

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR JANUARY 3, 2007

- A. OPENING BUSINESS
- B. STAFF PRESENTATION ON STATUS OF SHORELINE MASTER PROGRAM [SMP]  
UPDATE
- C. DISCUSSION ON PLANNING COMMISSION WORK PLAN FOR 2007
- D. 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 JD Gallant, Bud Schindler, Dennis Schultz, Bill Miller, Henry Werch, Edel Sokol, and Peter Downey. Mike Whittaker was excused.

DCD staff present were Brent Butler, Michelle McConnell, and Cheryl Halvorson, secretary.

There were about four members of the public present. Those who signed the guest list were Aimee Smith and Richard Hild.

The minutes for December 6, 2006, were approved as submitted.

The Chair invited staff updates.

Brent Butler reported on the staffing issues. He reported that the Holland amendment would be presented to the BOCC on January 8. Bud Schindler asked about the Planning Commission's budget request for mileage reimbursement to meetings other than Planning Commission meetings. Cheryl Halvorson responded that the BOCC decided during the budget deliberations to not change the policy and to only reimburse for full commission meetings, not other committee meetings that the commissioners may attend. It was pointed out that mileage for the other meetings could be claimed on the individual's IRS tax return.

Brent Butler reported on the Garden Court Apartments issue, which was reported in today's paper, and its possible effect on the affordable housing stock. He reported that the BOCC would send a letter to the USDA regarding the issue and request a 30-day extension for the comment period. Edel Sokol stated that the apartments near Grant Street School in Port Townsend would be next.

Brent Butler reported that the staff had started an in-house review of the consultant products for the Brinnon MPR EIS [environmental impact statement]. He thought the Planning Commission MPR Committee could begin review sometime in February.

Brent Butler reported on the Preserve America Program relating to tourism and preserving historic resources. The county would be applying for the Preserve America designation. He explained the advantages of the designation.

Brent Butler reported that there were issues with meeting places for Planning Commission committees that would need to be addressed.

The Chair invited committee reports.

Bill Miller reported on the UGA Committee meetings. There had been five meetings so far. He reported on the status of the committee's work on the first three tasks of the UGA work plan. Some were only partially done. Dennis Schultz asked if the UGA Committee had a copy of the Coordinated Water System Plan for the county. He thought it would be useful. The commissioners discussed the UGA boundary and whether it was approved. Mr. Miller stated that the committee thought it would finish its work by the end of January or early February. Then they would be ready to make a presentation to the full Planning Commission. Brent Butler stated that it

would be important for the committee to finish its line-in/line-out recommendation for the first three tasks in order for the Planning Commission to receive it at the next meeting. Mr. Schultz stated that the timeline should not be compacted too much because the committee could not act that quickly. Mr. Butler stated that there was some line-in/line-out that was already prepared and ready. He stated that the county would need to seek an extension from the Hearings Board but it would be important to show a good faith effort towards achieving compliance.

Peter Downey had no report on the Shoreline Committee, deferring to the full agenda topic.

Jim Hagen reported on the Critical Areas Committee, stating that the sub-groups had been working and they would be presenting their reports to the full committee beginning on January 4. Cheryl Halvorson reported that the Critical Areas Committee had logistical issues for their meeting space that needed to be addressed. Bud Schindler stated that he thought the most pressure would be on staff to take the policies the committee adopted and turn it into code language. He thought that was a big job and, given the staffing issues, it could be problematic for meeting our agreed upon deadlines.

The Chair invited general public comments. There were none received.

#### **B. STAFF PRESENTATION ON STATUS OF SHORELINE MASTER PROGRAM [SMP] UPDATE**

Michelle McConnell stated that the commissioners had received two documents, one a flowchart and the other titled "1-3-07 Status Briefing to Planning Commission".

Michelle McConnell reviewed the information on the 1/3/07 handout. It provided the history behind the current SMP effort. An important aspect of the SMP update was the "no net loss" policy. Another key item was a restoration component.

Dennis Schultz asked when the county was required to update its SMP. Peter Downey replied that the original target date was 2011. Michelle McConnell explained that, because the county had done a lot of inventory work, we wanted to continue building on that, rather than let it sit on a shelf and have to start over for a 2011 deadline. In addition, we had already done a lot of staff, consultant, and citizen effort in the 2000 draft that we did not want to lose. Also, the county received grant funding to do it now. In addition, King County's plan was due in 2009 and we wanted to have our plan in ahead of theirs. Ms. McConnell stated that the City of Port Townsend was among the first to update their plan. It was getting close to being adopted.

The commissioners discussed the differences between a rural county plan and an urban plan and some of the unique features in this county.

Edel Sokol and Michelle McConnell discussed the grant funding and whether it was enough. Ms. McConnell discussed an extension of the timeline.

Michelle McConnell described the two stages preceding the formal public review stage. She described the Stage I preparation work. The Shoreline Technical Advisory Committee [STAC] and Shoreline Policy Advisory Committee [SPAC] were being utilized in that work.

Peter Downey stated that there was a lot of restoration money for salmon restoration work, but the shorelines were a lot more than just salmon habitat. He stated that he would look closely at the SMP restoration plan draft with that in mind. Michelle McConnell stated that she did not think the restoration plan would be prescriptive in terms of parcel by parcel, at least for the freshwater shorelines (streams, rivers, and lakes); it would be more "big picture" because we had less information. We had more information on the marine shorelines, so that may be more prescriptive.

Edel Sokol stated that the whole Coast Hatchery operation in Quilcene was endangered because of a proposed restoration plan for the Big and Little Quilcene Rivers. She stated that Rep. Jim Buck put a stop to it, because he was the only one who understood what was going to happen. Michelle McConnell stated that the SMP restoration plan was not species specific. There were a lot of components going into it, especially for the marine shore efforts. Ms. Sokol stated that the Quilcene project was going to go forward regardless of the impact to that hatchery. It was not being stopped or considered by the state agencies or the county. It took a state level politician to stop it. She wanted to see something in our SMP that would prevent such impacts.

Henry Werch asked about the integration of the SMP and the Critical Areas Ordinance [CAO] and restoration. Michelle McConnell responded that identified critical areas inside the shoreline jurisdiction would be protected by the SMP. The restoration plan was a supporting document to the SMP. It had been suggested that some of the broader language of the restoration plan be incorporated into the actual SMP, but that the restoration plan stay separate from the SMP. Peter Downey stated that the SMP required a restoration plan and not restoration; they were two different things. With a restoration plan, as money became available, you would know where to spend it. Dennis Schultz stated that the county may require restoration work on a specific parcel as part of a permit's conditions. The other part of restoration was projects taken on by governmental entities that they were paying for, such as restoring estuaries. Ms. McConnell stated that there was material on the shoreline web site concerning the issue.

Peter Downey stated that the "no net loss" piece of the SMP was not really about restoration. It was about what you had to do to mitigate a proposed impact, regardless of the restoration plan. They were two separate things. Bud Schindler asked if "no net loss" took place on a site specific basis or if it took place in a broader area. Michelle McConnell responded that stressors were site specific, unless you were talking about non-point source pollution. But, these were based on landscape analysis, which was very "big picture", as well as the marine shoreline scoring. Mr. Schindler asked who kept track of "no net loss" and evaluated it. Ms. McConnell replied that it would at least be done at the 7-year update of the SMP, which was required. Also, reviews would be done on permit applications, which could capture some of it on a site by site basis. She agreed that it was a question that was not answered yet. It was being discussed at the state level.

JD Gallant asked for an example of the current condition baseline and what year that was based upon. Michelle McConnell replied that the data being used was from an inventory characterization report that would likely be done this month, so 2007 would probably be the baseline year. Peter Downey stated that it was supposed to be current. Bud Schindler thought it would be interesting to see a model of an area that had a lot of activity going on and show how that activity was measured and how it affected the losses and the decisions that would be made to bring it back up to the baseline. He stated

that he was trying to get a handle on the decision making process and how this "no net loss" came about in a particular area. Mr. Downey thought what Mr. Schindler was getting at was where you had a development that required some mitigation, where that mitigation would be required, whether it had to be onsite or off-site. Mr. Schindler agreed that was his question. Mr. Downey stated that all mitigations were negotiated settlements. A proponent could come up with an off-site mitigation place that provided more functions for less dollars. It would typically be within a watershed. Mr. Schindler asked if it was up to a person who owned a parcel of land who was getting a permit that would result in a loss to figure out some way to provide for a gain somewhere in the county. Brent Butler described an example in Whatcom County where they had mitigation projects using a "bank" based on impact fees to developers. The restoration plan would set out what would be expected. Mr. Downey stated that he had worked extensively with DOE and DFW on mitigation optimization. He described that concept. They were talking about taking the restoration plans and marrying them up with the developers and require them to pay impact fees into restoration projects that would get you the ecological functions that were impacted by the developments. Mr. Butler described rules relating to impact fees.

Michelle McConnell described the Battelle scoring work, stating that those workbooks could be used as predictive tools. She thought it could be a pretty powerful tool.

Dennis Schultz stated that restoration was feasible for bigger developers. However, a lot of the shorelines in the county were owned by individuals who did not have the money to do restoration or to pay restoration impact fees. He thought it would be beyond the means of a lot of people. If we came up with a lot of regulations that would make it impossible for these people to use their property, when the draft came before the public, the WSU facility would not be big enough. We had already experienced that with the CAO. Michelle McConnell responded that the number one criterion was that we had to comply with the law. Mr. Schultz stated that his point was that everything was based on development, mitigation, etc., but it was hurting the small landowners. Peter Downey stated that you also had to look at the three goals. The first goal was to encourage water dependent uses. If it was a water dependent use and it was being built on the shoreline, then it should be encouraged. If it was not a water dependent use and they wanted to develop there, you had to ask the question "Why do you want to do it there?" Mr. Schultz responded that the shoreline made a person's property much more valuable, and if you could not use it or enjoy the shoreline, you had taken that person's property value from him.

Bud Schindler stated that he was confused about the difference between "mitigation" and "restoration". They meant two different things to him. Brent Butler cited the example of the Brinnon MPR. That project would have impacts. Those impacts would have to be mitigated. Peter Downey stated that restoration would be similar to the projects that were done on Chimacum Creek, which were area-wide and not tied to any specific projects. Mitigation was tied to specific projects as permit conditions.

Henry Werch, referring to Chimacum Creek as an example of streams or rivers which we would be concerned about under both the SMP and CAO, asked, if the CAO specified buffers that we had determined would prevent damage and any development must meet those requirements and those requirements must meet the minimum SMP standards, how it was possible for any development to create a net loss. Michelle McConnell responded that a very key component was the

baseline. While both arrows on the graphic pointed up, one concentrated on maintaining what we currently had. The other was improving from what we had today. That was an important distinction. She stated that mitigation was just one way to accomplish "no net loss". You could also avoid the impacts.

Michelle McConnell stated that Stage I was the background work in preparation for Stage II. Stage II involved finalizing the restoration plan, the key components of a draft SMP would be developed, and the cumulative impacts analysis would be done. She reiterated that the Stage I and Stage II phases were considered the staff development phase which were occurring before the official public review.

Michelle McConnell described the purposes of the STAC, SPAC, and the upcoming charrette which were utilized for advising staff. She stated that staff was planning for a week long public information "road show" in February.

Michelle McConnell described the Stage III phase which would be the actual public review process, including the Planning Commission. She stated that the county was seeking an extension of time for completion of the SMP to June, 2008. The indication from DOE was that they would approve the extension. She acknowledged that there was a lot of balancing of various interests that had to occur with the development of the SMP.

In answer to Edel Sokol's question about the charette primer participation, Michelle McConnell described the public participation that occurred. She stated that there were shellfish owners and marine shoreline property owners present.

Michelle McConnell reviewed the flowchart for the development and adoption of the SMP. One of the last steps was a DOE review of the draft SMP. They could ask for particular revisions before final adoption. Peter Downey asked if there was any recourse by the county if the county did not like some of their requested revisions. Ms. McConnell replied that there was definitely an opportunity for negotiations. Mr. Downey asked what happened if DOE insisted and the county did not want to comply with their request. Ms. McConnell responded that she would have to look into the question. Bud Schindler stated that it would be better to have DOE input before the plan went to the BOCC. Cheryl Halvorson responded that part of the public review process before the Planning Commission was notice to the state agencies about the review, giving them an opportunity to comment.

Dennis Schultz stated that his question had to do with mandating restoration as a condition for an individual permit, even if the permit did not show there would be a net loss, or mandating public access across private property. Michelle McConnell responded that it would depend. She stated that it was part of the discussion at the last Policy committee meeting. Peter Downey stated that there were a lot of things that would dictate whether a certain place was a good place for public access. First, it had to be a place where the ecological functions would not be disrupted by public access; you don't want public access in a real sensitive area. Second, a lot of the tidelands were privately owned. It was inappropriate to give public access to people's private property.

Henry Werch stated that a broad goal related to water dependent uses. He stated that agriculture and aquaculture were obviously water dependent uses, but they both impacted the environment. Goal #2 was to protect natural resources and vital functions. He asked how you could reconcile the two

goals. Michelle McConnell responded that agriculture and aquaculture were two of the required components of the SMP. Mr. Werch wondered whether there was any bias towards one goal or the other. Ms. McConnell replied that they were both considered types of uses. Peter Downey stated that it related to being a water dependent use, which created a partial bias. In answer to Edel Sokol's question, Mr. Downey stated that some agriculture may be a water dependent use. He cited the example of putting a pump in a stream for stock water or irrigation as being a water dependent use on a farm.

Edel Sokol asked about the integration of the SMP and the CAO. Michelle McConnell responded that for critical areas inside the shoreline jurisdiction, the SMP would apply, but those regulations must be at least equal to the CAO. She stated that getting an extension of the SMP timeline would be a good thing because then we would know what the CAO would say.

Edel Sokol raised the issue of shoreline modifications, such as bulkheading. Michelle McConnell responded that such modifications were currently allowed under a permit. She could not address how they would be addressed in the new SMP. She pointed out that modifying a shoreline in one place generally had an impact in another area, either down stream on a river or by modifying the tidal flow along marine shorelines.

#### **C. DISCUSSION ON PLANNING COMMISSION WORK PLAN FOR 2007**

Two staff handouts were provided. One listed substantive tasks for 2007 that staff knew about. The other was a copy of a chart the Planning Commission produced in early 2006 that ranked various tasks. Bud Schindler stated that one project that had not been done was a side-by-side comparison of the UDC and Comp Plan. Brent Butler stated that such a suggestion would come under the suggested amendments for the 2007 Comp Plan amendment docket.

The commissioners discussed whether the affordable housing or economic development issues were issues that would come before the full Planning Commission this year. Dennis Schultz thought the issues only required a commission member sitting on the pertinent advisory committees. Bud Schindler thought there were updates to the Comp Plan that were necessary to make the Comp Plan consistent with the adopted Affordable Housing Action Plan.

The commissioners reviewed several issues that could be quite controversial. They discussed several tasks from the 2006 chart and whether to bring them forward to 2007.

Bud Schindler moved that the County-wide Planning Policy be integrated into the Comp Plan and that their functionality be incorporated into the Comp Plan process. Edel Sokol seconded the motion.

Bud Schindler stated that he would draft a line-in, line-out Comp Plan amendment application.

Jim Hagen commented that the commission should consider how much time these tasks would take. He thought the commission should decide which tasks were the highest priorities, citing the Brinnon MPR as one example of something that could take a lot of time.

The motion carried unanimously (8-0-0).

After further review, the commissioners agreed upon several tasks on the 2006 chart that should be dropped as well as several that should be brought forward into 2007. One task they agreed to drop was Planning Commission involvement in the WRIA 16 and 17 meetings.

Bill Miller volunteered to serve on the Housing Advisory group. There was some question about whether any Comp Plan amendments would be necessary as a result of the adoption of the Affordable Housing Action Plan. Staff thought that review should occur by the Housing Advisory group with that group drafting a suggested amendment if one was necessary. That may not come until the 2008 Comp Plan amendment cycle.

The commissioners and staff discussed the ILB [Industrial Land Bank] issue. In order to designate an ILB, it would require a site specific Comp Plan amendment. That would have to occur this year in order to meet the legislative deadline.

Dennis Schultz pointed out that two issues that should be added were the Sign Code and the No Shooting Areas issues.

It was agreed that staff would produce a new, updated list of tasks for the Planning Commission to finalize.

#### **D. ADJOURNMENT**

The commissioners discussed the agenda for the next meeting. The UGA issue and another review of the work plan list will be discussed. Also, there will be a substantial update on the Critical Areas Committee work.

Dennis Schultz suggested that Al Scalf review the work plan list and add anything that was missed.

Jim Hagen brought up a Washington Water Law workshop on January 12. The cost was \$100 per person. The commissioners discussed whether to send someone from the Planning Commission. Another issue was whether the county would pay the tuition. Staff volunteered to contact the County Administrator about paying the tuition from the Planning Commission budget. The commissioners decided not to pursue the issue.

The meeting was adjourned at 9:30 p.m.

#### **E. APPROVAL OF MINUTES**

These minutes were approved this \_\_\_\_\_ day of January, 2007.

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Jim Hagen, Chair

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Cheryl Halvorson, Secretary