PLANNING COMMISSION

SUMMARY MINUTES

May 9, 2016

APPROVED AS WRITTEN

Dean Enell, Chair

APPROVED WITH NOTED CORRECTIONS

Chair

ISLAND COUNTY PLANNING COMMISSION
SUMMARY MINUTES
COMMISSIONER'S HEARING ROOM, COUPEVILLE, WA
MONDAY, May 9, 2016

	Members Present	*Members Absent*
District 1	*Val Hillers*	
	Dean Enell – Chair	
	Karen Krug	
District 2	*Jeffery Wallin*	
	George Saul	
		Darin Hand
District 3		*James Caspers*
	Beth Munson – Vice Chair	
		Scott Yonkman

Meeting was called to order at 2:00 p.m. by Chair Dean Enell.

ROLL CALL

Beth Munson, Val Hillers, Dean Enell, Karen Krug, George Saul, Jeff Wallin

MINUTES:

Commissioner Krug moved to approve the March 17, 2016 minutes; Commissioner Wallin seconded. Motion passed unanimously.

Commissioner Hillers moved to approve the April 11, 2016 minutes; Commissioner Krug seconded. Motion passed unanimously.

Commissioner Saul moved to approve the April 25, 2016 minutes; Commissioner Enell seconded. Motion passed unanimously.

Planning staff present: Keith Higman, Interim Long Range Planning Director; Paula Bradshaw, Office Manager Planning and Community Development.

ITEMS FROM THE PUBLIC

Steve Erickson, Whidbey Environmental Action Network (WEAN)

Mr. Erickson stated that he believes that the Fish and Wildlife compliance process is fairly dysfunctional. When materials are provided on the Friday before the Monday Planning Commission meeting, it doesn't give the public enough time to evaluate and comment on those items. By the time the Commission sees his comments there will already have had a workshop and the outcome of that workshop is that the Commission will probably be directing staff to take particular directions and that is what will be presented at the hearing.

Mr. Erickson stated that the County is skirting perilously close to GMA's critical area public participation requirements. He noted that the County has to show action and compliance by the end of June. He stated that he is disappointed that the County has continued its long-standing process of delay, obfuscation, overt and covert delay in complying with the GMA in terms of protecting critical areas, in this case fish and wildlife.

Tim Kangas, Freeland

Mr. Kangas stated that at the April 25, 2016 meeting, he had presented the Planning Commission with a 64-page data package. This package contained emails and other communications all the way back to 2013 regarding Island County's Temporary Events policy problem, stressing the need for clarity and consistency around this issue in Island County Code. He also noted that he had communicated with Dan Mitchell, Island County Chief Deputy Prosecuting Attorney about this issue and the instances of perceived abuse of Code. Mr. Kangas noted that Michael Bobbink, Hearing Examiner had requested that we create a winery definition. Mr. Kangas remarked that he is aware that creating a winery definition is not a required part of the current Comprehensive Plan Update, but urged that this topic be addressed, in addition to Farm Housing and low income housing.

Mr. Kangas informed the Planning Commission that he believes that the materials packet for the May 2 Joint Session was made available only one business day before the meeting. Review of this information revealed that three of the four elements under review are not legally required to be addressed as part of this update. He believes that the Draft Economic Development chapter, in particular, is problematic in both approach and content.

He then stated that later in the workshop, Commissioners found an undeniable link between zoning changes and property values. He cautioned the Planning Commission against making changes to zoning that could impact property owners and lead to costly litigation against the County.

Mr. Kangas concluded by saying that he recommends that Commissioners restrict the Comprehensive Plan Update process to only those items required by law. Then focus efforts on cleaning up definitions for events, tours, farms and gardens. He cautioned against defining winery until the entire Rural Event Center process is complete.

Susan Bennett, 2191 Goss Ridge Road, Freeland

Ms. Bennett noted that Commissioners will be considering two kinds of habitat protection today: Logging regulations and Critical Areas Ordinance for prairie habitat. She stated that prairie habitat is and must be protected as an ecosystem, and should include endangered plants and birds. Ms. Bennett advocated for not mowing during seed gathering time. She asked that the Commissioners consider birds that nest on the ground in springtime.

Ms. Bennett also hoped that the County will further evaluate the need for wildlife corridors in consideration of logging permits and development permits, especially in the narrower portions of the island.

DIRECTOR'S REPORT

Since Director Hiller West couldn't attend this meeting, he asked Planning and Community Development's Office Manager, Paula Bradshaw to address the Planning Commission in his place.

Ms. Bradshaw stated that she wanted to clarify the process in which comments received from the public are distributed to the Planning Commission: First, all email addressed to the Planning Commission is immediately forwarded to the Planning Commission. All written correspondence addressed to the Planning Commission is scanned and emailed the within 24 hours. If emailed comments are received over the weekend, copies are printed out for delivery to the Commissioners at their meeting on Monday.

Typically, comments received are related to an item the Commission has before them for consideration, an item on the Planning Commission's agenda. Comments sent to other government entities that might touch topics under consideration by the Planning Commission are not always intended, by the citizen who sent them, to be shared with other agencies. For example comments sent to the Hearing Examiner are related to a specific appeal or land use permit and do not typically cover the broader aspects of the topic the Planning Commission would have before them.

Recently our department made changes to make it clearer where to send email comments to the Planning Commission. We recently added a new email address specifically for the Planning Commission: PlanningCommission@co.island.wa.us This new email address is now listed on the Planning Commission's webpage and it will also be located at the bottom of every future published agenda.

She further clarified the procedure for a Planning Commissioner to request specific information to be gathered and distributed to the other members of the Commission. These requests should come through the chair for consideration; the chair then works with the Planning Director to determine the appropriate meeting or time for dissemination, depending on the topic. We want to be respectful of this volunteer body's time and not overwhelm you with random information, but we also want to provide any information you feel is important to your work.

WORKSHOPS

WASHINGTON STATE AND ISLAND COUNTY REGULATIONS GOVERNING FOREST PRACTICES, IN PARTICULAR REGARDING CLEARCUTTING UNDER ISLAND COUNTY CODE CHAPTER 17.03.270.C AND D AND RCW 76.09

Chair Enell noted that the focus of this workshop is for the Planning Commissioners to learn more about the different permitting processes between the Department of Natural Resources (DNR) and Island County.

Current Use Planner Michelle Pezley introduced Public Works Development Coordinator Bill Poss and DNR Foresters Bud Westcott, Rich Dodge and Steve Ranton.

Bill Poss outlined Forest Practices permits in Island County; they fall into two categories in Island County:
Conversion permit – a proposal for harvesting timber on their property for the purpose of converting it to some other use, not for replanting. It will be converted into something other use than forestry. For those types of conversions they need to apply for a Clearing and Grading permit and submit a SEPA Environmental Checklist. It is then reviewed by the County for consistency with our local codes. Once this is completed they go on to the Department of Natural Resources for a Class IV Conversion.

The other types of forestry permits are called non-conversion permits, where someone wants to harvest timber and intend to replant and keep it in a forest condition. Those types of permits are managed through the State DNR. Island County does not have a role in those types of permits, except to address the six year development moratorium that is applied for these non-conversion forestry activities.

A fair number of those permits have come in especially since the recession; people have been picking up the pace on timber harvesting. As a result we have seen some of these properties being sold and people wanting to develop them. There is a process in our local Code that allows for a property owner to propose to remove the moratorium before the six years is completed. The review process does consider the impacts of the site from the forestry activities and requires a thorough review because DNR regulations allow for harvesting within buffers and sometimes within wetlands as well, but ICC precludes that.

If a wetland was disturbed legally under such a permit, the process requires a wetland analysis and the impacts are evaluated and mitigation plan is typically prepared to address that.

Commissioner Hillers asked about tax incentive program related to forestry?

Mr. Poss responded there is a property tax program that allows for a reduced property tax for designated forest or open timber. If a property is in that program they owner is required to file a Timber Management Plan with Assessor's Office, showing how they will manage the timber property as a forest production land.

Conversions require communication with Assessors' Office, to ensure it is removed from the program and back taxes are paid.

Discussion of the process continued.

DNR will not allow moratorium to be removed, it has to come through the County.

Bud Westcott, DNR stated the State DNR has no jurisdiction to approve lifting of moratorium. The development component is a long as the land has been reforested DNR feels they have met their obligation for forest practice and at that point they can go back in and apply for the removal of the moratorium from the County.

Not a lot of civil authority as far as a civil penalty, the requirement is that within 3 years it will be reforested with a marketable species of tree. If it comes back in Alder, but the applicant's plan stated they would plant Doug Fir, they have still fulfilled that requirement, providing it has met the spacing across the acreage. 300 applications can be open at any given time.

Discussion continued.

Mr. Wescott provided additional information on what is called a Conversion Option Harvest Plan. The permit is completed like a normal harvest, but they go through the SEPA process on the front end stating there is a potential that they will develop the land in the next 3 – 5 years. That avoids the moratorium issue.

Mr. Poss added that there is a County process for the Conversion Option Harvest plan that the owner agrees to limit harvest, and have already met intent to adhere to local ordinance.

Commissioner Hillers asked DNR if there were things in County Code he felt needed to be changed.

Mr. Wescott replied he didn't see anything from his side that would require a change in County Code. The State and County have developed a good standing relationship.

Mr. Poss replied one area in local Code that could be improved would be to provide more leverage in implementing a plan for those instances where someone is proposing to lift a moratorium where there have been critical area impacts, where a mitigation plan has been approved. It might include a waiting period to prove it is successfully reforested before lifting the moratorium.

Commissioner Enell felt the following should happen:

1. Mitigation plan should have a time period to establish if mitigation is successful.
2. Stormwater, ensure it is not issue with some type of timeframe.
3. Record moratorium on deed.
4. Large properties should delineate where they are going to log and record where the land is situated.

Commissioner Hillers suggested an alert on the deed that says some portion of this property may be precluded from development, some type of wording that would send people to the County for more information.

Mr. Wescott added he has contacted the real estate groups to remind them of disclosure laws to make sure those things are disclosed.

Chair Enell opened the item to public comment.

Marianne Edain, WEAN
Stated she believes she is the only person who reviews every forest practices application.

The lack of environmental review for Class II and III non-conversion permits. By definition in State law they cannot and will not have adverse environmental impact and therefore we will not do environmental review. It is not a change that can be made at the County level; it must be done at the State level.

Provided information and details of several forest practice permits that she felt where clear examples cumulative impacts. In 1990, DNR promised that they would look at cumulative impacts, and nothing has been done.

Conversion Option Harvest Plans (COHP) are not subject to environmental review and she felt this was a serious problem. She provided an example where in spite the presence of Western toads and in spite of the impact on this listed species, the moratorium was lifted. She clarified that they were not anti-logging, but anti-clearcutting, which destroys the ecosystem. She felt the process is being abused.

Ms. Edain further stated we are not doing enough to address the damage she is seeing. She advocates for Island County to take over the process from DNR.

Steve Erickson, WEAN
Discussed his views on the situation of the Western Toad and logging effects, the Western toad is a candidate for listing as threatened or endangered. In the early 2000's a property owner found the western toad in her wetlands and reported it to the Washington Department of Fish and Wildlife. A biological site assessment was done in 2006 as part of a permit to remove a derelict building and it stated the wetland was likely a breeding site. Ownership changed to a professional developer and in 2014 clear-cut under a COHP with no environmental review and no county review and the moratorium was lifted in 2015 for a professional developer.

He recommends:
1. Require notice on title for all logging, including COHP.
2. Require SEPA for COHP under Island County zoning authority.
3. Moratorium is laughably short, should be longer.

Chair Enell reminded Mr. Erickson to wrap up his comments as there are still three workshops on the agenda today.

Karen Bishop, Whidbey Conservation District
She stated the conservation districts role in forest management is to provide forest conservation planning for small forest landowners. They find that working in collaboration with DNR, WSU, Forest Steward Land Owner Program and the districts provide a lot of education to these small forest landowners. What she has seen over the last ten years is forest owners are starting to open up and really manage their land.

She further stated that it is really scary driving down the island and seeing the number of stands that are unhealthy. Whatever action the County takes needs to promote management and not just fear of cutting a tree otherwise she fears we will find ourselves in a similar situation to what is seen in Eastern Washington. Unhealthy forests are a serious fire risk.

Maureen Frehill
There is a lot of evidence that a landowner who well manages their forest can over time make more financial gain than if they had clear-cut. That has been determined by people like Merv Wilkinson in the northwest logging practices he did over many years on his land, for example selective logging can maintain health of forest and makes more money over the long term. Education could be important regarding how to manage forest.

Additionally she added that the quality of Island County is very different from rest of the state. The DNR rules make sense in those larger areas, but not in a smaller area like Island County.

Chair Enell closed public comment.

The Commission members agreed the information was very valuable and would like to address it in the future. It is a complex issue and more information needs to be gathered. It is an item they would have put back on a future agenda once the Comp Plan is further along.

Commissioner Saul wanted to make sure to memorialize the collective thoughts and ideas of the Commission regarding potential recommendations.

The following list of the Commission was identified as needed further study and examination:

1. Describe the boundaries of the sub-parcel to be logged.
2. Record the moratorium on the deed of the property.
3. Allow Planning Staff put a time limit on the moratorium in respect to the success of mitigation and stormwater runoff.
4. Cumulative impacts.
5. Standards to lift the moratorium.
6. Education on forest practices.
7. Notion of the scale of the County being different from the rest of the state in general and therefore the County system should be used more to the exclusion of some of the DNR alternatives.
8. Move it under zoning authority.
9. COHP needs further study.
10. Improve compliance with mitigation.

DISCUSSION ON PROPOSED AMENDMENTS TO TITLES 16 AND 17 OF ISLAND COUNTY CODE.

Current Use Planner, Michelle Pezley provided information on the proposed amendments.

Code Section	Description
17.03.040	Definition of "applicant" should refer to land use or land division, not limited to 'land division' only. See staff definition, which includes owners and authorized agents

The definition in ICC 17.04.040 currently is: *"Any person who files an Application for Land Division who is either the Person(s) identified in the Assessor's records as the Owner of the Property on which the proposed activity would be located or the authorized agent of such a person."*

Planning Commissioners agreed.

Chapter 17.03 — Code could use language to 'expire' permits if no action by applicant in a certain period of time. There needs to be an expiration period, i.e. six months or one year.

Ms. Pezley stated there was no Code provision for a permit that has no action to expire. She further stated that she had many on her desk, some as many as three year's old waiting on an applicant to respond to a review letter. Staff would like to see a provision that would allow the application to expire after a certain period of time with no response from an applicant.

Commission asked if there was a recommended time frame to which Ms. Pezley stated six months to a year had been suggested.

The Commission thought six months was too short and agreed one year was made more sense, however they were concerned about circumstances such as illness. If there would also be a provision that a 90 day reminder that the permit was about to expire would be a good solution.

17.03.180T.1 — Preamble of this section refers to the Rural zone, but it goes on to list uses in other zones as examples. The preamble should state that the definition of "Small-Scale recreation and tourist uses" does not refer to what is allowed in any particular zone.

Ms. Pezley stated the cleanup for this section would be to add the other zoning districts where small scale recreational tourist use allowed in addition to the Rural zone or to strike out the zoning reference. She further stated the biggest problem with the way it currently reads is if you are outside of the Rural zoning district and wanting to do a small scale tourist use and you look at this section it would appear it only applied to the Rural zone.

Planning Commission decided this item needs more review.

17.03.180.T.5 — Amend language re: "Equestrian Centers: " . . . breeding or rental of horses . . .".

Michelle Pezley stated the suggested recommendation for this item is to change the word and to the word or to make it clear if you meet one of the requirements then you would follow this provision.

Planning Commission agreed to this change.

17.03.180.W.3.b Reasonable use is defined in code, reasonable "economic" use is not. Reasonable use is in three different sections of code; once a common definition is agreed upon; there should be a single reference. Reasonable Use is defined as follows in ICC 17.03.040: *"Reasonable Use: The Permitted or Conditional Use of a specific parcel of land which a person may be expected to conduct or maintain fairly and appropriately given the site specific conditions or characteristics of the Parcel and Uses allowed for all other properties within a similar classification."*

Ms. Pezley stated the recommendation on this item is to combine all definitions for reasonable use and only use one definition. Action was taken by the Board of Island County Commissioners on defining a Reasonable Use determination for 17.02B as part of the GMA appeal and this one definition could be used for all three definitions, currently in Code.

Planning Commission stated using the most current approved definition makes sense, mention was made to one of the definitions having "reasonable economic use" and they agreed the economic reference needed to be removed.

The question of whether to address all the Code cleanup changes at one public hearing was discussed.

Planning Commission agreed they would prefer them to be done all at once.

Chair Enell opened this item to public comment.

Kim Shepard, 112 Crockett Farm Rd
Concerned with another Code cleanup item in 17.03.040, lot area where tidelands are now included in lot calculation size for development proposes. In the Crockett Lake area a proposal last year brought up the fact that because the County Code didn't say you couldn't count wetlands and land under the water as part of your acreage, the Hearing Examiner and the Court confirmed you could count it. She felt this didn't seem right in light of out Shoreline Management Program and critical areas. She felt this was something that should be specifically addressed in the Code.

Steve Erickson
Stated to have only one definition of Reasonable Use in the Code would be a quantum leap forward.

REVIEW OF PROPOSED CHANGES TO THE ADOPTED FISH AND WILDLIFE CONSERVATION AREAS REGULATIONS ICC 17.02B, TO ADDRESS A GROWTH MANAGEMENT HEARINGS BOARD ORDER.

Director Keith Higman stated he would like to add three quick things he wanted to add based upon some of the things he heard today. The first was that the audience chairs were horrible. The second item was that Code cleanup is not the same as the periodic update to the Comp Plan.

They are not the same thing. The periodic update is not driving the Code cleanup process; these are issues that have been waiting to be addressed.

The last item was addressing process and timing comments made today, why we are having certain conversation and why not others and he stated he wanted the Commission to understand he took ownership for that and wanted to be sure the Commission understood the Planning staff were working their tails off. Night and day, working overtime, on the weekends and he didn't want any member of the public to think the pace has anything to do with the staff.

Mr. Higman then introduced the work shop item. Seven issues were remanded by the Growth Board for action. The first three easiest issues were dealt with first and the Board accepted the Planning Commission recommendation and took affirmative action on those three items.

The conversation today covers briefing the Planning Commission on the four remaining items. He confirmed the timing on providing the documentation short, stating he couldn't call it late because the final documents came from the consultant on Thursday and they went out on Friday.

Part of today's conversation is to discuss how staff reads the information in the Technical Memorandums to provide some idea of the considerations and next steps moving forward to a public hearing on policy options for addressing these remaining issues.

Planner Meredith Penny stated the purpose of today was to help inform the Planning Commission and the public prior to public hearing. For each of the issues I will outline some considerations, provide an overview of the BAS outlined in the technical memos and review the strategy for addressing the issues.

Natural Area Preserves

Considerations

- Island County (IC) has one state designated NAP – Naas NAP
- 33 acres north of Camp Casey and Keystone Harbor
- Agency establishing the area typically includes sufficient land to ensure no net loss of critical habitat functions and values so that the designation doesn't result in imposing further restrictions on neighboring properties
- In response to the Growth Board decision, the County took a closer look at this issue and retained technical consultants to ensure BAS informed its decision making

Overview of Science

- Current NAP site was developed to protect and restore habitat for two populations of golden paintbrush and to protect a rare forest community
- Primary conservation feature of the Admiralty Inlet NAP is a rare prairie plant, golden paintbrush, a federally threatened plant species
- In addition to the golden paintbrush habitat, the NAP includes 36 acres of a rare forest community of Douglas fir, western hemlock, oceanspray, and swordfern
- Blow down from windstorms is particularly significant occurrence on Whidbey Island given the locations exposed to the prevailing southwest winds

- Forest community within the NAP is described as old-growth forest – oldest Douglas fir trees are up to 250 years old, with smaller trees between 140-145 years old.

Next steps moving forward

- Washington State Department of Natural Resources (DNR) and IC Best Available Science (BAS) Report outline that NAP borders established to include sufficient buffering except possibly an area owned by Seattle Pacific University (SPU)
- BAS report confirmed development on SPU property should be evaluated for impacts to NAP, but BAS does not support buffering elsewhere
- Staff is developing language that buffers not be required adjacent to areas as long as the areas encompass land required for species preservation (per BAS) as confirmed by the Planning Department and that if buffers are required they shall reflect the habitat sensitivity and the type and intensity of activity proposed to be conducted nearby

Keith Higman provided additional information. Nine acres of the forest community that has been identified as being unique exists on the SPU property to the south. In 2008 the Board of County Commissioners updated the County's Comprehensive Plan adopting the Camp Casey Master Plan and was approved with a Mitigated Determination of Non-Significance which applied mitigating conditions of approval, specifically to develop a Forest Management Plan for that property, requiring separation from development, separation in terms of uses, protection of the forest on the property to the south to prevent blowdown.

He further stated he brings this up because it was not information that was identified within the consultant's review of the project. It was information brought to our attention by the landowner. It is the language that staff will be working with. It provides the Director with the ability to identify and establish buffers on that property. It would be determined if there is anything in addition, any previous action that needed to take place. There are no current development plans on that property. Any future development would be evaluated at the time of presentation.

(from the audience) Marianne Edain stated she needed to interrupt because the plan was invalidated by the Hearings Board.

(from the audience) Daryl Jacobson (SPU) stated he thought it was a Master Planned Resort; it was the approval they got.

Keith Higman stated this was a document just identified and reviewed this morning. There was initially a Special Review District proposal appealed to the Growth Board and deemed to be invalid. Then there was a process to update the County's Comprehensive Plan to identify Existing Master Planned Resorts, and a process for reviewing and approving Existing Master Planned Resorts.

Discussion continued with the audience regarding the document. Keith Higman stated he would look into the issue further allow both SPU and WEAN to share their thoughts with him before he provided a response to the Commission to get the accurate answer and outcome.

Meredith Penny continued her presentation, concluding the Natural Area Preserve issue. She proceeded with the next item.

Western Toad

Considerations

- Not listed as threatened or endangered by the federal Endangered Species Act
- The state does not list the toad as threatened or sensitive under WAC 232-12-011
- Should its status change, the County's critical areas regulations would automatically protect it under 17.02B.200(A)(1)
- During the 2014 update to the FWHCA regulations, the TAG recommended that additional provisions to protect Western toad in Island County were not warranted
- Their recommendation was based on the limited documented occurrence of the Western toad in Island County, and existing protection of breeding habitat for the Western toad through wetland and wetland buffer protections under 17.02A
- County has now elected to obtain current science analysis on the Toad to ensure action is informed by and based on BAS

Overview of Science

- Technical memorandum covers population trends, the distribution in Island county, habitat use and known stressors for the Western toad
- Has not been documented as being locally common, three occurrences have been mapped in Island County by WDFW
- One documented breeding site is located east of Crockett Lake; at a site know as Willow Pond. Second mapped occurrence is in Deception Pass State Park and the third is near Greenbank
- Western toads can occupy a variety of upland habitats, but rely on open water for breeding and egg development
- While it is known that toads migrate seasonally between aquatic breeding sites and terrestrial nonbreeding habitat, it is not clear exactly how far they disperse, or which specific terrestrial habitats are used in Island County
- Habitats with which western toads have a known primary association are wetlands. These areas are protected as critical areas under Island County's critical areas ordinance, and they are required to have a protective buffer area, based on providing appropriate protection for the quality of habitat
- The memo notes that disease and predation may be significant causes of population decline particularly in the southern rocky mountain population
- Also note that given the broad range of upland habitats known to be used by Western toad and the predominantly rural and undeveloped nature of unincorporated Island County, upland habitat for Western toad is not known to be limiting in the County
- Because the population and population trends are unknown, and local stressors remain unidentified it is difficult to link regulatory actions to recovery objectives

Next steps

- BAS does not support a finding that without protection there is "likelihood" the species will not persist over the long term

- While protecting breeding sites and collecting further data on the species is a viable approach, taking further regulatory action without BAS support would be difficult
- Staff is developing language to protect Western Toad ***breeding sites*** (as documented by WDFW or a qualified professional) through the County's wetland and stream critical areas (CAO) regulations

Chair Enell stated they seem to get conflicting information on the Western toad.

Mr. Higman replied the consultant's work revealed that not much is known about the Western toad. It identified what type of habitat it likes for breeding, some literature on the species itself, but not much in terms about what is known about it locally. The one key issue that was identified is that when it is identified in one location and is using that location for breeding, then that habitat would need to be protected if you were trying to protect the species. Once it leaves that breeding area it is hard to identify what kinds of habitat it uses which makes it hard to identify regulatory controls to protect it.

Chair Enell stated it would seem to boil down to things we don't know about how many there are and where they might be. Do we err on the side of operating on what we do know for sure, what credence do we give to possibilities which we don't know?

Mr. Higman replied that's the million dollar question. Today the toad is not referenced in the regulations at all. The proposal would be to acknowledge them in a separate section of the Critical Areas Ordinance, understanding that what really needs to occur is to determine if it is common or not. If it is common does it require protection, if it's not common does it require protection and understanding more about the type of habitats that are used outside of its breeding site, which could lend itself to future protection strategies? Today, what would those protection strategies be if you don't know what habitat it utilizes, other than where it breeds and lays eggs?

Chair Enell opened the topic for public comment.

Marianne Edain
Part of our frustration is that we send you guys material and somehow it doesn't seem to get to you or it's not being read.

Several Commissioners stated they had read it.

Steve Erickson
Referenced the May 3rd memo from the joint workshop, which referred to a thorough memo that was going to be presented today, stating he assumed the memo "Considerations and Strategies for FWHCA Regulations Amendments to be Scheduled for Public Hearing on May 23, 2016" to be the thorough memo. He felt it was mistitled and should be titled, "The County Commissioners have decided to defy the Western Washington Growth Management Hearings Board order in case No. 14-2-0009".

He further stated he felt they all reject the Hearings Board's decision. Mr. Erickson went on to outline the following concerns:

- NAP – referring to staff's last bullet point, "Staff is developing language that buffers not be required adjacent to areas as long as the areas encompass land required for species preservation." The Hearings Board rejected the concept that NAPs were solely for species preservation. It is one of the reasons it was remanded to the County.
- There needs to be some consideration for burning within the reserve. Fire, controlled burning is a standard management technique. As larger areas get burned it will be more of an issue in terms of smoke. He felt a setback was required for future development to avoid pressure on the reserve not to use that management tool from neighbors who would build too close. That's what GMA says you have to protect against.
- Western toad, found the Best Available Science compilation very selective in what they chose to say. The criteria here is not whether it meets the criteria for Species of Local Importance, the standard is whether it meets the criteria in the GMA statute and the rules for implementing the GMA.
- County's treatment of rare plants with prairies, oak woodlands, and herbaceous balds are not the same. They are different issues. The County was ordered to protect prairies, herbaceous balds, and oak woodland habitats.

Chair Enell stated he appreciated the submission of his materials, that the Commission did get the materials. It is a lot to digest, particularly when there is contradictory evidence.

Prairies and Oak Woodlands

Considerations

- Of the 13 identified prairie and oak woodlands areas:
- 1 area in Shoreline jurisdiction
- 4 areas located entirely within CAO jurisdiction (64 acres)
    - 2 of those areas are protected under the existing Fish and Wildlife Habitat Conservation Areas regulations (FWHCA) 17.02B
    - 2 areas do not appear to include regulated features (11 acres)
- 8 areas potentially or partially within CAO jurisdiction (153 acres)
    - 5 under FWHCA regulations (94 acres)
    - 4 do not appear to include regulated features (59 acres)
- Most sites are protected by existing CAO regulations and/or are publically held and subject to state management protocols to preserve habitat

Overview of Science

- Only 5 percent of the soils in Island County are made up of prairie soils
- 13 areas of remaining prairies, herbaceous balds, and oak woodlands in unincorporated Island County were identified
- There are a number of vulnerable animal species associated with the prairies, herbaceous balds, and oak woodlands of the Puget Sound Region; however, most of them do not occur on Whidbey Island
- Grassland plant associations on Whidbey island include several threatened, endangered, or sensitive plant and animal species
- Agricultural development of fertile prairie soils has been a cause of loss and fragmentation of prairie habitats and impacts to prairie species

- Known stressors for prairies include, agricultural development of fertile prairie soils, development of military facilities, development within urban areas, non-native species invasions and fire suppression
- Today much of the prairies habitat on Whidbey Island is owned by a public agency or conservancy organization and managed for habitat conservation
- The most significant stressor to herbaceous balds has been the exclusion of fire from the system
- Oak woodlands in Island County have been cut, grazed, or incorporated into urban environment with almost the total loss of these native ecosystems

Strategy

- Extra layer of designation would ensure these identified prairie and oak woodland sites are protected so that to the extent there are any gaps in the regulatory structure, they are covered
- Staff is proposing to address this by listing the Prairies, Herbaceous Balds and Oak Woodlands as habitats under 17.02B.510(C) as habitats of local importance under the header of: "Prairie and Oak Woodlands, to the extent outside SMP jurisdiction"

Chair Enell inquired about the statement that Island County was going to consider prairie and oak woodland, asking if that was a change from the current regulations.

Keith Higman responded that it was, currently that section of County Code with the heading of Designated Habitats and Species of Local Importance, has two tables. One is protected species list flora, plants with a number of plants and their state and federal status and the second is species habitat of local importance that are animals. The concept would be to add these thirteen habitats and their areas to habitats of local importance, which would then subject them to the standards in 17.02B.440 that don't exist today.

Discussion with the audience regarding procedures for the May 23rd public hearing ensued, discussion the availability of materials, submission of written materials and limitations on the length of public testimony ensued.

Commissioner Krug moved to adjourn, Commissioner Wallin seconded, motion carried unanimously.

Meeting adjourned at 4:49 p.m.

Respectfully submitted,

Paula Bradshaw

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