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MINUTES
KITSAP COUNTY PLANNING COMMISSION
Administration Building – Commissioners Chambers
December 7, 2010 6:00 pm

These minutes are intended to provide a summary of meeting decisions and, except for motions made, should not be relied upon for specific statements from individuals at the meeting. If the reader would like to hear specific discussion, they should visit Kitsap County's Website at <http://www.kitsapgov.com/dcd/pc/default.htm> and listen to the audio file (to assist in locating information, time-stamps are provided below)

The Kitsap County Planning Commission met on the above-stated date at the Kitsap County Administration Building Commissioner's Chambers, 619 Division Street, Port Orchard, WA.

Members present: Robert Baglio, Mike Brown, Tom Nevins, Lou Foritano, Linda Paralez, Carol Smiley and Jim Sommerhauser

Members absent: Fred Depee

Staff present: Larry Keeton, Scott Diener, Patty Charnas, Susan Donahue, and Planning Commission Secretary Mary Seals

6:01:43

A. Call Meeting to Order, Introductions

B. Adoption of Agenda

A motion is made by Commissioner Sommerhauser and seconded by Commissioner Foritano to adopt the agenda as posted.

The Vote

Unanimous

The motion carries

C. Public Comments

D. Approval of the October 5, 2010 Minutes

A motion is made by Commissioner Sommerhauser and seconded by Commissioner Paralez to approve the October 5, 2010 meeting minutes.

The Vote

Yes: 6

No: 0

Abstain: 1

The motion

E. Work Study: Non-Conforming Code – Scott Diener, Manager, Policy and Planning

Continued to the 1/11/11 meeting.

1 **F. Review: The year of the Rural - Scott Diener, Manager, Policy and Planning**

2
3 Continued to the 1/11/11 meeting.

4
5 **6:04:23**

6
7 **G. Joint Public Hearing (SMP Taskforce and Planning Commission): Shoreline**
8 **Master Plan Inventory and Characterization – Patty Charnas, Environmental**
9 **Programs Manager, DCD and Sue Donahue, Watershed Project Coordinator,**
10 **DCD**

11
12 Charnas introduces the SMP Inventory and Characterization document.

13
14 Donahue gives an overview of the SMP Inventory and Characterization document and
15 explains today's process:

- 16 • Purpose of the I&C
- 17 • What it is
- 18 • Review and Comment Process
- 19 • Next Steps

20
21 Joe Burcar, DOE, he discusses their role in this process.

22
23 **Action Item:** Sommerhauser requests a matrix of public comments for the document.

24
25 Chair Baglio suggests that the written record be kept opened until 1/4/11 and reconvene to
26 deliberate on 1/1/11.

27
28 Nevins gives an overview of the SMP Taskforce project.

29
30 **6:36:40**

31
32 **Richard Nerf, shoreline property owner:** He states that many challenges to science are not
33 a search for scientific truth, but simply a ploy to spread fear, uncertainty and doubt about the
34 scientific process. The essence of science is peer review. He cautions to beware of proof by
35 intimidation. He cautions to be aware of the rhetorical trick of flaming the debate by setting
36 up straw men and then knocking them down. He states that the Kitsap Shoreline report pillory
37 because the authors failed to address and issue, but if you read the report it says they are not
38 going to address this issue because it not relevant to what they are doing.

39
40 Foritano asks whether the standard of Best Available Science has been applied effectively to
41 the Characterization/Inventory under discussion. He asks if Mr. Nerf has any opinions specific
42 to this document and the scientific resources used to create it.

43
44 Nerf states his general feeling is that bad science gets to be weeded out fairly quickly if
45 anybody is interested in it. He states that he has looked at the document and sees nothing
46 that causes a problem.

47
48 Paralez asks about applying a best guess in science in complex systems such as nature.

49

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1 Nerf states that he agrees, to a certain extents we lose track of very gross features in
2 discussion.

3
4 Paralez clarifies that he doesn't see any gross errors in this document.

5
6 Nerf states that Puget Sound was in a lot better shape before Europeans arrived.

7
8 **6:45:40**

9
10 **Chuck Shank:** He asks the planning commissioners to recommend that BOCC does not
11 adopt it as it stands now. He states that we are dealing with probably the most complex area
12 of study there is. He reads They City of Seattle's Dept of Planning's definition of Ecological
13 Functions which states; "the physical conditions and the ecological process together make up
14 ecological functions". He points out that they don't mention chemical conditions. He points
15 out that this complex process is not easily understood. He states that they state once
16 ecological process is sediment movement. It states: "Sediment movement occurs when
17 sediment from bluffs and the hillsides adjacent to the shoreline is deposited in the nearshore
18 environment through landslides and erosion. This ecological process provides the material
19 that that forms nearshore habitat which is important to many marine species, including
20 eelgrass and salmon. When bulkheads are built along shoreline these bulkhead prevents this
21 ecological process from occurring, therefore this is a loss of ecological process." He states
22 that this whole complex this is being laid on this taskforce for them to understand is not easily
23 understood. Their definition is completely false and misleading.

24
25 Nevins states that the taskforce was given the WAC that pertains to this process. He reads
26 the definition of Ecological Functions from it; "Ecological function or shoreline function means
27 the work performed or the role played by the physical, chemical, and biological processes that
28 contribute to the maintenance of aquatic and terrestrial environments that constitute the
29 shorelines natural ecosystem."

30
31 Shank states that his point is that it takes years for people to understand what ecological
32 functions are.

33
34 **6:52:55**

35
36 **Jackie Rossworn, shoreline resident:** She references the impact of the fast ferries to
37 Watauga Beach. She explains the destruction from those ferries. In essence the state has
38 destroyed the shoreline. She states that the kelp beds are her main concern. She believes
39 the taskforce was lead down a garden path and it was all pre-determined how this was going
40 to end up to begin with. She believes there should be other entities that look at this.

41
42 Nevins asks for suggestions for other agencies should look at this.

43
44 She states that they could probably put a pool together and get some.

45
46 Baglio asks how many taskforce meetings she attended.

47
48 She states all but one.

49
50 Baglio asks for her to summarize her view of the document.

51

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1 She states that the information presented to the task force was presented in a way that wasn't
2 diverse so they could make more of an educated conclusion. They wanted a result and what
3 was given to the taskforce was a means to that result.

4
5 **6:59:00**

6
7 **Mike Gustavson:** He shows a survey of fish eggs found along the shoreline of Bainbridge
8 Island from the department of Fish and Wildlife. He states that fish eggs are found on various
9 beaches, such as, shaded beaches, south facing beaches that can never be shaded. He
10 concludes that it is hard to determine why they lay the eggs where they do. He recommends
11 that they do not accept this document as it's crafted. He states that when we look hard at the
12 States' data on eelgrass locations and where there were bulkheads, they found no correlation.
13 The stressors and the stressed relationship is pretty shallow. He questions whether the
14 approach from DOE has merit. He references measuring functions and values; they were not
15 given the method. He states that measurement of harm isn't shown either. He states that no
16 one showed any harm from the 2005 35' setback. He states that the uniform buffer issue is
17 still in the courts. He feels the county continuing on spending tax dollars on this agenda is
18 unjustified. He cautions to beware of politically driven solutions that don't solve the hard
19 science. He states that this document is missing solid peer review by qualified PhD's.

20
21 Sommerhauser states if the BOCC decides to withhold the document, the DOE will write the
22 document. He asks if he understand him correctly that DOE is going to get what they want
23 anyway.

24
25 Gustavson states that it just goes to court and Ecology loses again, but it's your tax dollars.

26
27 Nevins asks for a description of peer review.

28
29 Gustavson states that it is done by qualified, independent people who are familiar with the
30 issues at hand.

31
32 Gustavson states that one drift cell accurately measure the beach; each parcel needs to be
33 measured on its own merits. What we don't have is to know what those merits are.

34
35 **7:07:00**

36
37 **Bob Benze, representing KAPO and member of the Taskforce:** He addresses the science
38 behind the document. He states that the WAC "requires that research used as a basis for
39 master program provisions shall use acceptable scientific methods, research procedures and
40 review protocols." He continues by quoting the US Supreme Court; "These typically require
41 that the science be based on a peer reviewed, general accepted, testable theory with known
42 error rates and standards." He contends that the science behind the county's planning does
43 not meet this standard. He states that it is largely based on the Nearshore assessments. He
44 says that they are not science in the traditional sense, they are models based on built on
45 conventional wisdom based on largely unsupported assumptions and conjecture, and defined
46 as professional judgment. He reviews the Nearshore assessment's shortfalls in the data. He
47 submits a copy of a report by Dr. Flora that summarizes three Puget Sound region studies of
48 the relationship of shore protection to nearshore habitat; none of these show any significant
49 effects on habitat from bulkheads. He also submits Dr. Flora's review of available shoreline
50 science related to Puget Sound which reinforces their assertion that the draft report lacks
51 credible science. He stresses that the SMP process is a serious business. He states that the

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1 WAC states that restoration does not imply a requirement for return of the shoreline are to
2 aboriginal or pre-European settlement conditions. He states that the listing for most of the
3 shoreline for restoration seems very much at odds with the intent stated by the SMA and the
4 WAC.

5
6 Foritano asks who Dr. Flora's principal clients are.

7
8 Benze states that he has none. He has spent the last 6 years researching shoreline science.

9
10 Sommerhauser points out that his degrees are in Forestry and Geology.

11
12 Discussion is held about Dr. Flora's credentials

13
14 **7:13:55**

15
16 **Heather Trim, People for Puget Sound:** She states that People for Puget Sound, as well
17 as, Futurewise, work on a number of the SMP's throughout the Puget Sound. She states that
18 they are supportive of the document and that staff has done a very thorough job. She states
19 that the value of the Puget Sound Nearshore has been well documented in terms of the health
20 that we need for our species. She states that the approach using the drift cells is a really
21 excellent; it's looking comprehensively at each section. She asks for the marine data to
22 explain why it was ranked the way it was ranked. She also asks to more detail in the stream
23 segments. She states that information regarding critical saltwater habitats, kelp beds and
24 eelgrass beds, and some of the freshwater habitats should be added to the document. She
25 would also like information about the areas with intact vegetation identified in the document.
26 The SMP does recognize the whole SMA process and it recognizes that existing structures
27 are grandfathered in place.

28
29 Sommerhauser asks about grandfathering and how it fits in the summary that states "return to
30 the natural condition".

31
32 Trim states that this a baseline and it has recommendations, but the inventory is one piece of
33 the final document where there are policy and regulatory sections that will speak to specific
34 changes that will be made in any one area.

35
36 Sommerhauser asks about the document conflicting with the law.

37
38 Trim states that there is a balancing act that has been put into the document.

39
40 **7:20:02**

41
42 **Don Flora:** He states that he does not have comments on the characterization side, but on
43 the inventory side there is work to be done yet; one being on the inventory of habitat. The
44 existing inventory is largely structures, not habitat. There needs to be a more accurate and
45 more precise inventory if habitat if we are going to look at inventory vs. habitat. Another is the
46 inventory of natural factors that affect habitats. So far the emphasis has been on man caused
47 stressors; which is about 0-3% of the variation in habitats around Bainbridge Island. He states
48 that there is just not enough information on habitat to make a good determination. The last is
49 economics; they talk about functions and values, but don't talk about values specifically. He
50 states that there is nothing about values in the document.

51

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1 Foritano states that there have been hints and suggestion in the room about there being a
2 conspiracy underlying this report. He asks Flora to expand on that.

3
4 Flora states that he should hear from DOE representative, they are asking for inventory. He
5 states that he is talking about the inventory needed to make decisions at the planning
6 commission level that are intrinsically rather site specific. When you are talking about
7 restoration you are talking about a bulkhead or a assessment unit, probably not a whole drift
8 cell.

9
10 Foritano asks if he thinks this is too narrow of a scope.

11
12 Flora agrees.

13
14 **Larry Keeton, Director, DCD:** He states that the citizens taskforce represents diverse views
15 across the board of citizens in Kitsap County. The process for this taskforce differed from the
16 standard of having them review the information after staff had developed. This taskforce was
17 formed to help frame the data and help develop the regulations, goals and policies as the
18 work developed. They are there to give staff a perspective of common sense. The board has
19 directed DCD to meet the WAC and take care of property rights. He states that if the county
20 does not do this DOE is charged by law to write the plan. The reason the taskforce was
21 asked to sit in this meeting is because they do not take public comment, this way they can
22 hear the same information as the Planning Commission.

23
24 **7:33:20**

25
26 **Dr. John Harding:** He states what you're trying to do is manage chaos when you're trying to
27 manage nature. He states that when the Shoreline Management Act was imposed on Stavis
28 Bay it was done without any consultation. They were not consulted then and have not been
29 consulted yet. He states that outreach is falling short for Stavis Bay. He states that it's wrong
30 for property owners to have to fight to sustain their rights to access their own properties.

31
32 Baglio asks what his view is on the document.

33
34 Harding states that they have an access easement on the end of one road that they have
35 fought for permission to restore, rebuild, and sustain. He explains what has occurred with this
36 project. He pleads for some understanding to make sure there is proper outreach and
37 consultation when the SMA regulation is imposed on private property shore.

38
39 **7:37:45**

40
41 **Dan Defenbaugh, South Kitsap resident:** He states with government agencies common
42 sense tends to be lacking. He asks the planning commission to keep track of common sense
43 in this process. He states that he is not sure that the County and DOE are the best people to
44 determine what is pertinent in this process regarding what is pertinence and available
45 scientific technical information. He asks them to proceed with caution. He believes the
46 document is probably accurate, but what we do with that is the meat of what they are talking
47 about here. He is concerned about restoration impacting private property owners, future
48 development, and business owners. He states that it's not the content of the inventory, but
49 the cause and effect relationship that science may not had adequately defined.

50
51 **7:42:50**

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1
2 **Jo Myers, Kitsap County resident:** She states that she supports the science behind the
3 document. She expresses concern about the shoreline. She wants to make sure that the
4 shoreline habitat and species are here to stay. She recognizes that science is ever-changing
5 and progressing.

6
7 **John Holmberg, shoreline resident:** He states that he hasn't seen any drift cell action on
8 his beach. He states that the inventory indicates that his beach has a boat launch ramp and
9 bulkhead. He states that his general assessment unit does not have that, its included in a
10 larger drift cell, but he doesn't see why he should have to do restoration on his property.

11
12 **Allen Beam, shoreline resident:** He states that his drift cell has been characterized in this
13 document as more heavily disturbed than PSNS. He lives on a residential beach. The
14 inventory appears to be good, what bothers him most is that all the processes are described in
15 geological in nature. They do not identify or qualify and of the biological processes that are
16 going on. He is concerned about using this to determine no net degradation in biological or
17 ecological functions; how to do quantify "patchy"?

18
19 **Tim Mathis:** He asks what's damaging the waterfront. He believes that a great deal of the
20 damage to our shoreline is the wakes from steamships. He doesn't see this identified in the
21 document. He believe this study needs a lot more work. He believes that Puget Sound is not
22 in as much trouble has stated earlier. He references growing up on the Port Washington
23 narrows. There was a batch plant and standard oil docks. He said the bay smelled bad. It's
24 not that bad now compared to how it was 45 years. The big polluters have all been cleaned
25 up, now we are working on the small offenders. He asks why the county did not avail
26 themselves to some of the PhD residents of Kitsap County.

27
28 Chair Baglio closes the public hearing.

29
30 **7:52:50**

31
32 Sommerhauser asks if this is the first characterization since 1971.

33
34 Charnas states inventory and characterization was not necessarily a required element before
35 the rules that direct local governments to update their SMP were changed in 2003.

36
37 Burcar agrees with Charnas. He states that the 2003 guidelines were a fundamental shift in
38 being more prescriptive in terms of what types of things needed to be inventoried and
39 characterized; what functions, what values, within this update.

40
41 **7:55:00**

42
43 Discussion is held about no net loss and restoration.

44
45 Keeton discusses the restoration process. He states that the current board has asked for a
46 baseline, not restoration.

47
48 Sommerhauser asks about pilings.

49
50 Burcar states that the other obligation is to identify other restoration opportunities as voluntary
51 efforts.

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1
2 Keeton reiterates that this document is only intended to show what Kitsap County looks like
3 now based on the information we know.
4

5 Sommerhauser states that every one of the tables has a section in it that talk to restoration.
6

7 Keeton states that this is compilation of data across the scientific community for Puget Sound.
8 This is the data that was given to the county to use. It may say restoration in the table; it does
9 not necessarily drive the restoration plan.
10

11 Foritano reads a note from the public “what is the difference between mitigation and
12 restoration, how does that distinction relate to no net loss?”
13

14 Charnas states that restoration is part of the mitigation sequencing: avoidance, minimization,
15 mitigation, and restoration.
16

17 Discussion is held about definitions.
18

19 Brown states that every one of the drift cells has recommendations as the last column. These
20 are regulatory based recommendations and they are predisposing every one of these cells to
21 a list of regulations. When they go into the regulatory phase they will go back to these to see
22 what was approved in the past. He is objecting to having this kind of recommendation in the
23 inventory.
24

25 Donahue states that those are from existing references that were derived and assigned to
26 their appropriate drift cell.
27

28 Brown states that they are overstepping the boundaries in the inventory.
29

30 Donahue disagrees; she states that they are options that are to be considered for that drift
31 cell.
32

33 Keeton states that is easy to say that they are predisposed. The County is following the
34 regulation that’s been established by the State of Washington. This meets that requirement.
35 These can change as we move into the regulations phase. It is not intended to predispose,
36 but it is a requirement that we had to do.
37

38 **Break: 8:19:10**

39 **Reconvene: 8:31:40**
40

41 **H. Deliberations and Recommendations: Shoreline Master Plan Inventory and**
42 **Characterization – Patty Charnas, Environmental Programs Manager, DCD and**
43 **Sue Donahue, Watershed Project Coordinator, DCD**
44

45 Continued to the 1/11/11 meeting.
46

47 **I. Work Study: Kingston Parking Revisions - Jeff Smith, Senior Planner, DCD**
48

49 Continued to the 1/4/2011 meeting
50

51 **J. Public Hearing: Kingston Parking Revisions - Jeff Smith, Senior Planner, DCD**

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1
2 Continued to the 1/4/2011 meeting
3

4 **K. Deliberations and Recommendations: Kingston Parking Revisions - Jeff Smith,**
5 **Senior Planner, DCD**
6

7 Continues to the 1/4/2011 meeting
8

9 **8:32:15**

10
11 **L. Review: Draft Homeless Policy - Larry Keeton, Director, DCD**
12

13 Keeton reviews the Draft Homeless Policy.
14

15 **M. Director's Update - Larry Keeton, Director, DCD**
16

17 Keeton gives an updates on DCD:

- 18 • One eliminated position
 - 19 • Code Compliance re-work for 2011
 - 20 • Five Year Plan
- 21

22 **N. For the Good of the Order: Chair Baglio**
23

24 **Time of Adjournment: 8:50:54**
25

26 **EXHIBITS**

- 27 **A. Draft Policy on Homeless**
- 28 **B. Adoption of Final Draft Inventory and Characterization Power Point**
- 29 **C. Letter: Davis Wright Tremaine re Comments on Final Draft Shoreline**
30 **Inventory and Characterization**
- 31 **D. Email: Dean Patterson/Futurewise re Comments on Kitsap Co. SMP Inventory**
32 **and Assessment**
- 33 **E. Statement: Alan Beam re Testimony at the Public Hearing on Kitsap County**
34 **Shoreline Inventory and Characterization Report**
- 35 **F. Letter: Michael Gustavson re SMP**
36

37 **MINUTES approved this _____ day of _____ 2010.**
38
39
40

41 _____
42 **Robert Baglio, Planning Commission Chair**

43 _____
44 **Mary Seals, Planning Commission Secretary**