

**CAO REVIEW COMMITTEE – MEETING #6
MEETING NOTES – JANUARY 31, 2008**

Attendees:

Committee Members: Jim Slocomb, Fred Munder, Stephanie Field, John Evans, Todd Goldsmith, Stephanie O'Day.

Public: Barbara Rosenkotter, Mary Knackstedt, Brian Rader, Katie Knight, Bob Fritzen, Karin Agosta, Julie Thompson, Tina Whitman, Jack Cory, and Liz Illg.

Staff and Presenters:

Bob Fritzen – Department of Ecology – Shoreline Management
Tina Whitman – Friends of the San Juans, Director of Science
Katie Knight – Department of Fish and Wildlife – Planner

Shireene Hale – Senior Planner, San Juan County Community Development and Planning
Notes Taker – Lynda Guernsey, DAII, San Juan County Community Development and Planning
Shireene Hale, Edits

Time and Location:

8:51 a.m. – 1:45 p.m.; Fire District #3, 1011 Mullis Street, Friday Harbor.

Next Meeting(s):

Estimate 10:30 a.m. to 3:00 p.m.; Lopez Community Center, 204 Village Road, Lopez Island.

Meeting:

Public introductions were done and Shireene stated, regarding the agenda, that Fish and Wildlife representatives were not going to be here today but Tina Whitman, Director of Science for the Friends of the San Juans, will be giving a presentation instead. Shireene also stated that business items will be moved to the end of the meeting.

Citizen Input was opened and no one spoke.

Shireene presented a slide show as part of an introduction to the Fish and Wildlife section of the CAO. She described this section as one that will be one of the most diverse and difficult. More case law has been done since this section was originally supposed to be completed, and as such, more will have to be done to comply. The Guiding Principals will define the perimeters that will have to be followed.

Comments from Committee:

- Dramatic weather changes are occurring and weather predicting 20 years out can't be done. Is that taken into consideration in the CAO process (i.e., changes in wetlands, etc.)?
- Updates will happen along the way.
- Perhaps use the Best Available Science document handed out previously.
- Core requirements for Fish and Wildlife Habitat Critical Areas you will get from the slide show.

Presentation by Shireene Hale, Senior Planner, Community Development and Planning – Introduction to CAO Requirements for Fish and Wildlife Habitat Conservation Areas

Comments from Committee and Shireene during presentation:

- Protected Species - Should define what “critters” we are protecting.
- The state department of Fish and Wildlife has a long list of protected species. The technical people have been reviewing the long list to see if it needs to be shortened.
- Shireene will supply a list to the Committee of who is on the technical review group.
- Habitats - There is a criterion for adding habitats to the list, but the list is fairly long already.
- Waters of the State – Critical Areas Ordinance does cover state and private ownership with boundaries. We shouldn't have to be careful as long as we are protecting.
- Prairies – We will need to take a closer look at this portion.
- Opportunities – Things are still in good shape on the 408 miles of shoreline in San Juan County. People here appreciate the “critters” and that they need habitat.
- Challenges – Managing 408 miles of shoreline and protecting the habitats.

General Comments from Committee and Shireene:

- There will need to be coordination between shoreline actions and the state Shoreline Master Program.

- Discussion that the one size fits all fix that the state imposes may not be the best for San Juan County. It can have effects on the already shrinking diversity of the community and uniqueness of the islands.
- Discussion of the lack of expertise within the County to deal with the Fish and Wildlife section. There is concern regarding the state dictating what is required to comply with, and make determinations, if they aren't going to come to San Juan County. A grant has been applied for to hire the expertise but Shireene won't here back about that for about three months. Any ideas will be considered.
- Eelgrass maps – Need to find ways to fund research on eelgrass in the long term. Habitat maps – Shireene is working on getting updated maps from the state. The location information on the maps isn't available to the general public. There was concern expressed as to how the Committee will be able to do their job if they don't have that type of information. In regards to building, the public will be able to tell on the map that it's a CAO area, and then call in to see what would be required before building.

Presentation by Bob Fritzen, Department of Ecology (DOE) – Coordination of Critical Area Protection Requirements with the Shoreline Management Program

Comments from Committee and Bob Fritzen during presentation:

- The difference between the Shoreline Management Act and the Shoreline Master Program (SMP) was explained. The state regulations are in the Shoreline Management Act, local governments have their Shoreline Master Programs, encompassing the regulations in the policies in their Comprehensive Plans and regulations (for San Juan County, the Unified Development Code).
- The Department of Ecology rewrote the guidelines a couple of years ago which means that Counties now have to rewrite their Shoreline Master Programs to comply. State bill ESHB 1933 states that the CAO will be part of the update with changes requested by DOE. If this Committee does a good job on their CAO then it will be pulled in as part of the SMP update.
- Paul Anderson, DOE, has expertise on wetlands. There are models from other Counties out there that can be modified by this Committee for their use.
- There is a case before the State Supreme Court now that could mean the CAOs become a part of the SMPs sooner than expected. If this passes, there is a fear of a loss of protection of critical areas, as the SMP regulations as they are now would have to cover those areas. The process is to have proceeded with broad categories of critical areas and the specifics being done by each local government.
- It is rare for state agencies to appeal CAOs, more likely to come from the local community. If you are appealed the Shorelines Hearing Board will give you guidance on what needs to be done or corrected.

- Discussion of net loss. Concerns were expressed regarding the property owner paying more for any work done in critical areas to the point of excluding the property owner. The Committee must really do a good job on the regulations to find balance between no net loss and the ability of property owners to do what they want. Land decisions that have been made prior to the update won't be undone. Undeveloped property might get more protected but it has to be weighed with individual property owner. Balance will be the issue.
- Discussion of buffers and setbacks. Concern that there may no development on the shoreline. Buffers and setbacks aren't the same by definition. All local governments are dealing with the issue of buffers. Sciences are revising themselves also. Fish and Wildlife will come up with the science and then the County will need to do what they feel they need to. Appeals will likely come from environmental groups. Setbacks are used a lot in nearshore at the state level. Buffer will determine setback, so maybe only use the buffer.
- So many pristine areas here in San Juan County that it increases the concerns had by all. The whole county is basically a critical area so another important aspect is the use of land and water dependent uses, etc. The development must be mitigated. There are no easy answers.
- Bob will be reviewing our CAO to see if it meets the SMA. His suggestion is to do the best you can and put it out for comment and review.

Presentation by Tina Whitman, Director of Science, Friends of the San Juans – San Juan County Priority Shoreline Habitats

Comments from Committee and Tina Whitman during presentation:

- Nearshore – Is out to depth in water where light stops, and up to top of bluff including trees on rim, depends on processes and habitats.
- Habitats – There are a lot of different habitats in San Juan County. Each different habitat has a different protection.
- Critical Food – Different forage fish species need the nearshore. There are still a few spots of spawning of herring in West Sound.
- Eelgrass – There are 140 linear shoreline miles with eelgrass. The map shown is from 2003 and no new mapping is scheduled at this time. The Department of Natural Resources is monitoring specific sites. There is a decline of eelgrass on specific small sites. A concern was expressed about how the Cherry Point Refinery might be causing problems. There may be something happening with that but there is nothing specific at this time. There has been no herring in Westcott Bay for 5 years due to the large decline in eelgrass. Another concern expressed was about the times work can

be done in the eelgrass areas and the answer is that there are times regulated. The Planning Department and the state would know if there was a spawning area in an area where a building permit was applied for.

Presentation by Katie Knight, Planner, Department of Fish and Wildlife – The Role Fish and Wildlife Plays in Updating Critical Areas Ordinances

Comments from Committee and Katie Knight during presentation:

- Katie explained that she is the liaison to local governments in their work on CAOs. She is not the technical person but can let the Committee know who is available to them. Technical assistance will be supplied by reviewing Comprehensive Plan updates, ordinance development, incentive programs, and SEPA. Local departmental planners and Fish and Wildlife will partner in this work. They will want to know what technical data they can provide and their primary job is to provide science. Katie covers Region 4 and 6.
- A question arose regarding wildlife enforcement and that is handled by Fish and Wildlife.
- Katie said that she would try and get clarification of the term connectivity in regards to wildlife corridors.
- A concern was raised in regards to agricultural resource land and the movement of livestock and equipment from one place to another. This needs to be able to be done. The removal of fences on adjacent properties might be an idea. Perhaps it could be tied to open space. Vorse was brought to Orcas Island and it creates borders and fences. It is an introduced species.
- Concern was raised regarding the long list of protected wildlife and whether what we listed now in our present CAO is adequate. The list seems longer now and Fish and Wildlife will need to help in letting us know what is truly important for our area (i.e., black bears are on the list and we don't have many here). Katie mentioned that Fish and Wildlife can review the list. DNR can explain an item on the list also. Shireene mentioned that biologists are contacting her and have been saying to take some of the items off. She also stated that the technical comments were supposed to be in by last Monday. She will put the information together and should have draft by end of next month.
- There is a need to know what habitats are important for the animals that are our concern and have justification for those. Fish and Wildlife supports the Committee even though they may not be able to help in all the ways the Committee wants. Committee concern is that due to a lack of resources we may not be able to cover everything. Katie stated to start with endangered and threatened species and use Best Available Science to do the rest as best you can.

- Local Habitat Assessment Map (Kitsap County) – Katie explained that this type of map can be useful to show what you are trying to protect. This map will be available in a couple of weeks.
- Interagency Coordination – A suggestion was that it would be nice to come up with one plan that will satisfy all the agencies involved. Another suggestion, for eelgrass, was that the U.S. Army Corps of Engineers has developed a plan that perhaps could be implemented into the County’s CAO.
- Enforcement was discussed. It was asked how many counties had to go back in and clean up the enforcement sections of their CAOs, Katie stated that she could get that answer for the Committee. Katie stated that Fish and Wildlife will be looking for monitoring language that has teeth in it.
- It was asked of Katie, what were the numbers of wildlife in Endangered species, Threatened species, and Sensitive species. Katie said the numbers were on the Fish and Wildlife website.

Administrative Item

- Minutes from the last meeting, January 24, 2008, were approved by consensus.

Discussion and Changes to Latest Draft of the Strategy for Protecting Groundwater in San Juan County

- This discussion and subsequent changes were made with the following Committee members present: Todd Goldsmith, John Evans, Fred Munder, Stephanie Buffum Field, and Jim Slocomb. The remainder of the Committee members that had been at the meeting had had to leave.
- Changes on page 3, item c. and f. –
 - c. – Shireene will find and cite Federal guidelines.
 - f. - Delete the word “potential” and replace with “current” in the second sentence. And add the following to the end of the second sentence: for potable drinking water or specific list.
- Changes on page 4, new item red i. and red h. –
 - New red i. language - Add to item f. on page 3.
 - Red h. – Delete the wording in blue and add the new red i. language.

- John Evans, speaking on behalf of the San Juan Builders Association, of which he is Executive Director, stated that they will not support an increase of fees or the requirement of business licenses.
- Discussion of building permit fee increases, business license costs, and fines. Shireene will add cost amendments to document.
- **Moved by Jim Slocomb, seconded by Fred Munder,** to go forward with the document as it was presented here today with the changes discussed above and listed as follows:

Changes on page 3, item c. and f. –

c. – Shireene will find and cite Federal guidelines.

f. - Delete the word “potential” and replace with “current” in the second sentence. And add the following to the end of the second sentence: for potable drinking water or specific list.

Changes on page 4, new item red i. and red h. –

New red i. language - Add to item f. on page 3.

Red h. – Delete the wording in blue and add the new red i. language.

Shireene will add the potential cost estimates, and add a column for fines without checking all of the boxes, in item 7. on page 5.

Todd Goldsmith – yes, Stephanie Buffum Field – yes, Fred Munder – yes, Jim Slocomb – yes, and John Evans – no.