

ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING

SPECIAL SESSION - NOVEMBER 7, 1997

The Board of Island County Commissioners met in Special Session on Friday, November 7, 1997, beginning at 9:30 a.m. , in the Island County Courthouse Annex, Basement Hearing Room I, Coupeville, Wa. The Board will meet in similar Special Sessions on the following Fridays beginning at 9:30 a.m.: November 21; December 5; December 12 and December 19. All sessions will be held in the Island County Courthouse Annex, Hearing Room I, Coupeville, Wa., except November 21st, which will be held at the Main Street Conference Room, 400 N. Main, Suite B, Coupeville, Wa.

The purpose of these special sessions is to provide an opportunity in joint workshop for the Board to meet with the Planning Director and staff, Island County Planning Commission, and Keith Dearborn, to discuss planing issues and review the schedule for completion of the comprehensive plan.

Attending today's workshop were:

Board of County Commissioners: Mike Shelton, Chairman; Wm. L. McDowell, Member and Tom Shaughnessy, Member

Planning Commission: Tom Olsen; Ann Pringle; Sheilah Crider; Jo Ann Silvers;

Linda Moore, Rufus Rose; Albert "Bill" Vincent

Consultant: Keith Dearborn

Staff: Vince Moore, Director, Planning & Community Development; Donna Keeler,

Manager, Comprehensive Planning; E. Meyer, Adm. Asst. - BOCC

Others Present: Members of the press and audience consisted of approximately 8 people.

[Attendance list on file]

Keith Dearborn, the County's legal advisor with respect to completion of the Island County GMA Compliant Comp Plan and Development Regulations, opened the session, noting that these are informal work sessions, to be advertised in advance, organized by subject, and principally for the Board and Planning Commission to exchange views, ask questions and discuss issues, but also a short period at the end of the workshops for members of the public with a short point of view to provide that opportunity. He handed out a prior draft of a schedule that had been premised on completing all of the work by the GMA Hearings Board deadline of February 4, 1998; however, this schedule cannot be met by Island County and in order to have done so, would have required that the County start the adoption process last August. There is not enough calendar time to comply with notice, SEPA comment periods and allow reasonable deliberation on the issues remaining.

Mr. Dearborn then provided a copy of the proposed calendar he developed and reviewed with the Deputy Prosecuting Attorney, and is the recommended point for today's discussion, structured so as to revisit some of the subjects, allowing each subject to go through an initial sequence of steps: joint workshop; Planning Commission deliberation and hearing; and Board deliberation and hearing. After the first sequence of decisions and hearings, he will compile the preferred alternative draft plan; at the end of this year, he sees the Board and Planning Commission having visited and tentatively decided virtually every significant issue related to the plan. The schedule presumes that the Planning Commission will be available virtually every Tuesday for the next four months, and available for workshops every Friday morning for the next four months. [Copies of the calendar are available on request]

During the process looking at the subject, a record will be built, taking material received in the record already and compiling a record on each subject. The Board of County Commissioners will have that record when tentative decision has been reached on that subject. When those steps are finished, Mr. Dearborn recommends the record go on the web page in table or index, and he will suggest a format to organize the information and reporting for each of those subjects; the report will also go on the web page.

Workshops on each of these subjects will be a time for staff to provide all the information available on that subject, including maps reports, technical studies, summary of evidence presented. The Planning Commission is asked to identify for each subject two members to serve as a subcommittee to work with staff on that particular subject and the preparation of that report. It will not be the job of staff or the subcommittee to make recommendations to the Planning Commission, rather to compile the options, consequences of those options, the record supporting the options and where there are critical questions what those questions are. A handout was provided by Mr. Dearborn, an illustration of a suggestion to use as an organization as a discipline to create the

record, frame the issues and organize debate.

Those two Planning Commission members are not being asked to ensure that the paper is reflective of their views, rather to make sure it reflects the views of the Planning Commission and needs to be as objective a statement as possible. Going through this process ensures having a record to support decisions. What he has found so far is that the County is rich in opinion but not quite so rich in data and information to support that opinion.

Mr. Dearborn reviewed the four primary objectives for him to complete in the short term (45 days):

- 1) Work out a compliance schedule to complete the Plan and ensure the resources are committed to do that.
- 2) Determine whether interim regulation is needed, and if so, prepare that interim regulation in order to lift the order of invalidity. He personally thought it was very important for the County to get out from under the cloud of invalidity as quickly as possible.
- 3) Ensure the process consists of a record that will support the decisions, i.e. work with staff to data base the documents and material available today, make it computer accessible and look for where there may be gaps and overlaps.
- 4) Do everything possible to help the Planning Commission and Board with this decision

and ensure it is a Plan compliant with GMA.

Pursuing #2 does nothing to the schedule, and he recommends the Board consider and adopt the schedule next Monday, and discuss next week whether any interim regulations are needed, and if so, draft a motion to the Western Washington Hearings Board to modify the February 4, 1998 date to be consistent with the adopted schedule; if the County adopts interim regulations or determines what areas the County feels it is not out of compliance on, to ask the Hearings Board to lift all or part of the invalidity order. As far as legal strategy and legal defense, he will ask the Board to meet in executive session November 10 and 17, to discuss steps that need to be taken. Planning staff assigned to the Comprehensive Plan effort need not spend any time on this question, rather this question will be staffed by Debra Little, Dave Jamieson and Mr. Dearborn.

Mr. Dearborn reviewed the proposed GMA Compliance Schedule: the first time period calls for tentative conclusions [not final]; at the end of February and through March there will be the more traditional public hearing process on a draft plan and final SEPA documents. The schedule may well be compressible depending on the extended scope of SEPA compliance. Dual hearings, Planning Commission and Board, are a possibility. Under State law, the Board does not have to hold separate hearings, but should the Board consider changes to the Planning Commission recommendation, the Board would have to hold its own hearing. He suggested that in the final hearing process, testimony received should be based on the record; if the record is not there, individuals must offer new record information to support their testimony. Mr. Dearborn will act in a way as the "schedule policeman", because in going before the Hearings Board, Island County would be committing to complete work by a certain date, likely by the end of April, and those dates should be scheduled to the end so he can ask the Hearings Board to accept the schedule based on a completion date.

Mr. Dearborn referred to the March schedule where, in fact, the final workshop discussion is on development regulations. The products of the schedule at the end of April are the Plan and Development Regulations.

The Planning Commission subcommittees would function, as an example: the two members of the Planning Commission, with staff and Mr. Dearborn would function as leaders of the discussion part of the Planning Commission meetings on that subject. Their job would be to prepare an issue paper so the Planning Commission and public has available the options fairly stated and as unbiased as possible.

Answering questions about whether draft development regulations would be available to the public at the same time the draft Comp Plan would be, and how to gauge what the cost of implementing that would be, Mr. Dearborn thought that while not all of the insignificant components would be completed, all of the significant components of the regulatory system would be with the draft plan. He agreed there is a need to be very careful about understanding the impact and burden that the regulatory system will have on the average citizen of the County and the fiscal question should be asked and answered, and if not, an explanation why.

As far as a suggestion to invite members of the public to join the subcommittee and come up with an issue paper, it was not Mr. Dearborn's recommendation to do so, because it is not a negotiation or consensus process, but an effort to create a document that provides the best information. He did recommend the document be placed on the Internet/web page and the public invited to offer to the Planning Commission their opinions on what they believe is missing, and where options are not stated or data not recognized. The public will have an opportunity to comment in workshops, speak to the Planning Commission and the Board through the hearing process on each subject, and then the final public hearing process. In terms of putting the work together, Mr. Dearborn believed it would vary by issue paper and personality of the individuals, but the document must be prepared as the Planning Commission and staff collectively feel covers the options. The paper would identify pros and cons of options and if data is deficient, that needs to be identified.

As far as a question about the vision statement, Mr. Dearborn would put that at the end, because of the general consensus of this community to preserve rural character. The vision now needs to be fine-tuned after the pieces are all put together. Mr. Dearborn is working under the presumption that the completed Plan will comply with GMA and the Western Washington Hearings Board decisions. Mr. Dearborn has not liked the Western Washington Hearings Board decisions with respect to limiting local prerogatives and while he is not at all convinced GMA fits well in Island County, he stated up front he is not here to fight that fight.

If there are problems for the County, the County must have the Legislature change the system to allow flexibility, and he personally thought the 1997 legislation did that.

He did not think by next April Island County would necessarily have to have completed all components of the Plan, and that there may well be issues the County needs to do further work on. There may be items that need to be continued to develop information on and carry on discussions, i.e. Freeland & Clinton, and a number of technical areas.

The Transportation Plan and Capital Facilities Plan are provided for later on in the process. Once a basic land use concept is jelled in the first series of workshops, Larry Kwarsick is prepared to review those plans and update them to match that concept, and show what additional costs, if any, that relate to that. The Natural Areas plan [aka open space] is also a key component of the Comp Plan and comes into this process in January as one of the other elements, as a voluntary element of the Comp Plan. The Utilities Plan will need to fit in too, all four under Public Works.

With regard to some questions about impacts of determining whether there are resource lands of long term significance, Mr. Dearborn remembered that in the early Eighties the then Board concluded that the County did not have lands of long term commercial significance in Island County, that there may be some land owners with a long term expectation to retain those lands in a resource use, but did not see any lands, other than a volunteer land owner, that truly rose to the same kind of standard as Skagit Valley farm lands or high quality forest lands on the Western slope of Skagit County. It is something to be addressed in the resource lands issue paper. If the conclusion is there are no resource lands of long term significance, that does not mean there are no resource lands, just that they do not meet those high standards, but may be important to protect in large lot with buffers and protection measures any way. It is important to categorize those in the right category for the right reasons.

GMA had to begin with a definition of Forest, Agriculture, and Long Term Commercial significance. In 1993, in response to a Growth Board decision in Snohomish County which broadly defined long term commercial significance, Mary Margaret Haugen led the way to return or restore legislative intent, which was one of a very narrow limited definition, and instead of modifying the definition of long term commercial significance, modified the definition of forest land. Forest land before 1993 had different wording than the definition for agriculture. Agriculture lands indicated "devoted to agriculture". GMA hearings boards and courts have said those items mean "actually used for agriculture". The forest land definition prior to 1993 referred to "principally" or language that left the impression that they could be "used for" rather than "devoted to". The language change in 1993 made it clear forest lands of long term commercial significance had to be lands that were actually being used for that purpose as well. In the specific example of Frie Timber Company, Mr. Dearborn would have to look at their documentation and apply the definition and standards, and make a determination. The same is true with regard to a communication from DNR about their mission of the trust fund relating to DNR lands in Island County, Mr. Dearborn needs to review that correspondence. Where Vince Moore noted DNR also stated that the determination of long term commercial significance should be left up to individual land owners, Mr. Dearborn stated that the Western Washington GMA Hearings Board decision in Jefferson County states that is not what is intended and it is not a land owner preference as the sole basis for determining whether lands are long term commercially significant or not.

With regard to the undeveloped shorelines issue, part of the work will be to determine which of the shorelines meet the 6094 exception. For shoreline areas, the question of meeting 6094 standards will be separated from the rest of the residential and non residential discussion. After the schedule is adopted the Board of Commissioners will be asking the Governor to appoint a technical agency task force to work with the County to complete the plan, and one of those areas will be shorelines.

Vince Moore suggested the Board of Commissioners attend the Planning Commission meetings and hearings in order to have the benefit of public comment but recuse themselves from any action taken by the Planning Commission.

Mr. Dearborn stated that If at the end of February the draft compilation is within the alternatives that were considered in the prior EIS, there will be no requirement for a supplemental SEPA DEIS, rather a final with a possible addendum, so there would be no comment period, and he saw no reason why the four geographic hearings could not be scheduled in a two week period rather than a four week period.

As far as "ground rules" for the subcommittee, and access by individual Planning Commissioners to Keith Dearborn, Chairman Shelton stated that one of the concerns of the Board is the cost of employing Mr. Dearborn, so while the Board in no way is trying to eliminate communication between the Commission and Mr. Dearborn, it is important that individual Planning Commission members not tie up a considerable amount of his time.

Mr. Dearborn made it a priority to talk individually with every one of the Planning Commissioners. Additionally, the Planning

Commission meets with Mr. Dearborn twice a week and that is the appropriate time to discuss issues with him. Mr. Dearborn will be working with each Planning Commission member on an option paper as well, so there will be lots of opportunity interact and talk.

Vince Moore requested that the Board ask Cathy Caryl to assist in developing a web page for this project and to keep it updated. He saw the need for some additional clerical assistance for typing and organizing these issue papers. However, Mr. Dearborn advised that his firm would be doing the word processing and did not charge for that, since it is a part of the overhead costs of the contract; they are also electronically linked.

Mr. Dearborn explained that the first item a subcommittee would receive on an issue would be a notebook on any GMA hearings board decisions on that subject [showed example of such notebook]. He sees having a Comp Plan in some standard format for the public by February 24.

Public Comments

Steve Erickson, Langley, WEAN, asked for clarification about the March testimony based on the record and at what point Mr. Dearborn saw the public being able to provide information.

Mr. Dearborn advised that public comment was invited in the workshops, Planning Commission meetings and Board meetings. When getting to the March hearings, people will be urged to particularly focus on the record, but he recognizes there will be new information and others who give opinions; the request is that be based on facts and information. Notices for each of the meetings scheduled with the subject matter will be provided, and at the beginning of each meeting, the Chair of that meeting will advise the public at what point in time the public will be invited to comment.

Marianne Edain, Langley, WEAN, requested further detail on Mr. Dearborn's comment about maybe not having all of the insignificant components ready but would have the significant ones - who decides what is or is not a significant component?

Mr. Dearborn presumed that the Planning Commission, Board and he as their legal advisor, would as a team consider that. If something is not completed there may be some particular reference (i.e. Clinton/Freeland) but those required components will be there. In a regulatory system there are things to address that may not be quite as important as others, i.e. something that's not a core feature of what has to be addressed in order to get into GMA compliance.

Ms. Edain was interested in looking at this schedule, to know at what point would public comments be considered, and the public informed of a response to those comments?

Mr. Dearborn's response was that that would occur as part of the record and would have to respond to those with answers continually through the process.

With regard to a vision statement, Ms. Edain recalled there was a vision statement in an earlier draft and could that be used as the basis for future vision statements?

Mr. Dearborn answered by saying he needed to see the draft vision statement and would be reviewing that with help of staff.

In the issue of Freeland and Clinton UGA's, Ms. Edain asked if there would be a time certain included in a notation of not being complete, i.e. what would be defined as "interim" for those issues to be completed?

Mr. Dearborn thought that was something that would have to be discussed as part of that decision.

Rob Harbour, Coupeville, agreed that putting the information on the web would be very helpful but urged to make some other background information available in a way that would not take up staff time [notebooks, etc.].

Mr. Dearborn commented that the two Planning Commissioners serving on a subcommittee would have a notebook to share, one for each topic, which would become part of the record. He recognizes the problem that not all people have access to computers and there is a need to make sure draft document is disseminated by means other than electronic, and he will try to do that.

Subject matter and Planning Commission volunteers for subcommittee [thus far]:

Richard Hart - volunteered for Undeveloped Shorelines issue [and other issue assignment]

Linda Moore Non-municipal UGA's; Critical Areas; measures to protect Rural Character

Ann Pringle - Non-municipal UGA's; Resource Lands; Critical Areas

Jo Ann Silvers Residential Areas of More Intensive Rural Development;

Non-residential/mixed use areas of more intensive rural development

Sheilah Crider - Residential Areas of More Intensive Rural Development;

Non-residential/mixed use areas of more intensive rural development

Housing; Critical Areas

Tom Olsen - Resource Lands

Rufus Rose - Rural Density/Clustering; Housing

Bill Vincent - Measures to protect rural character; Undeveloped Shorelines

There being no further business to come before the Board at this time, the meeting adjourned at 11:40 a.m. The next Regular Meeting of the Board is scheduled for November 10, 1997, at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

Tom Shaughnessy, Member

Attest: _____

Margaret Rosenkranz, County Auditor

& Ex-Officio Clerk of the Board