

Agricultural Advisory Committee

Special Meeting

DRAFT meeting notes for June 7, 2010

June 7 meeting highlights:

- ◆ There were 16 people in attendance (6 guests; 9 of the 13 voting members, and one staff member). The guests were Gary Honcoop of the Planning Commission; Laura Ridenour, Sustainable Connections – Food and Farming; Henry Bierlink, Whatcom Farm Friends; Cathy Lehman, Futurewise; Sara Kuljis, citizen; and Skip Richards, WWSE.
- ◆ Staff discussed some historic background regarding agriculture and land use planning to provide context for the discussion of Section 36.70A.177.
- ◆ As part of the Comprehensive Plan update process, the Committee discussed aspects of Section 36.70A.177 (Revised Code of Washington) in regard to what uses and activities might interfere with agricultural uses and what activities might be supportive of agricultural uses. [Section 36.70A.177 requires that accessory uses on agricultural land “*shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter.*”]
- ◆ During the Open Session part of the meeting, reports were provided by the Agricultural Buildings Subcommittee and the Agricultural Regulations in Critical Areas Subcommittee.
- ◆ Dean Martin advised the committee that he was informed this afternoon that he was included in layoffs in the Planning and Development Services Department. His last day is July 6.

MEETING NOTES

Quorum

A quorum was present with 9 of the 13 voting members in attendance (see sign in sheet at the end of the meeting notes). Lesa Boxx, Chair, called to the meeting order at 7:05 P.M., (at the time a quorum was present) at Station 71, North Whatcom Fire and Rescue in Lynden.

Meeting Notes Approved

Vicki Hawley moved to approve the meeting notes from May 3; Dick Yoder seconded, and the meeting notes were approved by all voting.

Open Session for Pubic Comments:

There were 6 members of the public in attendance.

Wesley Kentch stated that Range Magazine had a good article on wolf hunting and impact of wolves on livestock.

Wesley Kentch reported that the **Agricultural Buildings Subcommittee** had continued to work on the issue. The Clark County model is an example to look at. Data links to other sources of information were provided. Building permits should be a flat fee, say \$50, as long as the plan is from an approved source, such as a college or firm and had been engineered. Clark County does

not require a building permit for Ag buildings used strictly for Ag. Propose we come up with a recommendation to exempt Ag from building permits.

Gary Honcoop noted that the current building code should be referenced (2006). It should be checked to see if this was consistent with the Clark County code. Another approach might be to exempt Ag buildings based on size or square feet involved.

Debbie Vander Veen asked if the proposal would mean no inspections. The County has a variety of issues including critical areas, and seismic safety. Not sure that the inspections could be eliminated; this may need some research. Wes indicated that if the end process still makes people jump through the hoops, that would ruin the purpose of the proposal. It was also stated that contractors could be concerned about the buildings being properly engineered and built. Buildings should be built strong and engineered for our region. Wes replied that buildings engineered for North Dakota would likely meet Washington needs and standards.

It was stated that the County has a list of generic pre-approved plans that people can reference. Someone asked for these at the counter and was told the county doesn't have them. County should have budgeted positions, not rely on permit fees. We don't get experienced knowledgeable people at the counter. Don't think we can get out of the need for critical areas review.

Permits are so costly that people are avoiding permits and just putting things under tarps to keep them dry. A discussion about the type of farming operation that should be included (hobby farms, commercial farms, etc.) Gary Honcoop suggested that it should be the type of building that is built, not the type of farmer that should drive the rules.

We are in seismic zone 3 which would determine how buildings here would need to be designed and engineered. The engineer takes on a great deal of responsibility in this process. Agenda for the next meeting – Buildings? Is square footage a concern? Engineering questions? New research on these questions was proposed. It was noted that a pre-1940s barn is in very good shape, but could not be built today based on current standards.

The Subcommittee will gather additional information and come back with a proposal.

Dick Yoder advised the AAC of the **Agricultural Regulations on Critical Areas Subcommittee** activities. The Subcommittee met on June 3, 2010.

Matt Krough, ReSources, Baykeepers, attended the previous meeting and they are open to working with the Ag Community on voluntary options to protect water quality, which is what most of the critical issues related to water quality are about. He agreed on the desirability of backing off on the threatening letters. If someone gets a letter they should contact the Conservation District or the County. The CD is not getting letters or reports of problems with this at this time.

Do we continue the process of looking at voluntary alternatives to the enforcement strategies that are now being used?

George Boggs will talk with Jeremy Freimund (works for Lummi Nation Natural Resources) to discuss this and will contact Steve Hood, Dept. of Ecology, to see if they are willing to

participate. Will need Lummi, Nooksack, and Ecology to participate if there is to be a successful program.

Critical areas is being driven by clean water. It may be more effective to drive the process on a watershed basis instead of a parcel-by-parcel basis. Possible candidates for pilot efforts: Bertrand; Fish Trap; 10-Mile Creek is the only stream meeting the Water Quality Standards. Another complication is that the Marine water quality standards are more strict than the fresh water standards; and the lower reaches of some of the streams that are affected by the tides are subject to the marine standards.

Erika Stroebel, Whatcom County Public Works, met with the Subcommittee and provided a good deal of information. Fecal Coliform bacteria evaluation is about \$22 per sample; \$750 for species typing. This is too expensive to do extensively and get statistically viable results; it would take a great deal of money to get the problem sources and locations specified.

TMDL (Total Maximum Daily Load) goals are established by Ecology. There was skepticism of the results by some members of the subcommittee, in part because many of the samples were analyzed by the Lummi Nation.

Trying to make the overall program voluntary. There needs to be training so that people who come in from the outside know what they need to do. Also have people ready to help train folks with water quality monitoring, etc. Need money to run water samples. Need to figure out a watershed to use as a pilot. Need half a dozen or so people in a drainage district. Water quality has varied over time and we don't know why.

Is the subcommittee to continue? Where does the money come from? Looking at grants on down the road. Need to start fairly focused on one area, as we go down the road, branch out. If the Lummis don't want to come and talk – we're done. There are difficulties in local governments working with the tribes. Are there ways we can get past the barriers? County Dairy Federation, Whatcom Farm Friends, Ag Advisory Committee; can these or other organizations talk to the tribes? The threat of shutting down the shellfish beds is too great a threat for them to ignore. They will continue to be involved in that effort.

Bob Kelley (Nooksack Chair) has indicated that we need to keep the land in farming to protect the land and water resources. The subcommittee is looking at possible dates for their next meeting (perhaps July 7 or 14). Keep in touch.

Administrative Update - Staff Report

Dean Martin gave an overview of some planning and land use issues related to farming. As the AAC deals with the requirements of Section 36.70A.177 (Revised Code of Washington), accessory uses on agricultural land, it might be useful to get some perspective by looking at what has happened in the past, and how we are where we are now. "*Agriculture and Whatcom County Planning – Chronology of Significant Events*," March 2010, was provided to the Committee (this had been provided to the Committee in April as well).

Prior to the Growth Management Act (GMA), Whatcom County had zoned some land as agricultural and also had a category identified as floodplain. After the 1990 GMA was put into place, Whatcom County used the existing subarea plans and zoning maps to zone Ag land. It

took the existing Ag zoning and the flood plain zoning and dropped those onto the county map as the new Ag zone.

When passed, the Growth Management Act stated that counties and cities would use a process developed by the Department of Commerce to identify agricultural land. The process and criteria for designation were published in the Washington Administrative Code, and were updated in February of this year to reflect court cases and Growth Management Hearings Board cases. Applicable updated WACs were provided to the AAC. Section 365-190-040 (WAC) describes the process and 360-190-050 describes the designation criteria. Section 365-196-480 describes the review and update process, and 360-196-815 addresses the conservation of natural resource lands. The designation criteria are to be applied to land that is farmed or is capable of being farmed. Whatcom County, unlike many other agricultural counties, has not developed designation criteria. The three main factors to determine Ag designation are:

1. The land is not characterized by urban growth;
2. The land is used or is capable of being used for Agriculture (two subheadings); and
3. The land has long-term commercial significance for Agriculture (10 subheadings).

The Whatcom County Comprehensive Plan called for conserving 100,000 acres for long-term commercial agriculture, and this was re-affirmed by the County Council in Resolution 2009-040. In the GMA process when the zoning came out to 88,000 acres, the county was challenged before the Growth Management Hearings Board. The county developed the Agricultural Protection Overlay code and stated that Whatcom County would protect over 100,000 acres with the APO provisions and agricultural zoning. APO applies to land that has at least 50% of its soils listed as APO, and if it is a parcel of 20 acres or larger. If APO applies, any residential use must be clustered on 25% or less of the land and the remainder is to be reserved for agricultural use. The APO process has not worked as well as many people had hoped and has been criticized from many sides.

Dean stated that he had heard that there is interest in reviewing the APO (Agricultural Protection Overlay) provisions of the code and that the County Council's Natural Resources Committee had that on the agenda for tomorrow morning (6/8/2010). (NOTE: *this may also be discussed at the July 13 Natural Resources Committee meeting*).

In 2006 the AAC recommended, and in 2007 the Planning Commission unanimously passed, proposed changes to the zoning code to provide additional protection to APO lands. The proposed changes would have made the APO applicable to parcels smaller than 20 acres and would have also provided siting provisions to better protect the productive agricultural uses of the land. The proposed code changes also had siting criteria for building in the Agricultural zone.

In 2007 the Agricultural Advisory Committee produced the Rural Land Study. This study looked at the rural zoned land and identified areas of good soils where significant agricultural activities were being conducted on fairly large parcels. They identified several areas that they recommended to the County Council for additional protection for continued agriculture. This process of identifying agricultural lands was similar to the designation process described by the Washington Administrative Code as specified by GMA.

Comprehensive Plan Update – Section 36.70A.177 (Accessory Uses on Agricultural Land)

This brings us to the topic for consideration this evening. Section 36.70A.177 (RCW) requires that accessory uses on agricultural land not interfere with and support the continued agricultural

use of the property and neighboring properties. What does this mean? Can we develop code, can we develop quantifiable criteria?

NOTE: The Growth Management Act requires Whatcom County to periodically review our Comprehensive Plan and development regulations. At a minimum, our plan and development regulations must be reviewed against any applicable changes in the GMA since the last update. Section 36.70A.177, Revised Code of Washington (accessory uses on agricultural land) was revised in 2006.

The Agricultural Advisory Committee continued their discussion from the previous meeting (May 3). Language in Section 36.70A.177 of the Revised Code of Washington was discussed. "Accessory uses shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter."

1. To interfere with agricultural use of a property and neighboring properties might include (can we better quantify these?):
 - (a) placing structures, driveways, lawns, parking, or other uses on agricultural land that takes agricultural land out of production;
 - (b) activities and structures that limit access to land for farm work and activities, (including cultivation, treatment, harvesting, processing, or other agricultural uses and activities);
 - (c) activities and structures that make working a piece of land more difficult or inefficient, including making areas that are too small to be worked efficiently, land laid out in a way that is difficult for machinery to work efficiently, and similar results.
 - (d) placing restrictions on agricultural land that prohibit or restrict the agricultural use of the property;
 - (e) having people in residences, commercial establishments, or other structures in an exclusion zone established by the USEPA for the application of agricultural chemicals or treatments;
 - (f) allowing activities or uses that result in complaints from people who might be subject to agricultural noise, odors, flies, fumes, dust, smoke, the operation of machinery during any 24-hour period (including aircraft), the storage and application of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides;
 - (g) non-agricultural uses of water;
 - (h) automobile and truck traffic on roads that farmers use for access to agricultural production and processing areas;

2. To support the overall agricultural use of the property and neighboring properties might include:
 - (a) conserving prime farmland soils for continued agricultural production;
 - (b) improving soil health and tilth;
 - (c) providing technical, administrative, and financial assistance with farming operations;
 - (d) improving the ease and safety of access to agricultural land for farm equipment and workers;

- (e) improving safety for farm equipment on roads that serve farming operations;
- (f) improving access to water and other inputs for agricultural operations;

Discussion

The “Buffer Zone Fact Sheet” was provided to the Committee. EPA has developed new buffers that require buffer zones for certain pesticide applications and requires that “bystanders” not be in the buffer zones for up to 48 hours. “Bystanders” include residents and people at businesses in the buffer zone. Having “bystanders” residing in the buffer zones makes it extremely difficult to use the chemicals as they have been used historically. “Difficult to Evacuate” sites such as day care, assisted living centers, in-patient clinics, and schools could absolutely preclude the use of these agricultural tools. This is an example of how residential use and other similar uses are not consistent with commercial agricultural production.

The tools that were endorsed by the Agricultural Advisory Committee were discussed, as was the “Rural Land Study.” The AAC worked hard with the County to develop the tools. Most have not been developed to any substantial degree. Landowners would be willing to do some of these things if the code would allow. Land owner and their neighbors would be willing to put their development potential on the poorer land and keep the better land in agricultural production.

An alternative to the Agricultural Protection Overlay (APO) is the Rural Land Study. The comprehensive plan and Resolution 2009-040 call for protecting 100,000 acres of land for agriculture. With 88,000 acres zoned for Ag, the Rural Land Study identified approximately 22,000 more acres for additional protection of its agricultural uses.

What should we as a committee do as a start? Code drafting? How does this work? Would like to take some of the tools and develop them further.

Tools – TDR, PDR, parcel reconfiguration, other tools? Email code development priorities to PDS.

Need to protect Ag. If its Ag its Ag – don’t use it for houses or other uses.

Storm water from development was also discussed as a threat to agricultural operations downstream. PDS is not doing enough to protect downstream operations from development; storm water is negatively affecting downstream landowners.

How much time is there to do this work?

Dean informed the committee that he was told this afternoon that he was being laid off due to budget issues and that his last day would be July 6. He would not be available to work on these issues much longer but would try to prioritize some of the most important

tasks. Dean would be meeting with management and other staff to come up with recommendations on how to proceed with Ag issues.

There was concern expressed that the work needed on Ag issues would be difficult to accomplish without full time staff support. Gary Honcoop reminded the Committee that the Planning Commission had put the ball in our (AAC's) court regarding Section 36.70A.177 (RCW) (accessory uses on agricultural land).

A discussion ensued regarding sending a letter to the Council specifying what the AAC needs to accomplish and how that would be more difficult without experienced staff. Dick Yoder made the motion and Debbie Vander Veen seconded. After discussion, all voted in favor.

◆ **Adjourn 8:55 P.M.**

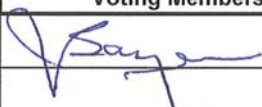
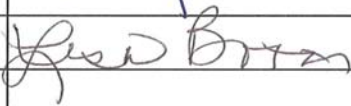
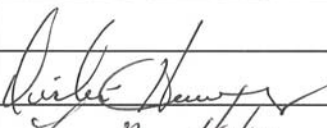
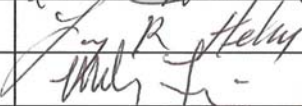
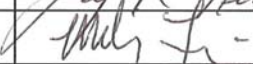

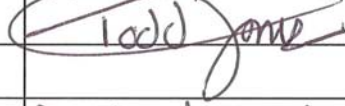



Lesa Boxx, Chair, adjourned the meeting at 8:55.

Included in the meeting packet June 7, 2010 (or provided at the meeting):

- ◆ AAC June 7, 2010 Agenda.
- ◆ Draft meeting notes from May 3, 2010 meeting.
- ◆ "Agriculture and Whatcom County Planning – Chronology of Significant Events" March 2010.
- ◆ Accessory use of agricultural land, what might interfere with - and what might support continuing agriculture.
- ◆ Washington Administrative Code related to Agricultural Resource Lands (365-190-040, -050; 365-196-480, -815), and Revised Code of Washington (RCW 36.70A.130).
- ◆ "Soil Fumigant Buffer Zones Fact Sheet" USEPA May 27, 2009.
- ◆ Examples of Section 36.70A.177 provisions for discussion: *Shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter.*

Lesa Boxx, Chair, Agricultural Advisory Committee Date

Agricultural Advisory Committee - Sign in Sheet - June 7, 2010

NAME			Voting Members SIGNATURE	Affiliation
Bayer	John			Farmer
Blok	Ed			Whatcom Farm Friends
Boxx	Lesa			Consumer
Buys	Dave			Farmer
Cieslar	Brian			Expertise in Farm Programs
Hawley	Vicki			Processor
Helm	Larry			Farmer
Finger	Mike			Farmer
Kentch	Wesley			Farmer
Jones	Todd			Farmer
Plagerman	Leroy			Farmer
Vander Veen	Debbie			Farmer
Yoder	Richard			Conservation Distict Board
Ex-officio Members and Contributing Members				
Antholt	Charles			Chair Emeritus
Bierlink	Henry			Whatcom Farm Friends
Boggs	George			Conservation Distict
Gilles	John			Farm Expertise
Gliva	Carly			FFA Youth
Hall	Alex			NRCS
McConnell	Craig			WSU Extension
Martin	Dean			Whatcom Co.

Guest Sign In Sheet: June 7, 2010		
Do you wish to address the Committee?	Yes/No	Affiliation
Name		
Sam Worcester	✓	Planning Commission
Cathy Lehman	Not!	Futurwise
Kayla Ridenour	no	Sust. Connections
Nancy Birtle		WEF
Jana Kuljis	no	citizen
Skip Richards		Walse

Food's Farming