Meeting called to order at 9:03 a.m. by Chair Mitchell Howard

**ROLL CALL**

Mike Joselyn, Wayne Havens, James Hall, Leal Dickson, Mitchell Howard, Scott Yonkman, Anna-Marie Sibon, Val Hillers, Dean Enell

Planning staff present: Robert Pederson – Director and Karen Stewart – Shoreline Master Program Planner / Coordinator

**APPROVAL OF MINUTES**

None

**ITEMS FROM THE PUBLIC**

No Comments

**NEW BUSINESS:**

New Business – Public Hearing
Shoreline Master Program Update, ICC Chapter 17.05a

Robert Pederson discussed the three workshops held to discuss the Shoreline Master Program Update. Karen will be highlighting the changes made from the three workshops that were held.

Chair Howard re-opened the public hearing on the Shoreline Master Program Update, ICC Chapter 17.05A.

Ms. Stewart gave a quick history of the process that has taken place to update the Shoreline Master Program.
Ms. Stewart briefed the Commission on the Shoreline Master Program Restoration Plan. This is a required document, similar to a Capital Improvement Program for a Comprehensive Plan. It gives the County the opportunity to look ahead, typically five to ten years in terms of what types of restoration projects the County is aware of or anticipating. This is a compilation of efforts throughout Camano and Whidbey Island. Staff has been working with the Marine Resource Committee in compiling this report as well as the Salmon Advisory Committee. This is to look ahead and see what future changes will occur to affect the shoreline.

- Page 2 there is a graphic showing the difference between mitigation and restoration.
  - Restoration over the next 20 years with the implementation of this plan will make conditions better through voluntary or public restoration.
  - Page 4 lays out the scope of the report.
  - Page 10 is a table that describes ongoing restoration projects in the County.
  - Section 4 of the report contains the policies, goals, and procedures.
  - Page 13 has compiled 6 bullets points that are the suggested criteria the County could use in the selection for future applications.
  - Page 14 – 20 are lists of possible projects for the County to consider, there are 88 possible projects.
  - Rating columns reflect the strategic location of Island County.
- Marine Resource Committee saw there were quite a few to restore in the high level.
  - There is discussion on whether or not this plan needs to lay out the process.
- The information that has been provided is the information required by the State.
- Section 6 is the conclusion of the report in terms of future projects.
  - Action Agenda Plan for the Restoration Plan is located on page 24.
- In terms of restoration projects they are typically funded with grant funds.
- Appendix B.
  - Vicinity Map and Geographic location of the projects.
  - Second Map is the key to the list of the 88 projects and their location.

Commissioner Enell asked if the Restoration Plan also addresses public access.

Ms. Stewart stated the Restoration Plan was to focus on the habitat.

Commissioner Enell stated that public access should also be focused on under this plan.

Mr. Pederson stated that the plan for restoration is to restore the habitat and not for access. He said this can be addressed in the Shoreline Master Program.

Commissioner Hillers asked for clarification between protect and restore. She understands protect is at the risk of being degraded and restoration is already degraded and needs to be brought back to good standing.

Karen stated that page 1 differentiates and clarifies the two.

Commissioner Yonkman wanted to know if the locations on page 4 have been visited by the scientists who consider these sites to be a high priority.
Ms. Stewart responded that they have been to these sites. The Marine Resources Committee contracted with the Coastal Geologic Services, Jim Johannessen’s firm out of Bellingham which prepared this list. The ratings reflect that group’s scientific evaluation of the various processes.

The column that says primary benefits to ecosystems, processes or functions is a quick little distillation of what it is about a particular site that could be restored and how it would affect those processes.

Commissioner Yonkman asked if the reports are available.

Karen stated the main ones used are listed under the bibliography section of the report, pg. 25.

Commissioner Dickson stated these 88 possible sites that can be improved or maintained will cost money. He inquired if there has been any discussion how the County or Commissioners will decide which of the highest priority project will be selected based on the cost.

Robert Pederson stated this document establishes the framework around the restoration possibilities in the community. If funding should be available, then the highest priority level site that can be restored according to the funding available will be selected. There may be grant opportunity and this can also determine what project can be addressed within the grant’s specific purpose. He stated it is recognized that a lot of things that are discussed here are occurring on private property and would require a very detailed discussion with these owners.

Ms. Stewart added that on pages 10 –11, showing the existing restoration projects: the column entitled “Sponsor” as well as the column “Source of Funds” gives an idea of the various groups, both government and non-profits that are typically involved in these restoration programs.

Commissioner Sibon asked if the consultants would be prioritizing the 88 projects from highest priority to the lowest priority.

Karen Stewart replied the document is a plan, not a project specific document; it is more general at this stage. The consultants are not doing any more on this document, what we have now is as specific as the scope of these shoreline restoration plans typically are at this stage. Page 24 has a statement that says within 2 years of adoption of this plan, the County will identify at least six restoration projects and assign staff to establish a schedule and explore funding options and partnerships.

Commissioner Dickson asked if there will be a discussion at some point to decide which projects will be worked on first.

Mr. Pederson replied there will be a time in the future for discussion once the money does come available and it depends on the nature of the discussion.

Commissioner Howard stated he found the document easy to grasp and lays out the various principles clearly, but the remark about the prioritizing and the consultant not doing anymore
work concerns him. He asked if Ms. Stewart has assessed what sections the Planning Commission should focus on.

Karen stated as the Coordinator she is looking to the Planning Commission and the Board of Commissioners for further direction, making sure this document reflects local preferences. She discussed page 24, which reflects timelines and benchmarks she came up with and thought were reasonable, stating she did not want to commit Island County to something that isn’t appropriate.

Director Pederson stated it has been pointed out that the restoration plan gives you a map or blueprint of some possible projects with mitigation that may offset impacts of other projects.

Commissioner Enell is concerned with the shoreline access and is the reason he brought up the restoration plan, since it will help bring funding. He is curious about the access points that have been encroached upon, would grant money be available to address this matter.

Karen directed the Planning Commissioners to look at page 12. She stated that this section addresses the policies and may be modified to address their concerns.

**Policies:**

1. Improve shoreline functions, processes, and values over time through regulatory, voluntary and incentive-based public and private programs and actions that are consistent with the Shoreline Master Program Restoration Plan and other agency adopted restoration plans.

2. Encourage cooperative restoration programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners.

3. Target restoration and enhancement towards improving habitat requirements of priority and/or locally important wildlife species.

4. Ecological restoration activities are encouraged in all shoreline environments and are considered to be consistent with all uses including residential, commercial, and industrial, provided they are designed appropriately.

5. Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted toward meeting the needs of endangered, threatened, and regionally important plant, fish, and wildlife species.

6. Restoration should be integrated with and should support other natural resource management efforts in Island County and in the Puget Sound region.

7. When prioritizing restoration actions, the County should give highest priority to measures that have the greatest chance of reestablishing ecosystem processes and creating self-sustaining habitats.
Public Comments

Dennis Gregoire, 5249 Raindrop Lane, Freeland
- Importance of the restoration plan.
  - Several comments need to be refined and focused.
  - Cumulative Impact Study.
  - Ports in Whidbey Island are not financially endowed to do a lot of these projects.
  - Cumulative plan and restoration plan are the critical pieces in the new shoreline plan.
  - More detailed effort needs to occur to refine the kinks in the document.
  - Permits and preferred developments need to be looked at under this plan.
  - ADA is extremely beneficial, focus on South Whidbey.
  - Discussed his experience on building a port.
  - Preferred uses need to have a clearer path.
- This document is a tool to express what the county feels in terms of livability since the Federal Government does not get involved.
- Shoreline act talks about preferred uses.
- There needs to be an explanation of no net loss.
- Public access point, this document is very good for restoration. There should be an Island County public access plan.
- No one mitigates in urban harbors.

Jeanne Hunsinger, 4639 Saratoga Rd, Langley
- September Draft - Page 70, Forest Practice Conversion Item 2-the land owner will say they are going to convert or not. The Class IV where there is a likelihood of conversion, who will make the determination if there is a conversion. Will it be the Planning Director that determines if they will convert or not. Department of Natural Resources may require a Class IV non-conversion plan and they would like to further look into the conversion.
- Does not seem reasonable that if they get a Class IV permit through the Department of Natural Resources then someone in the County can say otherwise.
- Operating a tree farm and preserving the forest lands through the tree farm is a lot better for the environment than having such restrictive regulations that they do not operate a tree farm and therefore the land is converted. Her position is that for the Class IV general forest practices where DNR, due to steep slopes or something looks more closely at the permit, she wants to make sure in this County Code that they are able to operate under the Department of Natural Resources regulations, which apply to the regulations of the forest practices in the state rather than be pulled in under the Island County regulations.

Ian Jefferds, PO Box 148, Coupeville
- Policies and goals are straight forward.
- The policies set about 20 years or so regarding aquaculture were created to avoid proliferation in aquaculture. The concern was that the problems seen in British Columbia may be seen here. In taking a fresh look at this, Governor Gregoire stated to further encourage this type of industry since it may maintain clean water. He stated this should be encouraged in Island County.
The policies still retain some language that is overly redundant that already appear at Federal and State level.

- Should refer to policies that already exist instead of creating new ones.
- Part of the process was to streamline policies.
- Wants to make sure that our policies are in line with the State.
- The policies affect his company – concept of aquaculture district, site specificity should be in line with State, Federal and County regulations.
- Need to be careful of language changes.
- All his permits and leases are based on the aquaculture district as the legal language of where his operations can exist. If this language is changed is might eliminate all of his operation except that in Penn Cove.
- Industry provides more benefit to the ecosystem than most people think. People were scared when this industry first started, but they have been here long enough to prove that what they do isn’t a bad thing. The industry has 150 year history, his company has been here since 1975, they are the oldest and largest commercial mussel farm in the United States, and have brought good recognition to the community. It is the water that makes them special and they work very hard to maintain that water quality.
- He wants to make sure that aquaculture remains a preferred water dependent use and wants to be sure that is maintained as the basis for any policies in the future.

Commissioner Hillers asked where aquaculture districts are located in the documents.

Mr. Jefferds stated it was in the September draft, page 27 in the Goals and Policies, item number 4. He feels they were written to preclude further aquaculture development in Island County.

Commissioner Yonkman asked Mr. Jefferds to submit his comments in writing, point by point what his concerns, and benefits to be able to review them in depth.

Commissioner Sibon asked if Mr. Jefferds harvested geoducks or clams in Penn Cove.

Mr. Jefferds stated they do not out of Penn Cove, but geoducks and clams are not as destructive as they are made out to be. There are Department of Ecology policies set in place to manage this type of industry.

Commissioner Sibon brought up that fifteen years ago they demonstrated that the bottom of the floor is vacuumed and then left over material is thrown back in. She does not have a problem with the farming just some of the methods may be questionable.

Mr. Jefferds replied there has been a lot of misinformation thrown around, he said there was a lot of good information put out now by people in the industry, followed up by studies by University of Washington, DOE, Department of Fish & Wildlife and he encouraged the Commission to review some of this.

Commissioner Joselyn wanted to know if Mr. Jefferds had an opinion on net pens.
Mr. Jefferds stated he is not a fin fish farmer. He stated that he has seen some done incorrectly in British Columbia. He has also seen other done correctly. It is an important resource in the future as long as they are run well with the right regulations.

Commissioner Hillers asked Mr. Jefferds if the Best Management Practices he used were developed by the industry since the document does not state what the Best Management Practices are.

Mr. Jefferds stated they do have them in place and there are additional Best Management Practices provided by different departments. His industry came up with a list of BMP’s almost 15 – 20 years ago that are specific to the species. They also have environmental codes of conduct that were also put together at that same time. It is a sustainable industry and they are trying to make sure that not only are actual production and methods are viable, but the perception of those methods is understood, they are in it for the long term. If there was any environmental degradation it would affect them first, economically and otherwise.

Commissioner Hillers stated Best Management Practices should be clearly defined and explained in the document.

Mr. Jefferds suggested, as it pertains to aquaculture in Island County the reference to Pacific Shellfish Growers Best Management Practice might be a good reference.

Commissioner Enell, there is some burden placed upon that industry or particular operation to prove that it is safe and not detrimental to the environment as opposed to the State or County proving that is not.

Mr. Jefferds stated it was a great comment but it is impossible to prove something will work if it’s not allowed. They need to be held to a standard but you can’t say prove it beforehand. The industry is inspected by Federal and State agencies on a regular basis and is held to a very high standard, they have Federal and State regulations they must follow, if they are inspected and are not living up to those standards, that’s where the rubber meets the road.

Commissioner Enell stated he is referring to the feasibility of a project; the likely outcome doesn’t have to wait until it is operating.

Mr. Jefferds agreed, stating the SEPA document that comes with any aquaculture permit would be providing that kind of information. He stated this was already being done.

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Diani Taylor, 130 SE Lynch Rd, Shelton
- Described her comment letter provided to the Commission.
  - Appendix A – D
- The County’s Shoreline Management Program must be consistent with the Shoreline Management Act and Department of Ecology Guidelines.
Aquaculture is a preferred, water-dependent use of the Shoreline that provides important ecological benefits and must be protected from harmful activities.

- Importance of economic, cultural heritage and environmental health of the Island.
- Dept of Ecology SMP guidelines state that aquaculture results in long term over short term benefits and can protect the resources of shorelines.
- Goals and Guidelines are further validated by the National Shellfish Initiative.
- Concerned that the Shoreline Management Program update may be overly burdensome.

- A Conditional Use Permit (CUP) is currently required for all forms of aquaculture.
- Conditional Use Permit approval is required by the Ecology Guidelines for new commercial geoduck aquaculture only. Other types, like oyster and clam farms do not require a CUP under State law. There is no reason presented as to why the County should create such a requirement.

- The County has already provided extensive regulations to avoid no net loss.
- It will increase time and money spent on approving aquaculture proposals, instead of the encouraging aquaculture, as is the expressed intent of the State and the County.
- Aquaculture proposals must already obtain:
  - Proper federal permits and approvals and comply with federal and state regulations beyond this SMP.
- As per the Washington Shellfish Initiative Nationwide Permit 48 and the guidelines for the SMP, the County should reduce redundancy by accepting permit materials already required by other agencies.
- Regulations 10 and 12, pertaining to navigation 21, regarding predator control and 35, requiring an environmental assessment, all have the potential to be streamlined by using the mirrored laws already used by the Department of Health, Fish and Wildlife, Ecology and Army Corps of Engineers.
- Using existing regulation would encourage aquaculture, particularly for small growers by not further over complicating the process.
- Regulation 20, aquaculture should not be on a provisional basis. This makes getting a loan more difficult. Without predictability a farm cannot exist.
- State and National policies promote the restoration and expansion of shellfish aquaculture beds.

Commissioner Sibon clarified item 20 is now item 24 in the revised document. She acknowledged the words “on provisional basis” really are not necessary. All applications that are approved with conditions are already on provisional basis because they have to comply with those conditions.

Karen Stewart stated wording that has been brought from the existing program. The wording is optional. She will strike the line from the document.

Steve Erickson, WEAN, Box 53, Langley, wean@whidbey.net
- Provisional is not necessary and is redundant.
• There should be straightforward language on aquaculture and not just shellfish farming that the continuance of the permit should be compliant with all conditions of the permit.
• Net pen aquaculture would like to see provision on use of genetically modified organisms.
• There should be recapture plan for escapees regarding net pens.

Karen Stewart discussed the changes to the aquaculture section of the document. Since the Department of Ecology has now come out with their guidelines they have asked for those changes to be reflected on the update.
• Goals and Policies – page 26 and 27 – there is a modification to experimental aquaculture reflects state of the art back in the 1980’s.
• Changes are reflected in the standard striking and underline format.
• Policy 3 strike outs – there is a new proposed policy.
• Page 58 through 62 – there is new text. Department of Ecology has more policies in regards to geoduck. They wanted the policies to reflect the actual wording in WAC language in the Shoreline Master Program.
  o WAC definition of Aquaculture. Page 7 and 8 definition has been modified.
• Page 58 through 62, there have been wording changes to reflect Department of Ecology and WEAN comments.
• Bottom of page 61 item 28 has been brought forward from existing Shoreline Master Program. Department of Ecology is concerned that it is prohibiting net pin facilities. This refers to salmon net pin facilities near the Skagit, Stillaguamish, and Snohomish River. The Department of Ecology is challenging what is left. Analysis was done and Penn Cove on the Eastern portion the Western Shore of Island County.
• Conditional Use Permits is important since there can be a conflict with a neighbors.
• The County also accepts Joined Aquatic Resource Permit Application (JARPA) form.
• Small growers have not been addressed by Department of Ecology and there is no discussion of it in the Shoreline Master Program. A definition can be added to address small growers.

Commissioner Sibon asked if page 68, item 29 and 30 refers to all fin fish pens or just salmon net pens, she felt it should state one or the other in those two requirements.

Steve Erickson, WEAN, Box 53, Langley
• Number 28 regarding proximity to Skagit, Stillaguamish, and Snohomish, if it was phrase to protecting from disease migrating wild stocks, included listed stocks under endangered species act and commercially significant stocks.
• Should be language citing, not interfering with Tribal Treaty Rights.
• Critical Area Ordinance Fish and Wildlife Habitat provisions are not going to prevent a net loss. Concern is that if they are adopted into the shoreline management regulations they will then be grandfathered in the update. This would potentially force WEAN into legal action.
• Critical Saltwater Habitats needs to have a definition to know where they are.
• No net loss – does not mean stability. Ecosystem dynamic equilibrium states it fluctuates and goes through cycles. Sometimes that is extremely rapid, such as the tidal estuary
fluctuations, sometimes it much slower, as in a periodic mass wasting on marine feeder bluff that delivers sand and sediment in the sound. The main concern is that the cycle remains within its normal range of variability.

- Common line setback shoreline buffer reductions, it was at 240 feet related to how far an adjacent house need to be, the easier approach is to incorporate the relative language from the Critical Area Ordinance. That section was in litigation and was already examined. Echoing those requirements make a lot of sense.
- Enhancement isn’t always possible in reference to no net loss. In cases where the existing buffer is in good condition the energy would be better put to use in expanding the buffer.
- Economic development situations there are community owned parcels owned by community associations that are exempted from paying property taxes but is assessed at a higher rate. It would be cleaner to tax those lots at their assessed value. A tool available to encourage public access would be where the community association is willing to make it available for public for use, be the provision of the Public Benefit Rating System (PBRS) to get a tax reduction.
- Forest conversion likelihood language should remain in the document.
- Use of PBRS may prove to be a useful tool to gain public access. The enforcement provisions need to be tied into the Zoning Code. The Enforcement Code needs to be updated.
- Reference made to removal of diseased or damaged trees, this should limited to when there are actual hazard trees. Diseased or damaged trees are a critical part of the forest ecosystem in terms of providing habitat and other functions. On the shoreline slope these trees may help stabilize them. Wording should say actual hazard trees.
- Agriculture – encourage to look at the definition of low intensity agriculture on page 15. The intent is not clearly defined and leaves a large loophole. It can be easily fixed by changing the wording.
- Vast improvement over the old regulations and plan.

Karen Bishop, Whidbey Island Conservation District, 1 NE 4th St, Coupeville

- Draft Shoreline Inventory and Characterization March 2012 draft – Human activities should say farming includes production of various crops and livestock.
- Policies for Shoreline Uses, Chapter 6.
  - Number 5 page 26 – Agriculture Number 5 livestock feeding operations – should say medium or large livestock Animal Feeding Operations (AFO’s) should not be allowed near the shoreline.
  - Number 6 – implementing should say NRCS Standards and Practices, such as crop rotation, mulching, strip cropping, contour cultivation, and practices promoting residue management, should be encouraged on lands contiguous to Island County Shorelines. Farmers understand NRCS standards and practice.
  - Number 7 – NCRS BMP’s should be encouraged to protect the shoreline ecosystem from adverse impacts of agriculture chemicals.
- Regulations and procedure 17.05.a.090
  - Section X Agricultural Facilities and Livestock.
    - Section a - add custom farm plans.
• Also in Section a – compliance with NRCS best management practices shall be required.
• Section b – Rural Agriculture (RA) Zone shall require compliance with NCRS water quality BMP’s.
• Section A page 57 number 6 should state livestock waste shall be disposed of in such a manner as to prevent surface or groundwater contamination as specified by guideline and standards established by the NRCS, the Natural Resource Conservation Service.
• Page 58 number 8 - Buffer zones conforming to guidelines and standards established by the Natural Resource Conservation Service shall be established and maintained between tilled or grazed areas and associated water bodies to retard surface runoff, reduce siltation, filter and remove pollutants, provide habitat for fungi, plants and wildlife, and provide shade for fish and other wildlife.
• Page 104, part D. Shoreline Substantial Development Permits and Exemptions references to a feedlot it says that a feedlot of any size should say AFO since there is no definition of a feedlot.

Sarah Schmidt, Whidbey Audubon Society, 243 Rhodena Dr, Coupeville
• Would like to commend the hard work put into this update.
• This references and incorporates parts of the Critical Area Ordinance. The Fish & Wildlife Critical Area regulations which is past due by 6 years for revisions. Noticed in Ecology’s comments in June to the first draft, they state that there is a lot of cross references to various Island County codes that have been adopted at different times and suggested the language be inserted directly into this document, however:
  o Nominating and designating species of habitat of local importance - Page 35, the language is direct insertion from the Critical Areas Ordinance. There is no reference to Critical Areas Ordinance. Call out the section as a footnote or a reference, it should state that this is referring to the current document but once the new document is revised the reference is revised to the new document.
• Page 33 of the September 6th version, item labeled b should be c. The numbering is also incorrect.
• A significant paragraph was left out on page 35, at the top of the page there is IV and V and then suddenly it goes to a, b, c, d, etc. The paragraph that explains what those refer to isn’t here. It is found on page 636 of the December 2004 Planning document that has the Fish and Wildlife Habitat Conservation Area (where the language came from basically). The paragraph contains information about a biological site assessment shall be required (BSA) after that comes all the language from a through i.

Commissioner Hillers asked Ms. Schmidt if page 32 under Fish and Wildlife Habitat Conservation Area under section C covered what she thought was missing.

Karen Stewart stated there are pagination problems. Staff is proposing to strike a through i on page 35 since it is identical to the wording on page 32, as well as item c) is the introductory phase to give those items context.
Ms. Stewart stated once the document is approved and adopted it does not change very often, but it can be added to the docket to make changes.

Ms. Schmidt stated that Ecology point out that Island County Fish & Wildlife Conservation Area regulations are out of date and do not conform to Best Management Practices and Best Available Science. She does not feel that it be added to this document if it does not have the most up to date information.

Commissioner Howard asked if the update can be changed within the law.

Karen answered that we could not make those changes since the Department of Ecology would still need to review it once again, it is not change that can be made by the County solely.

Ms. Schmidt continued,

- New intrusions into setback buffers – has been changed from 240 feet to a 100 feet, instead of that change take the language from 17.02.050 as WEAN suggested.
- Buffers and setbacks – given erosion is a part of the way feeder bluffs work, it is in the best interest of the citizens to build houses that are sufficiently far back from these areas to protect the future occupants. She also mentioned Jefferson County has 150 foot buffer, our setbacks are not sufficient.
- Best Management Practices should be added into the definitions.

**Mike McVay, Island Citizens for Public Beach Access,** 3208 Island St, Langley

- Tax free beach property; has found a lot of these properties during his research.
- Marissa Lane between the Inland Plat and Sandy Point, short distance from Crab Alley to the beach, for years it has been difficult to get to due to obstructions, there are fences with excavations behind it and ditches that prevent public access.
- Encroachments will not be stopped until there are penalties for them. The City of Renton is the first location to come up with the plan to call this a misdemeanor and is punishable accordingly.

**Susan Bennett,** 2191 Goss Ridge Rd, Freeland

- Is delighted with the process, the hard work, and willingness to listen to the public.
- The State dictates that each County creates its own Shoreline Master Plan rather than imposing their regulations on everyone.
- Suggest that the County include in this plan provisions for educating its citizens in the new regulations once approved by Department of Ecology.
- A link to this information would be helpful, a series of simple, clear and concise pamphlets paper and electronic might be more helpful and save staff time.
- The use of Fish & Wildlife Critical Areas Ordinance is also of concern.

**Gary Piazzon,** 1016 NE Pennington Loop, Coupeville

- Wanted to discuss carbon dioxide pollution, feels the findings that are included in the document entitled Climate Change Effects and Adaptation Approaches in Marine and Coastal Ecosystems of the North Pacific Landscape Conservation Cooperative Region. It
is a compilation of scientific literature from a collaboration of the U.S. Fish and Wildlife, the University of Washington Climate Impact Group, and the National Wildlife Federation.

- CO2 has increased 41%.
- Specifically to Shoreline Management Plan there are aspects to carbon dioxide pollution that has implications, when you add water to carbon dioxide it creates carbolic acid, which has an effect on any ocean species.
- Ocean acidification can be an analogous to dropping a piece of limestone into an acid bath or Alka-Seltzer to a water bath.
- Sea level rise is caused by the warming of water and the melting of ice caps.
- Due to loss of reflection of white, the melted water forms a lense which then causes more melting of waters.
- In our region it is anticipated the sea level will rise between a foot and 6 feet by the end of the century.
- In 2011 storm intensity increased, this broke the record for multi-million dollar weather related disasters.
- Storm waves off the coast of Washington and Oregon have increased.
- Climate impact group from University of Washington, project that the winters will get wetter. This means more run-offs; sea level rise and storm intensity will increase the rate of erosion along the shorelines.
- James Hanson climatologist stated that when he gave presentation to the Senate in 1988, warning of the impacts of climate change, he was wrong since his assessment was far too optimistic.
- A section should be included with the impacts of carbon dioxide is document.

Commissioner Howard asked if there was a link to the document he was referring to.

Mr. Piazzon stated he would e-mail the document.

Commissioner Enell interjected that in the Policies draft there is a section about sea level rise, it certainly warrants a footnote that in case of sea level rise the setbacks are subject to change.

Commissioner Hillers stated if there was a change in the Ordinary High Water Mark a permit five years from now would be governed by the OHWM that exists at that time.

Dennis Gregoire, 5249 Raindrop Lane, Freeland

- BMP’s the problem with residential historic pattern conditional use.
- Inventory – concerned about the tone of the residential impacts the regulations will have on the shoreline. Requested there be some time spent on how the single family residences have impacted the shoreline.
- Conditional Uses – when projects are connected, upland, and water related projects, they should be reviewed by the County not Department of Ecology.
- Education of the public is critical; some of the critical information needs to be clarified.
- Would like to know where the SEPA process is and feels public comment period needs to be extended.
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Karen explained the SEPA environmental checklist was prepared and published August 23, 2012 and public comment period ends September 6, 2012.

Commissioner Hall asked if some examples could be brought in order to better understand the document and how it will function.

Commissioner Yonkman agrees that an example would be a good idea. One case was Jeanne’s forest practice example.

Mr. Pederson stated that Jeanne’s example does not occur very often. All of the Master Programs collectively comprise the State Shoreline Master Program. It is intended to implement the provisions of the Shoreline Management Act. This attempts to balance private property rights and interest in the waters and access to the water and the impacts to the resources as a part of the greater community. There are changes and negotiations that occur even after Planning Commission and the Board approves the Shoreline Master Program. Ultimately, the Department of Ecology has the final approval of the Shoreline Master Program.

Commissioner Dickson said that the summary Mr. Pederson was helpful and answered his questions.

Commissioner Hillers commented she would not serve on a Planning Commission if she did not trust the staff to understand the laws and to bring things that fit with the laws. She feels there has been much opportunity for public input and continues to receive more.

Ms. Stewart stated that this is her 6th Shoreline Master Program she has worked on and further discussed the process other jurisdictions have followed.

The deliberation process was discussed further.

Commissioner Howard said September 25th would be the date to make a deliberation and the Commissioners that feel they are not comfortable to vote then may submit amendments.

Ms. Stewart stated there are 4 components the Planning Commission is asked to provide a recommendation to the Board of Island County Commissioners on: The Goals and Policies, The Shoreline Environmental Designation Map, Shoreline Restoration Plan, and the Regulations.

Commissioner Enell stated he thought the Plan is comprehensive, thoughtful and it is a very well done as is the Restoration Plan’s whose priority is to improve the ecological functions in various areas. He personally is very passionate regarding beach access. He would like to see something similar to this plan for beach access.

Commissioner Hillers wanted to add that she is intrigued by Renton’s penalty regarding encroachment and would like to see something like that added to this Program.
Commissioner Sibon commented that she agreed with the fine. But does not think that the Shoreline Master Program is the document this should go into.

Encroachment penalties were discussed in more details.

Mr. Pederson stated RCW 36.70 under Code Enforcement, Island County has the authority to fine the encroachment. Action can be taken through the courts and is a deliberative process. It was the County’s policy choice to not use criminal procedures on land use violations.

Past penalties and fines were discussed further.

Commissioner Sibon stated they are all aware of the penalty process but the concern is that there is nothing in the Shoreline Master Program that addresses the penalties.

Mr. Pederson used the example of Marissa Lane; it is a road right-of-way and in no way is a public beach access. He explained further the circumstances occurring on Marissa Lane in more detail and explained how road right-of-ways are established and their purpose.

Commissioner Enell does not feel the Marissa Lane right-of-way gives proper access to the beach.

Commissioner Sibon said there was a neighbor that fenced off a public access.

Robert Pederson stated her particular example is currently in the Prosecutor’s office it is much more detailed than what is reported in the newspaper.

Commissioner Howard asked regarding the policy set by Board of Island County Commissioners, land use violations does not want them to be criminalized. He wanted to know if there are ways to sharpen the language that would focus on cases that there are unambiguous to the title and perhaps should be treated criminally since it is theft from the people.

Mr. Pederson stated there is no adverse possession against the sovereign.

Commissioner Enell commented regarding page 27 of the Goals and Policies, # 3 the experimental aquaculture wording he felt should remain in the document.

3. Experimental aquaculture development should be limited in scale; should be approved for a limited period of time; and should be required to demonstrate that they will not result in a net loss of ecological functions. “Experimental aquaculture” means an aquaculture project that uses methods or technologies which are unprecedented or unproven in the

3. Aquaculture that poses a threat to wild salmonids by degrading water quality, potentially acting as disease or parasite sources, or which, if the farmed organisms escape, may successfully reproduce and compete with wild salmonids should not be allowed.
Ms. Stewart said the wording came from Department of Ecology as it was more germane and DOE is trying to keep aquaculture more standardized across the jurisdictions. She also asked that the Commission give a direction on whether or not to remove the wording.

Discussion ensued.

Commissioner Enell stated he wanted the following to be added in the policy and procedures:

- On those shoreline areas where public access and recreation is predominantly of a passive nature such as swimming areas, picnicking, wildlife viewing and interaction or beach walking the use of internal combustion powered watercraft such as jet skis or other which are accompanied by loud, persistent and near shore noise and distraction, shall not be allowed.

Discussion noted the term jet skis should actually be personal watercraft as Jet Ski is a brand.

Discussion on whether the tax issue noted earlier of a community waterfront lot is not being taxed was in fact true. It was noted this was an issue that could not be resolved by this body, but by the Assessor’s Office.

Commissioner Enell further commented:

- Critical Areas Ordinance updates: The SMP needs a footnote addressing this.
- Education, could an executive summary be done to help the public understand what is changing.

Commissioner Sibon feels that the County should put on a small workshop to explain.

Discussion on the jet ski issue continued and included the Noise Reduction Ordinance in Island County.

*Commissioner Enell made a motion to add the language he read regarding jet skis into the SMP update, location to be at the discretion of the SMP Coordinator, seconded by Commissioner Dickson, motion carried unanimously.*

*Commissioner Hillers moved to strike policy #4 on page 27 about aquaculture districts since it was pointed out that permits for Penn Cove Shellfish are based on the aquaculture district.*

Discussion ensued.

Karen Stewart stated the response to Mr. Jefferds would be that when he comes in to renew his permit for his ongoing facility then it would not reference particular district anymore, but would have some other geographical description that would relate to his parcel for this use. She reminded the Commission that this program is not going to apply to existing uses, it applies to new activity. It would not preclude Mr. Jefferds from his uses. These districts are obsolete.

Motion was withdrawn.
• Commissioner Hillers asked about biotechnical methods as shoreline stabilization – she wanted to know what biotechnical methods were.
Ms. Stewart replied that they are soft-shore vegetation.

*Discussion determined biotechnical methods should be either replaced with “softshore vegetation” or defined as a term. It should be clear.*

Commissioner Sibon commented on:
• Page 44, monitoring vegetation item 10. The wording should be within or by the 5th year.
• Page 49, items 5 and 7 have the same verbiage, should be within or by.
• Issue raised the Builders Association letter asking why the buffers, in essence we are calling it a setback.
Mr. Pederson replied a setback is for structures, a buffer is for habitat.

Commissioner Yonkman:
• Loves the update but is concerned adding more restrictive conditions. The older developments before the regulations are the most problematic.
• Discussed setbacks and buffers.

Education – creating a document that helps the public, explaining what happens throughout the permit process.

Commissioner Dickson:
• In agreement with 2 or 3 members of the public commenting earlier today, is very pleased to see the comments incorporated into the draft.

Commissioner Hall:
• Impact this would have on the building permit process.
  ○ Need to see designation new and prior.

Mr. Pederson stated nothing about this would affect the building permit process itself. It might change how the shoreline permit is processed, but the building standards and the Building Code wouldn’t be any different as a result of the current program or the proposed program.

The Commission looked over 4 permits and discussed how 260/11 SHE – shoreline exemption to construct new cabin in Harrington Lagoon.
As the Code exists today there is a 75 ft. marine fish & wildlife habitat conservation area buffer. Under the proposed regulations there is a 30 ft. MFWHCA buffer and a 45 ft. setback.

312/11 SHE
114/10 SHE
262/10 S-CUP

Further discussion on regulatory setbacks for a new home continued. Reasonable Use Determination (RUD) determines some buildable area on the property unless the County is ready to purchase the property.
Further discussion on:
- Soft-shoreline armoring.
- Planting list applicant can work with for planting in the buffer.

Commissioner Joselyn:
- There are 200 miles of shoreline and not 100 people have shown up. This concerns him especially due to the impact.
- During Camano work session the comment of letting a dike flood concerned him.
- Maintenance of existing dikes and replacement of dikes.

Mr. Pederson will be meeting with the Dept of Ecology to discuss certain applications and look at the bigger picture for that specific diking district.
- Lagoon Point bulkheads can there be solid bulkheads if neighbors on both sides have solid bulkheads.

Mr. Pederson confirmed hard armoring would be allowed; this is carried over from the existing regulations.
- Maxwelton area there used to be a boat launch, what he believed happened is a neighbor was encouraged to use a soft shore approach and put in a soft shore bulkhead and now there is a sand spit that has outgrown from that area, about 1,500 feet and now it has wrapped itself around all the houses in the neighborhood and beyond the boat launch. The boat launch itself is clear, but there is a 14 foot stack of sand in front of it and it cannot be negotiated. As a result it is beginning to wrap itself around the park and the next house. So now at high tide there is a huge pond behind the sand spit, whenever the tide runs out the water is beginning to erode the rocks, jeopardizing his neighbor’s house. Thinks there needs to be a jetty installed.

He further stated he felt there needed to be somewhere in the document that addresses the historic right to a boat launch, that overrides mother nature, and allows access to an existing boat launch.

Mr. Pederson addressed the comment, putting in a new jetty or groin will be a regulatory hurdle and a challenge.
- Mr. Joselyn stated the same situation happened 10 – 15 years ago in Sunlight Beach, also in Useless Bay. The Corp. was called and did not respond, it was winter with storms situations, so the Diking District moved some sand and built a couple of groins and stopped the potential of losing the dike and flooding the neighborhood. When the Corp. did finally respond they were asked what they would have done and they replied they would do exactly what had been done, but it probably would have taken years to get to that point and he is afraid at the rate it is going, his neighbor is going to lose his house.

Mr. Pederson said the threat to the house is an easier permit to deal with, but the bigger solution, because of State law would not be.

Commissioner Hillers said one of the assignments is to discuss the map.

Mr. Pederson informed the Commission that there is a site specific request about changing the designation that came in last week. It will be forwarded to the Planning Commission, along with Karen’s recommendation.
**Additional Public Comments:**

**Jeff White, 7126 S. Maxwelton Rd, Clinton**

- Has the impression the process is a one size fits all, with the exception of a few areas.
  - Would like the Commission to consider areas like Columbia Beach, portions of Mutiny Bay, Bells Beach should have separate rules of circumstances. These would be considered redevelopment not new development. Upgrade septic system, update structure to meet setbacks and buffers to be code compliant, no one can do a process without a consultant. This will result in the waterfront properties only being owned by the wealthy. It will exclude the nephew who inherited Uncle John’s place and wants to build a retirement home of modest and appropriate size.

- Would like there to be specific language to address these types of situations, what he refers to as re-development.
  - Like for like structure, whether it is repair, remodel, or new in these already developed areas.
  - Setbacks and buffers in keeping with the standards in these previously platted areas. Consider what is already there, what has already been permitted.
  - Repair / replace in particular bulkheads.
  - Off-site mitigation credits for these types of situations, small piece of property, asked to do mitigation to enhance water sheds.

*Commissioner Enell moved to continue the public hearing to September 11th and adjourn this meeting, Commissioner Yonkman seconded, motion carried unanimously.*

Meeting adjourned at 3:58 p.m.

Respectfully submitted,

Virginia Shaddy