the Settlement Agreement and the proposed amendments. He stated that when the regulations were created, they were done in executive session. He knew as an elected official that some things were done in executive session and then passed in open meeting. He stated that it was still required that everyone know what was going on, whether friend or foe. He stated that he did not know anything about this proposal until a couple of weeks ago. He stated that the proposal would double and triple the buffers in accordance with the DOE guidance, which was based on BAS. He stated that your science and my science were two different things. He stated that he had buffers in place for 100 years, but no one had come down to take a look to see how effective they were. He cited the comment that 25 to 30-foot buffers did most of the job. He stated that the CMZ regulations should not have much effect on his land because the river did not move that much. Concerning the monitoring issue, the regulations would allow a stranger to come onto the property to check the land. As an elected official, that was an authority that should never be given away. In terms of land buffers, he stated that it was a takings and he wanted compensation for the loss of his land. He stated that it was a violation of the law under the State constitution. He stated that it had been pointed out that the proposed regulations would result in a drop in property valuations and a commensurate drop in tax revenues when the county was already headed for a budgetary train

wreck. He stated that his grandchildren's future would be taken from them through this action, in other words stolen from them. While he was in favor of environmental protection, the buffer widths kept getting bigger until they were now getting too big. He stated that the "goal posts" kept moving each time. He stated that he had worked with these organizations in the past. He stated that he had been on the committee that wrote the first Shoreline Master Program in 1973. One thing he learned in that process was that your adversaries gave no quarter. He thought you had to be the same way. You had to negotiate and get what you wanted too. He stated that he hoped this could be worked out and the future of agriculture in the county could continue. He stated that a review of the maps throughout the world would show that all the agricultural areas were in the river deltas because that was the most fertile ground. He thought these regulations would make them barren. Under these regulations, you could have buffers totaling 900 feet, almost one fifth of a mile. He stated that we had to be careful. He submitted the notes on the State constitution for the record.

John Hall, Chimacum, read written comments from Teron MacLeod into the record and submitted them for the record. It took the county to task for entering into the Settlement Agreement with an organization that was not even from this county.

John Hall, Chimacum, provided his own comments. He referred to the earlier comments supporting the proposal. He agreed with the comments about water being really important to all of us. What she [Ms. Silver] failed to acknowledge was that the farmers would not destroy their water. He stated that the farmers were good stewards of the land because it was their land and for their children and for their community. He thought the farmers who actually lived on the land could be better stewards than the bureaucrats. He stated that he did not even know who to ask to throw this document into the trash. He hoped the Planning Commission would consider that question in its deliberations. He stated that if his field needed to be plowed, he would plow it regardless of whatever buffer was imposed. He stated that it was not personal; he knew the Planning Commission and staff was doing the best they could.

Jim Storey, Chimacum, asked about the 90-day extension. If the WEC decided not to accept it, he asked what would happen. He stated that he preferred that we not get blindsided again. He stated that the BOCC had said that the Settlement Agreement was publicized and adopted by a vote of the BOCC. He stated that it had been said that this proposal was highly publicized. He stated that the only public announcement he could find was dated May 17, 2006, which said that the proposed code was more restrictive than the 2004 proposal. He thought that was an understatement if there ever was one. He stated that when you had a proposal of this magnitude, it should have been in a headline print so everyone would see it. He thought people would have paid more attention.

Dennis Pownall, Highway 101, Port Townsend, read his comments into the record. They had been submitted earlier and were included in the commission's handout packet.

Jim Fritz, Port Townsend, stated that best available science had no legal standing. He stated that we could use the Washington Farm Bureau BAS as well as anyone else's. He stated that he was an engineer. If he wrote a report that was not backed up with scientific information, he would be fired. He stated that he was a member of the Washington Toxics Coalition. He stated

that no one was more concerned with protecting the environment than him. He stated that the Washington Toxics Coalition had funded studies by some excellent scientists where the best they could do was a 25-foot buffer along streams and to ban certain chemicals and pesticides. He understood that Island County had a 25-foot buffer for agriculture and a 50-foot buffer for non-agriculture. He questioned why they needed 25 to 50 feet and we needed 250 to 400 feet and the Washington Toxics Coalition, with some of the best scientists on the West Coast and lots of money, could only come up with 25 feet. It did not make sense. He stated that the local people did not know about this proposal until about two weeks ago and did not even know about the Settlement Agreement, which was signed in January, until then either. He stated that people did not know about it until the Planning Commission made some people aware of it. He thought the BOCC should have done more public notice earlier in the year. Instead they waited until it came before the Planning Commission. He stated that there should have been better public notice earlier in the process. He thought everyone present would agree that having the WEC come onto your property and monitor was completely unacceptable. He thought we had competent people in Jefferson County who could do the monitoring. He did not think we needed people from King County coming here to monitor our wetlands and environment. He stated that he saw no evidence of what the costs would be, who would pay other than the landowners, and what the benefit would be. He asked what the benefit was of 50 feet versus 100 feet versus 150 feet versus 300 feet. All we had was that King County said this was BAS, and DOE said this was BAS, and we "jumped on the bandwagon" to agree that it was BAS. He stated that the reason for the process under the GMA and UDC was to prevent some particular group from ramming something down people's throats, either developers or ecologists. To his mind this was just a way to get around the process in the GMA, which carefully spelled out how changes could be made.

Randy Okerman, Eagle Mount Road and Chimacum Valley, cited a quotation: "I'm tired of having to keep fighting to keep doing what I have been doing all my life". He stated that a woman who represented herself as from the WEC said that, once they had control of the farmland, the farmers could come back and work the land. He thought that offensive to say the farmers could come back and work their own land. He stated that he was in the process of enrolling his Chimacum Creek property in the CREP program. He stated that the valley property was 90% wetland. It was black humus soil which was what brought him to this county. He stated that to get 400-feet away from the wetland itself, he would be somewhere across Highway 19.

John Stulhmiller, Olympia, stated that he represented the Washington Farm Bureau and had been active in the state organization for some time. He stated that the Farm Bureau had been active in drafting critical areas ordinances in other jurisdictions. They were concerned because the bulk of the land that was regulated was agricultural land. He stated that their organization was about the viability of ag lands. He stated that I-933 was a property rights initiative. He stated that, unfortunately, this county was experiencing what every county was experiencing across the state. People were very concerned because they were seeing similar things in those ordinances. He stated that what they were asking was that the ordinance be full of voluntary measures. He did not see anything in this ordinance in that regard. I-933 would require that. He stated that the exemptions applied to long term commercial agriculture or land in the Open Space Ag tax program. He asked about the hobby farmers that were not zoned commercial agriculture or were not in the tax program. He believed they were not exempt under the ag exemptions, yet they represented a big part of the agricultural

economy. While existing uses would be exempt as legal nonconforming uses, he wondered how the ordinance would apply if the farmer needed to change the ag use in the future. He stated that agriculture was dynamic and changes in the ag use were necessary over time. He asked what the ag exemptions meant to such changes. He encouraged that the ordinance be clear on how everything tied together. He stated that you could get a reasonable economic use variance if all reasonable economic use of the property was precluded. He stated that "all reasonable economic use" was very hard to prove. He referred to the wetlands section, stating that buffer widths could be reduced if you could prove a series of standards. It also said that buffer widths could be increased if necessary. He thought there would be a lot of people who would have covered wetlands that were not regulated before, citing the change in wetland sizes from the old 10,000 square foot standard to the new 2,500 square foot standard. He stated that it was not the wetland itself, it was the buffer around the wetland that was of greatest concern. Referring to the regulated activities, he stated that you could not do any activities in the buffer that would result in a significant change in water temperature, quality, quantity or introduction of pollutants. He stated that was a pretty tough standard to show that you were not going to affect that. He stated that there were a lot of other statutes that addressed that issue, citing the Clean Water Act as an example. He noted that you could not do an activity, even if it was an exempt activity, if the scope or size of the original structure, facility or improved area or use was being increased. He stated that the definition of "maintenance and repair" was of concern as a result. While it may be fine for the existing ag, he questioned how it would apply to the hobby farms. He stated that the 5 to 10-acre farms contributed a lot of money to the local economy and were very important. For residential areas, you could not expand your garden, lawn, or orchards into the buffer, although you could if there was no reasonable alternative on the lot provided that you could only encroach into the outer 25% of the buffer. He urged the average homeowner to beware of that provision, especially with the new sizes of wetlands that would now be regulated. He stated that the base wetland would be declared a Category 1 wetland, having the greatest buffer requirement, unless you could prove otherwise. He asked how the intensity of the use tied back into the regulatory scheme. He referred to Table 3-4C on Page 18 which talked about minimizing the impacts on wetlands. It talked about a problem being the application of agricultural pesticides. The solution was to preclude such application within 150 feet of a wetland and to use best management practices. He stated that BMPs were used by most growers, but to have a limitation of 150 feet of a wetland went beyond state or federal law and was not matched by sound science. He encouraged the Planning Commission to apply sound science. He stated that one scientific report found that 90% of the buffer benefit was within the first ten meters (30 feet). He urged the Planning Commission to look at the scientific evidence.

Harold Elyea, Martin Road, stated that he was a small landowner (10 acres) recently moved to the county. He stated that he did not know about this proposal until 24 hours ago. He stated that he would like to have time to consider it and to respond in an educated manner. One question he had was how we defined "watershed". He stated that he had to read the proposal in order to understand it and to ask educated questions. He asked the commission to extend the period for public comment, because obviously the word had not gotten out adequately. He stated that his neighbors had not known about this proposal either. He stated that his property had been used for sheep until two years ago. He had plans for it, planning to expand his business. While he wanted to be environmentally friendly, he did not want

his land seized either. This proposal worried him. He asked for more time to evaluate the proposal and to respond in an educated manner.

Alan Baldwin, Marrowstone Island, stated that the land they lived on was 34 acres and had been owned by their family since 1955. It was homesteaded in 1910. He stated that sometime ago his mother and a neighbor wanted to clear some alder on their properties. A bulldozer was brought in to clear the alder trees but an unfriendly neighbor prevented them from doing so. As a result, the county DCD was brought in, along with state and federal agencies, to assess the property for everything from wildlife to wetlands. The result was that the trees had been taken down and the area nicely contoured so they could do other plantings. He stated that there had never been standing water on the property since 1955. However, the Army Corp of Engineers found a little 0.24 acres they claimed, through soil tests alone with no vegetation or water, to be a wetland. As a result, when he came up to care for his dying mother a few years ago and to build his house on the property, he discovered that DCD established a 1,000-foot buffer in the terms and conditions for his ADU. He happened to catch that and raised it with the planner who had put that condition on his permit. The planner acknowledged that it was a mistake. He subsequently found that the planner had assigned a Type 1 wetland designation to that little 0.24 acre area with no water or vegetation. Now, at best, it has a 225-foot buffer, taking it from 0.24 acres to 2.4 acres. When you increased the buffer to 450 feet, you would have 4.7 acres. Luckily, his home was more than 450 feet from that wetland. However, he may want to allow his children to have their homes on the property. After sixty years of land stewardship, all of a sudden it became a government take away of his property if the 450-foot buffer requirement went through. He understood that he could hire a wetland biologist for several thousand dollars to delineate it, because the Army Corp refused to delineate it or even outline it. He challenged anyone to show him a boundary for that wetland. Not only did they not know where this wetland was, he challenged the county to tell him that it was a Type 1 wetland when there was not a bit of water. Instead he had to spend several thousand dollars to tell the county that it was really a Type 4 and not a Type 1, if it was a wetland at all. He encouraged the commissioners to please, for those who were not farmers, to consider very carefully what this would do to those folks.

Dr. Robert Crittenden, Sequim, submitted written comments for the record.

Leonard Sarin, Chimacum, stated that he worked with the Conservation District. They had put together a plan that they thought made sense. He stated that Jesse Covington owned his farm and had lived here all his life and was very proud of his farm. He had spent eleven years fixing up the property after it had gotten into disrepair due to Mr. Covington's ill health. He stated that most people that farmed property or lived along the creek were really decent people; they did not want to destroy something that was nice. He stated that the environmentalists from out of the county seemed to think the farmers were destroying the creek. He stated that a farmer could not afford to do that because water was his whole life. He stated that the problem with Chimacum Creek, and the other creeks, was people who were not farmers and who did not care. He stated that his neighbor did not care. He stated that he had complained for ten years and something was finally being done, but it would take about \$2.5 million to clean up that property. He stated that the county did not want to go to court because of the cost. He stated that the sad part of it was that the problems with the creek were because they were not being taken care of because the county did not want to spend the money to enforce the regulations that were already in place. He

stated that what would kill Chimacum Creek would not be the farmers; it would be the population that lived back from the creek. It would happen over ten or twenty years as the population increased. All that runoff would go right into Chimacum Creek, but it could only handle so much water. He stated that, instead of beating up on the farmers, the county should be looking at long range planning for what the county would do for all the creeks when the population started pouring in. He stated that Chimacum Creek was a clean creek and we could keep it that way by enforcing the regulations we already had and keep people from destroying it who did not have a vested interest in it. He stated that you would always have that sort of people. For the farmers, it was their livelihood. Most had lived here all their lives and they cared about the land and the creeks. He stated that Chimacum Creek ran fast through his place, so he did not need a big buffer on the creek. He stated that he loved to see the salmon coming up the creek and he thought everyone living along the creek thought the same thing. He stated that they were not here to destroy the creek.

Mike Belenski, Mats Mats, thanked several of the people who had spoken. He also thanked the Planning Commission for allowing everyone to speak. He stated that, over time, he had noticed the same things related to credibility and accountability. He stated that it seemed like this proposal should have been advertised and promoted more specifically than it was. He addressed the "moving goal posts" issue. He described his process with the county to get a septic permit. It involved a roadside ditch that the county called "surface water". He stated that a roadside ditch did not meet the state's definition of surface water. He stated the opinion that the county management was lacking with people who were untrained or who did not care. He stated that the county would keep putting a ring in the nose of people until they stood up and said they were done. He thought people were now standing up and saying they were done. He did not think people would turn over their property rights to people who did not have the common sense to look at a rule and interpret it so there was a balance to both sides of the issue. He stated that the people who had property cared about it, not someone who lived out of the county or some bureaucrat in town. He agreed that there would be the odd person who would dump his motor oil in the creek. That person should get a ticket and be put in jail. But the honest hardworking people should not be punished for the simple fact that they had the misfortune or bad luck to have a wetland on their property. It seemed like that for years the county had been taking property from people. But he thought that if the county wanted it, the county should have to pay for it. If the county wanted a 450-foot buffer, the county should pay for it. The government should not be able to take something from someone and not compensate them for it. He thought it was a half baked idea that someone was jamming through to create jobs at the county for their relatives. He stated that he had reviewed he did not know how many personnel files at the county and had yet to find someone who was qualified for their job. It seemed to him that they got their jobs because they knew someone or were related to someone at the county.

Denver Shoop, Port Hadlock, stated that he sold his Chimacum farmland to his son and was in the process for a building permit for a house on the property. They had spent \$5,000 and had nothing to show for it yet. He explained his problems with getting a septic design because the county said it was a wetland. After they measured off the buffer, there was just a little spot where they could build a house and a septic out of 21.5 acres. He stated that the county wetland biologist had determined that the wetland was a different (lower) class that allowed a smaller buffer, which gave him back

some of his land and provided another option for building. He described another situation that occurred to a friend regarding a septic. The county employee said the soil required an expensive type of system. The friend had the soils tested with the result that the soils were perfect for a conventional system. The county employee basically said that "Anyone could make a mistake". He thought that "mistake" was going too far, especially for an employee whose job it was to know soil types. He thought the county employees were just out to make things difficult for people. He stated that if he was hurting something environmentally, he would correct it gladly because he lived here and his kids and grandkids lived here, and he wanted them to have a nice place to live. But if you could not show him, environmentally, that he was doing something wrong, don't tell him he could not do it. He stated that it made no sense to say that we could not show him evidence, but you still could not do it.

Roger Short stated that Mr. Shoop had a delineation done of his wetland at the buffalo farm on Beaver Valley. It was delineated as a Category 1 wetland because of an endangered species (Chum salmon) habitat on the creek.

Bob Pontius, Beaver Valley, stated that what this would do was basically a taking of property without compensation because you were doing it with setbacks and buffers. He stated that in the 1980's the City of Seattle had a green belt overlay whereby they did not allow certain property owners to use 65% of their land. It went to court, including to the State Supreme Court, and the city lost. Seattle basically had to buy the land. He stated that if the county was so broke, he questioned how the county would buy all these peoples' property that would be taken. In talking about pollution and the need for these buffers, he asked about the Department of Transportation and the highways that lay within these buffers. He asked if they would be exempt and if they would stop using de-icer during the winter. He stated that virtually everyone present was exercising their right of assembly, their right of freedom of speech, the press was exercising the freedom of the press rights, and their property rights. He stated that almost everyone present had property. He stated that we were guaranteed the right to be secure in that. This ordinance was a violation of that. The fact that they went behind closed doors compounded it; it was just not right, either constitutionally or morally. He stated that the county appeared to be attacking a way of life. He stated that farmers had been here for hundreds of years. Referring to wetlands, he stated that farmers got bottom lands because it was the best land and usually had water rights for irrigation when needed. He stated that we needed to be looking at the economic impacts. He wondered if an EIS was done and whether it considered the economic impacts. He stated that there were constitutional and common sense questions related to this proposal that should be considered.

Bill Leavitt, Nelson Landing Road, stated that he was a lifelong county resident. He stated that it seemed like we always had this Port Townsend-running-the-county issue and it seemed like we had it again here. He stated that we had people move here who did not understand the rural way of life. He asked himself what his father or grandfather would do if they saw what was happening now. He stated that his father would not have stood for any of this "BS"; he would not have been as restrained as those present tonight. He was feeling that way somewhat himself. He remembered back to when the GMA first came out. He stated that he sat on advisory groups along with other citizens. He sat on the mining issue group and Roger Short sat on the agriculture group. There was a timber group as well. They tried to write the first mining ordinance for the county. He did not know if it was ever

used. He stated that a lot of people had put a lot of time and effort into this planning and tried to play by all the rules, but they just kept changing and the county kept taking more. While he had stayed out of it for awhile, it was time to stand up and say "Enough". He stated that he had drawn a line in the sand-no county employees could set foot on his property for any reason. He stated that when the county passed the original UDC, he told the BOCC that when they signed it, they would make him a criminal for what he had done his entire life. He stated that he had forgotten more about creating habitat than most people would ever know. He stated that he had told the BOCC at the time that if they made him a criminal for doing what he had done his entire life, they could be assured that he would do something to deserve it, and he left it at that. He stated that held true today. He stated that this proposal would make criminals out of everyone and there were a few who were just nuttier than the rest, and the county should be careful what it did.

Ron Corbin, Chimacum, stated that there had been setbacks since the GMA came into being. We did not know how they were working. He wondered why we were changing them.

Roger Hauf, Sandy Shore Road, asked how long the Settlement Agreement would stick before they came back and wanted more. He asked how long it was good for. He stated that it had only been two years since the last negotiation that set the exemptions for the farmers. It was no good unless there was a timeline. The Chair allowed staff to answer the question. Josh Peters responded that under the GMA, the counties had to review their Comp Plans and development regulations every seven years and revise them if necessary. He stated that, sometimes, parts of the Act changed, necessitating revisions by the county. The BAS amendments were made in the late 1990's. When the county first adopted the UDC, it actually took a look at BAS. Since then, there have been additional studies. With regard to the Settlement Agreement, the county had until the end of the year to do all of the BMP plans for agriculture for the county. The Chimacum plan was nearly done. The county planned to do one plan for the rest of the county. The county also had to come up with a funding mechanism for all of the things in the plans. After that was done, the Agreement was settled until the next time the county had to revisit the Comp Plan and development regulations updates (in 2011). The county would monitor in the ensuing time to make sure we were meeting all the parameters and objectives of the settlement, including water quality objectives and habitat objectives. The whole concept was to come up with a way where we did not have to have standard buffers. That was the basic reason staff drafted the proposal as is.

Jim Hagen provided some alternatives for how the Planning Commission could proceed. He stated that there was a formal, legal process for a public hearing. If the audience preferred, the commission could finish the public hearing and then get into a question and answer session. The alternative was that the Planning Commission could devote a special meeting to a question and answer session, including invitations to the DCD Director, county staff, the County Administrator, and the BOCC. He noted that the Planning Commission had set a special meeting for June 28. However, for immediate purposes, he wanted to finish the formal public hearing, which was simply the public giving the Planning Commission information.

Roger Short stated that the local Farm Bureau had a meeting scheduled for June 28 on this issue as well as others. It was the first organizational meeting. He thought a lot of the people present would want to go to that

meeting. He did not think June 28 would be a good time for the Planning Commission to hold a question and answer session. He stated that the newly organized Farm Bureau was willing to help draft a critical areas ordinance as long as it followed the same thoughts that were contained in I-933. He stated that the local Farm Bureau was willing to participate in good faith if it followed those guidelines.

Roger Eichman, Marrowstone Island, stated that the way he read the proposal, it also applied to the shorelines. He stated that mari-culture and aquaculture (clams and oysters) were not considered for agriculture purposes for the designations. The way he read it was that mari-culture and aquaculture were outlawed. A new peat farm for cranberries would be outlawed. If you wanted to remove some peat for agricultural or industrial uses, it would be outlawed. He stated that if you kept on shutting the resources down and closing the doors to future economic development, it would come back and bite the county.

Clair Candler, Port Townsend, stated that he was a retired environmental chemist. He stated that the company he had worked for, if it had been 50 or 60 years ago, he would have been without a job due to the proposed regulations. He stated that he had listened to people say they would work "with"; he had heard people say things about assumptions; and best available science. He stated that he had heard nothing about BAS. As a scientist, you would test the streams. He had heard nothing about testing and their results. He asked how you could put these laws onto people when we did not know what we were dealing with. He stated that this nation was made great by production, and farming and logging were productive things. Now we had service industries, but he thought we needed to get back to production. He stated that he lived less than 150 feet from the Straits and wondered if the county was going after the salt water next.

Dan Ackerman, Brinnon, stated that most of the regulations you were talking about were based on the good of the public-water quality, wetland functions, etc. He stated that the constitution gave government the right of eminent domain when it became the good of the public. It seemed to him that the proposed regulations that restricted property owners from the use of their property was exercising eminent domain without the benefit of compensation. That was what you were doing when you said you could not get within 300 feet of streams or 150 feet of streams or wetlands. The county was taking away the property owners god-given right of property ownership to exercise their rights on that property. When you do that by legislation, you still are taking property. It was legislating a group that could not then use their property. He asked how someone could sell their property if it could not be used (referring to the Hendy property). That property should be taken off the tax rolls and the county should buy that property. He stated that this proposal would take the property owners right of ownership, but the county would not pay the property owner, and the county would continue to tax that property. He stated that in most cases you were talking about the prime piece of their property-the water front or river front. It would take away the ability to sell the property as water front by legislation. He stated that if the county was going to take away their property and the right to use it, they should be compensated commensurate with the impact of the legislation on that property. He stated that if he could not sell his property as water front because of the buffer, the county has impacted the whole use of his property and the whole value of his property. He stated that the county was impacting the individuals economically through this legislation instead of facing the people and saying the county was taking

their property through eminent domain and compensating them for it and taking it off the tax rolls. He asked how much of this county we could afford to take off the tax rolls without impacting the county's ability to operate. He stated that if the county could not afford to pay the property owners for their property, the county should not be taking it away. The county should not have the right to adopt a legislative decision that took away the property rights of people without compensation.

Roger Schmidt stated that he represented the Jefferson Land Trust and was just interested in hearing what people had to say.

George Hansberry, Quilcene, stated that he had lived here since 1973. He lived on a farm along the Little Quilcene River raising cattle. He stated that the river flooded every year. Then he moved onto his Donovan Creek property in 1983. He stated that the water quality issue started in about 1983 when he moved here. He described his experience with state and county people on the creek monitoring on his property. He stated that he did not trust their science. He stated that there were heavy blackberries growing along the creeks on his property creating buffers up to 175 feet. Yet they still wanted him to fence inside the blackberries, even though they prevented his animals from accessing the creek. It made no sense. He hoped the Farm Bureau could get some honest science the county could use and not use that from people who were getting grants so they could keep working.

Larry Hess related his experience with the county in trying to get a building permit for their property and the wetland the county said they had. It was land you could drive a loaded cement truck on and not make a dent in the land, yet the county said there was a Class 1 wetland. He stated that they hired a wetlands biologist and they delineated it. Because of existing buildings, they were able to build a small house (not the one they wanted) in a place not exactly where they wanted it. That was under the old rules. Under the new rules, their property and three adjoining properties would be totally unbuildable. He stated that he just did not understand the logic behind these setbacks. He thought the properties should be looked at individually. He stated that the property owners should be compensated if the county was going to take away the use of their property. He stated that they still paid taxes on that part of the property they could not use.

Linda Germeau, Port Townsend, stated that she was a lifelong county resident and her husband's family had owned property in the Eagle Mount area since 1918. She stated that when they inherited the land, they had to have it surveyed for wetlands. They took more than half of their ten acres for the wetland back then. She asked if they were grandfathered in under the new rules so they could stay in their house, because 450 feet from their pond would take in their house. Josh Peters responded that, like most development regulations that were new, they affected new proposals, not old ones. If you wanted to build an addition onto an existing house, you may be impacted by the new regulations. Someone asked what would happen if the house burned down. Mr. Peters replied that, if the new house was in the same footprint, they could rebuild. Ms. Germeau asked where the free United States of America had gone because it was not a free country anymore.

Jim Hagen stated that the Planning Commission would be glad to sponsor a forum, where we were not under a formal process, where we could have a free-flowing question and answer period, with county officials present to answer those questions for the public.

John Anderson, Hoh River in the West End, stated that it was 125 miles to get to the county seat for jury duty but he got here. He stated that his grandfather homesteaded in the West End in 1891. He stated that the Hoh River kept moving; there was no stopping it. He stated that they had lost about 80 acres to the river over the years. You could not raise cattle on the gravel, but the Fisheries Department would not let him mine the gravel. Now, with a 450-foot setback from the river and each of the creeks on the property, there would be nothing left. That did not sound like a good thing for someone whose family had been there for 100 years. He asked that the county officials remember that this country was founded by our forefathers after they decided they were tired of an oppressive government restricting everything they did. He stated that they should remember "The soap box, the ballot box, and the cartridge box".

John English, Center, stated that something had been nagging him since the beginning of this meeting. It had been said that this resulted from a partnership with WEC. To his way of thinking a partnership was a personal or professional relationship in common. It seemed to him that the people in this room were the partners and not the WEC. He did not understand why that juxtaposition had taken place.

Karen Driscoll, Center, stated that she had been hired by the county to work on the agricultural lands ordinance. It was an ordinance that people liked. That ordinance and this ordinance had some differences that needed to be reconciled. This ordinance needed to be made easier to live with. She stated that the 450-foot buffer was too much. She stated that they had just gone through paying for a wetland delineation for their land. She emphasized that the ag lands exemptions were still there; this ordinance did not change that. She stated that the old ag lands ordinance addressed new ag activities. She stated that what the wording about new activities meant was that, if you started a new farm on land that was never a farm before, the new rules applied and the buffers and setbacks applied. The exemptions only applied to existing farms. She thought that language and interpretation needed to be clarified. She stated that we should not have people losing their buffer exemptions because they were farmers if they changed their type of farm use. She stated that farms were ongoing activities that changed over time.

Fred Beck, Hastings Avenue, stated that the question he had was why the county was making any deals with the WEC. He assumed they were a nonprofit corporation. He asked if the county was more afraid of some organization's lawyer or if they were more afraid of the landowners who wanted compensation. He thought this would be a fine opportunity for the county to tell these 501(c)(3) organizations to "take a hike" and get out of our county. This county had its own sovereignty; that was why we were a county. He wondered why they were allowed to dictate to this county. Those were the questions the Planning Commission should ask and the questions the BOCC should consider. The county should tell WEC to take off instead of cow-towing to them. Another question was one of loyalty. He stated that his loyalty was tested daily at his work place. He stated that cow-towing to some outside organization would not gain this county anything.

Richard Hildt, Cape George Road, stated that it was classic in this country that the farmers had to be independent and had to produce everything themselves. It was also classic about how government came in and wanted to help the farmers. He cited the book "The Egg and I" as an example of government helping. He stated that it was classic that every time the

government got involved in something like this, they messed it up. They came up with rules because that would give the government something else to do; they would need more employees. He stated that he read the Second Settlement Agreement and then he read the ordinance proposal. He stated that some people in this room had been involved with the State DOE and had found that this so called best available science to be best available BS. He thought it looked like some sort of partnering (not necessarily collusion) with the WEC where there was a quid pro quo going on, although it was never spoken or written down. He questioned why the county would enter into an agreement with an organization whose intent was to put the county out of business. He thought that was what that agreement was about-taking over control of this county. He did not understand why we were even concerned about some group in King County, that was so messed up, telling us what to do. We needed to have the Planning Commission go to the BOCC and ask "Why?" He stated that the basic question was why we were even involved with this group. He stated that staff had done what they were told to do. The BOCC were wrong to tell staff to do that. He stated that it was up to the Planning Commission to tell them that. It seemed to him that the BOCC had violated our civil rights.

John Pontius, Beaver Valley Road, stated that he had been a steward of the land all his life. He stated that the commission had heard some good comments tonight and asked the commissioners to take it under advisement and consider it carefully. He stated that he had been out of the country for two years and did not know if the BOCC members were present. It was noted that they were not. He stated that there was a message there.

Nadine Hildt, Cape George Road, stated that WEC was an environmental group that was backed by a lot of money in King County. Their agenda was to get the people off of the land and into the towns and cities. She stated that they would press that agenda in every possible way they could. She provided information on her research into their web site and an associated web site. She stated that they gave Sen. Hargrove a plus this time for coming around on a couple of issues they favored. That was what the county was up against. They could challenge any rules adopted by the counties because they had money and an agenda. She stated that the agenda was coming out of Olympia also, and out of the agriculture schools as well. It was a liberal agenda that the land should be more primitive and the people did not belong there. She stated that a lot of those at this meeting may be here for the first time. She stated that she had not been involved either until she heard that they wanted to put meters on our wells. She stated that the makeup of the WRIA planning unit was almost all environmentalists. She stated that they had an agenda to turn this country upside down and they were being pretty successful. She stated that the next issue that was coming up was the national animal identification program. All of the farmers would be required to put chips in their animals in order to register and monitor them. She stated that she did not like a lot of government interference in her life; she liked to live her life. She stated that she could see where that would go, because as soon as they did that, they would start sending people around to see how you were raising your animals, and on and on. And the farmers would have to pay for them to do it. It was just a building of bureaucracy upon bureaucracy and the people would become the slaves of the bureaucracy. She suggested that if they came to this meeting, the people should be ready to come to future meetings as well, or the people would lose all their rights.

Mike Kitchens, Center Road, stated that he was raised in Sequim. Because Sequim changed, he moved down here. He raised angus cattle. He stated that

there was a lot of stress being a farmer and the most stress came from our government. He asked if this hearing was just a formality and that the proposed regulations would be adopted.

Bill Garrett, Griffith Point Road, stated that the people had identified the problem, but he had a solution. The solution simply was to stop asking permission.

Richard Hildt stated that people should start coming to these meetings. He knew it was difficult to keep attending, but that was the only way to protect ourselves from the fools we had for our elected officials. He urged people to keep coming to the meetings and to tell others to come as well.

Denver Shoop stated that he had read that we had a 90-day extension. The county wetland biologist had told him that they needed to get their permit papers in by July 18, before this ordinance was adopted. He stated that if it passed and he did not have his permits done, it would affect his property to the point where they could not do anything with it. He understood that someone would have to approve the 90-day extension. He stated that they would try to beat the 90-day deadline in order to get vested under the old rules. He stated that they continued to take samples from the creek. He stated that the creek had improved from what it used to be, and it was the farmers who had helped the creek, but they were still not happy. He asked what they wanted now; they wanted it to be better, even though the creek was past what they wanted. He asked where we stopped it. He stated that it would get to the point of people using guns to protect their property. He stated that we should not have to do that in this country. He wanted this to be settled. He should not have to take up a gun to defend his property in this country. It should be done by our elected officials who took an oath of office to defend the constitution. However, if the county pushed him, he would take up arms, because he would build a house on his property and live on it.

Norman MacLeod asked to have on the record how many landowners were involved in drafting this ordinance change.

Josh Peters stated that there had been several questions about the extension issue. He explained that there were actually two different extensions at issue. He stated that when you entered into a Hearings Board process, there was a timeline associated with it, just like when you were going to court. If you were in a negotiation process with an appellant, or if you were in a compliance process like the UGA process, you had to go back to the Hearings Board and ask for an extension. That was something that had been occurring regularly since the adoption of the UDC in December, 2000, with respect to this particular appeal. He explained that the 2000 appeal was transferred to this newer appeal. Since the end of 2004 when this appeal was filed, the county had asked for 90-day extensions several times. He thought there had been some confusion about associating an extension of time with the Settlement Agreement. He stated that the county had recently asked for another 90-day extension on the actual appeal just as a formality so we could continue this process under the Settlement Agreement. He stated that the Settlement Agreement allowed a 6-month timeline between January 18 and July 18. The BOCC's request for extension was to go back to WEC and ask if they were interested in extending it or not. He stated that they could say "No". That would essentially end the settlement. The next procedure would be to go back to the Hearings Board and start that process, which was the first step in a court process, which would have happened if the county had not elected

to enter into settlement negotiations with the appellant. He stated that in the growth management system, anyone with standing could file an appeal within a certain amount of time after an ordinance was adopted. To get standing, you only had to participate in the process in some way, such as appearing at a public hearing. He stated that the bottom line for going into settlement with WEC was because of our observations of what happened in Clallam County. He recommended that people read that case. It went to the Hearings Board and then on to Superior Court and then to the Court of Appeals. At each juncture, it was demonstrated that Clallam County's program for existing and ongoing agriculture was out of compliance with growth management. He stated that Clallam County's program was harder to follow for farmers than ours; our program was better than theirs. However, after looking at the Clallam County decision, we thought we would have a tough time defending our program. So, that was the decision that was made for better or for worse. He stated that what was interesting about his job, while acknowledging that not everyone respected this type of job, was that the planners were in service to the elected officials. So, if the decision became something else, such as the BOCC deciding to abandon the Settlement Agreement and choose a different path, the planner's job would be to defend that decision and the program we currently had, and staff would do that to the best of their ability. He stated that the State Supreme Court was also addressing the issue and perhaps we would have a decision that would affect all of us, particularly as it related to existing and ongoing agriculture in newly established buffers under critical areas.

Carol Young, West End, supported the Planning Commission keeping this issue and/or hearing open so that the people of West Jefferson County, who did not know anything about what was going on because the county did not see fit to inform them, could send in their comments up to a future date. She did not want the comment period to end with this hearing.

Norman MacLeod strongly suggested that the county take under consideration the concerns of the people and that the reason the county entered into the Settlement Agreement was because the county did not want to get sued. He suggested that there may be a mechanism, and if not perhaps the county could pioneer one, that if the county thought it was going to be sued over something that was for the good of the people of this county, instead of giving this county away, the county levy the people and hire the best lawyers to defend us. This business of giving it up because it cost too much and we might lose was rubbish. He did not care that Clallam County was having a difficult time getting theirs through. If ours was supposed to be better, the public did not agree, respectfully, that it was what we needed. He stated that we needed an open public process that involved the people who would take the hits financially, socially, and in their lifestyle. They needed to be the ones that worked with staff on writing the rules. With all due respect to staff, staff did not work for the BOCC; staff worked for the citizens who paid the taxes in the county.

Jim Hagen stated that he had reviewed the minutes of the previous meeting. The motion taken at that time was to extend the written comment period to the close of this public hearing. If the Planning Commission wanted to do something else, it would need to take another motion.

Mike Belenski urged the commission to extend the comment period for a week. The point was that there were West End people who needed more time to make their comments.

Jim Hagen stated that the Planning Commission had discussed the critical areas issue for awhile now. He stated that the commissioners had expressed objection to the Second Settlement Agreement and that was reflected in the commission's minutes. He stated that the commissioners had taken a motion at the last meeting to extend the public hearing in order to get more public input, after having only two people present at the last meeting. He stated that it was thrilling to have so many people come to a Planning Commission meeting and express their views.

Jim Hagen moved that the public comment period be extended indefinitely, until sufficient public input has been gathered, so that the Planning Commission could make an informed recommendation to the BOCC. Dennis Schultz seconded the motion which carried unanimously (9-0-0).

Richard Hildt cautioned the people to not go to sleep on this issue. He urged the people to submit their comments right away.

Jim Hagen moved that the Planning Commission at its next regular meeting (July 5) schedule a forum environment for a question and answer segment and to invite the BOCC, County Administrator, and legal staff. Edel Sokol seconded the motion which carried unanimously (9-0-0).

Norman MacLeod suggested that the forum be held in a large enough venue to accommodate all the people who would likely attend.

Jim Hagen moved that the Planning Commission cancel the June 28 special meeting. Dennis Schultz seconded the motion. There being no further discussion, the motion carried with eight in favor and one opposed (8-1-0).

There being no further public comments, the Chair closed the public hearing to oral comments, noting that the written comment portion had been extended indefinitely.

Jim Hagen opened the meeting to a question and answer period.

Carol Young asked about the time and place for the next meeting. Jim Hagen stated that the meeting time would be at 6:30 p.m. on July 5 but a larger meeting place would have to be found. It was noted that the commission's agenda, including meeting time and location, would be posted on the county web site. Also, the meeting would be advertised in the Leader. An audience member suggested that the county find a way to inform the folks in the West End.

Richard Hildt asked staff if they got a copy of the Second Settlement Agreement right away after it was signed. Josh Peters replied that staff did receive it. Mr. Hildt asked why it was not published; why it was kept secret. Mr. Peters responded that his perspective was that it was not kept secret. He stated that the county had a Settlement Agreement with WEC dating back to 2002 or 2003 on the UDC. There was a series of critical areas workshops last Spring and it was part of that discussion. There was always the hope that we could reach a settlement earlier, but it did not happen until January, 2006. Then staff would come forward with a proposal. From his perspective, the reason it was not advertised more in January was because there was simply other things happening then. Frankly, it had been a scramble to meet the settlement's timelines.

Norman MacLeod asked why the county chose an outside attorney to do the negotiations for the county. Josh Peters replied that he believed it related to county resources. He explained that we had one Chief Civil Deputy Prosecuting Attorney who was in charge of all civil matters, including growth management and land use matters. The contract attorney had more experience in this particular field.

An audience member asked about the ag designation for his property. Josh Peters explained the ag lands zoning process that occurred in 2003-2004 for Ag Lands of Local Importance. He explained the Open Space-Ag tax program, which the person could still apply for. Or the person could apply for a Comp Plan amendment to change the zoning for his property.

C. ADJOURNMENT

The meeting was adjourned at 10:30 p.m.

D. APPROVAL OF MINUTES

These minutes were approved this _____ day of July, 2006.

Jim Hagen, Chair

Cheryl Halvorson, Secretary