

CAO REVIEW COMMITTEE
MEETING NOTES – JUNE 17, 2008

Attendees:

Committee Members: Stephanie Buffum, Patty Miller, Stephanie O’Day, Barbara Thomas, John Evans, Jim Slocomb, Ryan Drum, Todd Goldsmith

Public: Denise Ireland, Star Surveying; David Simonson; Lisa Guard.

Staff and Consultant Present:

Shireene Hale, Senior Planner, Community Development and Planning Dept.

Time and Location:

830-3:45 p.m., San Juan Island Grange, 120 1st Street, Friday Harbor

Next Meeting:

July 15 Place: Unknown (this meeting was later canceled)

Meeting:

- **Introductions**
- **Approval of Agenda and June 3, 2008 meeting notes** – corrected and approved
- **Citizen Input** – no one spoke
- **Continue review of forage fish section of draft**
 - (p.9) a.iii General Standards
 - change “must” to “shall”
 - Shireene: Did changes reflect decisions made at last meeting?
 - imperative that committee reevaluates decision of buffer width
 - **motion** – re-open discussion of 50 ft buffer
 - moved by Stephanie B and seconded by Jim
 - in favor: 5 opposed: 3 motion fails due to lack of 2/3 vote
 - concern that this is not the right time – members absent, etc.
- **Best Available Science (BAS) discussion**
 - **motion:** begin with discussion of philosophy of how committee is going to use BAS
 - after following discussion...motion passed by consensus

- closely connected to buffer issue
- need to come up with something that is defensible
- John's argument that decision was well made:
 - evaluated CAO
 - adjustments/improvements based upon science
 - protects species habitat
 - recap of decision made previous meeting
 - no landowner is impacted unnecessarily
 - science based on fresh water, therefore not relevant to SJ County
 - no no-touch "wilderness" areas for species
 - consider science while balancing with larger goals

- Law states - if we are going to ere, should ere on side of protecting species and resources
 - mandated by law to protect CA
- first county must achieve no net loss
- what we are required vs. what Fish and Wildlife want (200 + ft buffer)
- not meeting requirements of GMA

- we've already done huge things to species habitats
- best thing for them would be if we were not here at all
- need to work with what we've got – not ideal
- insistence that committee must show why they chose to divert from BAS

- suggestion – talk about Marine Riparian Protection Areas
- there are other options, other layers of protection
- better to move forward

- suggestion – broaden discussion of how BAS is incorporated into decision making – don't limit to discussion of buffers
- suggestion – wait till expert is present
- there should be an adjustment mechanism to incorporate Better (vs. outdated) Available Science
- committee is ignoring other elements of GMA goals
- request for committee to come to agreement on how it is going to work with BAS
- important that committee has a legally defensible ordinance
 - shouldn't start with litigations
- there is no BAS on why less than suggested buffer width is appropriate – no counter availing science has been brought forth

- ***
- argument that committee doesn't get to balance other GMA goals until CA have been adequately protected

- argument against
- if a party wants to divert from BAS, needs to bring forth alternative BAS to support argument
- argument against
- discussion of doc “Evolving Approaches...” submitted by John:
 - “long-term ecosystem health” vs. quick, easy and cheap approach
 - must look ahead 20 + years
 - must make a decision that is “consistent” with science
 - stress of importance of consistency, and that deviations need scientific proof
 - argument that science focuses on “ideal” conditions for species
 - argument against
 - John requests that report incorporates the scientific discussions of species resilience, etc.
 - should be allowed reasonable levels of human impact
 - no evidence that indicate that existing 50 ft buffer is not adequate
 - John offers draft template of decision-making process considering BAS
- requests scientific peer-reviewed reports to support deviation
- does not want over- regulation of property owners
- committee is ignoring other tools
- population is changing
- need to plan ahead for people who do not have desire to do “right thing”
- need legally defensible standard
- previous agreement on buffers is no improvement
- regulations need to be equally reliable
- need to have data so as to “stretch rubber band” of resilience, etc
- no resiliency parameters available
- does 50 ft buffer work? Where is evidence?
- first job – institute protections, and then implement mechanisms
- arguments based upon different philosophies
- difficult to interpolate inadequate science
- no doc that says 50 ft is not good enough
- **two main themes of discussion thus far:**
 - in order to deviate from BAS, there needs to be credible scientific proof
 - there is a need for scientific proof to show why deviation doesn’t work
- **Five minute Break**
- **Water Resources Committee discussion**
- Review of Critical Aquifers Recharge Areas (CARA)

- areas to be protected no very clean or easy
- more than sufficient scientific evidence to show Aquifers are very susceptible to contamination
 - contamination from pollutants, salt water, etc
 - discharges to oceans
 - slow to recharge (no snow melt, etc)
- proposed section – nitrate loading
- very clear that entire county is at risk
- discussion of shortfalls of map showing susceptibility areas
 - course scale, very generalized
 - based on good science, but not appropriate for creating hard boundaries
- bedrock areas are extremely important in SJ County
- How can we regulate based upon coarse (to the point of impractical) BAS?
- Discussion of memo sent out June 11
 - important point – focusing on activities, not areas
 - note list of activities on 18.30.140 C (p.2)
 - addresses recharge issues
 - deleted redundant sections
 - question regarding water catchments

- CARA committee questions and answer
 - question of legal implications of labeling entire county CARA
 - issue of unintended consequences
 - agreement that entire area is at risk – can we just use another term?
 - disagreement on use of term “Critical”
 - ask legal council: if we call it “Critical”, are there certain legal requirements?
 - suggestion: rather than calling it CARA, just refer to CARA
 - clarification – section C.1.a-t refers to commercial/industrial not residential
 - question – what is criteria for deciding specific CAs?
 - question – are cottage industries/home occupations considered “commercial”?
 - need for more “backfilling” with baseline maps – documentation
 - question regarding section A – why is “subdivision” section not included?
 - if entire county is a CARA, better to lump all together, with different levels of prioritization for permits, inspections, etc.
 - question – are ANY areas to be considered CARAs?
 - discussion of problems that came up with developing in Eastsound
 - Critical Water Resource Areas vs. CARA
 - two main factors: hydrology and risk of contamination
 - question – how can we adequately protect critical aquifers if they are not labeled “Critical”
 - discussion of what it means to call everything/nothing “critical”
 - most important – agree on protection measures...but what about term?
 - discussion on 18.60.270 and section on household contaminants
 - does county have ability to test for organic contaminants?
 - is it the best approach to follow packaging guidelines?
 - discussion on de-sal

- **motion** – adopt WRM committee recommendations
 - moved and seconded
 - in favor: 5 opposed: 3 passed
- question of what wording really means eg: CARA
- discussion of whether biodiesel plants should be treated like other petroleum facilities – no
- lack of clarification on what committee agreed upon i.e. wording vs. intent

- **Citizen Input** – no one spoke

- **Lunch**

- **Return to discussion on forage fish section of draft**
 - **(a) (p.10)**
 - 2/3 of lots are undeveloped – how significant are the exceptions?
 - discussion of “averaging” and what that implies
 - 53% of shoreline is still undeveloped in county
 - look at map of developed shoreline
 - person needs to demonstrate that they are losing rights by being made to build 50 ft back
 - question – does committee adequately understand issue to make decision on it?
 - argument – potential affect on individuals is very significant
 - argument – potential affect to habitat is much greater
 - Shireene refers to SMP 18.50 C (d) Averaging
 - discussion of other exceptions i.e plats, subdivisions, re-builds, etc.
 - any exceptions that CAO wants, need to be included, or all go
 - question – can subdivisions trump county regulations, and if so, why?
 - discussion of six core requirements of GMA
 - goals do not override requirements
 - **movement** – capacity for reducing and averaging setbacks based on the location of existing structures will not be included in CAO.
 - moved and seconded
 - in favor: 5 opposed : 2 abstained: Patty passed
 - **(b) (p.10)**
 - discussion of term “uses” and bulkheads
 - refer to SJCC 18.50.210 Bulkheads A.1.a
 - **movement** – not to allow hard armament to protect shoreline uses (just structures)
 - moved and seconded
 - adopted by consensus
 - **(c) (p.10)**
 - discussion of barges
 - not currently covered in law

- can't deny access to public facilities –what if island doesn't have public facilities?
- barge issues: occasional use, extended construction use, elasticity of species, seasonal issues, etc.
- Contact: San Juan Initiative – WDFW
- return to discussion of forage fish (p. 10-11)
 - “shoreline structures...allowed within buffers” ?
 - “...4 ft wide...” ?
 - set back ?
 - take out septic/storm water issues – complicates things
 - add buffer setback explanation after i.(A)

• **Shellfish discussion**

- biggest issue – fecal coliform
- MRC science committee – shellfish threats
 - over harvest
 - alteration of substrate
 - pollution
 - direct loss of habitat
 - runoff
 - changes in shore plankton
 - invasive species
- *[request for criteria for docs sent to committee – Title, pg.#s, dates, etc]*
- similar needs as forage fish – clean water, solid substrate, etc.
- question – are there parts adopted for forage fish that do not work for shellfish?
- discussion of sediment – pollutant binders, and cloggers
- question – what is spatial extent of shellfish habitat?
- discussion of meaning and extent of shellfish habitat in county
- pointed out that “shellfish” is an inadequate term for mollusks and crustaceans
- discussion of 4-wheel ATV's and their impact on habitat
- discussion of how buffer affects fecal coliform infiltration
- discussion of oil and its impact on shellfish
- what sort of prohibitions should be made?
 - boating in shallow waters?
 - 2-stroke engines?
 - all power boats?
- question: what if people are enhancing habitat? Are there exceptions for that?
 - ex: clam gardens

• **Housekeeping**

- CD's given out by Shireene including info regarding Fish and Wildlife
- Shireene asks committee what they would like sent to them. Everything?
 - committee decides that they would like Shireene to send out all electronic docs she receives and identify those that are most important, plus indications of what should be read for next meeting.

- reminder that discussions cannot take place over email – responses can be sent to Shireene, who will then forward them to the whole group – this is because all group meetings are to be kept public, and group email discussions are considered meetings
- if docs are forwarded, please include brief synopses of topic, why it is important, relevant page numbers, and provide in pdf or MS Word format.
- committee agrees that experts are needed for all topics
 - suggestions: DFW (through SJI), Nick Jones, Megan D, Chris May and especially Ken Stevens from the Labs
- John will contact Ken re: COMPASS

• **Evaluation of Day**

- there was less focus on personal philosophies, which was good
- finished forage fish section...still disagreement on buffer width
- still the issue of BAS
 - mention that lack of information does not prove lack of impact on species

• **Citizen Input**

- question – How long does committee have? How long have they been working? What happens if committee cannot come to an agreement, or does not do so in time?
 - answer – GMA will impose additional sanctions
- question - Does the committee work with SJ Initiative?
 - answer – no, but they coordinate and support – different charges
- When will decisions be implemented?
 - answer – maybe this winter.....