

Agricultural Advisory Committee

Approved meeting notes for March 18, 2009

The meeting was called to order at 3:00 P.M. by Charles Antholt.

- **Topics Discussed**

- Farmland Preservation Tools from TRC (recommendations made)
 - Business Rules (revisions approved)
 - Meeting Notes from 2/11/2009 and 3/04/2009 (approved)
 - April 1 – next meeting
- A **quorum** was present with 10 of the 12 voting members at the meeting; see attached list at the end of the meeting notes.
 - **Comments from the public** - Bob Van Weerdhuizen commented on the need for dealing with the water issue. Farmers need water rights for farming. This has been talked about for 30 years; no progress. No water, no farming.
 - **Farmland Preservation Tools – Technical Review Committee:** Henry Bierlink provided an overview of the tools forwarded to this Committee from the Technical Review Committee (TRC) for consideration. These tools were also discussed at previous meetings of the AAC. In Whatcom County we want to protect 100,000 acres of agricultural land for continuing agriculture. This was determined to be the minimum level we wanted to go to in order to have enough land to support the needed farming infrastructure (implement dealers, suppliers, Ag services, etc.). This amount of land (100,000 acres) is also specified in the county's comprehensive plan. The Technical Review Committee spent about a year looking at various tools and has provided these tools to the AAC to consider and to make recommendations to the Council.

1. Purchase of Development Rights (PDR) - yes

This option for protection of agricultural land was supported by the committee. Debbie Vander Veen made the motion to approve; seconded by Dave Buys.

Comments and discussion:

This tool represents an ongoing program in Whatcom County. It is expensive and slow, however. There are seven proposed projects this year. The rankings of the properties were approved by the Council yesterday (3-17-2009) and are being further developed. The amount of land protected under this program is a "drop in the bucket" and needs to be part of a more comprehensive program. On the positive side, the program establishes what the market is for development rights and it is very effective in permanently removing development potential from farm land. *"People say that they want to protect Ag land; are they willing to pay for it?"*

2. Lease of Development Rights - yes

This option for protection of agricultural land was supported by the committee. The motion to approve was made by Lesa Boxx and seconded by Vicki Hawley.

Comments and discussion:

This is a tool that could be used to hold development potential from being developed on an interim basis until the development rights could be purchased by a public entity or a land trust. This would be a specialized tool that would be used infrequently. Properties would need to be screened by the Agricultural Advisory Committee or the Purchase of Development Rights Oversight Committee.

3. Transfer of Development Rights - yes

This option for protection of agricultural land was supported by the committee. The motion was made by Dave Buys and seconded by Debbie Vander Veen.

Comments and discussion:

Although this option is not a “silver bullet” and has many limitations, it is worth pursuing as one tool in the toolbox to help protect farmland. Recent analyses by Whatcom County and by the City of Bellingham indicate that a TDR program is not feasible under current conditions. The concept, however, is appealing. To be effective the county and cities in Whatcom County need to develop plans and policies that support a market for a Transfer of Development Rights program to protect farmland. There are a lot of difficult questions. Who would control the receiving areas? How do we create a market for development rights? Does GMA require a procedure for removing land from resource designation? This option (TDR) is seen as a long-term project; no quick or easy solution.

4. Parcel Reconfiguration - yes

This option for protection of agricultural land was supported by the committee. The motion was made by Ken Schilke and seconded by Vicki Hawley.

Comments and discussion:

The purpose of reconfiguring parcels is to place the existing development potential in areas that are the least valuable as farm land. This might also be accomplished between multiple parcels. The use of clustering (another tool – see item 10) would also be a part of this tool.

5. Down Zoning – no

This option was not endorsed by the committee. The motion to not endorse this option was made by Debbie Vander Veen and seconded by Ken Schilke. Mike Finger voted in support of this proposal.

Comments and discussion:

The committee’s recommendation to reject down zoning as a tool to protect farmland is related to property rights concerns. There is value in having the ability to sell property for development, or to use it to build on for family

members. If the landowner can be paid for that value, in the committee's view, that would be a more acceptable way to protect farmland. See item 11.

An alternative view expressed was that farmland is too precious a resource to lose and should not be treated as a commodity based on its market or speculative value.

6. Acquisition and Leaseback or Resale - no

This option to protect farmland was not endorsed by the committee. The vote was unanimous. The motion was made by Debbie Vander Veen and seconded by Vicki Hawley.

Comments and discussion:

Although some value was seen in having this option, it was perceived to be a tool to be used between a land owner and a land trust (as it is currently used) without direct involvement by the county. If this tool were in the toolbox, it could possibly be used to delay the conversion of agricultural land. There was concern expressed about possible effects on the Conservation Futures Fund. In addition, the ownership of the land by the county for this purpose was not perceived as a positive thing.

7. Natural Resource Banking - yes

This option, on a conceptual level, was supported by the committee. The motion was made by Mike Finger and seconded by Debbie Vander Veen. Ken Schilke voted not to recommend the concept at this time.

Comments and discussion:

This conceptual tool links land and water resources. Implementation would require cooperation between various levels of government and jurisdictions; and this would not be easy. There are many farmers who would trade their ability to develop their land to obtain rights to water. The committee supports the further development of this tool. Whether its implementation can be supported will depend on what the tool actually looks like after it is more developed.

8. Right to Farm - yes

This existing option for protection of agricultural land was supported by the committee. The motion was made by Debbie Vander Veen and seconded by Vicki Hawley.

Comments and discussion:

The Right-to-Farm ordinance has been very useful in protecting farmers from nuisance law suits as they carry out their operations using acceptable farming practices. Even so, there are people who do not understand agriculture and can cause difficulties due to that lack of understanding. The right-to-farm ordinance should be reviewed to see if it is possible to make it more effective. One of the discussion points included the concept that right-to-farm should not be used to

protect poor practices. Another discussion point stated that if people sue farmers and lose, the right-to-farm ordinance should include having the person who sued pay the legal fees incurred by the farmer. Another point raised was that anonymous complaints should not be given the same consideration as complainants who are willing to give their names. The Committee requested that staff develop ideas about proposed changes to bring back to them for consideration.

9. Conservation Easements - yes

This option for protection of agricultural land was supported by the committee. Tom Thornton made the motion to approve and Todd Jones seconded it.

Comments and discussion:

Conservation easements, when put into place, go with the land. They are used as a part of the county's Purchase of Development Rights program and are also used in Transfer of Development Rights programs. A conservation easement restricts the use of land to specified conservation purposes, such as conservation of agricultural land. Conservation easement agreements are also used between landowners and land trusts. The federal law recognizes donations of development rights under certain conditions as donations for tax purposes. The federal income tax conditions for the donation of conservation easements for agriculture lands are very favorable through 2009. It would be useful to have more people aware of this option and participating. Local land trusts are working with landowners in Whatcom County to help them take advantage of this opportunity.

10. Clustering - yes

This option for protection of agricultural land was supported by the committee.

Comments and discussion:

Clustering is currently required in the Agricultural Protection Overlay (APO) zone for parcels greater than 20 acres. The intent of clustering in the APO zone (and on other farm land) is to place development into the areas of a parcel that are the least productive or useful as farmland. The clustering tool is a compromise measure that allows development but also protects a portion of the farmland at the same time. There is widespread belief that this tool is badly broken and needs repair. A lack of maximum setbacks, consideration of critical areas as trumping agricultural concerns, larger losses of land to developed parcels than are needed or wanted due to regulatory requirements, and limitations on the agricultural use of remainder parcels create conditions that are detrimental to long-term agricultural productivity. One of the comments was that the clustering should be encouraged, but not a requirement.


11. Tax Abatement as Payment for Retiring Development Rights - yes

This option came up during the discussion and was supported by the committee. Todd Jones motioned to recommend this tool and Tom Thornton provided the second.

Comments and discussion:

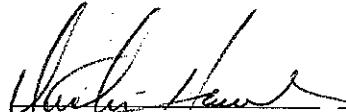
Tax relief could be used as an alternative form of payment for the Purchase of Development Rights program. If land is permanently restricted from development, the cost to provide future services for those developments is greatly reduced. With this reasoning, the committee suggests that the county council explore the option of providing perpetual 100% tax abatement on property and improvements - in lieu of direct monetary payment from the county- for the Purchase of Development Rights.

- **Land Clearing Ordinance** (WCC 16.17) changes were discussed briefly by Josh Fleishmann. Part of the reason for the proposal is that the current clearing regulations are scattered throughout the code, are inconsistent and are hard to find and use. There were concerns expressed as to how the changes might affect agriculture in Whatcom County. This may go to the Planning Commission in May or July, but not before additional comments are considered. The committee requested that the proposed code language be circulated for them to review. (*it has been*). The Land Clearing Ordinance will be discussed at the next meeting. Josh encouraged committee members to provide comments. Provisions to allow for farming activities and practices, such as fill and grade, etc. need to be included.
- **Business Rules** were handed out at the previous meeting. Some minor changes were incorporated from that meeting including the suggestion that the meeting notes be provided directly to the County Council so that they could be kept up to date regarding the issues and concerns of the Committee. The business rules were approved by unanimous consent (Debbie Vander Veen motion, Vicki Hawley second).
- **Minutes** from the February 11, 2009 (Tom Thornton motion, Todd Jones second) and March 4, 2009 (Debbie Vander Veen motion, Todd Jones second) meetings were approved by unanimous consent.
- **Next meeting - April 1.** The next meeting was tentatively scheduled for April 1. The location is to be at the Whatcom Farm Friends' office in Lynden. The committee discussed holding meetings in the future at the Ag Services Center on Hannegan, but it was decided to hold off on that shift until the end of construction at the Hannegan/Pole Rd intersection.



Charles Antholt, acting chair

Date

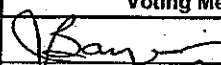
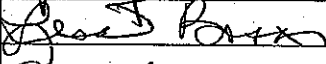
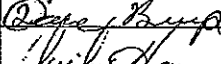
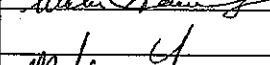
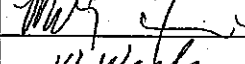

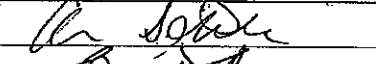
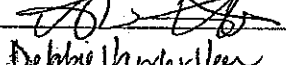
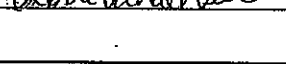
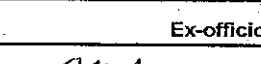
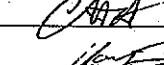
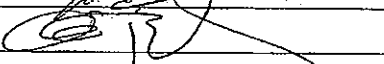
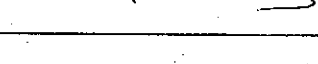




Vicki Hawley, vice chair

2/1/09

Date

Agricultural Advisory Committee
Sign in Sheet - Date March 18, 2009

NAME		Voting Members SIGNATURE	Affiliation
Bayer	John		Farmer
Boxx	Lesa		Consumer
Buys	Dave		Farmer
Hawley	Vicki		Processor
Helm	Larry		Farmer
Finger	Mike		Farmer
Kentch	Wesley		Farmer
Jones	Todd		Farmer
Schilke	Ken		Farmer
Thornton	Tom		Whatcom Farm Friends
Vander Veen	Debbie		Farmer
Yoder	Richard		Conservation District Board
Ex-officio Members			
Antholt	Charles		Acting Chair
Bierlink	Henry		Whatcom Farm Friends
Boggs	George		Conservation District
Gilles	John		Farm Expertise
Hall	Alex		NRCS
McConnell	Craig		WSU Extension
Lutz	Samya		Whatcom Co.
Martin	Dean		Whatcom Co.
GUESTS: Please Print Name			Affiliation
NICHOLE EMBERTSON			WCD
Brian Cieslar			Berries
Bob Van Weerdhuizen			Dairy