



JEFFERSON COUNTY
PLANNING COMMISSION

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JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR MAY 23, 2007

- A. OPENING BUSINESS**
- B. DISCUSSION OF AGRICULTURE ISSUES RELATED TO THE CRITICAL AREAS ORDINANCE**
- C. ADJOURNMENT**

A. OPENING BUSINESS

The special Planning Commission meeting was called to order at the WSU Learning Center at 6:30 p.m. by Chair Peter Downey. Planning Commission members present were Ashley Bullitt, Mike Whittaker, Bud Schindler, Bill Miller, JD Gallant, Henry Werch, and Patricia Farmer. Edel Sokol was excused.

DCD staff present were: Brent Butler, Joel Peterson, Karen Barrows, and Cheryl Halvorson, secretary.

There were about 22 members of the public present. Those who signed the guest list were Frank Hoffman, James Fritz, Steve Todd, Bob Schultz, Pat Pearson, Owen Fairbank, Phyllis Schultz, Norman MacLeod, Jim Hagen, Larry Bonar, Al Latham, Amy Hiatt, George Yount, Jo Yount, Dennis Schultz, Teren MacLeod, Roger Short, Jill Silver, and Sandy Hershelman.

Staff Updates:

Brent Butler reported on the status of the work towards compliance on the UGA issue. He reported that CTED had notified the county that it would not be eligible for Public Works funding because the county was noncompliant. The work of the Planning Commission and adoption of the current line-in, line-out recommendation will be reflected in the next additions to the index for the Hearings Board in July. Hopefully that will show that the county is doing everything possible to come into compliance. He said the CTED stance put the county into a Catch 22 situation because we needed the funding for the sewer planning in order to come into compliance. Peter Downey commented that we had talked about petitioning the Governor about this issue because the CTED sanction seemed to be an administrative sanction. Mr. Butler responded that the direct avenue to the Governor has not been done. Mr. Downey wondered whether it was a problem that would last for a short time or if it would be for a year or more. Mr. Butler responded that his impression was that it could last for several years. Mike Whittaker wondered whether the Hearings Board had looked at all our answers to their questions at the March 21 hearing. Mr. Butler replied that his understanding from CTED was that the decision was based solely on the Hearings Board determination of invalidity or noncompliance. He was hoping that was incorrect, stating that staff would continue to work with CTED on the issue.

Karen Barrows reported on the status of the No Shooting Areas issue. The BOCC decided to constitute a core review group and then add citizen representatives for each petitioned area. Then they will begin to review the areas under petition.

Cheryl Halvorson reported on the Appearance of Fairness/Conflict of Interest issue as it related to the CAO deliberations and the pertinent section of the Planning Commission by-laws (Section 14). Brent Butler reported that a Short Course on Local Planning will be held and those courses usually included a segment on the Appearance of Fairness doctrine.

Brent Butler reported that staff had prepared a binder of the CAO Committee reports to be made available to the public. One will be at DCD and the other two will be available at the county and city libraries. Henry Werch asked about the committee record and whether it would be available to the public. Staff responded that they logged all items for all such projects. That inventory can be available to the public for review. Mr. Butler added that the log item list will become part of the record for the Hearings Board case as well.

Brent Butler reported on the status of the ILB Comp Plan amendment.

Committee Reports: None.

Public Comments:

Denver Shoop spoke about the wasted time on the committee, blaming the environmentalists. He asked for a report from each member of the committee about their affiliation with environmental groups. He was also concerned about the Planning Commission. He thought the decisions had already been made. He did not think the environmentalists cared about people's property rights. He did not think the environmentalists on the CAO Committee had worked in good faith. He said people could not sell land now because of all the regulations and the regulations that might be coming. He had been willing to work with the county before but no longer. He was going to watch out for himself and protect himself. He hoped something could get done instead of arguing back and forth. He asked the Planning Commission to get to the point and get something done, taking one issue at a time.

Larry Bonar urged the Planning Commission to adopt a plan dealing with critical areas buffers that was much closer to the Silver-Hiatt proposal rather than the so called majority proposal. He thought the buffer sizes in the majority proposal represent a radical departure from established practice. Until such buffers were proven over an extended period of time, he thought we should err on the side of caution. He referred to the incident of contamination by E-coli of vegetable crops that probably occurred because of a cattle feeding operation somewhere near the vegetable fields. It was not clear what the vector system was that allowed the E-coli into the vegetable fields. The point was that it was a stable situation for a number of years, but all of a sudden there was a combination of yet unknown factors that allowed the contamination to occur. Not only did this cause a serious public health problem, it virtually wiped out the growers of the vegetable crops; they will probably never be able to grow and market the crops they used to grow, spinach in particular. He said that the commission needed to err on the side of caution until smaller buffers were proven over time. He thought the commission needed to err on the side of something closer to the current status.

Roger Short stated that the Planning Commission would talk about agriculture. SSB 5248 gave a time out for new critical areas restrictions for agriculture for 3 1/2 years. He wondered why the commission would even talk about ag tonight when it really could not do anything. Mike Whittaker responded that the last clause in the bill said that if funding did not come by the end of June, the whole bill became void. Mr. Short reported that the Farm Bureau staff talked to the Attorney General's office today and it sounded like it was still going forward. Even if that was the case, Mr. Short said that they have been told that ag will be exempt. He urged the Planning Commission to take a motion stating that ag will be exempt; that was what everyone on the committee was proposing. He said he did not have much trust because there had been too many things happen in the past. He referred to the Nature Conservancy that was a major supporter of the No on I-933 initiative. They gave \$350,000 to a farmer for waterfowl habitat to speak against I-933 and then they reneged on the agreement. He said that they now wanted more. That was what had happened over and over with GMA. He would really like to know if we will have an ag exemption. He referred to the comment letter from Dr. Fred Weinman and disputed some of his comments. He was particularly concerned about Dr. Weinman's comment about turning Chimacum Valley back to its natural state in 30 or 40 years. He perceived a lot of the restrictions through buffers as a means of lowering the property value and ag viability of the farms so the environmentalists can buy it cheaper. He said the bank will not loan him money now because they don't know what the future regulations will be. He cited several federal and state laws that apply to farms. He then cited several new issues that will affect farming, such as the instream flow rule.

Owen Fairbank said he worked with the Jefferson Land Trust and described how they only purchase from willing landowners and must pay fair market value,

using certified appraisals. He was disappointed that sometimes things seemed to degenerate into personal attacks.

Jim Hagen referred to the last comment, stating that Dr. Weinman's letter was littered with personal attacks and value judgments on various members of the committee. He referred to Mr. Short's comments about not trusting the ag exemption. Everyone on the committee had said they believed it would continue. However, after reading the Weinman comments, he believed that the conventional wisdom that our farmland is threatened by developers is false. He thought the threat to farmland in Jefferson County was not from developers but from people seeking to return it back to its wild state. Dr. Weinman's proposal wanted big buffers so we can preserve the land, and keep our options open, so maybe in 20 or 30 years we can purchase all or most of Chimacum Valley at market value, including adjacent houses and office buildings. He wondered where those people and businesses were going to go. He pointed out that most of Chimacum Valley was farmland. The important thing was where the farmers are going to go. He thought big buffers in essence devalued the land because without big buffers the cost to purchase the land would be prohibitive. We heard that we needed big buffers to protect the functions of water quality, hydrology, and wildlife. But he was hearing Dr. Weinman offer a whole other reason why we needed big buffers. That was to devalue the land so the county can purchase it in 20 or 30 years and return it to its natural state. He referred to the 200 acres of former farmland in the Tarboo area being converted to wetlands. He was seeing a pattern of taking farmland out of production for preservation and not by developers. He thought if we were going to have an honest discussion about preserving farmland for farming and agriculture, we really need to apply appropriate actions to insure that will happen for 20, 30, 50 years and beyond.

Bob Schultz provided written comments and read them into the record. He offered three decades of university experience in researching and teaching ethics and environmental studies. He referred to the Fundamental/Foundational Principles and Values, stating that the thrust of the document is to guard the economic benefits and enjoyment of current landowners against the perceived threat of land use regulations. He offered four questions for the Planning Commission to consider (see the written comments).

Dennis Schultz said he had observed that the people who spoke in favor of the minority view were all from the city of Port Townsend. He said the CAO affects the people who live in the county, the non-Port Townsend area of the county. The people have been giving out horror stories about developers lining up to come in and develop our rural areas. He said our current zoning only allowed a minimum of five acres, which was not friendly to developers. The people who have responsibility for keeping those developers from coming in, which had nothing to do with critical areas, are the Planning Commissioners. The Planning Commission was the body that will decide the minimum parcel size for this county. They give us horror stories about animal feeding operations that contaminated vegetable fields. This county will never have a large confined animal feeding operation; it is not economically feasible. We got horror stories about protecting it from industry. He said we have no industry in this county and we have no industries lining up wanting to come here. We only have some very small businesses in our industrial zones. We have very little commercial development in this county. If you drive around the county, you will see that we have nothing but houses. They talk about protecting the steams up in the mountains. This CAO is for the county portion outside the Forest Service lands. We were not talking about the mountains; we were talking about the areas in the low lying areas and the farmlands. He urged the Planning Commission to look at the land forms we were really talking about writing this ordinance for; it was not the mountains, it was not the forests, it was not the industrial areas. It was not to protect the commercial areas. It was to protect the homeowner who had a rural home on five acres or the small farmers.

Al Latham, Conservation District, asked the Planning Commission to think about what problems we were trying to solve when it considered agriculture, what needed added protection. He discussed the voluntary programs under the Conservation District that had provided buffers and fencing. He did not see the need for mandatory buffers that will need enforcement, but will not be enforced, and will create a reluctance to do voluntary efforts. He did not see a big problem that needs to be addressed that is not already addressed by the so called majority report on agriculture. He thought it adequately protected us. He knew of other ordinances in other counties that looked good on paper but they were not being enforced, so what was the point?

James Fritz said he had seen a number of counties destroyed by urban sprawl. The first thing to go was the farms. The next thing you know there is a bad recession. Then the developers come in and the next thing you know the whole character of the county is ruined. If we want to keep the county rural and beautiful, you should want to keep the farms. Farming should be the highest and best use. He said the farmers in this county had done a good job of keeping things rural and beautiful. He thought what would happen was the ecologists will succeed in putting farms out of business. Then there will be a recession and the developers will get in. The next thing you know, in 20 or 30 years, there will be 150 to 200 clusters of 30 to 50 million dollar houses all over the county and no farms. People will be saying "Gee, I can remember when Jefferson County was rural and beautiful, but now it looks like southern California." That could happen to Jefferson County. Meanwhile, the people here now will be the ones who destroyed it. Agriculture has to be the highest and best use and we have to look out for it in order to keep Jefferson County the way it is. Otherwise, it will be ruined.

Dennis Schultz said that Al Latham was very modest. Under his leadership of the Conservation District, their success with voluntary buffers in the ag areas is probably one of the most successful programs in the state and nation and was recognized as an outstanding success. Their efforts to clean the water was the best in the state, and again probably in the nation. He did not think many people realized that. We really have a leadership program going on now that is exemplary.

B. DISCUSSION OF AGRICULTURE ISSUES RELATED TO THE CRITICAL AREAS ORDINANCE

JD Gallant moved that the Planning Commission, since the commissioners as members of the assembly need to deliberate freely, that is in a vigorous exchange of information, ideas and recommendations, and since the rules allow us to go into a lower form of a committee of the whole, informal consideration, while allowing the Chair to have the same authority, that is all exchanges presented through him and an unlimited amount of exchanges but limits of time, he moved that deliberations on the CAO be considered informally and that the time limit for speaking be established at three minutes unless more time is allowed by the Chair. Bill Miller seconded the motion.

Henry Werch asked for clarification about the 3-minute limit. JD Gallant responded that it was for the Planning Commission members. It would allow a vigorous discussion between the commissioners. Mr. Werch asked if the discussion would allow, where appropriate, for questions or comments from the public. Mr. Gallant replied that it should come as another motion. Ashley Bullitt asked how the motion was different from what the Planning Commission usually did. Mr. Gallant replied that it gave the way the Planning Commission was handling it a sense of legitimacy. He discussed how it should normally work and how it would work under the motion, which would relax the rules.

The motion carried with four in favor, two opposed, and two abstentions (4-2-2).

Mike Whittaker suggested that the commissioners tell where they lived because it might give some perspective on the commissioners. He said he lived on 25 acres on the Big Quilcene River, which was salmon habitat. Peter Downey said he was from an ag background and was now a shellfish farmer. JD Gallant said he grew up on a dairy farm. Patricia Farmer said she lived in the city, but it had been her dream to be a farmer. Henry Werch said they lived on 1/2 acre that had no critical areas. He explained his wife's and his previous work relating to critical areas. Bud Schindler explained where he lived in Brinnon, stating that he and his wife were in real estate. Bill Miller said he lived in Port Townsend but he wanted to encourage farming and people who want to continue doing it. He thought this was an opportunity to do that. Ashley Bullitt said she was no environmentalist, but she did know something about the history and geology of this state. She said the Olympic Peninsula, because of its geology, was a unique area and it was a very fragile area. She thought the contradictions of wetlands and agriculture was a feature of that. She was not in favor of returning ag land to its natural state. She supported having more ag land. Due to global warming and the end of affordable fuel, she thought it would become increasingly important to have locally grown food. Also, soil was a non-renewable resource that was being depleted at a faster rate than petroleum. Due to the specifics of the land here, the depletion of the soil we do have here will be an increasingly persistent problem. She was very much in favor of protecting and encouraging agriculture as much as possible. In order to encourage that, we needed to make sure the fragile land is not degraded so that people are protected from losing their property values through their own inadvertent, or someone else's, practices.

Peter Downey addressed SSB 5248, stating that he did not think we could do anything more than a voluntary ordinance at this time. He thought we were provided with a great opportunity to put together a voluntary ordinance and have a 3-year window of time to see how well it works.

Henry Werch concurred but thought there were opportunities for the Planning Commission to make recommendations for non-CAO regulations that relate to ag that would help support the ag goals and values that we hold. He agreed that the Planning Commission should clearly state that we have the highest confidence in the Conservation District and would not want to impose any additional restrictions on existing ag. He asked that the Planning Department and the code writer examine everything in the CAO and other portions of the code to address that. However, we should address loop holes. One was to bring new agriculture into the functional exemption if that new ag could also be brought into the environment of the Conservation District. If that is not possible, he suggested the Planning Commission consider imposing some restrictions on new ag similar to those the Conservation District has established. Finally, he would want there to be very clear ordinance basis that would immediately discontinue the voluntary status of any property that was proposed to be converted from ag into something else so that no ag exemptions would continue on any property that was not being used for agriculture.

Bill Miller moved that the twenty (20) reports produced by the Critical Areas Advisory Group and the two (2) supplemental documents as identified and received by the Planning Commission on May 16, 2007, and as corrected via e-mail on May 21 be provided intact to the person who will be drafting the code language for the Jefferson County CAO, with the understanding that recommendations addressing specific consideration for inclusion into the draft code and as approved by consensus of the Planning Commission shall also be provided in a scheduled and timely fashion. Mike Whittaker seconded the motion. JD Gallant clarified that no second was required under the relaxed rules.

Bud Schindler thought the reports had been provided to Eric Toews already. Cheryl Halvorson confirmed that they had been.

JD Gallant asked how Mr. Miller saw this working. Bill Miller replied that he thought SSB 5248 would hold forth. He saw this as an opportunity to work with the Conservation District to get volunteers to help us do a monitoring program. We should have a monitoring system in place that shows what we currently have as buffers, what our water quality measurements are, and we have a 3-year time period to establish data. There should be some kind of standards for acceptable water quality. Then we can see if we are meeting them or see trends, perhaps seasonal trends. In relation to the motion, he explained that the Planning Commission should direct the code writer as to what it wanted him to specifically address with respect to ag. We were looking for voluntary programs. We needed to establish that there would be monitoring, which one report described. He would want the code writer to provide back to the Planning Commission draft code describing what things you do if you have streams on your ag property. We needed to establish what impact the ag activity is having on the water quality. He said the commission would have to provide specific recommendations to the code writer on what code language it wanted.

Henry Werch was concerned that the legislation prevented us from imposing anything on ag through the CAO. Bill Miller responded that he thought SSB 5248 allowed a monitoring program in particular. He said he wanted to get to specific recommendations tonight; he did not want to just give the packages to the code writer.

Bud Schindler summarized that Mr. Miller was suggesting the commission identify a list of features it wanted in the ordinance and direct the code writer to draft code language based on those features. Bill Miller agreed that was the idea. He added, however, that the code writer, due to his experience and background, may think of other things that ought to go in the code and he may know where to put it in the existing code, if he wants to use that. But in the end, he wanted to see all the things the commission submitted in the code, because the Planning Commission would be the body to suggested the code to the BOCC.

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

Peter Downey thought the streams that were important to agriculture were already being monitoring. Al Latham confirmed that was so. Mr. Downey said that we already had good monitoring data. He thought the biggest question before the commission was "What is baseline?" Was it what we had today with all the voluntary data we had? Bill Miller responded that he thought what we had could be considered baseline. But he was not sure that baseline was the same thing as standards or criteria. Mr. Miller said that if we have a baseline, we should use it as a starting point. Mr. Downey said that in order to judge the success of the voluntary program over the next few years, we had to know where we are starting from. Part of that baseline includes a lot of voluntary efforts that have come before this. It would be nice to be able to acknowledge that we are where we are today in large part because of voluntary efforts. Mr. Miller agreed that was true. While he would not want to impose monitoring on the farmers themselves, he thought there were other means and people we could use. He suggested we formulate the skeleton and flesh it out based on what has already been done.

Peter Downey said that what he had heard from the Planning Commission so far was that we don't want to impose new restrictions on ongoing ag. He thought that was unanimous. Concerning loopholes, the idea was to move new ag into the ordinance provided that it works with the voluntary measures as well. He was of the point of view that we not make a distinction between new ag and old ag; he thought that all ag should be included. Ashley Bullitt said the distinction she saw between old ag and new ag was that the county had a rich history of farmers who have practiced ag for generations. They know the particulars and peculiarities of their land and they know how to protect it because their lives depend on it. She supported a way for these veteran

farmers to pass on their skill and knowledge to the new ag folks who do not have the knowledge of this place.

Henry Werch said that his suggestions were to include all ag. When he talked about ag loopholes, he was concerned about someone who would buy a property with a wetland, planting a plot of something, declaring that they are now in ag and therefore exempt from protecting the wetland. It was that kind of extreme, but not unrealistic, situation that could occur. While he doubted it would apply along Chimacum Creek, it could apply to other wetland areas in the county. How to define ag had been a great discussion within the committee, but he did not think there had been a definitive answer, certainly not a legal one. He wanted some ideas to come back from DCD as to how to define ag in order to assure we were getting what we wanted. Bill Miller said he was not sure how you would monitor critical areas that did not involve water, stating that there were such areas. If it was a legal use and it was zoned properly, when they go in for a permit, they know that they have to look out for a critical area that is on their property or may be adjacent to their property. The thing was that they know that they may need to implement a monitoring system similar to one we have somewhere else. That would probably be their initial requirement until we know how many we will have in the next few years. We had data that has already been collected which we could use as a baseline and then put that in our code. Then, as you take measurements, you could see where they come on the baseline.

Bud Schindler addressed the comment about education for new farmers. That was what he thought of as being contained in a standard farm management plan. It was a feature he could support. Another feature he wanted to discuss was a regulatory backup that would apply if someone did not want to do a farm management plan. Bill Miller was unsure about how SSB 5248 would affect that idea. Mr. Schindler suggested the Planning Commission could suggest those features it wanted and then sever some if it was necessary because of SSB 5248. Mr. Miller thought there were some pretty good ideas contained in the reports. Monitoring was one idea in particular that he thought should be included in the code, acknowledging that there are costs involved. He suggested one direction to the code writer was that ag would be exempt from buffers but we wanted monitoring to assure that the water quality was maintained at a certain standard.

Mike Whittaker said that, while voluntary monitoring sounded good, he did not think it was the only answer. He thought we needed a quick turnaround when a problem was identified through the monitoring program. We needed a way to define the problem and a solution to the problem. In the meantime, during the next three years, we needed to get something in place other than voluntary monitoring. He thought the county needed to commit because this would get bigger and bigger. He did not think the Conservation District would have the resources, without some funding, to deal with it.

After a break, Mike Whittaker moved that the Planning Commission suspend the rules so that any commissioner could call on any CAO Committee member for information. JD Gallant clarified that we did not need to suspend the rules under the method the Planning Commission was operating. Peter Downey thought it should come through the Chair and we should recognize those people who could offer information germane to the issue at hand.

Peter Downey said that he had talked to Mr. Latham during the break and he had confirmed that we have many years of water quality monitoring and, therefore, data in all the ag areas. It had been the focus of the program to get voluntary measures in place. Also, the whole purpose of the Conservation District was to provide information to the farmers and to provide the dialog the commission had talked about. Ashley Bullitt said that her concern was that science and technology were going so rapidly that she would like to see us incorporate the best available science [BAS] or whatever it is.

Henry Werch said that one report submitted provided a number of definitions for ag that the Planning Commission could consider. Concerning the loopholes issue, he said there are potentially areas in critical areas that are not currently designated ag or in active ag use, although it may be property that could support ag in the future. He would want to make it clear that we would not want to allow any ag use that would impact those current, existing critical areas. He clarified that it would not affect current ag uses. For example, if someone had a large property and they were doing ag on one end of their property but had a critical area on the other end of their property, they would not have the right to be exempted from all the rules. We want to protect existing critical areas from new uses. Peter Downey thought the better way to look at it was to look at the actual use, was it ag or a parking lot. Mr. Werch said his concern was that a self-designation of agriculture must be supported by a reasonable definition of agriculture. He agreed that, as the committee had said, it did not need to involve making a profit from ag, because that was very difficult to do, but it does involve a description of serious agriculture.

Mike Whittaker thought the commission needed a model, stating that there was a model in Report #1 that included a monitoring program and in Report #16. He suggested the commissioners look at the WEAN order as well, stating that it talked about old ag and new ag. It had been blessed by DOE, DFW and the HB. He said much of what the commission was discussing was addressed in those models. He suggested the commission look at each model and pick one and go with it. The commission could tweak it with the code writer as time goes on. We had a 3-year period to get a program ready to go.

Peter Downey invited Norm MacLeod to provide information. Mr. MacLeod referred to SSB 5248, stating that it required monitoring. He said the sunset date was December 1, 2011. It encouraged the county to implement voluntary programs to enhance public resources and the viability of ag. If you have new people coming into ag, we have resource constraints, but if we are one of the first counties doing it, we might be able to get some grants from CTED. He described the EPAs citizen monitoring program. We had talked about bringing old ag land back into production and perhaps new land into production. It was important to grow more locally. One of the pieces of that was that you had to make provision for a viable, sustainable place to sell the product; you had to have a market. Otherwise, you don't have successful ag. Concerning the question about converting wetlands, you had to consider that ag included growing things like cranberries. You had to figure out how you would make accommodation for that kind of thing. Concerning converting land to new ag, there was an NRCS program in Iowa where they have a draft manual for residential best management practices [BMPs]. He said that one of the things that was specifically left out of SSB 5248 was any reference to "existing and ongoing" agriculture. They are looking for new solutions. He spoke about the Ruckelshaus Center two-phase program. One phase concentrates on voluntary approaches. He thought that could help inform the discussion as we go forward as to what some of the parameters and opportunities are. One thing he saw that the Planning Commission does not have is legal advice in terms of what land use can be and what options the commission has. He thought that was one reason why Eric Toews should be here during the deliberations.

Amy Hiatt referred to the mix-up on the ag reports and clarified what was submitted and which reports they should be in. She also referred to a supplemental document that was provided during their presentation on May 9. That document included ag definitions that the commission may want to consider.

Al Latham referred to Report #15, saying that everything the Planning Commission was talking about was already there, including a monitoring program. They used the Island County ordinance, the Chimacum Agriculture Fish and Wildlife Habitat Protections, and the existing county ordinance at 18.20.030 on ag activities and accessory uses. They tried to make some changes that made it better for farmers but also integrated the CAO. In fact,

the CAO referred to that document as the alternative regulations for critical areas. He suggested the commission could use that report as the basis, but delete the things that are impacted by SSB 5248. It also had definitions for agriculture. They got away from the term "existing and ongoing ag" and "new ag" and just said "agriculture", because there was a lot of ag land that would fall out because the current definition included a specific date. There was a lot of ag land that has not been actively used during that time for various reasons, but it was still usable for agriculture. He recognized that Amy Hiatt and Jill Silver had a competing approach, which he did not think was much different, but he thought Report #15 reflected what was working now. He thought it could be a model for something we have to develop by 2011.

Katherine Baril liked the idea of farming out the code writing to Mr. Toews. She said the most important task for the commission was to provide the direction. It was of utmost importance to support agriculture, including supporting new people who want to start ag uses. Ag should be defined by function, not by dates, but by the function of growing food. She thought the issue of access to land for new ag was of prime importance over the next three years. We should not define ag as allowing golf courses. The current regulations were not providing an environment for their good growers to be able to afford the land. One of the reasons we make regulations is to provide the economic incentives for the behavior we want. She thought there were a variety of definitions of ag that focused on the public benefit of ag.

Bud Schindler moved that the Planning Commission send Report #15 on to the code writer. He thought it addressed all the issues the commission wanted to address. JD Gallant thought it would be a disservice to merely send one report forward. He preferred that the commission give directions about what it wants. An example was a definition of ag. Another was protection of the environment.

Bill Miller liked Dr. Baril's suggestion and recommended that the commission ask the code writer to write a definition of agriculture that supports the function of growing food. Henry Werch supported sending Dr. Baril's statement to the code writer as representing the common objective for definition of ag. Ashley Bullitt thought part of the definition of ag should be that it be sustainable.

Dennis Schultz said that when you look at ag in this county, there was a lot of it that will not be food related. It was also fiber, flowers, nursery plants, and trees. So there was a lot of ag that was not food production related. He agreed with Dr. Baril that food production was most important, but those other ag uses should not be forgotten either. A lot of new ag in this county will not be food, as had come out in a survey from three years ago.

Ashley Bullitt said she would like to see us encouraging food agriculture. Peter Downey said farmers need to have the flexibility to grow those products that will enable them to stay in farming. If that was food production, it was great. But if it was growing ornamental shrubs, because that would keep them in production this year and keep them from losing their farm, then we should encourage that too. He did not think we could limit it to just producing food. He agreed we should want to keep our ability to grow food as much as possible, but in doing that, we needed to allow the farmers some flexibility.

Brent Butler discussed the issue of what was feasible to implement and the associated costs. He knew the Conservation District had information on the costs of monitoring and knew its limits for that effort. As we developed a voluntary monitoring program, we had to determine what the goals are and put price tags on them so that it was realistic. One of Dr. Baril's comments that was important was knowing where the new ag was located in order to know where to monitor. He thought we had lots of ag occurring on residential land. He noted that Island County had 70,000 residents, more than double our population, and had dedicated \$1 million dollars to developing their program.

He cautioned the commission to recognize the significance of the costs associated with these programs and to consider that in its deliberations.

Patricia Farmer suggested sending both reports forward along with direction to the code writer to consider them both in light of SSB 5248 and the commission's discussions about loopholes, defining ag, etc.

Henry Werch suggested asking Amy Hiatt to address the differences between their report (Report #16) and Report #15. Amy Hiatt described how the two reports differed. Their report proposed changes to the CAO, which was moot in light of SSB 5248. They had followed the Whatcom County model in terms of structure. She described the checklists they proposed, which essentially provided a declaration of the intent to do ag. The type of checklist depended on the intensity of the ag use, going from a simple checklist to a farm plan. They had not addressed monitoring, stating that the proposal in Report #15 contained excellent material. One concern they had was a whole level of design that had to occur for a monitoring system for a watershed. That went back to how much money we had to do it. Bud Schindler said that their model used a critical areas protection plan. He asked how that related to a standard farm management plan. Ms. Hiatt responded that the reason they called it that was she understood that a farmer would not want to disclose their entire farm operation. What was important in terms of the public interest was what they were doing in the critical area. She attached that name to it to make that distinction. She thought there were a lot of ways to sort that out. The main point was that it is something the county has the opportunity to look at.

Peter Downey suggested that, because of SSB 5248, the Planning Commission forward Report #15 to the code writer and use it as a model with an eye to SSB 5248 and remove anything that may be impacted by it. Also, ag should be carefully defined as primarily the function of growing food but also for other types of ag that will support the rural and bucolic nature of ag lands.

Mike Whittaker asked if there would be any benefit of sending the WEAN compliance order as a model for the water quality monitoring program. He said that baseline monitoring, source identification, and adaptive management were all there. If someone with a wetland does not want to comply, we had the regulations in place.

Brent Butler reported on the county's income for the year, stating that we were \$171,000 behind from this time last year. So the county was experiencing a substantial decrease in revenues, something that probably has not happened in a decade. He said we have to be realistic. He wanted to see an understanding of the level of funding the Conservation District has. That would be the baseline for establishing where we are financially. We may have to supplement that, depending on the goals the commission decides today. Or we may not be able to include it in the plan. Henry Werch said that, while he respected staff's opinion, the Planning Commission was charged with coming up with the best CAO, not necessarily the most affordable CAO. He did not feel it was appropriate to ask the Planning Commission to be concerned about budgetary issues. That was the purview of the BOCC. Mr. Butler responded that, one of the things he wanted the commission to be cognizant of besides the budgetary constraints, was the realization that when you do pilot studies, we had the opportunity to choose strategies that are voluntary that will not have budgetary constraints attached to them. He thought we had an example that has worked already. He agreed Mr. Werch's point was well taken.

Ashley Bullitt wondered about penalties for violating the good faith regulations as a means of providing funding for monitoring. Peter Downey responded that got beyond the critical areas code. The commissioners agreed they should develop the code, knowing that there will be other issues that will come up. Bud Schindler said that he thought staff was assuming that the ordinance would be enacted before the end of this year when they spoke about this year's budget. He said that would not happen. If staff was talking

about future budgets, he could understand it. He requested that DCD look at the budgetary implications to the county of both the majority and minority proposals and give the Planning Commission feedback on it. If one of the reports is going to be outrageously expensive for the county, we needed to know about it.

JD Gallant did not support sending just one report forward. He thought there were good points from each of them. He suggested writing on the board the points the Planning Commission wanted addressed. Staff acted as recorder, writing the commission's directions on the board.

The commissioners agreed that a definition of agriculture needed to be developed that included all agriculture, making no distinction between old or new ag. It needed to be based on function, going beyond just food production. They agreed that the code writer should implement the monitoring program outlined in Report #15. It was agreed that the ag definition should include references to rural character.

Henry Werch suggested expanded definitions that would provide special protections for critical areas for ag uses. Peter Downey thought that, under SSB 5248, we could not do that. JD Gallant said that the code writer could look at it, although he may not write it into the code. He said that the commission was interested in protecting both agriculture and the wetlands. Mr. Werch said that the Planning Commission was absolutely not wishing to abrogate SSB 5248 or do anything to ag uses that currently exist. Rather, the commission is looking at the potential for new ag uses improperly impacting on a critical area. Mr. Gallant said that the code writer should reference Report #16 for that material. Amy Hiatt clarified that the information was contained in the supplemental information that was handed out on May 9.

Peter Downey moved that the Planning Commission direction be that the code writer start with Report #15, with an eye towards anything that would be precluded by SSB 5248, and focusing on the agriculture definition. Bud Schindler seconded the motion which passed by consensus.

Patricia Farmer moved that the commission also send Report #16 to the code writer with the direction to pick the best of both reports and including the Planning Commission's discussion. Under the rules, no second was required. Bud Schindler said that the code writer had both reports already. He said he would like to see the features and the differences between both reports. He said he would like to see regular reports as feedback from Mr. Toews. Peter Downey said that we should be specific about what parts of the Report #16 wetlands piece was different. JD Gallant agreed that the commission should look at what parts of #16 the commission wants to forward. Amy Hiatt said that the only basic difference between the two reports was in the definitions. Otherwise, the two reports were very similar.

Patricia Farmer clarified that the intent of forwarding Report #16 was so the code writer could do a comparison and perhaps select the best language from either report. The motion carried unanimously by consensus.

The commissioners agreed by consensus to include the supplemental wetlands document that included the ag definitions for the code writer to consider along with the definitions in Report #15.

Henry Werch referred to the Fundamental/Foundational Principles that were submitted, stating that there were specifically three that pertained to agriculture. The pertinent principles were #18, 19 and 20. The commissioners agreed to consider the principles as it considered the sections of the reports that pertained to them. Mr. Werch proposed some amendments to the three principles. There was consensus agreement for the proposed changes for #18: Keep the first sentence as written. The second sentence will say "A small area of the landscape of Jefferson County is available for agriculture." The rest of the principle will read "The county is determined to protect its

agricultural heritage to provide future generations with the opportunity to participate in this most basic human activity." There was consensus agreement for the proposed changes for #19: "The committee believes that the best use of these areas is agriculture." The commissioners agreed by consensus with the changes suggested for #20: "Agriculture is an evolving activity. Commercial agriculture requires long term investments in land, machinery, and personal commitment. Like any business, farmers in Jefferson County must be allowed flexibility in such things as the crops they grow and when they grow them." The last three sentences would be deleted.

JD Gallant suggested the Planning Commission use this kind of process when it begins the next time (similar to how the commission ended this meeting). It was pointed out that the next meeting would be the workshop with DOE on May 30. The next meeting after that will be on June 6.

C. ADJOURNMENT

Public Comments:

Al Latham suggested that, as the Planning Commission starts looking at some of the other elements of the CAO, especially when the commission gets into buffers on wetlands and streams, it would be beneficial to take a field trip to see what they look like on the ground. He said the CAO Committee did that and it was probably one of the best days they had together. To see numbers here in a meeting did not mean too much, but to see what it looks like on the ground and what they actually do has more meaning. He volunteered to set up a field trip.

Jim Hagen referred to the May 30 workshop format. They had submitted a comment letter on the issue. It was something that had been discussed by the committee from the time they heard about it. They were concerned about the workshop being very exclusive and excluding all the points of view that have been developed over the past nine months. He wondered if there would be any response to that. He said he continued to be very confused by this process. The committee had very specific instructions by Planning Commission motion about when committee reports were due. There had been a lot of emphasis by this Planning Commission about following the rules. But now he was seeing this breakout of the May 9 submittal, which was not a report; it was kind of an appendix. He wondered why the committee had a deadline. He wondered if there was still time for him to submit a report or a supplemental document based on the committee's work that may go to the code writer. He was wondering exactly what was allowed to be submitted and what was not when you consider the rules the committee was asked to abide by.

Jill Silver referred to an earlier Planning Commission discussion about salmon and salmon habitat and the Columbia River. She provided a copy of a report that related to the type of habitat salmon needed and how they evolved. She said she would send out a digital file as well. Concerning the issue of supplemental information, it had been agreed that they could submit such summaries during their presentations. The one under question was a write up that accompanied their presentation on May 9. It was not an additional report that they submitted late; it was only supplemental. It was there to encourage the commission to understand the broader picture summarizing what they presented.

Frank Hoffman referred to Mr. Werch's statement that the Planning Commission needed to respect the process and the work that people had done. In his opinion, the committee process did not work. There was no attempt at consensus, which the Planning Commission was showing tonight. Because the committee process did not work, it put the onus on the Planning Commission to create a process that represents the community that works in terms of the basic science. It seemed the Planning Commission had made an effort to do that tonight. For this to work, it seemed to him the commissioners had to do

the tedious stuff of reading all the material and coming to the meetings prepared with what you like or don't like about the subject at hand. The commissioners needed to be prepared with what they were willing to let go and what they would argue for. He said that many of the commissioners have not worked together before, but there was all this work before you. The commissioners needed to figure out how they would work together. He suggested the commissioners give more thought to that. He said the ag issue was the easiest of the issues. It seemed that because the commission was not doing the work, they were taking the easiest route. The commission had sort of sorted things out tonight, but they had not really made decisions but had merely sent two reports forward. What the Planning Commission was being asked to do was very difficult, but it seemed to him that the focus was on the basic science. He hoped the Planning Commission would be able to respond to Roger Short's request for clarification about what the commission intends to do about existing agriculture. He hoped the commission would make a statement at some point in terms of his request.

Norm MacLeod suggested running the ag definitions by the bankers that finance farming operations so the commission gets a better opportunity for agriculture's viability here by terming those things in ways the bankers will understand and will support. The Planning Commission took on ag first because it was going to be the easiest topic. The commission only has a limited amount of time. There seemed to be consensus that the Planning Commission will meet weekly until it finishes. He also urged the commissioners to take a look at the 500 or so documents that have been collated so far and ask yourselves whether it was prudent to ask for an extension from WEC in order to do this in a considered, thorough manner. He thought if Eric Toews had been here tonight, he would already understand what the Planning Commission wanted. He thought the commission would give him a bunch of papers and he would stare at them and wonder what to do. He said the Planning Commission needed to have Mr. Toews here.

Roger Short referred to Principle #20 regarding flexibility. He did not think it would actually change things for farmers. They needed to be able to change intensity as necessary.

Dennis Schultz offered to talk to Eric Toews if he had questions about the ag issues.

James Fritz said he agreed with the commissioner who said that food should be grown as close to home as possible. He referred to the China imports concerns where the food is adulterated and contaminated, stating the opinion that it was only the tip of the iceberg. Third world countries do not have the standards we do. They use herbicides and pesticides that we do not allow in the U.S. Animal inspections are not to the standards we have. He said things go on that we don't even comprehend. He said the food grown in Jefferson County is the freshest and safest you will ever eat and also the best tasting.

Roger Short said the buzz words now are ethanol and bio-diesel, both of which are made from farm crops. He asked if that would be part of ag. Those crops would be grown as genetically modified. Commercial fertilizers, herbicides and pesticides will be used continuously instead of crop rotation.

Peter Downey responded to Mr. Hagen's comment about what the Planning Commission would look at as the commission puts together the ordinance. From his viewpoint, the commission is going to put together the best ordinance it can with the best information we have. If there is new information that comes to light that could help the commission, he would want to see it. As far as the deadline for the reports from the committee, he thought it was more so the Planning Commission could get started with its deliberation process. While that may have been somewhat artificial, it was necessary so the Planning Commission could get started.

The commissioners discussed the format for the May 30 workshop with DOE. Brent Butler said that his contact at DOE indicated that they would like to answer questions the Planning Commission had. Henry Werch suggested that questions from the committee members should be sent to the Chair or secretary. He thought it would be inappropriate to not have those questions brought out if there is no process to allow individuals to be involved.

Peter Downey commented that he did not think it was DOE's place to dictate the format of the workshop. Bud Schindler said that the commission had discussed the workshop format at the last meeting. The commission concluded that it would be a workshop that would allow everyone to speak. There was some concern about it becoming contentious. The commission agreed that it would not be allowed; these are professional scientists. It had been agreed that it would be a workshop and that we had many people who were interested, with some of them being scientists. JD Gallant disagreed with getting the public involved in a question and answer session when the Planning Commissioners would have plenty of questions on their own. If CAO Committee members had questions, they could be communicated through a Planning Commissioner. The nine Planning Commissioners need to communicate with DOE. Brent Butler stated that he would not be surprised if DOE would not accept an alternative arrangement. The concern they indicated to him was that they wanted to provide a forum for the Planning Commission. They were concerned that there would be a lack of the exchange necessary to develop guidance. Ashley Bullitt said that the Planning Commission was the body charged with making the decision. She suggested restricting the questioning and the back and forth to the Planning Commission. However, she also appreciated the input from the citizens. She suggested that anyone who was not on the Planning Commission submit their question in writing and then leave it up to the discretion of the Chair to decide what questions would be asked. Bill Miller said that other workshops he had attended were for the body and not for audience participation. Henry Werch referred to staff's comment about DOE's sidebars for the workshop, stating that the commission should be realistic. It may be that we would alienate them to the point of the process not being constructive. He agreed with Ms. Bullitt. He suggested that the Chair allow the audience members to present questions during the break to the Chair who would ask them at his discretion.

Patricia Farmer said that she would like to listen and learn. She asked if there was a body of information from DOE that the commissioners could study. Jill Silver said that she had ordered ten copies of the two volumes of the DOE guidance for the commission to study.

Peter Downey described the workshop format. He wanted questions to be submitted to himself or the secretary for compiling for the May 30 workshop. At his discretion, the questions will be asked of DOE. Mike Whittaker commented that questions and their answers oftentimes generated other questions. He suggested that, during a break, other questions be provided to the Chair for him to ask at his discretion.

It was agreed that the Planning Commission will meet weekly until the CAO is done.

Joel Peterson reviewed the calendar for the CAO project. The commissioners discussed having Eric Toews present for the deliberation meetings, agreeing that they wanted him present.

The agenda for the June 6 meeting will be Forestry, Geological Hazard Areas, and Aquifer Recharge.

Joel Peterson quickly reviewed the chart titled "Critical Areas Ordinance Topic Grid & Page Guide". The chart divided out which reports, or parts of reports, pertained to which critical areas topics.

The meeting was adjourned at 9:55 p.m.

D. APPROVAL OF MINUTES

These minutes were approved this _____ day of June, 2007.

Peter Downey, Chair

Cheryl Halvorson, Secretary