



District No. 1 Commissioner: Phil Johnson  
District No. 2 Commissioner: David W. Sullivan  
District No. 3 Commissioner: John Austin

County Administrator: Philip Morley  
Clerk of the Board: Lorna Delaney

**MINUTES**  
Week of February 28, 2011

Chairman John Austin called the meeting to order at the appointed time in the presence of Commissioner David Sullivan and Commissioner Phil Johnson.

**PUBLIC COMMENT PERIOD:** The following comments were made by citizens in attendance at the meeting and reflect their personal opinions:

- The property tax for the Port Townsend Paper Company Mill changes every year and appears to have gone down over the years and the contents of an inert landfill at the Mill are monitored by the County. A chemical analysis is done, but the Mill selects and submits it to the testing agency. The County may be at risk;
- Shellfish Growers are happy with the locally adopted SMP and the recommendation made and sent back to the County, but the DCD staff have made some suggested changes that will impact shellfish growing in the County;
- The Board and staff were thanked for their work on the SMP. Some of the staff suggested changes to SMP have removed specificity between the types of aquaculture and that will have a negative impact on the local shellfish industry;
- The staff proposed aquaculture provision of the SMP addresses "non-native" species and this would impact the many non-native shellfish that are a large part of the shellfish industry in the County. The County needs to adopt the DOE recommendations;
- The franchise agreement for PSE needs to be amended so that it does not allow a fee to be charged for fiber optics carried on their poles. The expense to pay a person to do minutes for the Health Board is an unnecessary expense and there should be a time limit on the agreement;
- Changes need to be made to buildings in Port Townsend because of the possibility of an earthquake in the next few years. The County should require any retailer that sells products like "Weed and Feed" to hand out a material safety data sheet with it because it tells the purchaser the danger of using it due to the very toxic substances it contains;
- A representative of shellfish aquaculture growers stated that some of the DCD staff recommended changes are too broad and asked the Board to approve the DOE version of the SMP;
- A representative of the Washington Fish Growers Association urged the Board to adopt the DOE required and recommended changes to the SMP;
- DOE has slapped the County's hand for banning a water dependant use in the SMP;
- The US Congress is proposing to take a large amount of funding from the Women, Infant and Children program and the Board was asked to write a note to our congressional delegation;
- Why is the County spending \$2,500 on having someone do the minutes for the Health Board? There was a question about a meeting in 2004 as well as several public records requests at that time.



**APPROVAL AND ADOPTION OF CONSENT AGENDA:** Commissioner Johnson moved to delete items 1 and approve the balance of the items on the Consent Agenda. Commissioner Sullivan seconded the motion. Commissioner Johnson agreed to amend his motion to also delete item 11 and item 4. Commissioner Sullivan agreed to the amendment. The Chair called for a vote on the motion. The motion carried by a unanimous vote.

1. **DELETED:** HEARING NOTICE: Proposed Resolution Granting a Franchise to Install and Operate Electric Power Facilities in Eastern Jefferson County; Puget Sound Energy; Hearing Scheduled for March 21, 2011 at 10:00 a.m. in the Jefferson County Commissioners Chambers, Courthouse (Approved later in Minutes.)
2. **AGREEMENT:** 2011-2013 Community Litter Cleanup Program Funds; Revenue In the Amount of \$36,325.00; Jefferson County Sheriff; Washington State Department of Ecology
3. **AGREEMENT:** Commissary and Cash Handling Services; No Additional Cost to County; Jefferson County Sheriff; Swanson Services
4. **DELETED:** AGREEMENT re: Preparation of Board of Health Minutes; In the Amount of \$2,500.00 per Year; Jefferson County Public Health; Stacie Reid (See item later in Minutes.)
5. **AGREEMENT, Interlocal NO. 332-09-068-1, Amendment No. 1:** Administration of North Pacific Coast Marine Resources Committee; An Additional \$11,000.00 for a Total of \$22,000.00; Jefferson County Public Health; Clallam County
6. **AGREEMENT, Amendment No. 1:** Administrative Support as Assistant 4-H Coordinator; An Additional Amount of \$9,000.00 for a Total of \$24,000.00; WSU Extension; Susan Hay
7. **AGREEMENT, Memorandum of, NO. 14F-4130-0016 Appendix A re:** Beach Watcher Coordinator with Marine Resource Committee; In the Amount of \$13,600.00; WSU Extension; Washington State University
8. **Payment of Jefferson County Vouchers/Warrants** Dated February 17, 2011 Totaling \$2,154.93 and Dated February 22, 2011 Totaling \$181,442.86
9. **Payment of Jefferson County Payroll Warrants** Dated February 17, 2011 Totaling \$88,597.41 and **A/P Warrants Done by Payroll** Dated February 17, 2011 Totaling \$16,205.48
10. **Advisory Board Appointment:** Peninsula Housing Authority; Term Expires February 28, 2014; Samuel Shusterman
11. **DELETED:** Advisory Board Appointments (13) re: Exploratory Regional Parks and Recreation Committee. (Approved later in Minutes.)

**Advisory Board Appointments (13) re: Exploratory Regional Parks and Recreation Committee:** (Item 11 on the Consent Agenda) Commissioner Austin noted that he pulled this item because two additional members have been identified since this item was put on the agenda. Craig Downs will represent the Chimacum School District and Mike Glenn will represent the Hospital District with Paula Dowdel as his alternate. Commissioner Austin moved to approve these appointments to the Exploratory Regional Parks and Recreation Committee. Commissioner Sullivan seconded the motion which carried by a unanimous vote.

<u>APPOINTEE</u>	<u>REPRESENTING</u>	<u>ALTERNATE</u>
Phil Johnson	Jefferson County Commissioners	Philip Morley
Rich Stapf	JC Parks & Recreation Advisory Board - I	
Kathleen Kler	JC Parks & Recreation Advisory Board - II	
Brian Miller	Outdoor Sports - County	
Pamela Roberts	WSU 4-H Extension Agent	Sue Hay



Brian Belmont	Indoor Sports - County	
Jean Baldwin	JC Public Health	Julia Danskin
Tony Hernandez	Law & Justice Council	Joe Nole
Mike Glenn	Hospital District	Paula Dowdle
Nancy Thompson	Brinnon School District	
David Anderson	Quilcene School District	
Gene Laes	Port Townsend School District	
Craig Downs	Chimacum School District	

**AGREEMENT re: Preparation of Board of Health Minutes; Stacie Reid:** (Item 4 on the Consent Agenda) Philip Morley noted that normally there would be an expiration date identified in a contract. The County Code requires a 5 year expiration. He suggested that this be brought back next week with a 3 year expiration.

**HEARING NOTICE: Proposed Resolution Granting a Franchise to Install and Operate Electric Power Facilities in Eastern Jefferson County; Puget Sound Energy:** (Item 1 on the Consent Agenda) Commissioner Johnson asked if there is a rush on this contract? County Administrator Philip Morley explained that the negotiations have been going on for quite some time. He advised that he will check the language that the City of Port Townsend has regarding broadband in their recently approved franchise with PSE. Since this is just scheduling a public hearing, Commissioner Johnson moved to approve the hearing notice setting the hearing for March 21, 2011 at 10:00 a.m. Commissioner Sullivan seconded the motion which carried by a unanimous vote.

**COMMISSIONERS BRIEFING SESSION:** The Commissioners each provided updates on the following items:  
Commissioner Sullivan noted that he participated in a conference call with several counties that have interest in the ferry service. The State is not considering a "ferry district" at this time. The process for appointments to the Ferry Advisory Committee will be started.  
Chairman Austin complimented the County Road Department for their work to clear the roads and Jefferson Transit buses for running during the snow storm. He will be in Washington DC next week to meet with members of our Congressional Delegation about funding issues.  
Commissioner Johnson noted that he will be going to Olympia on Wednesday for a meeting of the WSAC Legislative Steering Committee. The gravel extraction tax legislation is being reviewed by the Legislature's Ways and Means Committee.  
Philip Morley, County Administrator, noted that good progress is being made in negotiating regional services agreements with the City for Jail, Animal Services, Substance Abuse and the court services.

**APPROVAL OF MINUTES:** Chairman Austin made the following corrections to the Minutes of the February 7, 2011 meeting:

Page 5, second paragraph, second line - delete "and" after the word Ecology  
 third line delete "they" that follows the word "and".



Also on page 5, third paragraph change "finalize" to "finalized."

Commissioner Johnson moved to approve the minutes of February 7, 2011 as corrected. Commissioner Sullivan seconded the motion which carried by a unanimous vote. Commissioner Sullivan moved to approve the minutes of the February 14, 2011 meeting and the February 15, 2011 special meeting as submitted. Commissioner Johnson seconded the motion which carried by a unanimous vote.

***HEARING re: Amending the 2011 - 2016 Six Year Transportation Improvement***

***Program:*** Josh Peters, Transportation Planner, Public Works, explained that this is an amendment to the six year Transportation Improvement Program adopted last year with 25 projects. This amendment is to add another project. The County has been awarded \$925,000 in federal funds to be used over several years for safety projects. The improvements are to prevent run off road crashes and intersection crashes. Once an agreement is reached with WSDOT the preliminary engineering phase will be presented to the Board. The funds must be expended by the end of 2013 or any remaining un-spent funds must be returned. In order to receive this funding the program must be part of the TIP as a secured funded program so the State can put it on the Statewide TIP. No local match is required for this funding. The types of programs are system-wide projects like upgrading traffic signs; adding or replacing guardrails and end treatments for guardrails, upgrading guide posts, installing rumble strips, warning beacons and upgrading crosswalks.

Commissioner Johnson asked about painting fog and center lines? Josh Peters explained that striping is considered a maintenance project and not new infrastructure so it is not eligible for this funding.

The Chair opened the public hearing. Hearing no comments for or against the amendment to the Six Year Transportation Improvement Program the Chair closed the public hearing. Commissioner Johnson moved to approve **RESOLUTION NO. 10-11**. Commissioner Sullivan seconded the motion which carried by a unanimous vote.

***Staff Recommendation for Ecology Required and Recommended Changes; Shoreline Master Program (SMP) Comprehensive Update (MLA08-475):*** Al Scaff, Director of the Community Development Department, noted that this is a continued review and discussion of the 61 items from the State Department of Ecology (DOE) for recommended or required changes to the Locally Approved Shoreline Management Plan (LASMP.) Staff is asking that the Board go through each item and state that they concur with the staff recommendation, or present an alternative proposal. Once that is done, areas of substantive change can be reviewed with the Chief Civil Deputy Prosecuting Attorney to identify areas that warrant further review through a public hearing. The document being reviewed is the *DCD Recommendation on Ecology's Required and Recommended Changes and Revisions Proposed for Clarification* revised on 2/22/11.

**ATTACHMENT B. Required Changes –**

**Item 1: Article 1.7.E, Page 1-6, Applicability - Ocean Resource Management Act**

Staff agrees with DOE's required change.

***The Board agreed with staff recommendation***



Item 2: Article 1.6.A.2, Page 1-5, Critical Areas - REUV (Reasonable Economic Use Variance)

Michelle McConnell, Associate Planner and the project lead, explained that this item has a number of other items related to it. It is a provision from the Critical Areas Ordinance. The intent of the several places it is mentioned in the SMP is to clarify that anything that might qualify for this variance under the CAO would be processed as a Shoreline variance when in the shoreline jurisdiction. DOE's direction is that all reference to it be stricken so that there isn't any confusion. Commissioner Sullivan noted that the Board has asked that a handout be developed to make this clear to people.

*The Board agreed with the staff recommendation*

Item 3: Article 4.1.D, Appendix A - Map 18, Page 4-1 Map #18, SEDs

This deals with the Quinault Nation in the west end of the County south of Kalaloch along the coast, Al Scalf explained. Staff offers an alternative proposal of listing this as a priority aquatic designation and not aquatic. Michelle McConnell said that the priority aquatic designation applies where habitat is found that is important to salmonid and shellfish. The National Marine Sanctuary designation along the marine shore of the west end indicates that there are critical, sensitive resources in the area and a higher level of protection seems appropriate.

*The Board agreed with the staff recommendation*

Item 4: Article 2.A.27, Page 2-3, Definitions – Appurtenance, Normal

Staff is asking for further guidance from DOE, because the "3 car" threshold for a normal appurtenance is unclear. Michelle McConnell said there is a difference between an accessory and an appurtenance. Commissioner Austin noted that there isn't a definition of "normal," and he feels DOE is looking for a limit on the number of garage bays. Al Scalf agreed that DOE is trying to be more definitive by adding this in the definition. Michelle McConnell explained that in the LASMP garages are listed as an accessory structure not as an appurtenance and the DOE wording would change garages to be an appurtenance. The cause for concern is the 3 car threshold. Staff agrees with switching a garage from an accessory to an appurtenance.

*The Board agreed with the staff that further guidance is needed from DOE*

Item 5: Article 2.S.22, Page 2-39 Definitions - Shorelines of Statewide Significance

This wording is consistent with the definition of "Shorelines of Statewide Significance" Al Scalf reported.

*The Board agreed with the staff recommendation*

Item 6: Article 4.1.D, Page 4-1, SED/ – Quinault Reservation

Staff recommends agreement with DOE's suggested change.

*The Board agreed with the staff recommendation*

Item 7: Article 6.1.D.1, Page 6-4, Critical Areas - REUV

The Critical Areas Ordinance is incorporated by reference so that all the provisions also apply within shoreline jurisdiction as part of the SMP, but this is where some exceptions are listed. DOE wants the REUV language in the list of exceptions. Staff suggested an alternative proposal to make this more understandable. Basically the CAO applies except for all of the items in D 2 through 13 and E 1 through 4 and other provisions of the CAO would not apply in the SMP.

*The Board agreed with the staff recommendation*



Item 8: Article 6.1.D.3, Page 6-5, Critical Areas - REUV

Staff agrees with DOE's required change.

*The Board agreed with the staff recommendation*

Item 9: Article 6.D.3, Page 6-5

This is a duplicate of Item 8

Item 10: Article 7.C.3, Page 7-18 to 7-19, Dredging

Staff agrees with DOE's required change to add the language about maintenance dredging.

*The Board agreed with the staff recommendation*

Item 11: Article 7.2.F.5, Page 7-10, Boating Facilities – Regulations – Residential Docks

Staff agrees with DOE's required change that deals with the length of residential docks and piers moving from 60 to 100 feet. Chairman Austin asked if this is an example of a change that would be considered substantive and require a public hearing? David Alvarez answered that a hearing is not required on a change made by the DOE.

Michelle McConnell noted that the wording in the LASMP is "no greater than" 60 feet unless you need more length to accommodate depth for water craft. The DOE wording allows up to 100 feet or the minimum necessary so the applicant doesn't have to provide documentation about how long the vessel is, etc. This is coming at the issue from a different direction and would streamline implementation.

Commissioner Sullivan asked about the justification for 100 feet rather than 60 feet? Stacie Hoskins noted that DOE may have reviewed the docks, topography and conditions that have been seen in the past around Jefferson County and they are concerned that 60 feet may not be enough length in certain areas.

*The Board agreed with the staff recommendation*

Item 12: Article 8.2.A.10, Page 8-4, Aquaculture Policies

Staff recommends agreement with DOE's required change regarding language that was broadly written and could be misconstrued. Michelle McConnell explained that the change is in Policy 10 (not 1 as indicated on the spreadsheet.) Policy A.1 speaks to the County's high regard for aquaculture being important.

*The Board agreed with the staff recommendation*

Item 13: Article 4.3 – Use Table, Page 4-6, Use Table – Net Pens/Fin Fish

Al Scalf explained that DOE is requiring a change to make net pens a conditional use across all zones in the Use Table. Staff recommends an alternative approach which is a discretionary conditional use in the Aquatic and High Intensity zones.

Commissioner Sullivan noted that DOE brought up the adequacy of the science in the record and he feels there is a huge amount of information in the record. Another issue is the authority to prohibit this water dependent use. He asked if the County has the authority to prohibit it in some areas and not others? Michelle McConnell reported that staff's understanding from DOE is that the County doesn't have the authority to do a complete prohibition, but that the County can allow net pens in some places and not in others. The crux for DOE is that this type of aquaculture is water dependent and that ensuring shoreline locations for water dependent uses and development is an overarching tenet of the Shoreline Management Act.



Commissioner Sullivan noted that currently upland fin fish, net pen fin fish and water fin fish are mixed with all other aquaculture. If the Board wants to separate them out in different ways it gets complicated. He has concerns about just crossing out fin fish in #15 and #12 and making all aquaculture the same. We've had problems with net pens in Port Townsend Bay, but there is less concern about upland fin fish. He doesn't want unintended consequences for shellfish and other aquaculture as the County tries to avoid the problems of net pens. The discussion turned to upland tank farms and how various changes in the wording would impact various forms of aquaculture. Chairman Austin stated that he objects to substituting "aquaculture" for "fin fish" in #15 because fin fish is the concern. The use of the term aquaculture really broadens this item and could lead to undesired consequences. Commissioner Sullivan said that he feels these issues are covered adequately for shellfish in other areas of the LASMP. If the County can't prohibit fin fish net pen aquaculture then we need to work on criteria for these facilities and be specific about where they can be sited.

Al Scalf reported that the Planning Commission reviewed this issue and their recommendation (dated July 15, 2009) was to prohibit net pen aquaculture in priority aquatic and natural zones and make it a conditional use in all other zones.

Commissioner Johnson said that a basic tenet for environmental protection is to avoid the problem, after that would be to eliminate, then try to reduce the problem and finally to mitigate the problem. He feels we should have a system of preventing the problem. There is sufficient evidence to support the County's ban especially with the recent problems with sea lice, and antibiotics. He is surprised and bothered that the State DOE is requiring this change in the LASMP. He read a quote from the Governor regarding the action agenda for Puget Sound, *It is our task to ensure that the Puget Sound forever will be a thriving natural system with clean marine and fresh waters, healthy and abundant native species, natural shoreline, places of public enjoyment and a vibrant economy that prospers in productive harmony and a healthy Sound.* In a letter from Davis, Wright and Tremaine, they say that Ecology's minimum tidal current velocity guidelines for properly locating net pens require net pens and fin fish aquaculture operations to be developed in areas of high current velocity where adequate flushing rates and ambient water mitigate the impacts of the surrounding water body. The problem with the staff approach that places them in high intensity and aquatic designations, is that there is not enough current in those areas. If raising fin fish in net pens is not a problem why do we need them in high velocity areas? It sounds like DOE is saying we have to disburse the contaminants.

Commissioner Sullivan pointed out that DOE is charged with enforcing the law. The question is does the Shoreline Management Act allow this loophole for net pens? Net pens are a water dependant use. He then reviewed RCW 90.58.020 (#7) which says *Permitted uses in shorelines of the State shall be designed and conducted in a manner to minimize insofar as practical all resultant damage to the ecology and environment of the shoreline area and any interference with the public use of the water.* He wonders if DOE's hands aren't as tied as the County's are by the SMA because net pens are a water dependent use and they have to be allowed if possible. There doesn't appear to be any case or ruling that says what can and cannot be done.

Chairman Austin noted that a document was given to the Board last week that identifies where fin fish net pens can be placed. He reviewed the maps in the LASMP and there are only 3 places where the marine shore reach was not in an enclosed body of water or in an area where there would be the requisite flushing.



The discussion continued regarding marine shore reach and how this is indicated on the maps in the LASMP.

Commissioner Johnson asked if the Planning Commission basically recommended areas for net pens that they felt the fry (juvenile salmon) would not pass and be infected by sea lice? Peter Downey, Planning Commissioner, explained that the technical advisory committee said that the priority aquatic zones are those areas that are important to salmon and to shellfish and that's how the maps were developed. The Planning Commission then determined to keep the net pens out of the priority aquatic zone because that gets away from one major potential conflict with net pens. The other areas of more intense use such as "conservancy," "shoreline residential," and the "high intensity" designations would be okay with a conditional use permit. The issues of lighting and noise would be reviewed with a conditional use permit near residential areas.

At first glance it appeared that the DCD recommendation would effectively prohibit net pens, Chairman Austin stated, but now it appears that there would be at least 3 areas in the County where the DCD recommendation would allow net pens subject to conditional use permits.

Commissioner Johnson referred to #14 - Article 8.2.D.8 and 9, page 8-8, which says "shall demonstrate all significant impacts have been mitigated" and asked who determines "significant?" Does this mean that all harmful impacts will be mitigated based on the speed of the current going through the area where a net pen is placed? Al Scalf explained that is one variable that would be analyzed. Ultimately the Hearing Examiner would be the decision maker on the conditional use permit after reviewing the body of the record including comments from agencies and neighbors and a recommendation from the Shoreline Administrator on whether the impacts are significant or moderate. David Alvarez added the word "significant" has a very precise definition in SEPA. Michelle McConnell reviewed the mitigation sequence found on page 6.2 of the LASMP.

Commissioner Sullivan asked if non-indigenous species would not be allowed in net pens? Michelle McConnell clarified that the policy does not prohibit this unless the impacts from the non-indigenous species cannot be adequately mitigated. He asked if the County can allow fin fish aquaculture for native species but not non-indigenous species? Can the County regulations be more restrictive than State and federal law because that is what is best for the citizens of Jefferson County? David Alvarez reported that it is illegal to interfere with interstate commerce. The County can tell a business where and when they can operate but not how they can operate their business.

Chairman Austin asked what would happen if the word "mitigated" was changed to "avoided?" David Alvarez stated that the Board can't say that if an applicant gets below probable significant adverse environmental impact, then they are entitled to the use.

Commissioner Johnson stated that he can go along with upland fish farms. We have put so much effort into helping the salmon habitat, cleaning up riparian areas, and cleaning up septic systems and now we have the Governor on one side and DOE on the other side. He is hard pressed to agree to fin fish aquaculture in open bodies of water.





David Alvarez asked if DCD could determine how many reaches would be available for net pens if the Planning Commission suggestion is put forth? Commissioner Sullivan said that he'd be interested in looking at the Planning Commission proposal as well as the staff proposal. He feels most of the areas identified by staff would be problematic.

*The Board agreed to have more discussion of 13, 14, and 15 as a group at a later time  
The Board agreed that item #12 should refer to "fin fish" aquaculture*

Michelle McConnell handed out and reviewed the process time line for the final approval of the LASMP to submit to DOE and the final approval by DOE.

The meeting was recessed at Noon and reconvened at 1:30 p.m. with all three Board members present for the following business.

**COUNTY ADMINISTRATOR BRIEFING SESSION:** County Administrator Philip Morley reviewed the following items:

**Presentation; Hiring a WSU Extension Agent/Director for Jefferson County:** Linda Fox, Associate Dean of WSU Extension and Pamela Roberts, WSU Interim Director discussed the process of establishing a hiring committee for WSU Director.

**Courthouse Roof Stabilization Project:** Philip Morley explained that there are limited funds in the Construction and Renovation Fund and limited prospect for surplus Real Estate Excise Tax being placed in that fund. There is a grant that expires June 30, 2011 that can be used to move ahead on this project. Commissioner Johnson moved to direct staff to proceed with this project within the budgeted funding. Commissioner Sullivan seconded the motion which carried by a unanimous vote.

**Staff Recommendation for Ecology Required and Recommended Changes; Shoreline Master Program (SMP) Comprehensive Update (MLA08-475):** The Board continued their review (See previous pages of these minutes).

**Item 16: Article 8.3.F.1.iii and iv, Page 8-10, Commercial Use – Regulations for Non-water Oriented** Stacie Hoskins, Planning Manager, explained that staff's alternative proposal actually took the language from the WAC (Washington Administrative Code) because DOE's wording seemed more confusing.

*The Board agreed with the staff recommendation*

**Item 17: Article 8.4.C.3, Page 8-12, Forest Practices – Shoreline Environment Regulations**

Staff recommends an alternative proposal to correct an "inadvertency" in DOE's Attachment B which is to clarify that DOE meant that Forest practices may be allowed in the Natural designation with Conditional Use approval.

*The Board agreed with the staff recommendation*

**Item 18: Article 8.2.D.4, Page 8-5, Aquaculture Regulations**

Al Scalf reported that staff agrees with the DOE change.

*The Board agreed with the staff recommendation*



Item 19: Article 4.3 – Use Table, Page 4-7, Recreation - Shoreline Environment AND Article 8.7.B.5, Page 8-22, Regulations for Non-water Oriented

Al Scalf reported, an alternative proposal to the DOE required change on page 4-7 to include the conditional use. DOE changed the text of the Code but did not change the Use Table and that is what the County's alternative proposal does. Staff concurs with the change on page 8-22.

*The Board agreed with the staff recommendation*

Item 20: Article 4.3 – Use Table, Page 4-7, Use Table – Residential Boathouses

Michelle McConnell reported that staff agrees with what DOE requires which is to make the Use Table accurately reflect the text of the Code so that boathouses would be prohibited in the Priority Aquatic, Aquatic, and Natural designations and allowed by an Administrative Conditional Use permit in the Conservancy, Shoreline Residential and High Intensity designations.

*The Board agreed with the staff recommendation*

Item 21: Article 8.3.F.1.iii, Page 8-10

This is a duplicate of #16.

Item 22: Article 9.3.A.9, Page 9-4, Exemptions – Residential Docks

Al Scalf reported that this has to do with exemptions and the staff agrees with DOE because it is simpler to follow the statute. Michelle McConnell reported that the LASMP included dollar amounts and those amounts have already been changed by the Legislature. By referencing the RCW the accurate information will always be referenced.

*The Board agreed with the staff recommendation*

Item 23: Article 9.5.C, Page 9-7, Critical Areas - REUV

Staff agrees with the required change from DOE, Al Scalf advised.

*The Board agreed with the staff recommendation*

Item 24: Article 10.6.H.1, Page 10-7, Non-conforming Development – Expansion w/o CUP or Variance

Al Scalf explained that staff agrees with the required change from DOE to add text for “a one time” landward enlargement or expansion without a Conditional Use permit. Philip Morley asked about the impact of this change. Michelle McConnell reported that the way this was worded in the LASMP raised concern that it could potentially be used repeatedly by non-conforming single residences to keep expanding with each expansion being up to an additional 10%. That was not the intent in the LASMP. The discussion turned to expansions of less than 10% and how a purchaser of a property would know if the “one time” expansion had been done on a property.

*The Board agreed with the staff recommendation*

Item 25: Article 6.1.E.2.i, Page 6-7, Critical Areas - Regulations - Buffer Exceptions - Common Line Buffer

Al Scalf reported that staff has developed an alternate proposal which is to decline any text change. Michelle McConnell further explained that this is an add on because staff noticed that it was a required change in the text of the findings and conclusions but it does not appear in the Attachment B list of required changes. Staff clarified this with DOE and they sent an e-mail directing that it be added to the list of required changes. DOE wants to change the 300 foot separation to 100 feet. This is the amount of separation between a proposed residence and the neighboring home. David Alvarez reiterated the basic premise being if the neighbors house is more than 300 feet away it cannot be used as a measure for the



common line because it is too far away. Michelle McConnell added that this provision is limited to being applied only to non-conforming lots and it is intended to accommodate shoreline views. The DOE calls this a common line setback, but the County calls it a common line buffer. In their explanation DOE says "A common line setback is used in residential land use regulation to ensure that builders of new homes are not denied reasonable views from their homes when older homes are located closer to the shoreline than what is allowed by newer regulations." The Planning Commission proposal for vacant lots with adjacent homes up to 300 feet away is that the setback for a new home be lined up with the front of an existing one. This proposed standard was carried forward in the LASMP adopted by the Board of County Commissioners, however, DOE found that no supporting rationale was provided to show this provision would be necessary in most cases to protect views. The extent of probable impacts remains uncertain under full build out circumstances. Ecology articulated concerns in writing about this idea as a significant loosening of current standards in October of 2008. The County was advised at that time that such a liberal standard could not likely be adopted adding that to make the case the County would need to conduct a full build out analysis and demonstrate how this provision would uphold the "no net loss" objective." DOE concludes that a standard of 100 feet should effectively address view impacts in most cases and that other mechanisms are available for relief as needed which more effectively protects ecological functions. Commissioner Sullivan noted that shoreline views are to be adequate and comparable to adjacent residences. Al Scalf pointed out that this regulation deals with non-conforming lots which are small lots that are not acreage or more than 150 feet in depth.

Stacie Hoskins added that the shift of the DOE change is that a property owner can use shoreline averaging (for setback) on any parcel and it is not just to protect views. Long narrow conforming parcels are currently using this averaging, and this change means that these lots will no longer be able to use it.

Philip Morley asked if this DOE required change is rejected what is the burden on the County for the alternative to be sustained? Chairman Austin noted that the DOE indicated that the County would have to do a full build out analysis and demonstrate how the conclusion would uphold the "no net loss" objective. Staff advised that this has not been done. Philip Morley asked how staff would respond to DOE on their alternative proposal? Michelle McConnell reported that the rationale for the staff proposal is that it only applies to a small percentage of properties. Commissioner Sullivan asked what happens if the County declines to make a DOE required change? Al Scalf answered that the issue would be discussed directly between DOE and County staff before the final document is sent to DOE.

*The Board agreed with the staff that further guidance is needed*

The discussion turned to the latest date that a hearing notice can be published and a hearing held so that the document can be ready to be submitted back to DOE by their deadline.

***ATTACHMENT C. Recommended Changes –***

***Item 1: Article 1.2.F, Page 1-4, Applicability – Quinault Tribe***

Al Scalf reported that the staff agrees that when Tribal concerns are expressed, they be resolved through the appropriate government to government consultation.

*The Board agreed with the staff recommendation*



Item 2: Article 2.B.22, Page 2-7, Definitions - Buffer

The staff recommends that the Board decline the DOE recommended change, Al Scalf reported. Michelle McConnell explained that there are several of the items that are interconnected and staff feels that they have a more simplistic and elegant way to address the concern. DOE is recommending that the definition for buffer be changed to note that a buffer is measured from ordinary high water mark to the foundation of a structure, but that is not accurate. Decks and certain other things are allowed in a setback in the current SMP, but a buffer is different and needs to be retained, Stacie Hoskins advised. Adding the words "to the foundation of a structure" would imply that certain things could be placed within the buffer. A buffer is not just the area between the shoreline and the house. Whether there is a structure on the parcel or not the buffer is the buffer and there is a building setback required between the buffer and the structure.

*The Board agreed with the staff recommendation*

Item 3: Article 2.C.13, Page 2-10 Definition – Community Dock

Staff recommends agreement with DOE's recommended change.

*The Board agreed with the staff recommendation*

Item 4: Article 2.F.24 and 25, Page 2-19, Definitions – Frontage Setback

Staff recommends declining the DOE recommended change. This is the same issue on how you measure a lot. A frontage setback is measured from the front of the building not the waterward side. This setback would be measured from the road, not the ordinary high water mark, Al Scalf explained. Staff stated that the definition isn't correct and they do not feel it is necessary to add it to the LASMP.

*The Board agreed with the staff recommendation*

Item 5: Article 2.S.9, Page 2-37, Definitions – Shared Use

The staff recommends an alternative proposal. Michelle McConnell explained that DOE recommended the addition of a new definition for "shared use." While staff agrees with adding the definition they are proposing different language. Stacie Hoskins added that DOE identified the shared use with number of owners when it should really be the number of parcels. One parcel can have a number of owners. This depends on the parcel not the number of owners of a parcel.

*The Board agreed with the staff recommendation*

Item 6: Article 2.N.8, Page 2-29, Definitions - Non-conforming Lot

Staff's alternative proposal adds the line "Depth of lot is measured as the distance from the ordinary high water mark to the inside edge of the frontage setback." Michelle McConnell explained that what the DOE added as an edit to this definition is not correct with respect to how the frontage setback is measured. Staff feels that their version of the revised definition is more accurate and better clarifies this issue.

*The Board agreed with the staff recommendation*

Item 7: Article 6.1.E.1.iii, Page 6-7, Critical Areas - Regulations - Buffer Exceptions - Non-conforming Lots

Staff agrees with DOE's recommended change to delete text. David Alvarez asked what affect this deletion will have? Stacie Hoskins answered that this courtesy reference was inaccurate and all the references will change when the finally approved SMP is codified.

*The Board agreed with the staff recommendation*

Item 8: Article 6.1.B.8, Page 6-3, Critical Areas - Regulations - No Net Loss & Mitigation

Staff agrees with DOE that once the SMP is adopted the date will be put in this article.

*The Board agreed with the staff recommendation*

Item 9: Article 5.4.B.4.iii, Page 6-20, Vegetation Conservation - Regulations - View Maintenance

Michelle McConnell explained that the language DOE is recommending be deleted is a duplication and staff agrees with this change.

*The Board agreed with the staff recommendation*

Item 10: Article 6.1.E.2.iii, Page 6-8, Critical Areas - Regulations - Buffer Exceptions - Common Line Buffer

Michelle McConnell explained that DOE wanted to add "of the foundation for the" to make it very clear. Staff added the term "common line" instead of "standard" as their alternative proposal.

*The Board agreed with the staff recommendation*

Item 11: Article 7.2.F.9, Page 7-11, Boating Facilities - Regulations - Residential Docks

Al Scalf advised that staff agrees with the recommendation from DOE to split the text into sections. The text is the same.

*Board agreed with the staff recommendation*

Item 12: Article 8.8.D.2, Page 8-26, Residential - Regulations - Primary Residences

Staff has an alternative proposal to strike the word "pedestrian" which was a carry over from an earlier version of the text that was missed when it was decided to drop the word pedestrian. Commissioner Sullivan suggested that the word "residential" be left out of the additional sentence.

*The Board agreed with the staff recommendation as modified by the Board*

Item 13: Article 8.2.D.5, Page 8-6, Aquaculture - Regulations

Staff recommends agreement with the DOE recommended change to revise text and clarify the language.

*The Board agreed with the staff recommendation*

Item 14: Article 10.20.B, Page 10-16, Violations & Penalties

Staff recommends agreement with DOE on the deletions in this wording. David Alvarez said that he's never heard the phrase "court order of injunction." The strikethrough may be slightly off and it should leave out the "or" and delete the "of" in the phrase

*The Board agreed with the staff recommended amendment*

**ADDITIONAL REVISIONS Proposed for Clarification**Item 1: Article 6.1.A.3, Page 6-1, SPAADs and Vesting

The staff proposed clarification adds wording to identify exactly what items are vested. After discussion of preliminary plats being part of this "vesting" the staff added "preliminary plats" in the list after "existing plats." The word plat will be changed to plats to be consistent.

*The Board agreed with the staff recommendation as modified*

Item 2: Article 6.1.D.7, Page 6-5, SPAADs and Vesting

This is similar to Item 1 and is in a regulation. Add proposed changes as discussed in Item 1.

*The Board agreed with the staff recommendation as modified*



Item 3: Article 2.F.5, Page 2-16, Definitions - Fill

Michelle McConnell explained that this is to correct a typographical error.

*The Board agreed with the staff recommendation*

Item 4: Article 2.N.8, Page 2-29, Definition - Nonconforming Lot

Michelle McConnell explained that this is to correct a typographical error.

*The Board agreed with the staff recommendation*

Item 5: Article 2.R.9, Page 2-35, Definitions - Recreation, Shoreline

Michelle McConnell noted that this clarifies that this is for commercial recreation or public recreation.

*The Board agreed with the staff recommendation*

Item 6: Article 2.R.14, Page 2-35, Definitions - Residential Development

This is a proposed clarification.

*The Board agreed with the staff recommendation*

Item 7: Article 2.W.3, Page 2-44, Definitions - Water Dependent Use

This clarification, Al Scalf explained, changes the notation to 2 asterisks (which means WAC), not 3 (which means RCW) as requested by the Board.

*The Board agreed with the staff recommendation*

Item 8: Article 6.1.E.1.i, Page 6-6, Critical Areas - Regulations - Buffer Exceptions - Non-Conforming Lots

Michelle McConnell explained that this change corrects an erroneous citation.

*The Board agreed with the staff recommendation*

Item 9: Article 6.4.B.3.i, Page 6-19, Vegetation Conservation - Regulations - View Maintenance

Chairman Austin asked if chest height, DBH (Diameter at Breast Height) is used in the document? Commissioner Johnson added that this is needed so that people know where to measure the main stem. Michelle McConnell found the definition of "tree topping," but there is no reference to DBH.

*The Board concurred that staff add the term DBH where tree diameter is mentioned if it's appropriate.*

*The Board agreed with the staff recommendation as modified*

Item 10: Article 6.6, Page 6-22, Shoreline Setbacks and Height

Al Scalf reported that this clarification will renumber this section between Public Access and Vegetation Conservation.

*The Board agreed with the staff recommendation*

Item 11: Article 7.2.B.2.ii, Page 7-6, Boating Facilities – Shoreline Environment Regulations – Aquatic

This correction Al Scalf pointed out is to add a comma.

*The Board agreed with the staff recommendation*

Item 12: Article 7.2.G.3.vii, Page 7-13, Boating Facilities – Marina Regulations

Add the word "of" to say Department of Health.

*The Board agreed with the staff recommendation*

Item 13: Article 7.2.H.2, Page 7-16, Boating Facilities – Mooring Buoy Regulations

The word "standards" was put before the acronym and this corrects it.

*The Board agreed with the staff recommendation*



Item 14: Article 7.2.H.8, Page 7-16, Boating Facilities – Mooring Buoy Regulations

Michelle McConnell explained that this text change reverses the order of the words “density” and “exceed.”

*The Board agreed with the staff recommendation*

Item 15: Article 8.8.B.4, Page 8-25, Residential – Uses & Activities Prohibited Outright

This clarifications moves the “or” in the sub-list to the end of 4.iv and then the word “result” is capitalized.

*The Board agreed with the staff recommendation*

Item 16: Article 10.6.I.1.i, Page 10-8, Non-conforming Development – Expansion/Enlargement with a CUP

This clarification adds the word “vertically” to the list, Michelle McConnell, explained and is specific to non-conforming structures expanding single family residential without a conditional use or a variance.

*The Board agreed with the staff recommendation*

Item 17: Appendix A, Maps #2, 3 and 4

Take the word “Old” off of Fort Townsend State Park, because the name has been changed.

*The Board agreed with the staff recommendation*

Item 18: Article 2.A.4, Page 2-1, Definitions – Accessory Structure

Michelle McConnell explained that garages are deleted and decks are added to this definition. The definition of appurtenance includes garages and is taken out of the list for accessories. Decks are added because they are an accessory and the new SMP will not allow decks to encroach into the airspace of the buffer. Al Scalf added that accessories are optional and incidental and appurtenance means that the item is necessary.

*The Board agreed with the staff recommendation*

Item 19: Article 7.8.E.2.iv, Page 7-32, Shore Armor – Regulations – New or Expanded

This clarification adds the sentence “an existing, lawfully established primary water-oriented use, including a residence, but no including a boathouse or other accessory structure.” The discussion turned to what a “lawfully established” use is and when a use is grandfathered.

*The Board agreed with the staff recommendation*

Item 20: Article 7.8.E.5.iii, Page 7-33, Shore Armor – Regulations – New or Expanded

Michelle McConnell explained that this clarification adds a new item “iii” which references the language above, and requires credible evidence of erosion as the basis for documenting that the primary structure is in imminent danger. This clarifies that the credible evidence needs to be prepared by a licensed professional.

*The Board agreed with the staff recommendation*

Item 21: Article 8.2.D.2, Page 8-5, Aquaculture – Regulations – General

Michelle McConnell noted that this clarification is regarding ongoing maintenance, harvest, replanting, etc. that is part of operating an aquaculture facility. This is not considered development and does not require a new substantial development permit. The only exception is, if and when, there is an expansion. Chairman Austin stated that he is still concerned that in an expansion the entire operation will be considered new aquaculture. Michelle McConnell noted that the entire operation needs to be reviewed. It is problematic to only review an expansion because cumulative effect, use compatibility and the “no net loss” provision of the operation need to be reviewed. Stacie Hoskins explained that if the expansion was denied, the legally established use would still be allowed, but the expansion would not have approval. The



discussion turned to how different types of expansion would be handled. Stacie Hoskins explained that the intent of this saying these activities are not development is that a shoreline exemption is not required under the repair and maintenance provision and aquaculture operations can be continued without a permit from Jefferson County if they are under the 25% threshold. The idea is to allow the operation to continue without coming in for a permit for repair and maintenance. Philip Morley directed that the concerns of the aquaculture industry be discussed further with representatives of the industry to be sure there are no unintended consequences from this change.

*The Board agreed with the staff recommendation*

Item 22: Article 6.1.E.4, Page 6-11, Critical Areas – Regulations - Buffer Exceptions – Water-oriented Use/Development  
Text revised to eliminate redundancy.

*The Board agreed with the staff recommendation*

***Letter of Support; Dosewallips Lower River Conservation Project; Nature Conservancy:***

Commissioner Johnson moved to direct that a letter of support be written for the Dosewallips lower river conservation project for the Nature Conservancy. Commissioner Sullivan seconded the motion which carried by a unanimous vote.

***Letter of Support; Vessel of Opportunity Program:***

Commissioner Johnson moved to approve a letter of support for the Vessel of Opportunity Program. Commissioner Sullivan seconded the motion which carried by a unanimous vote.

***Letter of Support; Conservation Easement:***

Commissioner Johnson moved and Commissioner Sullivan seconded the motion to approve and sign a letter of support for Jefferson Land Trust for a conservation easement to protect the Boulton farm for long term economic viability. The Chair called for a vote on the motion. The motion carried by a unanimous vote.

***NOTICE OF ADJOURNMENT:***

Commissioner Johnson moved and Commissioner Sullivan seconded the motion to adjourn the meeting at 4:31 p.m until the next regularly scheduled meeting or properly noticed special meeting. The motions carried by a unanimous vote.

MEETING ADJOURNED

JEFFERSON COUNTY  
BOARD OF COMMISSIONERS

SEAL:

John Austin, Chair

ATTEST:

Phil Johnson, Member

Lorna Delaney, CMC  
Clerk of the Board

David Sullivan, Member