MINUTES

Kitsap County Planning Commission—Board of Commissioners Study Session
January 4, 2000


9:00 A.M.

Meeting Called To Order - Introductions.

9:05 A.M.

Adopt the Minutes of November 30 and December 7, 1999.

Chair Val Torrens said that the Minutes arrived at the members' homes during the holiday season and have not been fully reviewed. Therefore, she continued, approval of the Minutes has been postponed until the Planning Commission meeting on January 25, 2000.

9:10 A.M.

Discussion of the Endangered Species Act (ESA), in general, with staff; an overview of meetings held by the Salmon Advisory Committee; review general approaches to the content of the final regional Proposal to be submitted to the federal government; and outline of the potential involvement of the Planning Commission over the next six months.

Keith Folkerts Kitsap County Natural Resources Coordinator, explained the various handouts. He said that with the ESA the final rule came out in July, 1999, and the next item that comes into play will be the 4(d) rule that involves the takings issue. He reported that the County is putting together a proposal to allow business to continue and create a
shield for the homeowners’ protection from lawsuit depending on how they use their land. He said that the short term focus was on the 4(d) rule. This schedule was issued in draft form on January 3, 2000. He said that the 4(d) rule includes some discussion of exemptions for land use activities in Portland, Oregon but not in regard to the tri-county work that has been done to date. He explained that the tri-county group consists of King, Pierce & Snohomish Counties who have been working on a process for exemption from the 4(d) rule which has yet to be agreed on by NMFS. In the time line, he continued, it shows the current proposal, that has not been adopted, which is a changing evolving document. He reported that this will be a 2 phased approach: 1) A suite of early actions, Comprehensive Plan regulations, shoreline programs and road programs with development guidelines for agricultural use. He said that Phase I should occur between June, 2000 and June, 2002.

Nobi Kawasaki asked, in the short term, what is NMFS looking for? He said from the recent news release, there was very little guidance at all.

Keith Folkerts agreed, and said when he read the press release, and with the addition of new 4(d) rule, that the information was not substantive.

Nobi Kawasaki said that the 4(d) rule is in draft form and hearings will still need to be held on this. He asked if NMFS would be reviewing this draft?

Keith Folkerts said that there is another time table, which he passed out to the members, which explained that between now and March, 2000 the County will have the final negotiations with NMFS regarding the tri-county proposal.

Nobi Kawasaki asked if there will be a separate set of rules for each jurisdiction?

Chris Endresen said that NMFS has never produced a 4(d) rule before.

Keith Folkerts said that the tri-county group was trying to put together a proposal that all of the counties could use for this process. He said that in Phase I, there will be planning guidelines for watershed planning and fish population. From years 3 to 5, he continued, jurisdictions would be involved with watershed planning by area, during which time they would create a watershed plan to be implemented over the next 5 years. He reported that NMFS would need to agree to this watershed plan before it would apply in this County. He hoped that NMFS would provide clearer direction on the requirements for watersheds in the next few months. He then explained this process, from the flow chart, which started in July, 1999 with a Salmon Education Workshop. He reported that there was then a 2-day workshop at the Kitsap Pavilion which took on a problem solving process, followed in
October by in-depth discussions on very specific topics, which included scientists and
engineers who were looking at best available science to design some alternative solutions
that various jurisdictions may want to implement to gain an exemption to the 4(d) rule. He
reported that this package has been the topic of the 30-member Salmon Advisory
Committee who have been reviewing the documents and providing comment. Next week,,
he reported, the elected officials from the cities and the county will discuss this process,
followed by the technical committee, then further input of the information received from the
Tri-counties group; and finally bringing all the information together to submit to the Feds to
receive the 4(d) rule exemption. At the end of this month (January 29) there will be a
meeting at the Presidents Hall to discuss riparian corridors (stream buffer widths);
cumulative impacts; indicators of Watershed health; and how to become ESA compliant
with the 4 (d) rule in the short-term. He said that there will be a panel of scientists at this
meeting to field questions. Following that presentation, he continued, there will be a
proposal from the science committee followed by further discussion through a public
hearing process. By February to March, 2000, there should be sufficient information
assimilated to present to NMFS in a draft form, and then in June, 2000 the final proposal
will become available. He said that the next time line is a more expanded view of the 4 (d)
rule process, noting that in January there will be the last round of scoring of the proposal,
then on to Round 2 with the discussion of riparian buffer widths. He said that NMFS has
made it clear that they will work with regional groups but not with each of the cities and
counties individually, adding that NMFS considers Kitsap County as a region.

Chris Endresen made it clear that NMFS has agreed to work with the cities and counties
on more of a one-to-one basis after this first round of work is completed and the
jurisdictions have a 4(d) rule in place.

Val Torrens understood that the main reason the Planning Commission asked the Board
of Commissioners to attend this meeting was to get a clearer understanding of where the
Planning Commission will fit into this ESA process, and when they will be expected to hold
public hearings on the 4(d) rule proposal and amendments to the County Ordinances.

Tim Botkin said that most of people who are involved in this process feel as if “they have
been hit by a moving train” and they are just trying to hold on in this process. He said that
originally, we all thought that NMFS would have the answers, but we have found that is not
the case. He felt that the County cannot establish rules in the short term to protect the
salmon runs; there needs to be an arbitrary starting point. He noted that Kitsap County’s
Zoning Ordinance details that buffers can be required to be as much as 200 feet on either
side of a stream, with an exemption provided if the owner develops a Habitat Management
plan.
John Ahl felt that the dilemma might be solved if the wording spoke in general terms until
the County has more time to review the specific issues and make appropriate buffer
restrictions instead of detailed requirements, which could end up being locked in concrete.

Chris Endresen said that the Tri-counties group is trying to prepare a generalized plan,
and was not being entirely successful in their efforts. She reported that during the County’s
regular zoning and critical areas ordinance process Kitsap has already made provisions to
protect this area. She explained that this is a different process than the County has been
through before: NMFS has the “yes” or “no” say here not the Board of Commissioners or
the Planning Commission. She reported that NMFS was obligated to make sure that what
they agree to as a 4(d) exemption will be backed by law and will be enforceable. She felt
that the Board of Commissioners would like the Planning Commission to be more involved
in this process but the Board is working with a very tight time line.

Val Torrens felt that the Planning Commission should have a greater involvement in this
process than they have now. She felt that if the Salmon Advisory Committee had made a
recommendation, it should be reviewed by the Planning Commission through the public
hearing process with a recommendation from the Commission to the Board of
Commissioners.

Tim Botkin said in his personal opinion the imposition of the ESA requirements will not be
the end of the world in this County. He said that the ESA wants permanent protection
provided for salmon and there is not enough time for the Planning Commission or the
public to be totally involved in this process; which he felt was not fair but it was the way that
NMFS wanted it to be. He felt the Planning Commission would need to be more involved
with the upcoming Rural Policy that will be reviewed later this year.

Charlotte Garrido said that what the Board of Commissioners originally decided was that
the Planning Commission had a “full plate” of projects that needed to be
reviewed during this year and that was why the Board directed the discussion through these various committees. She said she was looking to the Planning Commission to check the County’s work and to let the Board know if the process works.

Carl Walske said from the beginning of this process he felt that the technical issues needed peer review which could occur during the meeting on January 29. He felt that what is being produced at these salmon summits were “guesstimates”. He felt that there should be more detailed discussions on buffers requirements and the effects of impervious surfaces. He felt that the County was not going in the correct direction with this project.

Nobi Kawasaki said he knew the County was faced with unusual circumstances with the 4(d) rule requirements, but he would like to know as clearly as possible what the direction will be for this County so that the public knows when they will have the opportunity to participate in this process.

Chris Endresen said that another option would be for the County to do nothing, but the Board of Commissioners decided that was not a good idea because that could cause a moratorium to be placed in Kitsap County. She said that the Board has tried to mold the process as they heard various comments. She said she appreciated Carl Walske’s concerns, but there is not the time to delve into all the concerns that he has expressed at this time. She said the Tri-county plan just came out, but whether this will be approved by NMFS is uncertain at this time.

Charlotte Garrido felt that there have been some very good ideas expressed by the Planning Commission members at this meeting and felt that the Board and Planning Commission should discuss this issue at another joint meeting.

Keith Folkerts said the process that Tri-counties has done to date is very different than the process that Kitsap County is going through. What he has heard from NMFS on the Tri-counties plan is that it is okay, but not complete. He reported that Tri-counties plan has a time line which may be the process that all jurisdictions may use. He briefly reviewed this plan for the Planning Commission members and the Board of Commissioners. He said that this time line, if approved by NMFS, may determine whether review of the final proposal comes before the Planning Commission.

Chris Endresen said that the Tri-county plan contains some specific information that will need to be inserted into the final rule. She noted that in many instances the County has been accused of knowing the outcome of a project before the end result and this is certainly not the case with this project.
Val Torrens felt certain that the County needed to hear more input from the public on this issue.

Chris Endresen said that the Salmon Advisory Committee was never meant to be a hearing body that would replace the Planning Commission in this process, but a citizen group discussing the issues.

Val Torrens understood that the recommendation from the Salmon Advisory Committee would come to the Planning Commission for a public hearing.

Linda Rowe felt that the Tri-county group was not providing much technical information and she wanted to make sure that there would be flexibility to change some of the portions of this plan.

Deborah Flynn agreed that if there was a choice between the input from the public and the Planning Commission, the public should be allowed more time to provide their testimony in this process. She had understood that there would be an ongoing process and that the public would be involved. She favored the idea that the Planning Commission will be included in the hearing on January 29.

John Ahl said there is the process and the product; and this County should not be in such a hurry to create the specifics to this plan but design a plan that can be easily changed during the next few years.

Tim Botkin said during the assembly of the County’s Comprehensive Plan to comply with the Growth Management Act (GMA) there was a required public participation process; where with the ESA process and the compliance with the 4(d) rule, it does not require public process but the foremost issue is the protection of the salmon. He said that Tri-county has not gone before the public for hearings on their process, they have solely worked with the staff and prepared their plan.

Chris Endresen said that Phase II has not been discussed to date. She said that the 4(d) rule is the immediate protection for the fish, like triage, and then each individual basin will need to have its own specific plan which will take place in Phase II. She said with the 4(d) rule the County is buying federal lawsuit protection.

Deborah Flynn asked if there was a process to involve the Planning Commission in Phase I and how the members will be able fit into this process in a meaningful way?
She felt that the Planning Commission should not just hold a public hearing if they would be unable to make a recommendation to the Board of Commissioners that had no changes from the draft that was brought before them.

Chris Endresen said that where the Planning Commission would be participating was if NMFS exempts the entire State and then Kitsap County will need to prepare a new Shoreline Plan. She said if the State received an exemption and the County made its changes accordingly, then the Planning Commission may need to hold a hearing on changes to the Ordinances.

Nobi Kawasaki said he agreed with Deborah Flynn in that if NMFS said that there is no public process required, then the Planning Commission could accept that there would be no public hearings and subsequent recommendations necessary.

Keith Folkerts said in the ten-page handout from the Technical Advisory Commission, dated November 12, 1999, these items are not recommendations but proposals set out by agency scientists; different tools that have different capabilities. He said there were six different categories: 1) Land Use & Development Policies; 2) Habitat Acquisition, Enhancement & Restoration; 3) Management of Public Lands & Facilities; 4) Guidance for Private Land Stewardship; 5) Monitoring Public & Private Land Use Activity and 6) Intergovernmental Coordination.

Carl Walske asked if there would be something more extensive presented than what the County has discussed in the technical committee meetings to date?

Keith Folkerts said that more detailed studies will be coming later as the monies for grants become available. He said that with habitat acquisition there is high quality habitat that should receive additional protection above and beyond the regulatory means and subsections 2.8 and 2.9 deal with lot aggregation in the rural areas.

Carl Walske said that the Planning Commission would be very interested in a detailed discussion on lot aggregation together with impervious surfaces.

Keith Folkerts said that with Management of Public Lands and Public Facilities it involved modeling the type of stewardship that the County would also like to see from the general public. He said that right-of-way maintenance for example, impact the salmon and the Committee questioned whether public resources should be used, however, it could be a very expensive element.
Tim Botkin asked what motivated the Committee to consider the maintenance of all right-of-ways?

Keith Folkerts said roads were an important issue for the protection of the salmon because they create a lot of impervious surfaces. Additionally, he continued, this came up while looking at the road network with the impacts committee.

Tim Botkin asked if this issue came from the Oregon Protections Standards, which has been accepted by NMFS?

Keith Folkerts said he was uncertain about that.

Carl Walske said that access to his property was by an unmaintained right-of-way which he maintained and asked how the county could help in the maintenance of that?

Keith Folkerts said that there are many right-of-ways used to control the gullies and so forth and there will be priority areas that must be maintained to protect the fish; other right-of-ways are not so necessary. Possibly, he continued, some of these may need to become county maintained right-of-ways in order to protect the salmon.

Charlotte Garrido suggested that the County inventory these right-of-ways and determine if they needed to be taken over by the County.

Keith Folkerts said that the next section involved Public Education and Outreach for salmon protection. He suggested that the County provide a local handbook for funding and the ongoing work done by agencies such as the Homebuilders Association. Additionally, he said, there were development techniques that are known by the public; source controls, using less chemicals and less water; and citizen involvement.

Carl Walske asked how the dam at Lake Symington would be rated?

Keith Folkerts said that the magnitude of Lake Symington would not be able to be assessed in this phase.

Keith Folkerts and the Board of Commissioners discussed Lake Symington at length with Carl Walske.
Keith Folkerts said that he was doing a prior habitat list, which would be a restoration-type project using experts to develop a prioritized list of projects for recovery by area, which would go to the State for technical review and then state and federal grant monies would be distributed for this process.

Charlotte Garrido felt that this was an excellent discussion, but should not be included during this meeting.

Shelley Kneip Deputy Prosecuting Attorney, said that the County is focusing on habitat and does not have authority on dams, which would come from the federal government. She said that Lake Symington could not be regulated locally except by a homeowners association.

Keith Folkerts said that a plan for compliance monitoring and adaptive management needed to be applied and the County would be using digital imagery and a basin-wide scale. He said this will monitor ecological changes. He also reviewed other monitoring options. Area 6, he continued, deals with how governments work on a regional basis in the WYRA 15 district. He explained that there were several questions that will need to be responded to in this process and then a review of the County ordinances for the enforcement process as well as coordinated watershed plans. Finally, he said, our plan will need to tie our efforts into the entire Puget Sound, which is how this will be reviewed by NMFS.

Carl Walske felt that the County Permit Center should not be included on this list; which he felt was the “tail wagging the dog”.

Deborah Flynn said she agreed with Carl Walske on that issue of the County Permit Center. She asked if there will be a clustering policy to protect the salmon habitat?

Keith Folkerts said that would be next part of the discussion. He said that watershed based cumulative impacts will look to the entire watershed in a site specific development. He said that this would be an important element from the Salmon Advisory Committee and with the high resolution imagery this information will become more readily available, but the question to be answered is how good is good enough for the watersheds. He noted the chart on page 1 and how the monitoring of these concepts could be done. He explained that the thresholds would change depending on the specific outcome that you wanted for the watershed. He said that the chart came from the work done by Chris May and his group.
Chris May of the University of Washington, said he does research on streams and creeks. He said that the chart is a “work in progress” and the performance indicators were a best guess at this time. He reviewed how the watersheds determined imperviousness in a natural state, adding that with higher imperviousness you can make a watershed so it not drain into the streams.

Carl Walske and Chris May discussed impervious surfaces including development, clearing, nature of the soil, distance of the impervious surface from the stream and or the salt water.

Chris May said that with this was not rocket science but natural science. He said there has been studies that show 10% imperviousness is common throughout the country, not just at the University of Washington; and this is not just due to paved surfaces, this includes golf courses, baseball fields and so forth. He said that logging is considered almost a natural impervious condition without a steep slope that could cause a landslide. He said that impervious surfaces are closely tied to aquatic health and non-point pollution problems. He reported that this is not a perfect science, but with the new imaging it would allow for more detail. He said that soils in this County have the ability to infiltrate. He said that the infrastructure also becomes a factor in this issue of impervious surfaces. He drew a map on the board to further define the information.

Carl Walske felt that the County should go very slowly in asking for no more than 10% imperviousness. He then suggested that the joint meeting on January 29 include discussions with the scientists.

Deborah Flynn felt that if this was the best available science, what else could be used?

Chris Endresen agreed that the public needed more information on this subject, and it would be nice to discuss this in detail, but this will not occur at the January 29th forum.

John Ahl asked with the threatened Hood Canal Summer Run Salmon and how was this process going in Jefferson County?

Keith Folkerts said he did not know at this time.
Chris Endresen said that Jefferson and Clallam Counties have different processes which are coordinating through the Hood Canal Coordinating Council who meet monthly. She then gave some details of what the other 2 counties were doing in relation to Kitsap County’s program.

Val Torrens asked if NMFS was looking at Hood Canal as a single entity or region?

Chris Endresen said that Hood Canal has its own separate plan.

Charlotte Garrido said that there was a site on each county’s web page that will review what the individual counties were doing on this project.

Carl Walske felt that some of the streams entering into the Canal were nearly void of summer chum so there will need to be a restocking process for them.

Keith Folkerts said that there is a restoration project in effect between the governments and the tribes.

Carl Walske felt that salmon replacement will be necessary even after the restoration project is completed. He said with Riparian Intactness, and the percentage of stream bank that required buffer, he thought that it would be a good idea to set a specific depth for the required buffer including a possibly of a credit for adding a buffer where there is none now. He said with stream crossings, the nature of the stream crossing is all important and one bad one would be very devastating. He felt that the quality of the stream crossings needed to be added to the requirements.

Charlotte Garrido said that the chart that Keith Folkerts presented needed to have some assumptions added.

Tim Botkin said that Carl Walske has made good points but they are hypothetical and the short-term problem is to have the plan approved by NMFS and this process should not be bogged down with too many details so that it will not get by the NMFS test.

Carl Walske agreed, explaining that his specifics were addressed so the County would allow enough flexibility so they are not locked in to the specific details.

No further discussion being heard, the Meeting adjourned at 11:40 a.m.
DOCUMENTS DISCUSSED AT MEETING

<table>
<thead>
<tr>
<th>Document No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>B.</td>
<td>Second Agenda provided by Keith Folkerts, dated January 3, 2000.</td>
</tr>
<tr>
<td>D.</td>
<td>Chart titled Protecting Salmon &amp; Becoming ESA Compliant (Phase I), Revised Jan 3, 2000.</td>
</tr>
<tr>
<td>F.</td>
<td>Chart titled 4(d) Framework Time line (based on 12/9/99 draft) revised 12-16-99.</td>
</tr>
<tr>
<td>H.</td>
<td>Letter from Kitsap County Board of Commissioners to Mays and City Council members regarding Regional Endangered Species Act response, dated November 8, 1999.</td>
</tr>
<tr>
<td>J.</td>
<td>Problem Statement, undated.</td>
</tr>
<tr>
<td>K.</td>
<td>Endangered Species Act Response: 4(D) Rules from King County.</td>
</tr>
<tr>
<td>M.</td>
<td>Impervious Surface Coverage, The Emergence of a Key Environmental Indicator, from the APA Journal-Spring 1996.</td>
</tr>
</tbody>
</table>

MINUTES approved this ________ Day of ____________, 2000.

______________________________
Val Torrens, Chair

______________________________
Karen Halbeck, Secretary

File: G:\common\data\planncom\01-04-00.min