Meeting called to order at 9:10 a.m. by Chair Mitchell Howard.

ROLL CALL

Mike Joselyn, Wayne Havens, James Hall, Dean Enell, Mitchell Howard, Scott Yonkman, Leal Dickson, Val Hillers.

Planning staff present: Robert Pederson – Director

Others present: David Pater – Department of Ecology

MINUTES

September 25, 2012
Chair Howard identified typos he wished to have corrected.

Commissioner Hillers moved to approve the minutes as amended, Commissioner Enell seconded, motion carried unanimously.

ITEMS FROM THE PUBLIC

No Comments

SHORELINE MASTER PROGRAM UPDATE: GOALS AND POLICIES

Public Hearing and report on the update of the Shoreline Master Program (SMP) Comprehensive Plan Element of the Goals and Policies as revised by the Board of Island County Commissioners.
Director Pederson explained today’s process. Under the Planning Enabling Act, when the Board desires to make a change to a part of the Comp Plan, the Goals and Policies in this specific case, it must go back to the Planning Commission for review and a report back to the Board on those changes.

Chair Howard opened the floor to public comment

**Steve Erickson,** WEAN, POB 53, Langley
Addressed changes made to the Public Access Policy, where it was revised to say “encourage” rather than “should” for the provision of public access for future subdivisions. He felt this needs to be changed back to “should”.

He also commented on net-pen aquaculture and the Department of Ecology’s stance of allowing this use. He strongly disagreed with this. He asked the Commission to recommend the Board not make any changes to allow net-pen aquaculture and keep policies to prohibit these.

**Ron Young,** 8281 Coho Way, Clinton
Agreed that fish net-pens should be fully contained, if allowed. He feels it would be the taxpayer who would be left with the problems, impacts, pollutants, and costs.

He further stated public access should be encouraged, not mandated, otherwise he considers it a taking, which is not fair or just. He felt incentivized programs should be provided, with tax breaks or other methods of incentivizing public access rather than just requiring public access. He felt having it be required also presented an invasion of privacy issue.

Throughout the entire program is the goal of no net loss of ecological function. He is concerned that it is broad and undefined and feels it needs to be better defined. How would it be proven? Trying to prove no net loss could be very costly, he feels the County needs to be careful not to place too onerous a burden on an individual property owner. Who determines the no net loss and how?

**Ray Gabelein,** 5785 Bayview Rd.
Discussed pg. 26, policies for shoreline uses, agriculture “…this Shoreline Master Program should support compatible uses of ongoing agricultural activities occurring on agricultural lands within shoreline jurisdiction.” Before, it said will not modify or limit ongoing agriculture; he felt this was a major change. In the regulation section it says very plainly this program does not limit or modify any existing or ongoing agricultural activities; he was concerned this policy would then affect the regulations down the road.

His concern relates to the fact that his entire farm, which is three miles inland, has been identified as being part of the shoreline with the explanation that Lone Lake runs down to the shore, but all the water in Island County runs down to the shoreline. The farm is not in the shoreline but has been included somehow. No. 3 in the policy does not identify new or existing agriculture, he feels Island County provides only lip service to agriculture, saying it is valued, but not doing anything to protect it. He asked for strong language to be sent to the Island County
Commissioners asking that the regulations do not make it any harder for agriculture to stay in business. He suggested slowing down and getting it right.

Gary Wray, 1153 American Lane, Coupeville.
Commented on public access; felt the changes made by the Board were made in response to public comment; however there are very few parcels that are affected by requiring public access in Island County, which then puts the burden on the back of very few property owners.

Item # 2, page 4, Policy 13:
13. Encourage innovative and cooperative approaches among public agencies and private parties such as the Island County Public Benefit Rating System and Conservation Futures Fund program, to provide shoreline recreation opportunities and public access.

He recommends staying with changes the Board has made and felt the existing public access points should be improved and maintained rather than trying to get new ones. He also felt it was a taking of his privacy to allow public access to a view. He felt encouraging public access as a positive incentive was the way to go.

Carolyn Geise, 7224 S. Maxwelton Rd.
Spoke in favor of protecting the environment, but felt it was important to protect existing farming and doesn’t feel the farmers are getting a fair shake. Since 1998 people have said they really support farming and the regulations are not meant to put the farmers out of business, but it is very difficult to work your way through these regulations.

Steve Erickson,
Spoke to the comments on public access.

Ray Gabelein
Commented that when the BMP’s were adopted in Island County they were approved at the State Agency level; local planning is supposed to be done at the local level.

Barbara Brock, Camano Island
Would like to support the use of the word should rather than encourage.

Gary Wray
Commented on encouraging the maintenance of existing public accesses better, rather than creating new ones and causing further problems.

Commissioner Havens discussed the issue of liability; creating an easement over private property to a public access puts the liability with that homeowner, not the County. He further stated his concern regarding issues such as the need for parking and Porta Potties. This should be considered before a mandate is made to have an easement that presents liability issues.

Chair Howard closed the public comment period.
RECESS

Chair Howard discussed the process of going through the Planning Commission’s proposed report and suggested adding the following language to the conclusion:

> and take note of the Planning Commission comments and recommendations that follow each listed number enumerated above.

An overview of the changes were discussed; 38 changes were made to the Goals and Policies as outlined in GMA # 10981.

Commissioner Hall stated he felt that this program has potential consequences for industry and individuals that have not been fully considered. He shared everyone’s concern that the process is happening very quickly.

Commissioner Yonkman and Commissioner Dickson also concur with that sentiment.

Chair Howard addressed the Planning Commission report, beginning with the following:

1. Pg. 2, Goal modified to emphasize the contribution of residential development to the local economy. *Planning Commission concurs.*

2. Pg. 4, Policy 13 reference to the Island County Public Benefit Rating System and Conservation Futures Fund program as approaches to provide public access. *Planning Commission concurs.*

   > Commissioner Enell stated for the record there is an insufficient number of public accesses. It is a very difficult situation to resolve, as the County can testify to, and to say we can just recover all the road ends is not the solution.

3. Pg. 8, Policy 10 added new policy to address monitoring sea level and marine water pH. *Planning Commission concurs.*

   > Commissioner Enell stated he felt this was a good addition.

   > Commissioner Joselyn asked how this would be accomplished.

   Director Pederson stated that the Department of Natural Resources within the County resides in the Health Department and water quality monitoring is done at a number of sites throughout the County on a regular basis. With respect to the pH side, it would be a relatively easy thing to accomplish. Regarding the other side of the issue, locating 5 or 6 benchmark locations was discussed at the Board level, to monitor annually to address any change in sea level.

4. Pg. 9, Policies 4 -7 added for consistency with the Shoreline Restoration Plan. *Planning Commission concurs.*
5. Pg. 15, B.4. Name change from Lagoon Community to Canal Community to differentiate from natural lagoons. Planning Commission concurs.

6. Pg. 15, B.5. New category called Shoreline Residential—Historic Beach Community for existing residential structures constructed 30 feet or less from the Ordinary High Water Mark. Planning Commission concurs.

Commissioner Enell relayed some concern that this had been softened and relaxed, regarding what would be best for the Puget Sound, in favor of protecting existing communities. He indicated this statement also related further to items # 5 and 8.

7. Pg. 16, C.7. Name change from Lagoon Community to Canal Community. Planning Commission concurs.


Commissioner Yonkman commented on existing boat ramps and whether the Port boat ramps that need repair have been addressed in the changes the Board has made to the regulations.

Mr. Pederson stated that looking at the Port’s permits through the Board level process, the County permits for repair and maintenance were processed in 89 days and the trouble was more at the State and Federal level.


11. Pg. 23, Public Access policy 9 revised to “encourage” replacing the word “should” for the provision of public access for future subdivisions of 5 lots or more. Planning Commission concurs.

Commissioner Hillers moved to support the change made by the County Commissioners of the word encourage, seconded by Commissioner Yonkman.

Commissioner Enell preferred the original wording of should. Discussion ensued.

Commissioner Hillers, Havens, Joselyn, and Yonkman voted in support of the Board’s change and Commissioners Enell, Dickson, and Hall preferred the original wording as recommended by the Planning Commission; Chair Howard abstained, motion carried.

13. Pg. 24, Public Access new policy 15 directing the county to continue preparing an inventory of public access sites. *Planning Commission concurs.*

14. Pg. 24, Public Access new policy 16 directing the County to create a public access plan and adopt as part of the comprehensive plan. *Planning Commission concurs.*

The majority of the Commission voiced their desire to convey their strong support of 13 & 14 as being very good changes to the Goals and Policies.

15. Pg. 26, Agriculture policy 1 revised wording to emphasize support of compatible uses. *Planning Commission concurs.*

*Discussion ensued of the WAC and RCW that related to the existing agricultural uses.*

*Mr. Pederson indicated that staff thinks it is quite clear in the law that the requirements that are ultimately promulgated in the regulations do not apply to existing and ongoing agriculture as indicated in 90.50.080 RCW and WAC 173-26-241(3).*

*Commissioner Hillers moved to recommend the language revert back to the previous language recommended by the Planning Commission, which is the wording contained in the WAC, seconded by Commissioner Yonkman.*

*Commissioner Hall suggested the addition of including “should support compatible uses of and not modify or limited ongoing agricultural activities”. Discussion ensued.*

*Chair called for a vote to revert to the original language. Motion carried unanimously.*


*Discussion ensued.*

*Commissioner Enell stated during discussion that the six goals under this item:*

- Prevent livestock intrusion into the water.
- Control runoff.
- Prevent water quality degradation caused by manure, etc.
- Avoid clearing of riparian areas.
- Prevent bank erosion.
- Assure no net loss of ecological functions.*

*He felt the change made by the Board should be kept.*
Commissioner Hillers moved to revert to the original language, Commissioner Joselyn seconded.

Chair Howard called for a vote: Commissioners Hillers, Joselyn, Hall, Havens, Yonkman and Howard voted in favor of the motion with Commissioners Enell and Dickson opposed, motion carried.

17. Pg. 26, Agriculture policy 4 mitigation required for clearing activities. Planning Commission concurs.

18. Pg. 26, Agriculture policy 5 revised to make mandatory unless mitigation will be effective. Planning Commission concurs.

Aquaculture Policies

The Planning Commission supports the changes made to the Policies regarding aquaculture as indicated in items 19 – 25 as they enhance environmental protection without crippling the industry. The Planning Commission compliments the Board of Island County Commissioners on these changes.


22. Pg. 27, Aquaculture policy 5 reference BAS and no negative impacts. Planning Commission concurs.


27. Pg. 28, Beach Access policy 5 mandatory and broadens application to geo hazard slopes within shoreline setback or buffer. Planning Commission concurs.

29. Pg. 29, Boating Facilities policy 7 adds community boat launches and deletes preference to marine rail systems. Planning Commission concurs.

30. Pg. 29, Boating Facilities policy 11 changes “should” to “are encouraged to”. Planning Commission concurs.

Commissioner Enell moved to have # 30 revert to the “should” language, Commissioner Hall seconded. Discussion ensued.

Chair called for a vote, Commissioners Yonkman, Enell, Dickson, Hall, and Howard voted in favor of the motion with Commissioners Hillers, Havens, and Joselyn opposed. Motion carried.

31. Pg. 30, Boating Facilities policy 12 references motorized personal watercraft. Rewrite of second sentence needs further editing (delete the use of). Planning Commission concurs.

32. Pg. 32, Industry policy 10 mandatory and refers to possible off-site public access. Planning Commission concurs.

33. Pg. 34, Residential policy 8 change wording for consistency; “Should be required” changed to “are encouraged”; spacing for public access addressed. Planning Commission concurs.

Commissioner Enell moved to go back to the original language, commissioner Hall seconded.

Discussion ensued.

Chair Howard called for a vote: Commissioners Enell, Hall, and Dickson voted in favor of the motion, Commissioners Hillers, Havens, Yonkman, Joselyn, and Howard opposed the motion. Motion failed.

34. Pg. 38, Shoreline Stabilization policies 4 and 5 deleted because too restrictive and inconsistent with definition of “replacement”. Planning Commission concurs.

35. Pg. 40, Shoreline Stabilization policy 24 adds application to septic systems. Planning Commission concurs.

36. Pg. 41, Moorage Facilities policy 6 name change to “canals”. Planning Commission concurs.


Commissioner Hillers suggested language be added to the conclusion of the report indicating the Planning Commission had received testimony that indicated there was a lack of clarity in the definition of no net loss of ecological function.

Discussion ensued.

Ron Young stated he agrees with the process. His concern lies in the fact that it is such a broad category and is subjective. He felt it has not been clearly outlined or defined as to how it is determine or who is going to determine it. He felt it needs to be defined better to help people understand what it means; how is it going to be determined, whether is it going to be incumbent on the individual property owner, the local community or the entire drift cell. Then how do you mitigate it, where do you mitigate it, and who is responsible for paying for it; none of that has been defined.

After further discussion the language suggested by Commissioner Hillers and amended and seconded by Commissioner Enell resulted in a motion for the following language to be added to the conclusion of the report:

In addition the Planning Commission received testimony that indicated there was a lack of clarity in the definition of the very important concept of no net loss of ecological function.

Commissioner Hillers moved and stated that the Island County Planning Commission has reviewed the revised SMP Goals and Policies and hereby recommends that the Board of Island County Commissioners adopt the revisions. Commissioner Hillers further moved to empower the Chair to sign the Findings, Commissioner Enell seconded, motion carried unanimously.

Commissioner Enell added a friendly amendment to include the following statement in the conclusion:

The Island County Planning Commission compliments the Board of Island County Commissioners in completing this important document which is a vast improvement in a timely manner.

Chair called for a vote of the revised conclusion. The motion carried unanimously.

Chair asked for a motion to adjourn.

Commissioner Enell moved to adjourn, Commissioner Dickson seconded, motion carried unanimously.

Meeting adjourned at 11:50 a.m.

Respectfully submitted,

Paula Bradshaw