

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
SPECIAL SESSION – JANUARY 23, 2006 – ORDINANCE #C-150-05 AG BMPS**

The Board of Island County Commissioners met in Special Session on January 23, 2006 at 3:00 p.m. at the North Whidbey Middle School, 67 N.E. Izette, Oak Harbor, Wa. Wm. L. McDowell, Chairman; William J. Byrd, Member, and Mike Shelton, Member, were present. The meeting was video-taped and recorded. The purpose of the special session was to conduct a Public Hearing on Ordinance #C-150-05/ PLG-021-05 In the Matter of Updating Island County’s GMA Critical Area Regulations Relating to Existing and Ongoing Agriculture, including Exhibits A, B, C and D.

ATTENDANCE:

Staff	Phil Bakke, Planning & Community Development Director Jeff Tate, Assistant Planning & Community Development Director
Consultant	Keith Dearborn
Audience	Approximately 40 (additional County staff members, members of the Press and citizens) [attendance sheet placed on file] (GMA #8583)

HAND-OUTS:

Proposed Ordinance #C-150-05/PLG-021-05 In the Matter of Updating Island County’s GMA Critical Area Regulations Relating to Existing and Ongoing Agriculture, including Exhibits A, B, C and D [GMA #8584 updated – version showing “barcode” on the bottom]

Exhibit B – Definitions [GMA #8585]

Index to Amendments (5) [GMA #8586]

Memo dated December 19, 2005 Letter of Transmittal to the Board from the Island County Planning Commission Recommendations – Existing Agricultural Use Ordinance [GMA #8520]

Tips on Land and Water Management for Small Farm and Livestock Owners in Western Washington [GMA #8505]

Final Draft: Report and Recommendations of the Agricultural Review Committee prepared by Island County Planning and community Development on behalf of the Island County Agricultural Review Committee, September 2005 [Included in GMA #8384]

Maps Posted:

Parcels Zoned Commercial Agriculture and Rural Agriculture, Agricultural Activities on
Parcels Zoned Rural and Critical Areas

Chairman McDowell opened the hearing noting that inasmuch as a large crowd had been anticipated which could not have been accommodated in the Courthouse Annex hearing room, this location had been selected. The Board cannot take action at a location outside the County seat; public testimony will be taken but the Board will continue the hearing to a specified date to be held at the County seat.

Mr. Bakke introduced the Ordinance the Planning Commission had been working on to address where Agriculture meets with critical areas. As background, he summarized some of the steps taken up to this point. In addition to a number of Public Hearings held by the Planning Commission around the County, Planning and Community Development staff held a series of four public open house meetings - one in

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each area of the County. This proposal has changed and evolved based upon public testimony and from all perspectives has been refined. The “check list” or standard farm plan, what that means and how to comply, primarily will be reviewed by the Board. The process began with a committee of people who came together and reviewed issues. The Report and Recommendations is the report generated from that committee. After the Planning Commission proposal to the Board, the Board under state law has three options: accept the recommendation of the Planning Commission; remand issues back to the Planning Commission for further review; or as in this case, the Board hold its own public hearing. The hearing is being held in part due to the need to review the packet of amendments. There has been a SEPA appeal filed by WEAN to the environmental analysis performed on the proposal and that appeal hearing is expected to be heard by the Hearing Examiner sometime in April.

Mr. Dearborn briefly reviewed the Index to Amendments.

1. **Effective Date.** Page 3 in bold underlining shows the proposed revision to the ordinance, prepared at the request of the Planning Commission. The amendment would start the new program 90 days after the “dust settles” and there is a court decision, Growth Board decision or some final order stating the new program is legal, and until it has been determined legal the existing regulations continue to apply. This would set a very clear departing point shifting from the old system to the new system for AG BMPs (the date would be a minimum of six months; if it goes to court from there, a minimum of two years).
2. **Deadlines.** Also discussed by the Planning Commission. Once the program goes into effect [90 days from some future date]; this discusses the date of compliance and what has to be done. This is a proposal that initially came from the Conservation Districts [modified slightly]. The Conservation Districts made a recommendation for deadlines for submittal and action. The Planning Commission received a proposal from WEAN on deadlines and but favored the Conservation Districts proposal.
3. **Enforcement.** Incorporates minor changes proposed by the science consultant, Paul Adamus. If in the course of water quality monitoring the county finds exceedence in water quality standards in a given stream or stream system, the first step would be for the county to figure out what was causing the exceedence. If it is determined to come from a particular farm, the next step would be to determine whether the farmer implemented BMPs. If the farmer has not implemented BMPs, the next step would be to meet with the farmer to help him/her understand why it is important to do so; WSU and the Conservation Districts will be involved. If education does not work the county then would move into enforcement action to implement BMPs. If the farmer implements BMPs but BMPs determined ineffective, the procedure outlined in this amendment will address that. If the county finds there is an exceedence stemming from a particular property and that exceedence/pollution is damaging a critical area, the Planning Director would have the authority to ask the property owner to modify the BMPs in consultation with the Conservation Districts to try and remove the pollution problem.
4. **Water Quality Management Program (WQMP).** Received early in the year a letter from State agencies asking that the County remove WQMP from the ordinance, consider it in a separate action in order to take more time than allowed by the Growth Board to act on the AG proposal. This amendment removes WQMP from the ordinance. There is a companion ordinance that will be heard at a public hearing in March. The proposed WQMP is available from the County for review. Two workshops are planned in February (February 6 and 27) and public hearings scheduled March.
5. **Standard Farm Management Plan. Check List for Existing Low-intensity Agricultural Activities.**

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This will be explained later by Jeff Tate.

Exhibit B. Definitions – the review done by the County’s Deputy Prosecuting Attorney to the ordinance recommended for adoption by the Planning Commission. This is the document as part of the legislative action the County will be considering when it takes its action. The Board will be looking at the five amendments today and taking public testimony; then talk about which of the five amendments they would like to see incorporated in the ordinance, and continue the public hearing to take final action after the WEAN appeal, assuming no Environmental Impact Statement (EIS) has to be done on the AG program. If so, then it probably will be a year away. For the benefit of the audience, Mr. Dearborn explained what an EIS is.

Responding to a concern expressed by audience member John Cline, Taylor Road, Oak Harbor, about why it seemed farmers were being singled out and made to modify their on-going practices that they have been doing historically for years and other existing uses are not, Mr. Dearborn stressed that no one at the County wanted to see farming decline in Island County. The County is trying to do what is fair within the constraints it is working under in terms of the environment and farmers. There is no intention on favoring a developer over a farmer. He agreed that farmers had been singled out and could not give a satisfactory answer about the fairness issue. The County did not bring this up and would like to see farmers continue to farm in this County as long as they want to farm. There is no intention of letting a developer get away with something that a farmer could not get away. The view of the County is that by and large farmers are doing the right thing, are good stewards and will continue to do the right thing. If told that some new farming practice will be better for the environment, 90% will carry it out voluntarily, 10% probably would not. Mr. Dearborn acknowledged that it was made very clear, with the AG Committee this summer and strongly from Senator Mary Margaret Haugen, that this is a County of volunteers; a County with individuals who want to do the right thing, do so every day, and do not need to be told by government or environmental groups that they need to do something different.

Mr. Cline’s property is commercial AG, a 110 year old farm on Taylor/Silverlake Road, Oak Harbor, and he said that over time because of the regulations has gotten smaller and smaller. Depending how strictly the County interprets BMPs he was concerned that theoretically he could lose another 8 to 10 acres. He does have a farm plan with the Conservation District. Although appreciative of what WEAN is trying to do, WEAN is tripping him up. He did not vote for GMA because it was vague and led to problems, and posed the question what happens if GMA gets overturned [a question at this point with no answer].

Mr. Dearborn stated that Mr. Cline or others with a Conservation District farm plan approved by the District are grandfathered in. WEAN has requested copies of those farm plans, they are being challenged. The farm plan done by the Conservation District is the only thing needed with a signed record of decision [two-page document], and through the Conservation District, need to forward that to the County for record keeping. That is all that’s to be done to comply with the new regulation, the same thing to comply with the law today, so there is no change for a commercial farmer; if more than one animal unit per acre, the farmer would have to do a farm plan. Less than one animal unit per 2-1/2 acres would be exempt completely.

Commenting in response to information requested by Jim McIntyre, Oak Harbor, with regard to pollution in Puget Sound, Mr. Dearborn explained that the concern about pollution is not just Puget Sound but fresh waters as well. There is a pollution problem but the extent and causes are not known.

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There are a number of streams where samples have shown exceedences from standards but there is no comprehensive base line. There is a case where arsenic is found to occur in Island County for reasons no one understands and exceeds standards naturally. It is known that fecal is in the waters and that a few places exceeds standards, but there are no comprehensive studies yet that establish what the basic level of fecal is and no studies that show where it comes from. There is speculation it comes from AG, birds, wild animals and septic systems, and probably comes from all, though nothing pin-pointed.

Gary Fisher commented about the 1,000 pound animal based upon estimates or measurements, noting he had done the weighing and his animals weighed 979 pounds for 2-1/2 acres [small breed of sheep] and wondered if someone would be checking that. Mr. Dearborn stated that the County would not go out and weigh any animals, and would take what is reported through the check list. Should someone file an enforcement against what has been stated in the report, as with any enforcement action, the County would have to investigate. There are rules of thumb established through NRCS. If Mr. Fisher has a farm plan and answered correctly he is in the clear.

Jeff Tate focused on Amendment #5, consisting of a number of amendments, some minor some major, to the standard check list itself. The standard check list applies to one type of agriculture intensity. There are four levels (ordinance contains definitions for what those categories mean):

Low intensity AG	1 animal unit per acre or less
Residential AG	1 animal unit per 2-1/2 acres or less
Moderate intensity AG	between 1 and up to 3 animal units per acre
High intensity AG	more than moderate

The checklist applies only to low intensity AG and not the other three types. Mr. Tate was tasked to work with the Whidbey Conservation District and the Snohomish Conservation District in that Island County does not have certified farm planners, asking questions on what are appropriate standards they regularly implement that are easy and straight-forward, and how to develop a simple scheme. Attending today are members from those districts:

Carol Osterman, Farm Planner, Whidbey Conservation District
 Bobbi Lindemulder, Snohomish Conservation District
 Karen Lennon, District Manager, Whidbey Conservation District
 Len Engle, Board Member, Whidbey Conservation District.

Mr. Tate referred folks to the guide in the hand-out packet giving tips that describe management techniques on property for small farm and livestock owners. Desire was to develop a check list that relied upon this as the “meat” of the information and Amendment 5 is that check list, along with some modifications which can be identified as material being added is underlined and language deleted is stricken out. Much of this relies upon Natural Resource Conservation Service [NRCS], in turn relied upon by the Conservation Districts, in developing custom farm plans.

Many of the amendments are clarifications only, with perhaps only five or six classified as substantive. If the farm is low intensity AG, this is a requirement. The County relies upon information the farmer provides via the check list. It would not be until a complaint was received that would cause the County to look any further. Farms exceeding one animal unit per acre density do not qualify for this standard check list and will have to get custom farm plans prepared.

Another clarifying point Mr. Tate noted was addressed in Section 2 on page 17 containing different

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types of practices that could be employed; this provides different options for the farmer to select in order to accomplish the intended goal.

Clarification on page 17 discusses confinement area. Mr. Tate indicated that if the confinement area is less than 100' from a water well there are certain practices that the farmer can employ. However, new confinement areas cannot be located within that 100' distance. Confinement areas are also called "Sacrifice Areas" and Mr. Tate provided the following hand-outs from the Conservation District put together as a way of defining what a sacrifice areas is and information to help decide how to size one, what kind of fencing, footing, etc.

Sacrifice Areas, Easy BMP [GMA # 8587]

Creating & Using a Sacrifice Area for Horses: Your Start to Good Pasture Management, 3 pages [GMA #8588]

Next, Mr. Tate covered the definition included on page 23 for horticulture, using the Natural Resource Conservation Service definition with a little modification to include a general category for all crops.

Page 25 #2C is a restructuring of the sentence to make sure this relates to streams which do not support salmon habitat and category B wetlands, have a vegetated buffer strip of 30 feet maintained.

Page 25 #2E, adds a seasonal restriction to grazing live stock in farmed wet meadows – live stock must be out during the period November 1 to May 31, the time period derived from practices the Conservation District currently employs when doing custom farm plans. The concern is over compaction of soils in those areas during wetter months. The window of time does change based on climate of a certain year.

Public Testimony

Dick Caldwell, Driftwood Way, Central Whidbey, read from a prepared statement for the record [GMA #8589]:

Proposed Agricultural Use ordinance would accelerate the loss of small scale farming and ranching which I consider an essential part of my county's rural character. Therefore, I am here today to ask that each of you listen to your Planning Commission and vote no on PLG-021-05. After months of hearings and hours of comment from many residents of this county, they have forwarded PLG-021-05, but only to meet their understanding of 'legal requirements' which they were given at the beginning of the process. They do not believe PLG-021-05 is wise or appropriate for Island County.

Listen to your Planning Commission:

The Planning Commission unanimously agrees that agricultural activities in Island County have been and continue to be an irreplaceable asset to the community and support the County's goal of preserving rural character.

The Planning Commission believes that the unintended consequence of the implementation of the proposed ordinance will be further loss of farming activity in Island County.

The Planning Commission has received no credible scientific information that shows clearly that existing agricultural activities pose a widespread threat to critical areas. I would add that

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since existing agricultural activities pose no widespread threat to critical areas there is no basis for restricting new agricultural activity.

After rejecting PLG-021-05 I urge you take positive action to encourage agriculture including small scale ranching throughout Island County:

Designate agricultural activities as a preferred use in all zones so long s the activities are consistent with the size of the property on which they are conducted.

Require BMPs, or farm plans, for agricultural activities only when a specific environmental problem, or impact has been identified.

Some may advise you that adoption of PLG-021-05 is necessary in order to gain approval from the Growth Management Hearings Board. They may be right and they may be wrong. But what will you have gained for the people of Island County if in your attempt to please the Growth Management Hearings Board you adopt an ordinance that causes significant loss of an essential part of our rural character? I would argue that it is better that you adopt and then attempt to justify a policy that will encourage small scale farming and ranching in this county!

Reece Rose, South Whidbey, believed that the Planning Commission, Planning Department and Conservation Districts did an amazing job producing a wonderful set of standards. Where the ordinance left a huge hole and a tremendous potential loss to Island County was future farming. She was concerned that language covers existing and on-going farming without considering future farming, looking at 60% of the land now zoned rural as potential development land. Most here in Island County are here due to love of the open space, pastoral views, and is what brings tourists to this area. Many newcomers have a dream of small scale farming and she thought the County would be squelching that dream if not allowing future farming in all of the rural county.

Steve Erickson, WEAN, Langley, submitted a packet for the record consisting of [GMA #8590]:

Computer Disc dated 1/22/06 containing:

Camano Island Non-point Pollution Prevention Plan – Draft Phase I Report
November 14, 2005

Central/South Whidbey Watershed Non-point Pollution Prevention Plan Approved 9-8-03

Phase II Water Quality Assessment Camano Island Baseline Water Quality
Monitoring Program November 2005 Draft

Salmon Habitat Limiting Factors – Water Resource Inventory Area 6, Island County
Washington State Conservation Commission April 2000

North Whidbey Watershed Non-point Pollution Prevention Action Plan
Final Plan 5/97

Remediation of Agriculture Contributions of Fecal Coliform Bacteria, Sediment,
And heat in the Tillamook Basin, Final report and Conclusions of the Beaver Creek
Project September 2002

Management Recommendations for Washington’s Priority Habitat Riparian
12/1997

DOE Wetlands in Wa. State Vol. 1: A Synthesis of the science – Final March 2005

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DOE Vol. 2 Guidance for Protecting and Managing Wetlands, Final April 2005

DOE Draft Freshwater Wetlands in Washington State, Vol. 1 A Synthesis of
The Science – Responses to Comments March 2005

WEAN letter dated 1/22/06 to Island County Commissioners re: Compliance in WWWGMHB case no. 98-2-0023c, review and update of critical area regulations RE: existing and on-going agriculture

WEAN letter dated 1/22/06 to Island County Commissioners RE: Farm Plan Analysis

WEAN letter dated 12/30/05 to Karen Lennon, Whidbey Conservation District Administrator RE: Public Disclosure Act Request

Letter from State of Washington Environmental Hearings Office dated 5/11/04 to George Mead, Stephen . North and Steve Erickson, WEAN RE: PCHB No. 03-055 Joe X. Mead v. Ecology (S1-26735A)

State of Washington Department of Ecology Report of Examination – Denied Surface Water Application No. S1-26735A; January 2003

With regard to a question asked about how long the issue will be up in the air, he rephrased to be: when will the County get serious about protecting wetlands and streams and complying with GMA? He asked the following questions:

1. The standard of exceedence in adopted water quality standards, what are those?
2. Conservation practice standards 2A and 2E are contradictory; which comes out on top? This question was asked at Planning Commission hearings but not answered. In those common situations do the streams on farmed wetlands still receive buffers in 2A?
3. Conservation practice standards 2c and 2d refer to streams that do not support salmon habitat; does that refer to stream reaches not currently occupied; streams that are not hydraulically connected to occupied streams or streams and watersheds without salmon?

Mr. Erickson reported that WEAN has copies of 114 farm plans the Conservation District prepared since 2000, which is an average of 19 per year; of those, 7 had signed records of decision (6.1%). Of the 75 farm plans WEAN analyzed to date, 38 reported the presence of wetlands or streams (about 50%); and of those that reported wetlands or streams, reported or suggested there were wetland or stream buffers greater than required by the standard critical area regulations (7.9%). Of those 38 farm plans with wetlands or streams reported and analyzed to date, 35 reported or suggested wetland or stream buffers less than those required by the standard critical area regulations (92.1%); and of the 38 farm plans with wetlands or streams reported and analyzed to date 30 reported or suggested no wetland or stream buffers (78.9%). There are widely reported water pollution problems in Island County and the County is in the process of preparing documents regarding Camano Island and field work shows widespread and fairly severe fecal coliform pollution on Camano. The draft report indicates it is attributable to agriculture. In terms of dealing with accumulative watershed based problems, he said that what has been shown to work is forested buffers, and one of the major problems here is that sufficient buffering on creeks and streams is not required; a 50' minimum buffer is needed.

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Rufus Rose, off Maxwellton Road, South Whidbey, spoke in part with the authority of the Board of Directors of the Island County Property rights Alliance, and in part personally. Points and concerns addressed and questions asked:

- Understood the only changes to the Planning Commission recommendation the Board was considering are those brought up by staff, the five amendments today. He did wonder whether the Planning Commission had been given an opportunity to look at those and speak to them.
- A spring on his property feeds into a salmon bearing stream, which could not possibly support any kind of fish; does the County have the authority to designate that point at which a salmon bearing stream stops being a salmon bearing stream because it could not possibly hold a fish?
- When taking testimony from someone representing a group, it would seem important to find out if the statement is being made with the knowledge and support of the board of directors of that group.
- Devil is in details; worried about the ordinance getting thicker and wordier.
- Water quality exceedence of standards; what if there is a dispute?
- Enforcement – individual should have opportunity to appeal; is there a process for allowing such an appeal?
- Make some provision in regulations to acknowledge the desirability and encouragement to allow for new farm land to be created Island County without penalty.
- Acknowledge that market forces drives what farmers do; it is fluid and changes.
- Whenever some idea that is brought up cannot be “defended”, useful for that to be documented i.e. a catalog of those ideas that cannot be defended be made available to the public.
- If regulations require buffers not be mowed, there needs to be acknowledged what projected impacts are in those buffers; what do you expect will grow there and what impact will that have on the farming left outside the buffers?
- Useful to the public to have a calendar – what the calendar will look like and what will happen if WEAN again appeals and ramifications of those appeals; and how long it could take if those are appealed again.
- Index of Amendments, Page 17 item 2. Are there documented cases in Island County where confinement areas within 100 feet of a well built to standards have contaminated those wells? If not why is this requirement proposed?
- Will the Board accept written comments up until a hearing is held at the County seat in Coupeville?

John Cline, N. Taylor Road, 43-1/2 acre farm that has been farmed for over 110 years, saw a big problem with a lack of quantitative science. Making broad brush changes to meet GMA rather than looking at specific problems or properties. Science is unbiased. In this case, he sees no science, only politics on both sides and getting no where. His preference is to depend on science with Extension Services; make sure those who comply with those sciences are left to farm as they please.

Jeanne Hunsinger, Langley, speaking for the Frei Family Tree Farm and Extended Frei Family, Saratoga Road, Langley, read from a prepared statement [GMA #8591], commenting first that it was their understanding that the Legislature in passing GMA did not intend to turn back the clock on

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farming, and that that understanding was substantiated by Senator Mary Margaret Haugen's in a viewpoint letter recently published in local papers.

To help keep from turning back the clock on farming, there are a couple of items in the proposals before you that we feel need to be deleted or changed. First, in order to keep from turning back the clock, provisions such as Proposed Amendment No. 2 which requires blanket landowner response such as within six months should not be implemented. We are convinced, based on discussion with others in this County that because of landowner concerns that have been amplified by recent public disclosure requests, many will not return to the County a questionnaire that divulges their farming activities and stream and wetland locations. To implement an ordinance with blanket response requirements knowing in advance the legitimate reluctance of landowners is to bias the outcome in favor of moving farmers off previously farmed land.

Second, in order to keep from turning back the clock on farming, we feel that the portion of Section 17.02.030 (under "Agricultural Activities, Existing and On-Going") that excludes land that has lain idle for more than five years should be deleted. Over time, this provision has the ability to return productive farmland to brush patches. Take the example of an elderly couple that after having spent their life farming, find that because of physical limitations they are no longer able to work the land and their land lies fallow for more than five years. Or consider a landowner that makes a military commitment of six years and the land is not farmed during the time he is away. In both cases, at a minimum any previously farmed area of their land that falls within the restrictive Critical Areas Ordinance setbacks is lost. (We realize this was in the prior ordinance but believe that as part of the current up-date this should be changed.)

We feel confident that the five-year lapse and blanket response provisions are included so the County can get a handle on the existing and on-going farming activity. One way to back away from these would be to apply the agriculture exemption rules to all agriculture. Over time, because of overall farming attrition even if all agriculture is included in the exemption, it is still likely to result in a net loss to areas farmed that lie within setbacks that would be required under the stricter Critical Areas Ordinance. Because of the recent change in the political climate, the County may not be met with near the level of resistance to such action from the Growth Board as it might have received should this course have been taken previously.

Gary Fisher, property owner south of Oak Harbor, has a farm plan and his technical question answered earlier; he weighed his animals, did computations and is exempt. He commented that locks are made to keep people honest; laws made for the same reason. He sees the same faces in the audience the folks who are honest. He asked what the County could do about those who are dishonest – those who were not here at the hearing. The county made a windshield survey of AG activities being conducted and he submitted there were a lot more; what would be done about those? The County has a junk vehicle ordinance is there going to be one for this? As a sad note, he announced that one of the finest dairies was sold one week ago because of pressures by politicians and action groups.

Roger Nelson, Camano Island, noted that this was yet another meeting concerning the regulation of AG. The discussion initially was centered around AG on rural zoned land; now regulation for everyone. With the scope of AG in Island County this being among the strictest regulation in the State does not seem right. No one has provided a satisfactory, reasonable explanation why AG is being singled out and the only land use being attacked, singling it out and demanding it be subject to on-going unequal treatment under the law, which is illegal and wrong in his opinion. He suggested the Commissioners look at the record, listen to the people and look at the precedent set by other counties. Snohomish County, for example, does not require mandatory farm plans and check lists for existing on-going AG, only for new operations. He thought that AG as a preferred use deserved to be looked at. The message

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is clear: do not regulate farming out of Island County. With pending legislation to support AG in Washington, it would be foolish for this County to acquiesce to a special interest minority group. He asked that the Commissioners not negotiate their land and farms away. He talked about WEAN getting what they want only to turn around in bad faith and demand more. WEAN has already stated they will sue the people of Island County over what is already the most strict regulation in the State. He mentioned exciting things happening in agriculture: a shift from agri-business to smaller operations and many classed as organic and natural operations; small farms in particular is poised to make a come back in Island County. These farms provide valued rural character, wildlife habitat and open space. The current proposal goes backwards; clearly the record states that farms will be lost and is contrary to the goals of GMA. Suggestions:

1. do not discriminate against AG;
2. actively support Conservation District and cost share program. Allot part of the budget to fund districts' program for fencing and other improvements
3. educate and not intrusively regulate
4. delete mandatory check lists and farm plans; adopt guidelines.

Mr. Nelson reiterated that WEAN would sue the County no matter what. However, if the Commissioners refuse to listen to the people and do not do what is right, there are multiple groups positioned to take legal action against them, and the County would then be embroiled in a legal battle of larger proportion. He challenged the Commissioners to avoid further litigation.

Joshua Nelson, student, Camano Island, described himself as a farmer and a future farmer, one who cares along with all other farmers. Farms are more than just open land, and are a part of the rural lifestyle. Although a lot of kids do drugs and get into stealing, on his farm kids come over and are able to experience farming; they do chores together and play in the hay and say it is the "best and funnest place in the world". The regulations will end up killing farms and all good things farms offer. Farming is not easy; it is hard work and every day has its challenges already. He reminded the Commissioners and audience that George Washington and other founding fathers, most of them farmers, understood these things. The Constitution was written to keep the nation safe and protect freedom; thousands of soldiers have died for freedom. The Constitution provides for the right to own land; WEAN wants to take land from farmers, no body else – yet. He used an example: in 20 years all our milk, eggs and vegetables come from foreign countries, and those countries stop exporting and we are short of food – that is where he is afraid all of this will eventually lead. WEAN says they are helping wildlife and he thought that if that were true, WEAN would support farms because farms support wildlife. He wondered with thousands of people speaking out to fight this tyranny, why did it not seem to matter. Joshua said he was looking to the Commissioners as farmers' last hope and he asked them to be strong and fight for freedom.

Jeanne Hunsinger called attention to a problem with the check list, page 16, #5 – this was one of the 21 amendments from the Planning Commission and should have been included in the document. Mr. Tate was not sure why that had not been added, and confirmed he would look back at the recommendation of the Planning Commission and check on that issue.

Len Engle, Coupeville, clarified that he was speaking only for farms, expressed a concern about passing an ordinance. Better off, he told the Commissioners, to educate and be taught how to do the right thing rather than through regulations. Farm plans are very personal and he did not want the Board to move forward with adoption of anything until such time there is clarification on whether or not the

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farm plans are eventually excluded from public disclosure, and until the Legislature is finished with its session.

Richard Stiener, Camano Island, requested that when hearing dates are determined not to forget Camano Island, and mentioned too that many folks would love to have attended this hearing but could not, therefore, asked that hearings be held later in the day to allow those who work an opportunity to attend and testify.

Mr. Cline asked that the County look at proposing right to farm ordinances and make it harder for people to interfere with what farmers are trying to do.

Mr. Nelson asked the Board to remember that prior to this, a lot of farm owners were zoned down to 3-1/2 units per acre; going down from 3-1/2 to 1 for 10, to 1 for 20 is a huge economic hit. If tools to farm continue to be taken away, the only goal it will achieve is wasteland. Farmers have given a tremendous amount and he asked that this County provide farmers with a layer of protection.

Mr. Rose advised that he spoke with the President of the Snohomish County Farm Bureau this morning and was told that Snohomish County Code contains a right to plow initiative. Mr. Rose suggests it may be useful for Island County look at that initiative established for Snohomish County.

Larry VonGrey, Silverlake Road, Oak Harbor, has 80 acres; 40 farm, 40 forest. He continues to think things will work out but don't, and voiced his thought that he was ready to quit farming. Farming, he said, is hard work, he is not making any money and lost shirt in doing it. Instead, he is right on the verge of building houses, feeling that if this ordinance is adopted, he will not be farming any more, and was sorry it had to come to that.

Commissioner Comments

Commissioner Shelton referenced the oath of office the Commissioners take to uphold the laws of the State of Washington, and some of the issues dealt with here deal with the Commissioners being obedient to the laws of the State. Last Fall at the annual Commissioners conference a representative from the Governor's Office indicated that one of the priority issues this legislative session would deal with existing uses in buffers of critical areas. All 39 counties agree that on-going existing AG in buffers of critical areas is important to continue. AG unilaterally has been singled out and he was hopeful the Governor heard that message. Prior to commencing the Legislature the Governor pulled the legislation to be dealt with later, told last week the reason was due to pending litigation and wanted to see how the courts would rule. To him, that was exactly what was wrong: allowing courts to become legislators, when legislation should be written in a way that courts can interpret it in terms of what is wanted. He did not see Mary Margaret Haugen's bill on education hurting the County, but would it carry the day in court, he did not believe it would. He heard nothing tonight, with the exception of one speaker, that he disagreed with. For those existing and on-going AG activities, in his opinion folks tonight hit it right on the mark, but he did not think it defensible nor an achievable goal. He did see up-coming programs around water quality that he thought would have a positive impact on AG and in many ways and validate what this County is trying to do around BMPs. Island County does have a right to farm ordinance and the real estate industry is required to disclose that.

Commissioner Shelton was sad to hear the gentleman say tonight he would have to stop farming; unfortunately, he had a gentleman in the office a few days' ago asking for a delay on this matter as long

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as possible in order to give him sufficient time to liquidate his herd, expressing the fact he was not going to make as a public document his farm plan so WEAN could use it against him. It is most unfortunate that way too many farmers feel that way in Island County. He did not know what all the answers were, and would love to be more proactive in protection of AG, but changes are needed in State law before the Commissioners can do that. He spends a lot of time lobbying the legislature and he promised to keep trying.

Chairman McDowell agreed with Commissioner Shelton, and noted that there likely would be no sweeping changes until the State law changes. The County is at this point partially due to having lost a significant issue in court. There may, however, be some “tweaking” that can be done from points brought up tonight that he will ask staff to consider, such as points brought up about Snohomish County, following NRCW BMPs, the requirement about 6 months being too soon, and concerns about what activists groups are doing with the farm plans. Commissioners Byrd and Shelton concurred in that direction to staff, and confirmed their feeling for no reason to go beyond NRCS BMPs.

Mr. Dearborn clarified that the Board did not need to hold another public hearing if considering changes in amendments based on public testimony, and would only need to hold a new public hearing if there is a new amendment not commented on in the prior hearing. He suggested setting a date to end public comment and at the end of that public comment period hold a meeting, and based on public comments received during that period, decide if there needs to be another public hearing to consider further changes in the ordinance or simply set a date for deliberation on changes the Board already heard through the public hearing process.

It was the Chairman’s suggestion that written comments be accepted between now and the close of business February 15th and this hearing continued to February 27.

Commissioner Shelton moved to continue the Public Hearing until February 27, 2006 during the Planning Agenda at 2:30 p.m. and allow for continued written comment between now and the close of business February 15th, and the purpose of further debate by the Board on February 27th. Motion, seconded by Commissioner Byrd, carried unanimously. (Notice of Continuance GMA #8593)

Note for record. For today’s public hearing, a Memorandum dated this date from Tim McDonald, Health Services Director, RE: Comments for Public Hearing on Updating the County’s Comprehensive Plan and Critical Area Regulations for Existing and On-going Agricultural Activities, was entered for the record [GMA #8592]

There being no further business to come before the Board at this time, the meeting adjourned at 5:35 p.m. The next regular meeting of the Board will be on February 6, 2006 at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Wm. L. McDowell, Chairman

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William J. Byrd, Member

Mike Shelton, Member

ATTEST:

Elaine Marlow
Clerk of the Board