



JEFFERSON COUNTY
PLANNING COMMISSION

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JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR JUNE 20, 2007

- A. OPENING BUSINESS**
- B. FISH & WILDLIFE HABITAT CONSERVATION AREAS AND WETLANDS**
- C. ADJOURNMENT**

A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 6:30 pm by Chair Peter Downey.

Planning Commission members present were Bill Miller, Patricia Farmer, Peter Downey, Bud Schindler, Henry Werch, Mike Whittaker, JD Gallant, Ashley Bullitt and Edel Sokol.

DCD staff present were Joel Peterson, Brent Butler, and Angela Wade (secretary).

There were about 30 members of the public present. Those who signed the guest list were: Frank Hoffman, Jim Fritz, Lyle Newlin, Kenn Brooks, Renee Bush, Scott Clogston, Susan Hopkins, Bill Wheeler, Sandy Hershelman, Jim Hagen, Norm MacLeod, Fred Weinmann, Victor Colacurcio, Jim Tracy, Dianne Johnson, Dennis and Barbara Schultz, Teren MacLeod, George Yount, John McDuff, Clark Crandall, Victoria Crandall and Dena Jones.

Staff Updates:

Joel Peterson gave an update on the wetlands field trip earlier in the day. The group visited Port Authority property on Prospect Avenue, HJ Carroll Park, a location in Quilcene, and a location along Chimacum Creek. The focus of the visits was to view wetlands through the eyes of a permitting person from DCD.

Brent Butler relayed a request from the PC Secretary, Jeanie Orr, to the Planning Commission to provide enough copies of documents so that DCD staff members receive copies because they become part of the public record.

Brent Butler said that Michelle McConnell will address the PC regarding the revised scope and schedule for the SMP on July 18th, 2007.

Brent Butler said that the DCD is drafting a request for proposals (RFP) for BOCC to review housing provider development opportunities and preservation as part of the Community Development Block grant round that begins in September 2007.

Brent Butler announced that the BOCC will recommend line in, line out of the UGA on July 2nd, 2007 at 10:00 am.

Brent Butler invited the Planning Commission and public to a farewell celebration for Cheryl Halvorson at the DCD main office on June 27th at 4:00 pm.

Brent Butler reported on the BOCC's deliberations of the 2007 Final Docket of Comprehensive Plan Amendments. The BOCC accepted one of the three suggested amendments for inclusion- the Industrial Land Bank.

Brent Butler said Jefferson County has had discussions with Andy McMillan at DOE regarding the critical areas settlement. The DOE would like to begin conversations among DOE, Dr. Kenn Brooks and WEC, in regard to augmenting DOE Guidance for rural counties. Mr. Butler said that there has been discussion about whether or not the DOE Guidance has been overly focused on densely populated counties, such as King County.

Brent Butler said that an RFP has been issued for the Industrial Land Bank and ADO (Associated Development Organization) designation. The goal of the ADO designation is to assist the County in recruitment and expansion of businesses.

Joel Peterson reviewed the handouts for the evening. The PC received three documents from Rick Mraz about buffers and wildlife, as well as tables of data compiled by DCD about permits regarding Environmentally Sensitive Areas. The tables show that a lot of critical areas are found during the permitting process and this inflated number is due to aquifer recharge areas, which often don't affect the permit. The tables are meant to provide the PC with a better sense of the types of critical areas issues that come up during the permitting process. Mr. Peterson clarified that SIPZ refers to Saltwater Intrusion Protection Zone and the condition code is a numerical identifier code for the text.

Mike Whittaker asked Brent Butler to report on the efforts that had been made in the past year on the Final Docket. Mr. Butler responded that LRP hired a consultant to analyze the survey results and the land to determine what size land bank is needed. He expects that at the minimum, the analyzing process will be completed, and at the maximum, work will begin on the SEPA process.

Approval of Minutes:

Bud Schindler moved to approve the minutes for June 6th, 2007 as submitted. The motion was approved unanimously.

Committee Reports: None

Public Comments:

Peter Downey said that the public comments are limited to three minutes in an effort to save time for deliberations. He agreed to give each speaker a thirty second warning. Bud Schindler questioned the time limit and said he would like to hear the public's opinion on the three minute limit. Mr. Downey said that the public could comment on the time limit during their allotted three minutes.

Dennis Schultz said that there's a misconception by the Commission that the citizen's subcommittee was heavily Republican. As head of the Fish and Wildlife Committee, he said it was not an anti-environmental, Republican group. Mr. Schultz said that the Tomassi Report is not based on scientific studies. The maps are not accurate, and there's no justification for the corridors proposed. He said that there are no local studies

showing that corridors are needed now, or that currently there are adverse effects on wildlife. Mr. Shultz said that deer, elk, trout, etc. don't need additional protection; they are already covered under federal acts. He said that Fish and Wildlife watches these species for hunting and fishing purposes. Mr. Schultz said that threatened and endangered species are not represented in Jefferson County. He disagreed with the information on the blue heron habitat requirements that was handed out tonight based on his own experience.

Kenn Brooks said that he spoke with Rick Mraz and Andy McMillan at DOE. In conversation, Dr. Brooks was told by Mr. Mraz that DOE had decided that their recommendations are probably not appropriate for rural counties like Jefferson. Mr. McMillan asked Dr. Brooks to work with DOE to develop a comprehensive model ordinance for a rural, stewardship-based model with regulatory backup. Dr. Brooks said the Governor and legislature are aware of this initiative to try to resolve the issue of good ordinance for rural counties. Dr. Brooks said that, based on last week's meeting, the PC is not yet informed enough to deliberate on these issues, and he suggests that the PC support this research effort. Dr. Brooks ended by saying that he is preparing to litigate based on the constitutionality of GMA to require buffers for the *general* protection of wildlife.

Jim Hagen said that the deliberations are moving at a startling pace and the PC is moving into motions with inadequate deliberation. He said that Henry Werch's memo was irresponsible. From the public's standpoint, this is not careful deliberation. Mr. Hagen said that each of the three times that DOE has been at meetings, they could not say how their science relates to Jefferson County. He said that now DOE is willing to sit down and develop something that works for everyone. Mr. Hagen said that we have an effective ordinance in place. He suggests that the PC step back and possibly ask for an extension.

Diane Johnson said that WEC's appeal was the reason for rewriting the CAO. She said that Al Scalf and Commissioner Sullivan said that we didn't have to follow the Settlement Agreement, yet the Planning Commission thinks that we do need to follow it. Ms. Johnson said she wants to know what relationships exist between the PC and WEC, and if any commissioners or their families have received money from WEC. She requested that the PC disclose any conflicts of interest in tonight's meeting.

Jim Fritz said that he was present at the founding meeting of the Olympic Stewardship Foundation, at which he said there were more Democrats than Republicans. He said that the divide is not between political parties, but between people who want to gentrify, and those who want to allow all people access to the county. Mr. Fritz is in favor of keeping rural communities rural by retaining young couples, farmers, working class, etc.

Bill Wheeler submitted a document regarding his disappointment in "Buffer Associations 6-17-07" memo by Henry Werch. He said that like George Yount's letter to the BOCC, it was a clear attempt to undermine the work done by the committee.

Fred Weinmann said his view is based on working as a wetland scientist for 29 years. He holds a MS in Botany and a PhD in Ecology from the University of WA. He said that they are trying to manage multiple wetland types and habitat for wildly varying species with only one plan. Dr. Weinmann said that there is no experimental data, and BAS advises using caution when information is incomplete. He suggests following the recommendations of the minority report. He said that a reduction in habitat is the number one reason for decline of species, and amphibians and birds are dependent on wetlands as well as fish. Dr. Weinmann said the majority report offers no definition of what it means to protect a species or habitat. He said this leaves it open to interpretation; it could mean that a certain percentage of the population survives, or that the species continues to exist somewhere in the general region.

Norm MacLeod referred to a guidance document from the state that he submitted to the PC. He suggested that the Commission not rush forward and make mistakes. In talking with the legislature and professional organizations, Mr. MacLeod found that there is a desire to get this right. He said that many people are watching Jefferson County and will look at the results of these deliberations.

Roger Short said that he and Norm MacLeod requested information from the DCD last week. He was told that there were costs for the reports and he had to drive to Port Townsend to pick them up. Mr. Short considered this an insult, in view of the amount of time he put in. In regards to the field trip, he said that he wasn't informed of the sites to be visited ahead of time, and it seemed the PC was trying to discourage the public's attendance. In regards to Initiative 933, he said that the Nature Conservancy spent much more money (12 to 1) than all other groups. He asked, where the trust is with big environmental groups and development companies.

Teren MacLeod said it's clear that very little of the deliberations have real content. She said that she doesn't have confidence in the Commission's understanding of the reports before them. Ms. MacLeod suggested allowing the code writer and staff to be able to interview the authors of the committee reports for intent. She said that there were no PhDs authoring either of the reports that the Commission is deliberating, and Rick Mraz, DOE, said himself that he couldn't speak on the reports as he didn't have a PhD. Ms. MacLeod asked how the Commission was able to make recommendations based on science, when there are no PhD scientists writing the reports. She said that Jefferson County is rated second in the state for affordability and yet she sees families who can't afford to live here. She said the impacts of land-use regulation will affect affordability and that a healthy community has families and children.

Jim Tracy said that the Planning Commission can't proceed after hearing an admission from two DOE officials that their science may not be relevant. He said that if the PC moves ahead after this admission, then they are choosing to use questionable science over BAS. He suggested that the PC wait for better recommendations before deliberating. Mr. Tracy also suggested that the PC seek independent legal advice for training on deliberation. He also asked Henry Werch not to alter committee documents, but rather make his own.

Paula Mackrow said that the Hood Canal Coordinating Council Summer Chum Conservation Recovery Team has been accepted by NOAH as the planning document in Kitsap, Mason, Jefferson and part of Clallam County. She said the adoption of NOAH includes updating the CAO, and that Jefferson County, through negotiations over several years, would adopt DOE guidelines. She said this is not her opinion, but fact that can be verified by speaking with the author, Scott Brewer. Ms. Mackrow said that while data on riparian buffers for lowland Puget Sound has been researched in King County, the methods for determining buffer widths have been adopted by Kitsap and Clallam Counties. She submitted for the record the online document: Clallam County Streamkeepers State of the Waters Report. She said that this report and Dr. Carr are available for discussion on the applicability of buffer widths to Jefferson County.

Richard Hild said that he doesn't consider the Federal Register as a source of science. He said that the assumptions the Commission is making regarding the studies aren't correct. Mr. Hild suggested postponing the proceeding for at least one year because these deliberations affect everyone. Mr. Hild referred to a publication- United Nations Agenda 21. He said that everyone should read this UN document and said that the consensus group has been changed, so that the vote could be changed.

Mike Belenski commented on the personal relationships and associations that Planning Commission members may have with WEC. He said that Commissioner Sullivan had disclosed his associations to Beckett Point, and he agrees that these associations should be disclosed to the public. Mr. Belenski referred to the Bullitt Foundation, WEC and Future Wise, and said he would like to understand their associations with the Planning Commission better. He said that Section 14 of the bylaws requires that members disclose relationships that may pose a conflict of interest.

Larry Bonar said that there are constitutional protections for the right of free speech and the right of free association. He said that no one should feel compelled to explain their opinions or connections.

Edel Sokol spoke about ethics violations or conflicts of interest. Peter Downey asked if anyone on the Commission has a conflict with the deliberations on critical areas. Mr. Downey said that he is a shellfish farmer but doesn't consider that to be a conflict. Henry Werch said that they had a responsibility to disclose specific conflicts of interest, but no obligation to disclose all organizations with which they are connected. Mr. Werch said that there are several Werch's involved in government in WI and he's not related to any of them. Sharing the same name should not be suggestive that there is a conflict of interest. Peter Downey said that there is a difference between judiciary and legislative conflicts and that they are in a legislative mode. No disclosures came forward.

B. FISH & WILDLIFE HABITAT CONSERVATION AREAS AND WETLANDS

Peter Downey referred to the impasse on Fish and Wildlife last week. He said the nature of the impasse was the majority and minority reports, and he wants to look instead at an

agreement that will work for everyone in the county, including fish and wildlife. He said that there is science that will refute both groups, so it becomes a political decision.

Mike Whittaker said that in light of Dr. Brooks' and Brent Butler's comments, and the Wetlands in WA State 2005 report, he agrees with the public that they need more time.

Mike Whittaker moved that the Planning Commission recommend to the BOCC that they put the issue on hold while science is developed, in the interest of quality. Bud Schindler seconded the motion.

In discussion, there was concern that postponing the CAO would allow the current buffers to remain in place, and they are more onerous than either the majority or minority report. Some members thought that they should ask for more time, but still deliberate on other sections of the CAO and provide recommendations to the code writer. Ashley Bullitt said that science is always being developed, and they are dreaming to think that if they halt the process, they will get perfect science. Ms. Bullitt said that they are not in a position to determine BAS, and they should do the best they can with the documents before them. Edel Sokol said that using adaptive management and the stewardship approach addresses the issue of changing science.

Henry Werch said that it isn't up to the BOCC to determine a timeline, but that they should negotiate with WEC and other groups involved. Brent Butler said that the Chief Civil Prosecutor could be the one that requests an extension of the timeline, but the rationale for the extension needs to be provided by the Planning Commission.

Mike Whittaker withdrew the motion on the floor.

Peter Downey moved that the Planning Commission ask BOCC to extend the timeline for completion of the CAO process for more extensive review and deliberation, and allow further discussions with DOE, in light of new information that has come forward from staff. Bill Miller seconded the motion.

Edel Sokol proposed that they include the testimony from Dr. Brooks and staff. Patricia Farmer said that she would like clarification directly from the DOE regarding the comments made by Dr. Brooks.

The motion was approved, with eight in favor and one opposed. (8-1-0)

Henry Werch spoke about the range of buffer widths. He said it is inappropriate to characterize Proposal #1 [Report #1] as extreme; it merely states that there is sufficient protection. He said that Proposal #2 [Report #2] does not represent King County-based DOE recommendations, but suggests local processes for Jefferson County. Mr. Werch said that there is BAS to justify buffers anywhere in the range between Proposals #1 and #2. Mr. Werch said that the Planning Commission needs to consider who is responsible and who is accountable. He asked who should bear the burden of a failure to adequately protect a critical area. Should it be the property owner, DCD, County, or the people of

Jefferson County? He said it should be shared accountability. Mr. Werch is concerned that Proposal #1 provides insufficient accountability. He said he wouldn't count on the DOE recommendations to provide these answers.

Bud Schindler said that Proposal #1 [Report #1] is a stewardship approach, utilizing adaptive management and monitoring, and citizens could choose between prescriptive (wider) buffers and stewardship (less buffers, but monitoring) approaches. He said that Proposal #2 [Report #2] offers a prescriptive approach. He said it makes sense to have smaller buffers if they are monitored and larger buffers if not monitored.

Bill Miller moved that the Planning Commission use the format arrangement presented this evening, submitted by Bill Miller, as the basis for sending its recommendations to the code writer. JD Gallant seconded the motion.

Bud Schindler said that the PC agreed last week to circulate this kind of information ahead of time, not at the last minute. Bill Miller explained that because they're rushed, this chart provides a way to compare reports easily, page by page, under categories: Instruction, Standards, Buffers and Regulation. Mr. Miller said that he will provide the relevant page numbers for each section in the future. He said that the chart compares Reports #2 and #14, and can also incorporate the JCC current code and May 17th draft for comparison.

The Motion was approved unanimously (9-0-0).

The Commission compared the Introduction sections on Fish and Wildlife of Report #2 and Report #14. Using the new basis of deliberation, they deliberated these sections side by side.

JD Gallant said that he likes the Introduction of Report #2. Peter Downey said that there is not much disagreement between the purpose and intent of the two, other than that Report #2 is written more according to code.

Bud Schindler moved to omit B3 of the Purpose and Intent in Report #2 "Protect species listed as threatened or endangered and their habitats." Edel Sokol seconded the motion.

The motion failed, with four in favor and five opposed. (4-5-0)

The Commission discussed the first Purpose and Intent in Report #2. There was confusion about whether this section was specific to Fish and Wildlife or general to the whole report. Jill Silver, a principal author of the report, was asked to clarify this point. Ms. Silver said that the first Purpose (pg 3-4) is general, and the second Purpose (pg 5-6) is specific to Fish and Wildlife.

Bud Schindler asked if the current code has an overall Purpose. Bill Miller responded that it does have an overall purpose, but not a purpose for each section. Peter Downey said that it would be appropriate to have both.

The Commission decided by consensus to begin with pg 5-6 Purpose on Fish and Wildlife, and to eliminate the general Purpose on pg 3-4.

The Commission decided by consensus to remove line B. "In accordance with the BAS referenced herein," and to keep the numbering the same (1-7) under A.

There was discussion about the word "connectivity" in A4. Edel Sokol was concerned that including "connectivity" may designate all of Jefferson County as a wildlife corridor. Henry Werch said that this is in specific reference to habitat areas, and that there is an obligation to identify connectivity to define a corridor.

Patricia Farmer moved to keep the word "connectivity" in A4 of the Fish and Wildlife Purposes. Henry Werch seconded the motion.

The motion was approved, with five in favor, and four opposed. (5-4-0)

The Commission agreed by consensus to strike the language "of adjacent land-use" in A5 of the Fish and Wildlife Purposes.

Edel Sokol moved to remove A2 of the Fish and Wildlife Purposes. Bud Schindler seconded the motion.

The motion failed, with three in favor, and six opposed. (3-6-0)

The Commission discussed A5 of the Fish and Wildlife Purposes, and whether it should be expanded here, or the specifics be addressed later in the regulation section.

Peter Downey moved to add A8 to the Fish and Wildlife Purposes, to read "the County encourages voluntary stewardship of critical areas for the protection and enhancement of fish and wildlife species."

Peter Downey asked if this could be approved by consensus. Mike Whittaker suggested adding to the motion "and will enhance that with education." The Commission decided to continue this discussion at the next meeting.

Bill Miller said that he will email the relevant page numbers (or first paragraphs or entire sections) of the sections for comparison before the next meeting.

(The PC did not get to the wetlands agenda topic)

Public Comment:

Jill Silver said that her understanding of local BAS is science that is developed in the local environment. She said this is different from science that is collated by a local expert from various locations. She said that examples of local BAS are the marine

environment on Puget Sound, a specific river on the Olympic Peninsula, or eco-regions similar to ours, such as Vancouver, or coastal Oregon. Ms. Silver said that there's also misunderstanding about the Department of Fish and Wildlife applying regulations for threatened and endangered species. She said that DFW defers to the County for buffer widths, and doesn't provide recommendations for buffers unless a permit is triggered by a specific circumstance.

Kenn Brooks said that he disagrees with Ms. Silver. He said that locally derived BAS is the application of a broad range of science to a local area. He said it is not new science developed in the local area. Dr. Brooks said that DOE acknowledges that there is no science for rural areas and this is a major flaw in DOE BAS. Dr. Brooks said that each line in legal documents are numbered and suggested using this format for the reports that the PC is using. He said that the PC should have the same documents with the same page numbering and suggested that staff put all the reports in legal format with line numbers.

Jim Hagen said that he applauds the Commission for taking time to step back, and he applauds Peter Downey for conducting these difficult meetings in a timely fashion. As there are some newer members on the Commission, Mr. Hagen suggested that the staff give a presentation on the CAO in the context of the GMA. Mr. Hagen said that the GMA has specific definitions on the Commission's duties through 2011. Mr. Hagen said that Jefferson County has no impacts of urbanization, outside of Port Townsend. He said that comprehensive planning is integrated and developments need to be consistent with each other.

Norm MacLeod said that he agrees with Ashley Bullitt's comment that science is always changing. He also said that the opportunity to do research specific to rural counties should be embraced.

Diane Johnson spoke in reference to Henry Werch's comments on accountability. She said that both reports require buffers and quote science. Ms. Johnson said that Proposal #1 [Report #1] provides more landowner responsibility, and that the County is already monitoring to a large extent. She said that there's not as much expense in this method, neither to the landowner nor the County. Ms. Johnson said that in Proposal #2 [Report #2], the buffers are more stringent, and there is more cost to the landowner to conduct studies in order to get relief, or develop mitigation, from these stringent buffers. She requested that the PC consider what each of these reports would require of both the County and landowners.

John McDuff said that Proposal #2 [Report #2] assumes that the landowner is guilty until proven otherwise. He is in favor of Proposal #1 [Report #1]. He said that in a project in Quilcene, state scientists are responsible for 122 acres of oysters being covered with silt and part of the bay being destroyed. Mr. McDuff said that local scientists' studies lack common sense. He said that he appreciates slower deliberation, and he does not agree with the three minute limit on public comments. He said that if his comment lasted two minutes, he would like to be able to give an extra minute to another member of the public.

Bill Wheeler said he spent much of his time trying to educate landowners about maintaining forested property. The biggest problem he encountered was convincing them that they had to do something, that nature couldn't do it on its own. Mr. Wheeler said that if we don't encourage stewardship, the public won't spend the money to improve forested areas.

Teren MacLeod commented that it is implied that the maps and other information available at the County is accurate, but it's not. She said that the maps are very poor, with at least a 400 foot +/- margin of error. Ms. MacLeod said that the County doesn't have the funds to update this information, but it still needs to be addressed, and she has some grant ideas. In regards to Roberts Rules of Order, she said that there was a motion made tonight that had never been deliberated. Peter Downey responded that the motion had been rescinded.

Roger Short stated that critical areas cannot be managed successfully by politics.

Mike Belenski requested that the public have the option to designate their three minutes of public comment to another member of the public.

Renee Bush encouraged the use of incentives in drafting the ordinance. She commented on forestry's use of "timber tags." She said that in order to maintain their tax status, they must submit a master plan that is signed off by DNR. Ms. Bush said in reference to Henry Werch's comment about outside organizations influencing the County, that she doesn't agree that they have drafted an ordinance with county staff behind closed doors. She said that by deliberating the reports line by line, the PC can assume that the authors of the reports wrote them clearly, or ask the authors to be present during the deliberations.

C. ADJOURNMENT

Mike Whittaker moved that the Planning Commission allow the code writer to discuss the intent of the reports with the authors.

In discussion, there was concern that this would offend the public by putting it out of the public process.

Mike Whittaker withdrew the motion.

Edel Sokol and Bud Schindler said that they were offended by Henry Werch's memo.

Mike Whittaker said that at the last meeting, the PC asked staff for an update on the code writer. Brent Butler said that staff has a meeting with the code writer the next morning, and will give an update at the next meeting.

JD Gallant said that in order for the PC to deliberate faster, he will help Bill Miller to identify the specific pages to be deliberated. He said that the PC should vote first to accept a section before talking about specifics. Bill Miller agreed that the section needs to first be accepted before it can be changed.

The meeting was adjourned at 10:00 pm.

D. APPROVAL OF MINUTES

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

Peter Downey, Chair

Angela Wade, Secretary