

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
SPECIAL SESSION MARCH 5, 2007**

The Board of Island County Commissioners met in Special Session on Monday, March 5, 2007, beginning at 7:00 p.m. for the purpose of conducting a public hearing to consider Ordinance #C-14-07 PLG-003-07 In the matter of establishment of the South Holmes Harbor Shellfish Protection District *[as reviewed on 2/12/07 and scheduled for hearing this date and time GMA #9163]*. The special session was held at the Trinity Lutheran Church Gym, Freeland, WA. County Commissioners Mike Shelton, Chairman, Wm. L. McDowell, Member, and John Dean, Member, attended.

State of Washington represented by:

Ralph Svrjcek, Department of Ecology
Dave Garland, Department of Ecology
Kim Zabel, Department of Health
Linda Lyshall Puget Sound Action Team

Attendance: 100 +/- *[Attendance Sheet – copy on file with the Clerk of the Board GMA #9205]*

County Presentation by: *[Power Point Presentation GMA #9206]*

Phil Bakke, Director, Planning & Community Development
Jeff Tate, Assistant Director, Planning & community Development
Keith Higman, Environmental Health Director

Chairman Shelton called the Special Session of the Board to order, making the following opening comments *[GMA #9207]*:

Hearing purpose: establishing the South Holmes Harbor Shellfish Protection District. Focus of discussion: location of a district boundary and the adoption of a strategy intended to address fecal coliform bacteria affecting public's ability to utilize the beaches at South Holmes Harbor for shellfish collection and consumption, as well as swimming and other recreational activities.

State law requires that the County "shall" create a shellfish protection district and establish a shellfish protection program to address the causes of pollution. County required to take these actions within 180 days after the State Department of Health closes or downgrades the beach. The State Department of Health issued a downgrade order August 11, 2006 which gave Island County until February 11, 2007 to form the Shellfish District.

County staff tasked with developing a strategy to fix the problem as quickly as possible but that has the least amount of financial and regulatory burden upon private property owners. Fundamental goal of the attached strategy is to actually eliminate the District once it has been demonstrated that shellfish collected on the beaches of South Holmes Harbor is once again safe for human consumption and that the waters are open to swimming and recreation.

Copies available tonight: agenda, draft resolution which includes the proposed district boundary map and proposed implementation strategy, outline of staff power point presentation for tonight, and copy of the Planning Department's "South Holmes Harbor Shellfish Notice dated February, 2007". *[hand-out packet, including agenda included in the GMA Record as #9171]*. Materials also available on the Planning & Community Development's website, as are many other background materials related to this issue.

Presentation by the Island County Health Department and the Planning & Community Development Department will last approximately 40 minutes. Once staff completes the presentation, public comment will be invited, initially limited to 3 minutes based upon the number of individuals who desire to speak, limited in order to ensure that everyone gets an opportunity to speak and that the hearing

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finishes at a reasonable hour. At the close of the public hearing the Board of Island County Commissioners may ask questions of those who provided comment, or of staff.

Health Department – Keith Higman, Environmental Health Director

- A. **History of H2O Quality Monitoring in basin**
- B. **Sanitary Survey and Shoreline Survey conducted for Holmes Harbor**
- C. **Classification of beaches in Holmes Harbor**

Washington State DOH regulates harvest of shellfish in Washington State; commercial shellfish also involves a permit. For recreational harvesting that is done in concert with the local health department through classification of beaches, which results in a determination of whether or not it is safe to harvest.

March of 2006 State DOH Shoreline Survey

Routine survey for existing approved portions of Holmes Harbor was done, stimulated by:

- (1) Routine process to update; changes occur, i.e. population increases, etc – the survey is sort of a “walk on the ground”
- (2) Tulalip Tribe requested classification of certain beaches for additional commercial harvesting within Holmes Harbor.

The survey reviewed existing conditions and a significant amount of water quality data collected over a period of time. The recommendation was that the southern portion of Holmes Harbor, due to water quality impairment, be prohibited for commercial harvest and closed to recreational shellfish harvest.

Water Quality Data

2003 Water Quality Assessment Report-Freeland Water Quality Improvement Project

Objectives:

- Provide support information for the development of a comprehensive drainage plan
- Provide support information for the Freeland Outfall facility project

2005 DOH/ICHD shoreline survey sampling

2005 ICHD Beach program sampling

May 2006 State DOH sanitary survey of Holmes Harbor

Central and Northern Holmes Harbor – approved

Southern Holmes Harbor - prohibited/closed

Area between central and southern Holmes Harbor – unclassified

Southern Holmes Harbor Holmes Harbor – prohibited/closed status

State DOH determined the status of the southern Holmes Harbor shellfish area using a mathematical model and water quality standard of 14 FC/100 ML.

The model relies upon:

- 90th percentile value of fecal coliform levels
- average creek/drainage flow
- meteorological data and tidal data

RCW 90.72.045

The County Legislative authority shall create a shellfish protection district and establish a shellfish protection program to address causes of pollution within 180 days after the department of health, because of water quality degradation due to

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ongoing non-point sources of pollution, has, after June 11, 1992, closed or downgraded the classification of a recreational or commercial shellfish growing area within the boundaries of the county.

DOH Issues Shellfish downgrade on August 11, 2006

- Triggers the 180 day clock
- Date district must be formed by: February 11, 2007

Jeff Tate, Assistant Director, Planning & Community Development

- Department Action Plan
 - Identify the source of bacteria pollution
 - Target efforts on eliminating the bacteria pollution
 - Remove District
- How do we find the source of pollution?
- How can you help?
- How long will this take?

Clear direction given to staff by the Board that the end goal is to fix the problem and make beaches safe for collection and consumption of shellfish and for recreational purposes, done in a manner with the least amount of regulations and financial impact to property owners in the area. Staff went through existing programs in place, under the direction of Chris Wilson who heads up the Resource Enhancement Program, and reviewed: Water Quality Water Management Program (WQMP); Salmon Recovery Program; Non-Point Pollution Prevention; Environmental Restoration and Protection. The centerpiece was the WQMP.

Staff assembled a “response team” consisting of representatives from various state agencies, county agencies and staff, citizen groups, residents active in the community and business owners – a broad spectrum of individuals as a “sounding board”. It was obvious the district boundary should be guided based on science and data – see the red line on the map displayed. Existing data indicates that the elevated fecal coliform levels come from freshwater drainage and not the marine environment and the boundary reflects the area that drains to south Holmes Harbor and data shows elevated fecal coliform levels. Staff field checked what the maps say in order to ensure accuracy. Next, was to develop a response strategy [attached to the Ordinance]. The centerpiece of the action plan is the WQMP and Mr. Tate stressed the need for continuing that data to be used as a “measuring stick” for progress. Source identification comes next – finding and fixing fecal coliform. Fecal coliform has a number of potential sources, such as: septic systems, pets, wildlife and livestock. Compliance assessment has an educational component, flyers on a quarterly basis, website updates (www.islandcounty.net/planning), update park kiosk, and through press releases.

Funding

Island County funds:

- WQMP \$220,000/year
- WSU education coordinator \$60,000/year
- Conservation District \$74,000/year

DOE Funds

- Grant requested from DOE would be about \$384,000 over the course of 4 years

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Timeline for action

Four-year work program outlined. Within a year there could be a significant improvement, for example through education outreach, with a reduction in fecal coliform levels. A flyer was mailed to the entire population with 98249 zip code to let everyone know what is going on and engage the community in the effort [GMA #9208] and there has been press coverage by the South Whidbey Record. County staff will not access private property without the property owners' permission. The end goal is to terminate the district upon demonstration that fecal coliform levels are no longer a risk.

Public Comments

Chairman Shelton opened the meeting to public comments, asking that comments be limited to 3 minutes to ensure an opportunity for everybody to speak, and asked that folks keep comments relevant to the purpose of tonight's hearing which is to establish a shellfish protection district boundary and approve a strategy that is designed to reduce fecal coliform levels in South Holmes Harbor which will make shellfish collection and recreation safe. The strategy proposed is intended to identify and resolve potential contributions of fecal coliform to South Holmes Harbor. The fecal coliform contribution is not about a single landowner, rather it is a cumulative problem that requires everybody to do their part. He asked that comments be focused on the district boundary, the substance of the strategy and how to collectively resolve the fecal coliform issues currently faced.

Jessie Keck, 19311, SR 525, Freeland, had questions about the upper boundary of the zone, looking at the topography of the area and understanding there is a ditch that runs parallel to Honeymoon Bay Road and across the highway, then sloping off in the other direction. He gave a map to Mr. Tate showing the location of his property so that the County can determine whether or not his property should or should not be included within the boundary of the district [GMA #9209].

Mr. Tate acknowledged that staff did its best to field check, but welcomed public input with respect to the boundary, confirming the County's desire to make sure the boundary is accurate.

Steve Shapiro who has commercial property located on Freeland Avenue, questioned whether water quality sampling would be taken for anything other than fecal coliform; archiving of samples to see what happens over time, saved so future tests can be made; funding sources assurance; enforcement and who is responsible for enforcement.

Chris Wilson reviewed methodology in terms of sampling and the fact that the County is not prepared to set up or house samples on a permanent basis.

Ralph Svrjcek added that overall a lot of samples would be taken, noting it would be hard to hold and house. If there are heavy metals it is something you can come back and get. An option is to treat storm water - anything that can be done to absorb, treat or control it in terms of metals. There are certain ways to handle water which will help the situation i.e. through assistance from water conservation districts, low impact development, absorbing storm water into the ground - looking at other opportunities that are cost effective in the long term.

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Mr. Tate commented that the WQMP includes a list of 9 parameters, but does not include heavy metals partly because of the expense that would be involved. Staff will try to keep the public apprised of the progress made and make the data available so people can see trends. As far as samples being saved, it would be a challenge to consider saving samples especially for fecal coliform. The Department would use enforcement staff already in place; anticipate and hope most of those issues can be addressed through compliance.

As far as funding assurances, Chairman Shelton pointed out that for the WQMP the County made a 5 year commitment of \$1.2 million through general fund as well as other grants.

Kevin Lungren, 4768 E. Harbor Road, Freeland, asked for information about the unclassified area of Holmes Harbor and whether or not the County would be looking for volunteers. He commented about fecal coliform contamination coincidental with Freeland Park storm drain system noting that on two separate occasions there seemed to be human waste from drains and clearly some gotten into the Harbor. South Whidbey Port District has been talking about building a boat marina in front of Freeland ramp, and an approval the County recently gave for a marina – would that be included in sampling data.

Mr. Tate cautioned about jumping to conclusions, and pointed out that the strategy involves identifying whether something is human vs. animal, and tracing it back up moving up stream and figuring out what the source is.

Keith Higman observed that that area is unclassified pending additional investigation so additional information would be much appreciated. The water quality reports in terms of data used, it is not unusual to find fecal coliform when sampling fecal coliform from stormwater .

In determining the marine project approval, Mr. Tate clarified that approval was not for a marina, rather a large dock to moorage boats. Essentially the proposed district follows where existing data shows elevated levels. Data is also being collected in other areas in the Harbor and that will continue to be monitored.

Leroy Olsen, 1963 Cattail Lane, Freeland, inquired about any testing of clams in the area. Mr. Higman responded that shellfish collection and testing had not included clams because clams are not a good indicator of the risk in terms of human consumption.

Gerald Hill, 6572 Wahl Road, Freeland, had questions about the test lab used and testing other places in Holmes Harbor and if that information could be included in the public information as far as where those testing areas are. Looking at the “prohibited area” he was interested why the area on the east side of Honeymoon Bay and Bercot was not included in monitoring.

Mr. Tate reported that the lab used is Edge Analytical, Burlington. While the district boundary itself is as depicted on the map, a benefit of the DOE grant as far as an additional funding source is to provide for more outreach outside of the district boundary. The district boundary follows those areas where water quality data collected shows an exceedence of fecal coliform. While the area Mr. Hill mentions may not be included in the district those other areas are not left out of the strategy.

Christina Goodwin, 5225 Bercot Road, Freeland, on behalf of Friends of Holmes Harbor (FOHH) offered FOHH volunteers to assist the County, help reduce the cost to the County by contributing

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volunteer hours. FOHH looks forward to the time when Holmes Harbor can be treated as the “front door” to Freeland.

Peggy Baird, residing at the very edge of Holmes Harbor close to Nichols, advised that the map showed the boundary dividing her property. She observed that since the highway had been widened, there had been an enormous change in the amount of runoff. As a taxpayer and property owner she is quite concerned about not being able to harvest clams from the beach or swim in the Harbor.

The property in question being divided by the district line was explained by Mr. Tate to have possibly come about because property lines do not follow topography; what happens on the portion of property that drains in Holmes Harbor is relevant to the protection district. The County does look at both the quality and volume of water.

Michael E. McHugh, Tulalip Tribes, Marysville, addressed the cultural and economic impacts of the closure, and noted it was not just a Holmes Harbor issue.

Mitchell Streicher, 5436 Pleasant View Lane, Freeland, inquired about the area between East Harbor Drive and the water, a large chunk of land with no animals on the land.

Mr. Tate explained this related to an issue of not being able to monitor fresh water feature; it is a sheet-flow that flows towards Holmes Harbor and follows where fresh water drains. Keith Higman commented that if the DOE grant is obtained, implementation of the grant does not necessarily stop at boundaries of district; public education and outreach would extend beyond that line on the map.

Jeff Hornsby, 5965 Mutiny View, Freeland, asked about the timeframe for implementation of plans.

Mr. Tate said that three timelines are built in to the strategy. Page 11 of the strategy contains some discussion about the timeframe dealing with AG; page 12 discusses the schedule for each task identified to achieve an upgrade in the classification of the shellfish growing area. The DOE grant submittal indicates about 4-1/2 years, but specific timeframes are outlined on pages 13 and 14.

Ron Norman, 5907 Cedar Street, Freeland, remembered that Mr. Higman commented at a water quality manager meeting about a new state law as far as having all septic tanks inspected on annual basis, and Mr. Norman thought that might help identify some problems.

Mr. Higman clarified that the State Board of Health in 2005 adopted updates to state-wide regulations for on site-septic systems, which applies to a homeowner if the system has a pump that the system be inspected annually and report; for homeowners with a standard gravity system it is once every three years. Learning more from home owners about how those systems are or are not working will provide a lot more information in this case, but also county-wide.

Board Comments and Deliberations - Decision

Responding to Commissioner Dean’s question about other beaches or bays in Island County that might have been part of the shoreline survey, and whether or not there are other problems that need to be addressed, Mr. Higman advised that the State DOH prioritizes where shoreline surveys are conducted.

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There have been a number of previous shoreline surveys conducted in Island County; some have identified fecal coliform issues in terms of surface water and some have not. This is the first encounter in this County where water quality data was sufficient, extensive enough and significantly exceeding the standard to result in a closure. There are other areas of fecal coliform; when sampling in urban or rural one would expect to find some level of fecal coliform.

Mr. Tate added that other areas were shown when the County adopted the WQMP and the County developed a list of priorities. There are some 180 basins and 45 of those are monitored. Prioritization included where there is data to show there have been exceedences. Mr. Tate addressed the ability to change the boundary if the Ordinance were adopted this evening, noting that it would come about from two different sources: (1) people looking at a map and finding an error and approaching staff; or (2) staff find a change needs to be made when in the field. Either way there will be an expeditious way to modify the map. The Board will likely be presented with future amendments to the map as staff come forward and demonstrate those issues.

In response to Commissioner McDowell about his understanding that the samples taken in open water did not exceed water quality standards, that it was only in the actual channel flow where exceedences were found, Mr. Higman commented that a variety of data was available. There are 13 marine water quality monitoring stations inside Holmes Harbor – regular areas where DOH comes in and collects marine samples, and none of that marine water quality data has shown to exceed the water quality standard of 14 FC/100ml. From fresh water data upland or marine environment, and some data from the Beach Program where you are about knee-deep, showed impact of fecal coliform.

By unanimous motion, the Board adopted Ordinance #C-14-07 PLG-003-07 In the matter of establishment of the South Holmes Harbor Shellfish Protection District. [*Ordinance on file with the Clerk of the Board GMA #9210*]

There being no further business to come before the Board at this time, the meeting adjourned at 8:30 p.m. The next regular meeting of the Board will be held on March 12, 2007 beginning at 9:30 a. m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

John Dean, Member

ATTEST: _____
Elaine Marlow, Clerk of the Board