



JEFFERSON COUNTY
PLANNING COMMISSION

621 Sheridan Street
Port Townsend, WA 98368
(360) 379-4450

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR MAY 30, 2007

- A. OPENING BUSINESS**
- B. DEPARTMENT OF ECOLOGY WORKSHOP ON WETLANDS RELATING TO THE CRITICAL AREAS ORDINANCE**
- C. ADJOURNMENT**

A. OPENING BUSINESS

The special workshop meeting of the Planning Commission 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, Edel Sokol, JD Gallant, Bill Miller, Patricia Farmer, and Henry Werch.

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

There were about 50 members of the public present. Those who signed the guest list were: Kenn Brooks, James Fritz, Norm MacLeod, Frank Hoffman, Jim Hagen, Jim Tracy, Jim Storey, Dennis Schultz, Paul Heinzinger, J. W. Long, Sandy Hershelman, Dick Bergeron, Renee Bush, George and Edna Forker, Hans Daubenberger, J. Scott Clogston, Clark Crandall, and Janet Welch.

DOE staff present were Rick Mraz, Donna Bunten, and Mark Cline.

Bill Miller moved that the staff updates, committee reports, and the first public comment period be deleted from the agenda because this was a workshop and not a regular meeting. This was supposed to be a workshop and not a debate. JD Gallant seconded the motion.

Peter Downey did not support deleting the first public comment period, although he would want those comments to be kept brief. He wanted to hear comments before the DOE presentation. Some other commissioners agreed with his suggestion. Henry Werch suggested that there be a break during the workshop so that additional questions for DOE could be provided to the Chair.

Bill Miller amended the motion such that only the staff and committee reports be deleted from the agenda.

Bud Schindler referred to the calendar presented by staff at the last meeting which indicated that the code writer would present the draft code to the Planning Commission on July 11. There was one meeting from that time until the commission's public hearing on the draft ordinance. He thought the commission would need more time than one single meeting to review and discuss the code writer's draft. He suggested that the commission would need at least three meetings. He asked staff to consider that matter and try to adjust the calendar accordingly. Peter Downey suggested the commission discuss the issue after the workshop.

The amended motion carried unanimously (9-0-0).

Public Comments:

Dennis Schultz read his comments into the record and provided a copy for the record. He took DCD administration to task concerning his perception that DCD was opposed to the CAO Committee process, stating the opinion that DCD was trying to railroad the process in order to adopt the DOE guidelines.

Amy Hiatt said that through the last several months, a number of people had asked if there was a way to compare buffer proposals. Therefore, they had prepared a chart comparing the various proposals, including the current county code requirements. She presented enough copies of the chart for the Planning Commissioners with a few extras available for the public.

Jim Hagen echoed Mr. Schultz's thoughts. He said it was important to remember that we were still here discussing this issue because of the public reaction to the expedited draft from last year that was written out of site of the public in a closed door process between staff and Washington Environmental Council. The schedule at that time was two months between release of the

draft and adoption. Besides the content, that schedule was a big part of the reaction. In response, we were given a long period for this public review, which was really what we were doing here, an open public review and not just acceptance of staff's recommendation of DOE's recommendation. Staff had told us that we have the latitude to pursue all possible options in recommending a draft ordinance to the BOCC. Now it appeared, after all this work (32 to 33 meetings of the CAO Committee), that all of that work has been dismissed. The closed nature of this workshop gave the impression that the issue about science has already been decided. He said it was disappointing.

Jim MacRae said he emailed some questions for DOE earlier in the day and wondered if the Planning Commission received them. If not, he will speak afterwards.

B. DEPARTMENT OF ECOLOGY WORKSHOP ON WETLANDS RELATING TO THE CRITICAL AREAS ORDINANCE

In opening the workshop, the three DOE representatives (Rick Mraz, Donna Buntun, and Mark Cline) provided summaries of their education and experience, both professional and personal.

Using PowerPoint slides, Rick Mraz provided a presentation on the DOE wetland protection recommendations and best available science (BAS). He said that he had been tracking a lot of the process and the work of the Critical Areas Committee through its minutes and the material the county had provided. He also followed the Planning Commission process through its minutes. He was one of the authors of the critique of the Dr. Brooks supplemental BAS. He said that they were present at the invitation of the county and Planning Commission to provide information on the DOE BAS and to provide technical assistance. Their presentation was being made in anticipation of some of the questions they had seen in their review of the process.

Rick Mraz summarized their aims and goals for this presentation. He then went into the functions and values of wetlands - water quality, water storage, and wildlife habitat. He explained that DOE does not have the authority under the GMA to adopt rules; they cannot create law. They do protect wetlands through water quality rules, but that's just the wetland. He said that they were specifically asked by many local governments to develop guidance for BAS. Specifically, they were asked for this by the Washington Association of Counties and the Association of Washington Cities, as well as several local jurisdictions. They wanted guidance that had options so that local governments could choose which directions they wanted to go. He emphasized that the DOE guidance is just one path to achieve wetland protection. He said that local governments can use the DOE guidance or they can choose to develop their own local BAS. He described the characteristics of a valid scientific process which was described in the WAC.

Rick Mraz described how Volume 1 of the DOE guidance was developed, including public involvement and peer review. It is a summary of the science. He said that Volume 2 contained guidance for local governments on protecting and managing wetlands and their functions based on the synthesis in Volume 1. He described the members of the core team and local government wetlands advisory team. He provided a list of additional reviewers of Volume 2. He displayed a list of other documents used in the DOE BAS documentation. He discussed peer review, stating that DOE believed it was the single most important process in developing good recommendations for managing and protecting wetlands. That was why the state agencies undertook an extensive and transparent process in development of their work. They solicited input on a wide range of perspectives in the initial scoping as well as on the initial drafts. They used a wide range of key experts in the field of wetland science to review the documents, but they also specifically invited key stakeholder groups most likely to be affected by the guidance, as well as the general public.

Rick Mraz discussed strategies for improving wetland protections. He emphasized that they were not present to discuss agriculture. He said that DOE does not recommend buffers on ag lands. He said that their presentations have always focused on other types of development - residential, commercial, industrial, transportation facilities, utilities, etc. He said that DOE's comments on the supplemental BAS prepared by Dr. Brooks acknowledged that a lot of the information produced was applicable to ag. However, they did not find a strong relationship between his analysis and recommendations for the more intensive types of development like residential, commercial, or industrial uses. The DOE and DFW recommend the use of best management practices [BMPs] and conservation plans for ag activities in wetland areas.

Rick Mraz described a 4-step framework for management and protection of wetlands. Step One was to analyze the landscape and its wetlands. Step Two was to prescribe solutions. Step Three was to take actions. Step Four was to monitor results. He described each step. He described the benefits of non-regulatory and voluntary measures which might include a rural stewardship plan. He thought a rural stewardship plan may be a questionable issue as to whether it would be allowed under SSB 5248. He said that county staff and/or DCTED should provide guidance on that issue.

Rick Mraz said that prescriptive regulations were necessary because most developers would not typically do voluntary measures. Voluntary measures do not adequately address all types of development impacts.

Rick Mraz said that another portion of Step Two, Solutions, was avoidance, buffers, and compensation. He discussed BAS and buffers, noting that larger buffers were generally needed for fish and wildlife habitat than were needed for water quality and quantity issues. He pointed out that Dr. Brooks' supplemental literature focused primarily on water quality functions relating to agriculture. He said that their analysis shows a linear relationship between habitat needs and buffer widths.

Rick Mraz discussed regulating buffers and how wide a buffer is enough. He described the functions of a buffer and described the ranges for different buffer functions. DOE approached the buffer width issue from a risk management standpoint and then assumed that you are going to protect all wetlands functions and values. He noted that jurisdictions could choose various buffer widths depending upon how much risk they wanted to assume. Larger buffers would present a higher political and economic risk while smaller buffers would present a high critical area risk. He said that DOE's suggested buffers are a moderate risk approach with the recommended buffer widths falling in the middle range. He said that he had heard it described as the worst case scenario, but that is not correct. He said the Alternative 3 buffers ranged from 25 feet to 100 feet to protect water quality and from 50 to 300 feet to protect habitat.

Rick Mraz described DOE's Buffer Alternative 3. It is based on wetland category, the intensity of the impact of the proposal, and the features (any special functions or characteristics of the wetland). He described the four categories of wetlands. He went through some scenarios for various types of wetlands and the resulting buffer widths. He displayed a chart comparing the current Jefferson County Code and the DOE guidance buffers. He pointed out that Alternative 3 sometimes resulted in smaller buffers. He reviewed examples of types of land use intensity, ranging from high to moderate to low intensity. He pointed out that DOE was reconsidering hobby farms as a high intensity use. Hobby farms can be a high intensity use if not managed properly. However, hobby farms may be a moderate intensity or even low intensity use if managed properly and having smaller numbers of animals per acre. Their reconsideration is based on information they received through the Jefferson County Critical Areas Committee work. He discussed ways to lower

the intensity of a use, using mitigation measures, BMPs, a stewardship plan, etc.

Rick Mraz provided some case study scenarios and the resulting Alternative 3 buffer and compared that to the current Jefferson County Code requirement. He described the pros and cons of Alternative 3. He emphasized that it was not a one-size-fits-all approach. Six counties and 34 cities have adopted wetland regulations similar to Alternative 3 to date. He said that Alternative 3 gave up some of the simplicity in order to gain flexibility.

Rick Mraz acknowledged the work of the Critical Areas Committee, stating that DOE had found good information from them. They understood a lot of the concerns about private property and that owners not be unnecessarily restricted. They did find common ground with Dr. Brooks on certain issues. He thanked the commission for the invitation to participate. He noted that DOE has thus far made three public presentations, provided public comment at three distinct stages in the process, and most recently provided an analysis of the work done by Dr. Brooks.

The Planning Commission moved into a question and answer session with the DOE representatives.

Bud Schindler referred to DOE's critique of Dr. Brooks' supplemental BAS and the comment that it was too difficult and costly to determine the minimum buffer needs necessary to sustain species of wildlife. It seemed a strange response in light of the rigorous way in which DOE and the EPA develop water quality criteria. As a Planning Commissioner, he needed rigorous science describing the consequences of recommending different buffer widths, not unsubstantiated assertions that DOE's recommendations represented a moderate level of risk. He asked if DOE thought government has a responsibility to rigorously demonstrate the consequences of different buffer widths before imposing restrictions on its citizens. Rick Mraz referred to the comment that DOE's buffer recommendations were unsubstantiated assertions that represented a moderate risk. He hoped that his presentation had provided information that the BAS was not unsubstantiated but was well accounted. DOE's conclusions have undergone rigorous peer review and are supported by other state and federal agencies with responsibility for protecting critical areas, especially WDFW who has direct involvement for protection of individual species. The GMA required protection of wetland functions and values. One of those functions is habitat. DOE interprets that to mean existing, not historical, functions. It means that current habitat functions provided by wetlands in the county need to be protected. It does not mean that every single animal and every single wetland must be protected, but overall existing habitat is to be maintained. That means that some habitat will be degraded and lost, but other habitat should be enhanced. There should be no overall net loss. It is not feasible to set particular thresholds for species as the data for some species is incomplete and in some cases nonexistent. Their approach was to provide a reasonable level of protection based on current science about existing species and their habitat needs. Developing the minimum buffer needs necessary to sustain a species of wildlife is considerably more complex than developing water quality data. Initially, we have far more data related to water quality than we have for wildlife species and buffers. Governments have a responsibility to use available science in establishing critical areas regulations and the current science does not support establishing a minimum buffer. We are left to make the best decision we can based on the best information we have. They believe the current science permits them to make a risk assessment supporting moderate levels of buffers.

Peter Downey posed a scenario of a Class III wetland on about three acres. It's been downgraded with Reed Canary Grass growing on it. The landowner is interested in voluntarily doing about \$40,000 worth of work to enhance that wetland and, potentially, turn it into a Class II wetland. He's afraid that if he does that, he would get bumped from a 50-foot buffer to something much

larger. He asked if DOE's methodology allowed for voluntary measures that will encourage landowners to do enhancement work but will not penalize them for doing so. Rick Mraz replied that it was a good question because it has been suggested that it tends to impede people's willingness to enhance wetlands. DOE will support an approach that freezes that wetland rating if it's going to be enhanced by a local landowner in that context. It's important for the county to track it. It has to be done in a way that it could clearly be demonstrated what the consequences are of that action and how it affects the land. It would be difficult to create an overarching policy. He believed it was important for DOE not to impede individuals who wanted to do such enhancement work. He did not think there was a reason to penalize them by increasing buffer widths.

Edel Sokol displayed a contour map of East Jefferson County and another map showing forest and ag lands in East Jefferson County. It showed how rural this county is. She said that DOE's BAS focuses on studies conducted in the highly urbanized areas of King County. She said she cannot find studies in the BAS that examine wildlife or other wetland functional responses to the very low-density rural residential development in this county. She asked to be referred to three citations in the BAS that found adverse effects on wildlife habitat or wetland functions associated with one home on 5, 10 or 20 acres. She was interested in citations specific to Jefferson County. Rick Mraz responded that there were thousands of pieces of literature in the DOE BAS so they would have to review the literature to see how many were specific to Jefferson County.

Peter Downey thought the concern Ms. Sokol was trying to get to was that Jefferson County is an extremely rural county. Our zoning for the most part is 1:5 and up to 1:20. In very limited places, we have higher density; but for the most part, it's very low density. If the impact of one house per one acre is moderate, he asked what the impact is for one house per five acres or one house per twenty acres. Rick Mraz replied that the numbers and ratios used in the moderate land use level were pulled from common zoning designations; they were not meant to be prescriptive. They expected the county, through manipulating that list, to serve the purpose of recognizing the land uses within the county, as long as you have the science to back it up. You need to be able to support why a lower density or some other use is a low or moderate land use. He said he would get back to Ms. Sokol with the requested information.

Mike Whittaker referred to the WEAN vs. Island County case which used alternative BAS. He stated that DOE had been invited to participate in the Critical Areas Committee work. He also understood that the committee petitioned for some papers from DOE. He asked why DOE chose not to participate on the committee and why they did not provide the documents. Rick Mraz responded that he thought DOE did show up when they were asked to make a presentation. Also, they did comment extensively on written material that was submitted. Concerning the documents, he said they were asked to provide a list of BAS, which they did. The list was provided to Josh Peters. They could not make copies because they were copywrited materials. DOE got the original materials back later, so they assumed they had been copied and given to the committee. They did not refuse to provide the requested information.

JD Gallant asked about punishment of violators, say someone who drained a swamp. Rick Mraz replied that it came into the enforcement arena and described how it might work.

Henry Werch asked about Slide #32 on wildlife habitat. He said the questions or argument between Dr. Brooks and DOE were based more on whether the scientific data was properly interpreted and whether all of the data was included and whether it had been excerpted to support a particular goal. He thought that concern was brought in Slide #32 which says that DOE's analysis shows a linear relationship between habitat needs and buffer widths. He

thought the review of buffers has shown that there is far less disagreement over the range of buffers needed to protect water quality and far greater differences of opinion over wildlife buffers. He had been impressed with Dr. Brooks' presentation that suggested that a linear relationship is a very unusual relationship to find in nature. He asked if Mr. Mraz could comment on the science that supports a linear relationship because he thought it was one of the fundamental issues that he found. Rick Mraz responded that they posed that question to Dr. Tom Hruby who is the wetlands scientist who answers such questions. The concept is that buffers need to be established to protect a wide range of species. Dr. Hruby found data on buffers required to protect fifteen wetland dependent species in Washington State. The buffer requirements of the fifteen species were fairly evenly spread and ranged from 60 to 330 feet. It should be noted that five of the species require buffers larger than 330 feet. One third of the species are not adequately protected even with the largest buffer recommended by DOE. He displayed two slides depicting birds and amphibian and reptile species that depended on wetlands and their associated buffer needs. The science on them was peer reviewed. Most of the species were common in Jefferson County. Mr. Mraz said that there was some interest expressed in the possibility of a dialog/debate on the issue. He thought there was some interest in that type of discussion. Concerning the issue of linear versus non-linear relationship, Mr. Werch asked if a scientist said a species needed a 300-foot buffer it meant that, if you had a 290-foot buffer, the species would die. It was a serious issue because of the balance the Planning Commission had to make between the need to protect the ecology and the landowners' rights. He pointed out that no one on the committee had expressed any desire to not protect the environment. He did not want to increase buffer widths without knowing what that increase will buy us. It was easy to understand what it would cost the landowner. We needed to know what increasing the buffer for a species or group of species was gaining us in order to explain it to the landowner. If the answer was muddy or wishy-washy and appears to be balancing sort of idealistic notions of environmental protection against the very real loss to the property owner, it put the county into a very difficult spot. He personally subscribed to very high ideals in terms of ecology. But being able to apply those ideals without real reasons or serious argument can be very difficult. He thought that was at the core of the disagreement. Mr. Mraz said that when he talked about wetland functions, one of the functions was habitat. The concept was not piecemealed into the habitat considerations. In fact, when they created their recommendations, they looked at habitat for a range of species. The literature they analyzed went way beyond what they recommended in many cases. It was possible that the range they were recommending does not adequately protect some species. He thought it was important to look at that side of the coin as well. It was a concern. The question was how it will work out in the future. He said they don't know. They think it will work in the context of analyzing the buffers that the science shows us now. It was possible that some species will not survive in some cases at those distances but he does not know that. The concept of minimum necessary buffers is not one that is well explored in science and they admitted that in a lot of their comments. It's very difficult to consider what the bare minimum is to keep a species alive. He could only begin to envision the way you would set up an experiment in the field to find out what the bare minimum is for a particular species. While he appreciated the concern and the need for precision, wildlife did not fit in little boxes like that very often. They move around and occupy a variety of habitats; they are flexible and adaptable. But they also can only adapt within certain frameworks. Mr. Werch asked for something focused to come back, at the PhD level, that, given the range of buffers that have been identified within the committee process, those that Dr. Brooks feels are fully supported and sufficiently protective by his interpretation of the literature, and the wider buffers that DOE and others in the scientific community suggest better reflect what they should be. He would like at least a set of more specific references or referrals to the particular documents or arguments that relate to those assertions. He had read Dr. Brooks' material and he had read DOE's review, and he did not feel it was resolved in his mind, and he needed

more information. Mr. Mraz appreciated that Mr. Werch had read their review. He said that Dr. Brooks had acknowledged that he did not consider the impacts related to residential development. His recommendations were more appropriate for managing agriculture. Mr. Werch said that it may be that the information will answer all these questions, but it was important to him that the Planning Commission get the best possible viewpoint and so that the people involved in the public process can see that many of the things that Dr. Brooks has not had time to publish yet or have peer reviewed yet would go through a peer review process during the time the commission was considering this.

Peter Downey said that one of the issues related to water quality is impervious surface. It stated in Chapter 3 of Volume 1 that impacts from impervious surface begin to be significant to wetland function when impervious surface reaches ten percent [10%]. Because Jefferson County is very rural and most of the watersheds are less than two percent [2%] coverage in impervious surface, he asked if it was really a factor for this county. Rick Mraz responded that, as it relates to changes in land use and increases in residential and commercial development and increases in site specific impervious surface and industrial development, it could be a factor. Their recommendations and concerns related to water quality impacts are lower buffers. They did not have great disagreements with Dr. Brooks on water quality issues especially as it related to those areas characterized by non-impervious surfaces. Mr. Downey said that the DOE's main issue with Dr. Brooks had to do with habitat. Mr. Mraz replied that it was habitat and the treatment of land use. Of the 40 odd references in his bibliography, 32 of them appeared to be related to agriculture.

Peter Downey asked Mr. Mraz to talk about the tie between the wetland buffers that are recommended by DOE and the fish and wildlife buffers that we are also required to look at under the critical areas provisions and how those habitat issues come into play. Rick Mraz responded that he wished he could at length, but his only exposure was through the Mason County plan where they had some of the largest stream buffers in the state at the time. The recommendations for FWHCA and stream buffers fall under the purview of WDFW.

Bill Miller referred to the wildlife chart (Slide #56) and asked for an explanation of the "Confidence and level of association" column. Rick Mraz responded that it meant that the species was found or would use wetlands. For example, the confidence level was high that the Western Toad would use a wetland. Mr. Miller referred to the range sizes and asked if that was the area encompassed by a circle of that diameter or of that radius. Mr. Mraz replied that he did not have an answer to the question. It was described in the literature as the range the animal moved during its life. When the Western Toad leaves the pond as a terrestrial adult, it moves within that range. He said he could find the peer review and could probably extract a little more information. Mr. Miller said what he was looking for was a long narrow strip rather than a circle. Mr. Mraz said that it was unlikely you could envision a toad walking a straight line.

Peter Downey said that each of these species uses different types of wetlands. Obviously, Category I wetland would have a lot more habitat value for salamanders or toads than a Category IV wetland. He asked Mr. Mraz to speak to that - what type of species use what type of wetland. Rick Mraz said he was not prepared to do that. It would be useful if you wanted to tease out individual species and talk about their history. Mr. Downey thought it went to Mr. Werch's concern that the Planning Commission, as the decision makers and policy makers, might be telling people that they need a certain size buffer on a wetland because there might be a certain species, but those species might never be present in that wetland. Mr. Mraz responded that he understood but said that there were hundreds of species that use wetlands and their buffers; the slide only showed a few. There was a vast array of animals that use wetlands, so it was really hard to bring into play all of those animals. Mr. Downey said that it was his experience that a lot of species

were extremely adaptable. He has seen Willow Flycatchers move in right next to intense residential development near a wetland. He thought the issue was what species we were trying to protect and how much protection they needed. Mr. Mraz responded that DOE's approach is not species specific. Mr. Downey commented that, while he understood that, it made it really difficult for the Planning Commission as policy makers. Mr. Mraz said that he would try to get as specific as he could in response to Mr. Werch's question and expand on the list of species as it relates to their position. The fact is that a lot of the information on frog habitat also comes from other parts of the country. However, there is literature on local species as well.

Ashley Bullitt referred to Slide #33 concerning risk assessments. She asked Mr. Mraz to talk about the actual risks. Rick Mraz said that some of the literature shows that 300 feet may not be enough to protect all species. So, when you talk about a low risk approach as opposed to a no risk approach, some species may not be protected. A high risk approach, such as a 50-foot buffer around all wetlands, depending on the adjacent development, could significantly impact a number of wetland functions, including water quality and the presence of species. Flood water attenuation was one function that really did not need anything [buffer]. A wetland was a bowl that stores water and it attenuates based on its size. So if you're protecting for flood water storage and attenuation, you don't really need anything. If you're protecting for sediment and water quality issues, there is a range to protect for that along with nitrogen and other pollutants. Dr. Brooks had augmented that record. He described what might happen to a wetland functions and values, stating that it really depended on what the property use was.

Mike Whittaker said that DOE cited nearly 1,000 papers. WSU provided Dr. Brooks with many additional peer reviewed papers demonstrating that much smaller buffers did not significantly affect hydrologic functions and water quality. He asked why those papers, that recommended smaller buffers, were not included in DOE's BAS so that those who were charged with making decisions would have a broader perspective of the issues. Rick Mraz replied that those papers addressed agriculture and DOE was not regulating ag; they were not recommending buffers on ag land; they were deferring to the Conservation Districts, the Soil Conservation Service, and NRCS for ag lands.

Edel Sokol said that DOE was not recommending buffers on ag land. She asked if a hobby farmer could have a plan through the Conservation District and be eligible for the buffer exemptions. Rick Mraz replied that the rural stewardship plans or farm plans were similar instruments. He said DOE recommends that those activities that follow low impact uses be allowed the low impact buffers. He said there is a continuum of land use from what is obvious commercial farming to someone who has a couple of horses. He was not sure the people with a couple of horses saw themselves as farmers; they were living the rural lifestyle. He was not sure it was ag but it was a continuum of a very mild, small footprint on the land. That was why they recommended that, with BMPs, a low impact buffer be applied. Ms. Sokol said that, in this county, we consider hobby farmers as farmers. Mr. Mraz thought to address hobby farms as ag uses might run afoul of SSB 5248. How you made a clear distinction about such uses was something the county would need to address.

Bill Miller referred to Slide #49 and asked if there were standards for staff qualifications for those doing the reports and reviewing the reports. Rick Mraz replied that the county now had qualification standards in the current code on the definition of a "Qualified Wetlands Professional". He knew that Jefferson County had a wetlands specialist on staff. He said that DOE also offered review services for those counties that needed it.

Patricia Farmer referred to the last slide in the handout that showed a distribution of wetlands in different categories in the revised rating system. She asked for an explanation of the difference between the old and new rating systems. Rick Mraz explained that they used the slide to show how the new

rating system works as compared to the old system. He said they rated 122 wetlands under both systems to see if the new system would skew the ratings. It would be important to know if there was a shift and what that shift was. In the old system, the wetlands tended to be heavy in the Category I and Category II ratings whereas the new system spread the ratings out more. He said the new rating system was a more sensitive system. It really does a functional assessment on the ground and gave a more accurate representation of the wetland.

Bud Schindler said that Dr. Brooks has found that DOE's BAS is incomplete with respect to the information provided to local legislative bodies and that DOE assertions regarding fragmentation are not supported by the citations provided in the document. There is a growing number of people in the state that are demanding that the legislature convene a panel of independent scientists, who do not necessarily share DOE's passion for prescriptive buffers, to review both Diane Sheldon's and Terry Granger's documents to determine whether or not they provide accurate and complete guidance for elected officials who must implement the GMA. He asked if DOE will embrace this call for an independent peer review of its science and the resulting recommendations. Rick Mraz responded that the short answer was "Yes". However, such a panel must be truly independent and not biased in any way. They were confident that a truly objective panel will not concur with Dr. Brooks' perspective, that Sheldon contains significant omissions and flaws beyond those that are intentional, and that the DOE document will be found correct.

Edel Sokol asked DOE to provide the Planning Commission with a list of the studies demonstrating a decline in wildlife or wetland functions in Jefferson County during the last 20 to 50 years. If there is no harm, she asked why county citizens should be penalized by imposing additional restrictions on their property to fix something that is not broken. Rick Mraz responded that, again, they would have to look at the literature to cite studies specific to Jefferson County. He said that the GMA did not require that harm is demonstrated to a particular geographic area. If information is available, it can be used. Collecting that kind of data would be a daunting task. Instead, local governments have to use the current BAS to determine what types and levels of protection are necessary.

Peter Downey asked how DOE would feel about proposing narrower buffers coupled with baseline and periodic monitoring and specific adaptive management if monitoring finds that narrower buffers are not proven adequate. Rick Mraz said it was a very interesting idea. DOE had talked about that in its BAS. If you were going to try something different, you need monitoring to see if it is working. He thought that idea needs more development before he could say "Yes" or "No". They would have to see the nature and intensity of the monitoring program in order to be able to comment on it effectively. You have not said how big those buffers would be. That went to the risk assessment issue. What risk are you going to drop to while you do the monitoring? What threat is there of loss given that new level of risk? Is it significant? Is it within a few percentage points of the old number? They would certainly be willing to look at that approach and provide comments. Mr. Downey said that the other issue in this was that it was much easier to monitor water quality than habitat issues. Part of the conflict we are faced with is, for a lot of the habitat buffer we would be imposing, we don't have baseline data, and DOE does not either, other than what was in the science. Mr. Mraz cited an example of regulatory framework from Florida which was a tremendous learning experience because it was growing so rapidly. The county had developed a protective species ordinance which required individual property owners to do a species survey to see if any listed species were present. In doing so, they would know if they needed to take protective measures. That was what that Florida county felt it had to do in order to address that state's GMA and it was only threatened and endangered species. It was very controversial.

Mike Whittaker said that some of the numbers that kept coming back at us was that 95% of the county was owned by the federal, state, or some kind of forest land owner. That left 5% for development and rural zoning, aside from Port Townsend or a few sites like Port Hadlock, of 5, 10 or 20 acres and 40 acres, etc. Yet you talk about habitat buffers but most of the county is put away anyway. He described his property on the Big Quil River. It was hard to rectify all this stuff when all these other things were going on. His point was that he just wanted to add to what we are dealing with here.

Henry Werch said that the question came back to what the Planning Commission had heard. That is that we are seriously concerned about the impact of future development in this county. But he did not think any of us really believe that existing factors in this county that would certainly impact the density or growth would ever be allowed here. We want to have an ordinance that will take into account any future impacts. But we don't see those impacts resembling those seen in other higher population counties. To enact a CAO that will provide the sort of protections that would be needed on 1, 2 or even 3 acre property would seem to be overkill. Rick Mraz said that if we go back to the concept of a rural stewardship plan, and he agreed that Jefferson County had low density residential development in most cases, then you're proposing provisions which are less than or equal to what the county has on the books now. The concern was for those areas that could be higher density residential or commercial or industrial and they would not need to mitigate. He was not sure the county was biting off anything more and making it worse than what we had now. Again, in the context of what the CAC has suggested regarding taking some land use impacts from moderate to low or rural residential land use with appropriate rural stewardship plans, it did not seem that you would be adopting a CAO that was more restrictive than what you have now, especially if those are your real concerns. Mr. Werch said that buffers even at the minimum width would have some property owners saying that their ability to do reasonable things on their property would be impacted by even 50 or 75 foot buffers, especially if they were no touch buffers. He asked if it was possible that even the low impact buffers on DOE's scale still reflect the notion of zoning and lot sizes that was much smaller than the zoning we have here. Mr. Mraz replied that the answer was "No". He said that all the published literature on buffers, especially with regards to wildlife habitat, supports the assertion that Dr. Brooks' proposals are too small. The only literature that supports those smaller buffers is that on water quality in the agricultural sector.

Peter Downey said that, when you talk about commercial and industrial, we don't have much industrial land. We are talking about an industrial land bank, but that can be sited away from any critical area. He thought there was a lot in the second or third column that just can't happen in Jefferson County because of the way we are zoned currently. Other than our few LAMIRDs, there is just not the intensive development like you would see in some of the more urban counties. Because of that, when people see a 300 foot buffer, they get concerned, although for all intents and purposes, we will never see that happen. Rick Mraz responded that Mr. Downey may be right. However, that allows the county to plan for it, to be ready for it if it actually happens. There's no harm in planning for it. As a planner, sooner or later something you were not expecting comes along and if your regulations are not written right, they will not address it.

Edel Sokol said that we had 16,000 housing units on 1.2 million acres in Jefferson County. We have 14.3 people per 640 acres in the county. Rick Mraz asked if that included the federal lands. Ms. Sokol replied that it was Jefferson County. She said that when you talked about these buffers, you were talking about the I-5 corridor. That kind of density is not going to happen here. She asked why wetlands having a very low habitat score can't be used for multiple purposes. Mr. Mraz said that it did not mean you could not walk there or do things there. The whole aesthetics issue provided much enjoyment and interest for people. Ms. Sokol said there were some who wanted those

buffers to be no touch buffers. Mr. Mraz said that would be a shame and they were not proposing that. Peter Downey asked him to address the kinds of uses that would be allowed in such buffers. Mr. Mraz said that passive uses such as recreation or trails and enhancement activities, non-consumptive interactions with nature were always allowed. He said that it was never meant to be no touch buffers.

Mike Whittaker said that in the DOE critique of Dr. Brooks' BAS, it was stated that there was much empirical evidence that fragmentation results in lower species risk. This was another way of saying that fragmentation was linked to the local extinction of species that were once present and this represents the highest degree to which a species could be affected. One note in the empirical studies describing the reduced species richness for plants, amphibians and birds is summarized in Section 4.11 of DOE's BAS. Dr. Brooks reviewed 15 of the papers cited by DOE and found that the results of these studies do not support the statements above or the conclusions reached in DOE's BAS. In fact, Ferry 2003 reviewed 100 recent fragmentation studies, 17 of which contain empirical data. This is one of the papers DOE cited that supported the statement that fragmentation leads to localization of species. In contrast to the conclusion reached above, Ferry concluded "The fact that effects of a fragmentation per se are usually small and at least as likely to be positive as negative suggests the conservation actions that attempt to minimize fragmentation ... are often ineffectual." He asked how DOE reconciled what the author actually concluded with DOE's assertion that fragmentation is linked to the local extinction of species. Rick Mraz responded by displaying a slide on fragmentation. They felt that Dr. Brooks made several errors in his review. One was that he mistakenly associates the documentation and summary of the science on fragmentation with the agency recommendations on buffer widths. He reviewed only 15 of the more than 40 references cited in the section on fragmentation and mischaracterizes what some of those articles actually say about fragmentation. He said that the citations do not empirically demonstrate that the overall survival of any species is jeopardized the absence of undisturbed wildlife corridors. This is not the issue. The issue is whether the studies demonstrate that the fragmentation of habitat is a factor negatively affecting a diversity of wildlife species. Ferry does say they found five things where fragmentation had resulted in loss. Some species may not be affected by fragmentation and some may. They report that they did not find any information indicating that fragmentation has an impact on hydrologic functions, improving water quality, reptiles, or fish. The information on the impacts of fragmentation is not a major factor in determining their guidance on protecting wetlands. Their guidance states that the impacts of development can be mitigated to some degree by maintaining corridors. The approach is compatible with the information that fragmentation is one of the many factors that can affect species. They disagreed, therefore, with the contention that they placed an undue emphasis on fragmentation. He thought the literature did support the position that it can have an effect. Mr. Whittaker commented that it was a pretty broad statement when you are talking about any number of species. He supposed you would have to pin it down on a case by case basis. He thought it would result in a program where anything that is delineated would be studied to come up with the best use of the land. Mr. Mraz said that was why the buffer widths were tied to habitat scores. The intent of the rating system was to score each of the three functions - water quality, flood storage, and wildlife habitat. Where there is a low habitat score using the rating system, the buffers are really low. So the rating system is intended to try to address that, but it is not asked if certain species are present. What it was asking was whether the features of habitat are present and, if so, we can presume that there are species present using that habitat, so it has habitat value.

Peter Downey provided a scenario of a low quality wetland with a low habitat score and the primary functions are water storage and recharge. He asked if DOE was opposed to seeing something like a pond being put in that place for enhancement. Rick Mraz replied that he was never under the impression that

DOE was opposed to the creation of ponds. It may meet some kind of definition of enhancement in part. He did not know that scooping out an open hole is enhancement. You'd really have to look at it in terms of what functions and values were being improved. Mr. Downey said it would be on a case by case basis. Mr. Mraz agreed and cited some examples. He thought the federal agencies looked at it as enhancement, but it had to pass the functionality test.

JD Gallant said he had been working with some DNR people who appeared to be subscribing to 100 to 150 foot buffers, which seemed to be more in line with DOE's recommendations. Rick Mraz expressed surprise, saying that they do not work directly with DNR on forest practices. That was covered under a separate set of regulations. He said that wetlands under Forest Practices were totally under a different agency [the DNR]. They may be using the DOE guidance, but he did not know that for sure.

Peter Downey asked if voluntary stewardship was the best option given our unique land area and land uses. He asked if residential BMPs and voluntary stewardship could be seriously considered. Rick Mraz asked if he meant exclusively. He said that it was one of a number of tools that may work, but it should not be used alone. He could envision a number of scenarios where it would not effectively protect wetland functions and values.

Peter Downey said that DOE seemed to support Alternative 3. He asked Mr. Mraz to speak to the other alternatives. Rick Mraz replied that the other alternatives in the guidance are a lot less flexible. Alternative 1 contained a straight 300, 200, 100, and 50 foot buffers for the four wetland categories. It did not allow any flexibility. He thought Alternative 3 did reflect some of the Critical Areas Committee's work because we are now talking about acknowledging the concept of rural land use and rural stewardship plans as a low impact buffer. In consideration of that, he did not think the original Alternative 3 was quite the same as what we were now talking about in consideration of what has come forward from the CAC and DOE's willingness to support that.

Edel Sokol referred to Dr. Brooks' ag study. She asked if DOE would agree that ag uses are more intense than rural residential and on 5, 10 or 20 acre parcels whether ag buffers should be more than adequate for rural residential development. Rick Mraz said that DOE does not prescribe buffers for ag. He thought it was important to distinguish existing ag from new ag. In existing agriculture, the impacts to wetlands have already occurred. If they continue to farm it, it will not have significant new impacts. On the other hand, new ag activities would clearly change an area. That would be a change in land use that should be evaluated. New low density residential may or may not have significant impacts depending on the extent of the impervious surface, the extent of land clearing, the density of other uses on the site, the presence of livestock. Rural residential development on 10 to 20 acre lots with less than half the land cleared and low animal densities is likely to have very low impacts. It depends on how that development is managed and the presence of permitted structures. Ag land remains essentially vegetated and/or open space. So there are differences and a lot of it depends on how the land is managed. Ms. Sokol asked if rural residential was a more intense use than ag. Mr. Mraz replied that it can be, depending on the situation.

Public Comment:

James Marquard, Juneau, Alaska, said he owned land here. He had been following what was going on via the Leader. He related an onsite meeting in 2005 for an enhancement project on his land. What drives him crazy was the use of the BAS term, saying that it was loosely used. He said he did not have a problem with buffers as his wetland was delineated. He had a problem with DOE and particularly Gretchen Lux as being unprofessional during the site

visit. He related her comments concerning the Reed Canary Grass and Scotch Broom on his land. It was that kind of conduct that drove him crazy. We needed to have qualified scientists. We needed people who were proactive and knowledgeable.

Renee Bush, Quilcene, had a 20-acre certified forest on the Little Quil River so she was familiar with Forest Practices. She knew that DOE was a member of the Forest Practices Board. The Forest Practices regulations were the only statewide land use regulations that establish wetland and streamside buffers, which had been peer reviewed and were accepted at the federal and state levels. She wondered why there was a difference between those accepted state regulations that are in effect now and the DOE recommendations for implementation in the CAO. If it was good enough for Forest Practices, she wondered why it was not good enough for critical areas. Regarding linear progression, she thought we were talking apples and oranges. She thought we all accept the functions and values provided by wetlands and they benefit the whole county. Her concern was that only a few of the property owners will have to be responsible for paying for that whereas the whole county will benefit. It was a fairness issue in terms of the regulations.

Janet Welch, Nordland, said she also had property in Leland Valley. She thanked the DOE folks for coming and apologized for the level of hostility she perceived directed at them, saying that it appeared not to have changed in the years since she was on the Planning Commission. She said she had been a septic designer for 22 years in this county and had worked with a lot of regulations. She thought the common ground we all shared was a fear of change. Even when you say that the changes being proposed were less stringent than the existing regulations, it was threatening to people. Her question was, in the world of BAS, if we shot for the rock bottom minimum, her fear was that we would have to come back and modify that to accommodate what we learn. One question was how fast the science is changing which will require us to come back into a room and haggle this over again. And how much will climate change and population change require us to come back, if we take a minimum position as opposed to taking a position that may take us through the next ten years. She said that people say this area is rural and we aren't going to see that much development, but that was what everyone was concerned about - to protect their ability to develop their property.

James Fritz expressed confusion, questioning why we were here if the DOE proposed buffers were less stringent than existing regulations. He thought we could all go home and just use the existing regulations and save ourselves a lot of time and money. He objected to the concept that we have a buffer and then we have Roger Short's farm that is devoid of wildlife. He said that hawks and eagles use it because there are rodents there in the grass. In the winter time, the geese and swans use it because they eat tender, young grass. So the actual wildlife density on the Short farm is probably far greater than the buffer zone. He said he wandered around old growth forests a lot as a prospector. You don't see deer or elk or birds. There are more deer and birds in downtown Port Townsend than anyplace in the county. Food is the limiting factor. Deer need food; that was why they were in Port Townsend. The deer used to use the clear cuts. When they stopped the clear cuts, there was no more food for the deer so they came down lower. The same was true for the spotted owl. They need clear cuts to hunt in even while they need old growth forest or mature second growth forest to nest in. He was concerned about the whole project.

Kenn Brooks wished to correct some of the DOE statements. He said he would provide to the Planning Commission an email from Tom Hrubby in which he refused to provide the references he requested. He obtained those references from another source. If county staff received the references from DOE and did not provide them to the committee, then that staff person needs to find other employment. He said he had repeatedly requested one on one interaction with DOE scientists, not presentations by bureaucrats. Tonight's presentation was

an example of why we need those one on one interaction to discuss the differences we have point by point. He continued to be ready to sit down with DOE staff and debate in a scientifically rigorous way the BAS issue. He asked Mr. Mraz to take a message back to DOE that he was ready to sit down with them at any time. He said that DOE has not addressed any of the specific points brought up in the supplemental BAS. They have never discussed why DOE didn't discuss the Young, et al paper instead of misleading the public that the results of that paper should be applied to the low and moderate density agriculture that we have in this county. DOE has not addressed any of the specific comments regarding fragmentation. Instead, you say that fragmentation is not really that important and it's not guiding DOE's buffer recommendations. But in DOE's response to his supplemental BAS, DOE provided a whole paragraph about why avoiding fragmentation was such a critical issue. Concerning wildlife and risk assessments, he said he does risk assessments for the US and Canadian governments. DOE has not even begun to do an adequate risk assessment to describe the buffer needs of wildlife. DOE has made the statement that where we find wildlife that was what they need to survive. That was complete nonsense. He said that wildlife will expand its territory to use the entire habitat where it can possibly survive. During times of stress, that habitat use decreases. As the population increases, they push their limits. Where you find a species or the distance you find a species from a particular core habitat has nothing to do with the habitat requirements necessary to sustain that species. He suggested DOE needs to convene a panel of competent risk assessors to look at this issue and see if we can develop some kind of risk assessment for wildlife habitat use that is legitimate and that will be acceptable to the population of the state. He said he was not the only one challenging the DOE BAS. It was being challenged everywhere you turn in today's world. Dr. Brooks said that DOE's comments on his review of literature dealing with nutrients, bacteria and sediments focused solely on agriculture and that was not applicable to low density residential development. He said that our zoning was controlled by the UDC and Comp Plan, not by the CAO. He wondered why DOE kept referring to industrial, commercial, and high density residential development in Jefferson County as if that was an issue to be considered in the CAO. That was an issue to be considered in other elements of the UDC, not in the CAO. Concerning using the ag literature, his reasons were the same as the reasons DOE used the ag literature. In those sections of the DOE BAS, the citations almost all focus on the ag literature. That was because ag has been studied. Low density rural residential development has not been studied. He would enjoy reading any citations DOE can provide in that regard. An example of DOE's unwillingness or inability to address specific issues was in Slide #60. It was all generalities. It addressed none of the specific comments made in the BAS nor does DOE address any of the specific discussion by the authors that DOE cited which do not support DOE's conclusions.

Jim Hagen said it had been brought up at least five times that the proposed DOE recommendations were less than our current code. He said that we are here tonight because of a Petition for Review by Washington Environmental Council. What we were being led to believe was that we are being sued for less buffers. He questioned if anyone believed that. He said the BOCC had said that our buffers are not sufficient. But now we are being told that what DOE is offering is less than that. It did not make sense. The whole first step framework that DOE bases its landscape approach on is based on an analysis of the landscape and potential cumulative impacts. He was not afraid of change. He was leery of regulations that have nothing to do with our area. We had heard lots of talk about BAS, but none of it has to do with Jefferson County. When you look at cumulative impacts, you should consider the densities where much of the county is in forest land at 1:80 densities. So most of this county is designated for a residential density of 1:80. When we look at our density on our watersheds, it was extraordinary. The density on the whole Dosewallips watershed projected to the end of our planning cycle in 2024 was 1:500. We have a potential UGA that has 2500 people. We have a MPR that has 2500 people. In another 20 years, our UGA will have 5,000 people. He did not

disagree with DOE's BAS. It was fine for King County; it did not apply to Jefferson County. He said we kept hearing about a population explosion. He said our latest census figures from OFM show we are behind even our intermediate projections. He thought we were really looking at science that does not apply to our conditions. That was the problem he had with it. He referred to discussions about transfer of development rights the county undertook last year. He cited a similar program in Carnation where it saved 400 potential housing units. If you applied those same standards in Jefferson County, 10 houses would have been prevented from being built. That was because of the differences in our zoning standards. He asked that we have regulations and BAS that apply to our situation. That was why we were lucky to have Dr. Brooks. He cited WAC 365-195-905 where it states that locally based science by qualified scientists is preferable to state agency guidelines. He asked the Planning Commission to take that into account.

Preston Drew, President of the Citizens Alliance for Property Rights in King County, said they were active in all of the King County CAO debate. As he listened to the debate tonight, he thought the best thing he could do to further the discussions was to get a copy of the CD of the meeting and address all the issues that have been brought up from the perspective of them having already been there. Their CAO has been in place since 2004. They went through a process just like this. They had a diverse citizen committee that came up with recommendations for their CAO, many of which were totally ignored. He said they have the worst CAO you could imagine in King County including that 65% of the rural property be dedicated no touch or resource land. On top of that, they have had years of down zoning prior to that. They also have a long history of forestry issues with the implementation of the CAO. He cited examples of his arguing with code enforcement about removing downed trees from storms. He said that one comment had been that this was a contentious hearing, but it was nothing compared to King County. They had a war going on there. He said they have 1.4 million acres of land in King County with 1.8 million people. The rural area is comprised of almost 1 million acres and the urban area is 200,000 acres. King County's rural population is 8% of the total county population so their rural area population is ten times the size of Jefferson County's entire population. Jefferson County has so few people here and so little impact that it's very hard to see how any problems will occur from any land use, other than maybe from a large industry like the pulp mill. He thanked the commission for the time to speak.

Norm MacLeod said he grew up rural and lived rural. His land is a part of him and he is a part of it. It gets his blood, sweat and tears. He said he takes care of his land. He gets the feeling when he deals with an agency that it does not respect that as an agency. He had been dealing with DOE for two years now and looked forward to the day when a team comes from DOE and appears to have looked at a zoning map before they come. He was still waiting. He related a conversation he had with a DOE representative on the WRIA 17 instream flow rule. When he showed that person a county zoning map, a lot of new options were on the table. He could not help but think the same thing would happen with the DOE wetlands people. We do not have intense rural development here. One of the requirements on a slide said that you have to put BAS into context. Another slide showed a small housing development next to a wetland. We cannot have that here, ever. If the day comes when we up zone this county for any reason, the science will have changed so far from what it is today that you will have to start over with that new science. He urged the DOE folks to look at the zoning map and put themselves into the context of what we live every day. He said that DOE led us to believe that SSB 5248 was a complex piece of legislation. It was four pages long. DOE said that we needed to look carefully at new ag. Yet SSB 5248 tells us that new ag is exempt for the next 3.5 years. The CAO will not apply to the local ag that supports the farmers markets. He said that wildlife does not fit into little boxes. Another comment was that wildlife habitat drives buffer widths. He asked if that meant when a cougar takes a nap in his round pen that he has to temporarily put in buffers around the pen. He said the densities that we

have imply and in fact result in light density usage. The idea that we can make use of our land with voluntary programs and perhaps narrower buffers with monitoring and adaptive management when necessary was something we can certainly live with. It was amazing that DOE has not addressed this issue in the rural areas such that DOE will work with people and educate them and help them when something goes awry and there's an impact on the wetland. Then maybe we can work together to fix it instead of having a regulation hanging over our heads.

Jim MacRae thanked the Planning Commission for allowing the public to comment. He read an email letter for the record that he submitted earlier today concerning BAS. The question he had for DOE was whether DOE viewed the BAS documentation produced as a fair and balanced representation of the scientific information pertaining to wetlands critical areas issues in Washington State and, if so, how they explain the lack of any reference whatsoever to the work of Dr. Brooks in that documentation.

Roger Short said he had dairied for 33 years in a valley with a salmon stream. He said it would be natural to think that a dairy would be the weakest link in some of the first water quality issues. The Conservation District took on some water quality testing which he did not support at first because he thought it would show him to be the "bad guy". However, he wanted to know if the BMPs the Conservation District wanted to do would actually do any good. If we were going to tell the farmers that they needed to fence the cattle out of the streams, he wanted to know if it was really going to do the job, because he did not think it would at the time. They found out that a 5-foot buffer gave us a 95% potential benefit for water quality. He could live with that. He could tell the other farmers that giving up a 5-foot buffer did not cost us that much and gave us a good benefit. But when you start talking about 100, 200, 300, or scare us with 450 foot buffers, the farmers will become stubborn. They want to have something they can feel good about. It all came to the point that he was really disappointed tonight that we were not told which species we want to protect. He was not willing to give up the use of a bunch of his property for buffers for some species that he had no clue about. You have got to identify them. Then we can do things to protect those species. Tell him what we are going to protect and they'll work on it.

Denver Shoop asked if DOE could show any BAS that showed we were damaging our water quality or wildlife. He did not think there was any. He spoke about Constitutional property rights. He asked if DOE looked at that. Like Mr. Short, he wanted to know what species we were protecting. He spoke about all he had gone through with his son's property trying to get a building permit. He said that no one seemed to agree on what type of wetland he had on that property. The wetland category would make a lot of difference on the regulations that applied. He thought the adoption of the current CAO regulations was unknown to the majority of the county population. He did not think we needed any regulations at all. He thought we were doing fine.

Frank Hoffman felt he had learned a lot from the DOE presentation and especially appreciated the diplomacy, particularly in terms of the response to the supplemental BAS, adding that courtesy has not been returned. He said he was not a scientist but it seemed to him that much of what DOE said was common sense and that it was moderate. He appreciated Mr. Mraz's candor, particularly as it related to wildlife habitat. He hoped he would be able to see the information DOE would supply. He thought it would be useful. He referred to the comment that only 5% of the county land is available for development. Mr. Mraz's response was that you should have the regulations in place in case a crazy developer comes along even though people say that won't occur. It was common sense and he wondered why someone would be opposed to that. If there was no need for the regulation, it would just be there and it was not an issue. But if there was a need for it, it would be available. He would not have thought that a month ago the person heading the Economic Development Council would tell his lessees that their leases were not valid,

but that was what was going on. It seemed that greed is motivating that. He did not think the county was an exception. So it made sense to him to protect that 5% of the land base that is open for development.

Teren MacLeod said that Jefferson County was not a drive-by experience to see wildlife out the window. It was her hope that was not where we're headed. The people who live here love their land. They deserve to know when they will be affected and how and where and what it will take to fix it. She agreed that there needed to be a baseline of regulations but voluntary stewardship should be the first option. While she understood that DOE was not that supportive of the idea and did not regulate ag, she said we have many large properties in this county and not a whole lot of development. A lot of those people are doing things that are ag related. They were small growers or had small livestock operations or hobby farms. They should also have the benefits of using BMPs and voluntary stewardship plans to utilize their land. You cannot make a huge distinction between new ag and existing ag and not raise all kinds of other issues. We were an agricultural county. It was important to grow our food locally. When decisions are made that affect the ag community, they had a right to say what they think; it was not hostility. They were not just interested in property rights. In fact, they were likely to be practical environmentally. Over the many months that the Critical Areas Committee worked, there was a lot of incredible work done. DOE and WEC were invited to participate at the table but that never happened. The committee worked very hard to produce the document for the county. She wondered why that committee was dismissed in the manner that they were and why a wetlands discussion did not occur in a platform involving all the different parties so the Planning Commission could hear all sides. BAS needs to be more than just available. We have locally derived science and solutions. The DOE review did not include anyone from Jefferson County. She said we need to have opportunities for voluntary stewardship. We do not need to back down to outside pressures or outside organizations who want to visit our lovely county. She urged the commission to remember that it is easy to make rules when they don't apply to you.

Moe Rogers, Marrowstone, referred to home ponds being a fact in Jefferson County. A lot of people on Marrowstone Island had home ponds to catch rain water to use for irrigation. He wondered if such ponds would be classified as wetlands and what buffers would apply. He said this marriage between Jefferson County and DOE is not working. He hoped the DOE representatives had seen some of that tonight. He suggested an idea that perhaps DOE could help us with. If DOE could convince the BOCC to zone the whole county as ag, we won't need any buffers.

Herb Beck thanked Dr. Brooks for his hard work on behalf of the county. He was very upset that the DOE had not taken into consideration his information. He felt DOE had its own personal opinion and was not willing to listen to other ideas.

C. ADJOURNMENT

The agenda for the next meeting will be on geological hazard, aquifer recharge, and forestry.

Peter Downey asked staff to look at adding more meetings. Brent Butler suggested the commissioners review the latest calendar chart handed out tonight. Then we can discuss it at the next meeting.

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

D. APPROVAL OF MINUTES

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

Peter Downey, Chair

Cheryl Halvorson, Secretary