

Snoqualmie Watershed Forum
MEETING SUMMARY
January 20, 2010
Meeting 7:00 - 9:00 p.m.
Duvall Community Center, Duvall, WA

MEMBERS PRESENT:

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| Elizabeth Walker | City of Duvall, Councilmember (Vice Chair) |
| Chris Garcia | City of North Bend, Councilmember |
| Ray Mullen | Snoqualmie Tribe, Councilmember |
| Lee Grumman | City of Carnation, Mayor (Alternate) |
| Bryan Holloway | City of Snoqualmie, Councilmember (Alternate) |
| Gary Roberts | Citizen Representative |
| William Harper | Citizen Representative |
| Bill Knutsen | Citizen Representative |

MEETING PROCEEDINGS

Introductions and Minutes

- Bill Knutsen agreed to act as Chair for the meeting at the request of the Vice-Chair.
- Yvette welcomed several new representatives to the Forum and provided a brief update on the status of member appointments in each jurisdiction.
- The Forum approved the November 18, 2009 meeting summary.

Announcements

- *Large wood and recreational safety public rule:* Janne Kaje provided an update on the proposed King County Department of Natural Resources and Parks (DNRP) Public Rule regarding the consideration of recreational safety in the placement of large wood in King County rivers. For the benefit of new members, Janne recapped the history of the issue and reminded the Forum of its earlier comment letter submitted to King County Council in April 2008. The proposed public rule (currently out for comment) was prepared by DNRP in response to a County Council Ordinance passed in June 2009. The deadline for comments is February 19, 2010. Forum staff recommend that the Forum's April 2008 letter be included as an attachment to upcoming Forums comments on the new proposed rule – both to reduce duplication and to make DNRP aware of the Forum's longstanding interest in the matter.

Janne reviewed a staff memorandum that identifies potential issues that the Forum may wish to highlight in its upcoming comments. These include [see handout for more detail]:

- The apparent lack of balance in the consideration of multiple county policies and programs, such as salmon habitat restoration, flood control and the issue of recreational safety. It was noted that the imbalance originates in the Ordinance rather than in the current proposed rule, but Councilmember Walker inquired whether it is too late to reconcile these interests.

- Increased cost of habitat restoration and flood protection projects as a result of new procedures.
- The importance of education and outreach regarding river safety, as well as a law to require use of Personal Flotation Devices on King County rivers.
- King County’s existing large wood protocols (approved in 2008) already go further than any other government in the nation in considering recreational safety. Projects in the Snoqualmie demonstrate that King County already does a good job of taking recreational safety into consideration when designing projects, using these protocols. It is therefore not clear why the 2008 protocols were deemed inadequate, and the extra rule deemed necessary.
- Support for the provision in the rule that calls for additional mitigation actions when projects are exceedingly modified to address recreational concerns, i.e., projects modified to the point that ecological objectives are compromised.

In response to a question from the audience, Janne clarified that the proposed rule applies only to projects implemented by King County DNRP.

William Harper inquired about the extent of liability associated with wood placement and whether the County can shield itself from liability claims associated with wood placement.

Joanna Richey (Assistant Director of the Water & Land Resources Division) explained that in the case of flood facility projects the County has a narrowly-construed shield from liability, but that no such protection exists for habitat restoration projects. Any change to the liability issue would need to occur at the State level. Ms. Richey also noted that placed wood is a small percentage of the overall wood that is present in County rivers.

Action: Janne proposed a schedule for preparing a comment letter and the Forum concurred. Yvette and Perry will take the lead in preparing the letter which will be emailed to Forum members for review and approval before February 19.

Restoration in the Agricultural Production District

Joanna Richey described the proposed administrative procedure related to the implementation of King County Code 21A.24.381 (October 2008, see handout). The Code requires the King County Department of Development and Environmental Services (DDES) to make certain determinations before approving aquatic habitat restoration projects on sites located within King County's Agricultural Production Districts (APDs). This provision also gives King County's Department of Natural Resources and Parks (DNRP) certain responsibilities in assisting DDES in making the determinations required by that code section. The vast majority of the Snoqualmie River’s floodplain from Snoqualmie Falls to the county line is within the APD. The intent of the Code is to support County policies related to the preservation of productive agricultural land.

The proposed procedure [see handout for details of the procedure] spells out the responsibilities of DNRP, DDES and project applicants in determining potential impacts of proposed APD-sited projects on agricultural lands or operations. DDES and DNRP are providing an opportunity for comment before the procedures go into effect. Written comments will be accepted through Friday, February 19. However, Ms. Richey noted that this is not a “hard” deadline and that the King County will welcome comments submitted throughout the year. DDES and DNRP will evaluate the procedures during 2010 and make adjustments (if needed) as they gain experience with the process.

In the Snoqualmie watershed, the highest priority flood protection projects, highest priority salmon habitat projects, and the best farmland are co-located within the floodplain of the Snoqualmie River. Thus, the proposed procedure attempts to provide balanced consideration of sometimes competing priorities.

Ms. Richey highlighted the fact that the procedure is applicable only to restoration projects that require a clearing and grading permit from the DDES. This means that most riparian planting and invasive plant removal projects will be exempt from the procedure.

A substantial challenge in the development of the procedure was the fact that the Code language included many undefined terms, such as “net benefit to agriculture”. Due to the ambiguities in the Code language and the challenge of balancing important objectives, the proposal establishes a four-person panel that is charged with performing the assessment. The panel will include three staff from DNRP with respective expertise in agriculture, flood management and habitat restoration, as well as a one staff from DDES. The review of projects by the four-person panel (following the proposed procedure) is meant to take place early in the project planning cycle to avoid late-stage surprises – after substantial time and money have been invested in project development. Project sponsors wishing to undertake a project on APD designated lands are encouraged to run it by the four-person panel as early in the project cycle as possible. There is no charge for the review or consultation.

Ms. Richey used the Chinook Bend project as an example of how one specific project was able to demonstrate compliance with the procedure. Chinook Bend showed compliance in two ways. First, the deed restrictions attached to the Chinook Bend property required that the site be utilized for open space and restoration – thereby rendering the site “unsuitable for agriculture” by cause of land use restrictions. Second, following the project, fill material from removed levee was used to construct/elevate farm pads on six farms in the Snoqualmie APD – thereby provide a benefit to agriculture in the form of improved flood protection for the receiving farms.

Questions and Discussion

Gary Roberts inquired about the timeline of the procedure and expressed concern that it might delay project permitting and implementation. Ms. Richey explained that an applicant can and should approach DDES or DNRP for an initial assessment early in their project scoping. Within 14 days of notification, the applicant will learn whether the procedure applies to the proposed project. Once all materials (for assessment) are complete, the panel has 30 days to render a decision to the applicant.

Forum members noted that it is not at all clear how the required Public Meeting (held by DDES) fits into the timeline. Ms. Richey explained that if the project sponsor holds a public hearing (for example as part of its SEPA process) the DDES hearing might not be necessary. King County does not want to add unnecessary steps or be duplicative. She also explained that a Technical Bulletin will be prepared to help applicants to navigate the procedure.

Councilmember Holloway noted that despite Ms. Richey’s description of the balancing of interests, agriculture seems to take priority over other objectives. He noted that projects might well be suspended as a result of the “benefit to agriculture” assessment. In addition, he asked whether a willing agricultural landowner would have to go through the procedure to do a project on their own lands (Answer: yes). Ms. Richey believes that the procedure is not a hard trump card for agriculture, and noted that the assessment of a project’s impact on agriculture is performed at the scale of the APD, rather than simply on a site-specific scale.

Yvette Lizée-Smith noted that the procedures are an effort to provide some balance across objectives that was missing at the level of the Code language.

Bill Knutsen noted that there are substantial, voluntary restoration projects happening on farm land in the County, including planting of Conservation Reserve Enhancement Program (CREP) buffers along streams and rivers. He also noted that the conflict between agriculture and habitat restoration is playing out in counties across western Washington.

Bryan Holloway inquired why Step B (demonstration that there are no suitable sites outside the APD for the project in question) doesn't occur at the very outset of the process. This seems like a very relevant point to establish early in the process to avoid unnecessary effort.

Will Harper asked about the interpretation of whether a parcel was “historically farmed”. For example, there are cranberry orchards that have been untended for decades but could presumably be farmed again. And, he noted that for certain crops, there is no such thing as “too wet”. Ms. Richey noted that unique circumstances will of course arise but that the panel will have the capacity to consider all relevant factors. For example, other regulations (such as wetland rules) may preclude farming activities in certain cases.

Lara Thomas (Senior Planner, Duvall) asked whether an appeal process is available. Ms. Richey noted that the “normal” process via the Hearing Examiner would be available as with other permitting issues.

In response to a question about the cost of the procedure, Ms. Richey explained that it is the County's intent that the procedure be available at low-cost or no-cost to the applicant. In response to a follow-up question about the County's availability of resources to subsidize the procedure during difficult budget times, Ms. Richey confirmed that the County has determined that the staffing is available to perform the tasks associated with the procedure.

Lara Thomas asked whether new mitigation banks would be allowed in the APD under this procedure, and whether denial of a mitigation bank project would infringe on property rights. Ms. Richey responded that a mitigation bank would likely not be approved in the APD on the basis of this procedure, unless the mitigation were exclusively for on-site impacts. Bryan Holloway asked how a mitigation bank constitutes an “aquatic restoration” project? Ms. Richey responded that if the bank serves off-site mitigation needs, it would likely constitute aquatic restoration.

Lara Thomas inquired what percentage of the APD has been “lost” to restoration. Ms. Richey did not have a specific numerical answer available, but noted that based on a review of the salmon conservation plans, an estimated 15-25 large projects throughout King County would likely fall under this procedure.

Bryan Holloway noted that even in the absence of direct fees, the process is not a no-cost venture. Savvy applicants will do pre-work to demonstrate “net benefit”. Applicants that are less prepared may get sent back to the drawing board.

Perry Falcone noted that funding agencies may oppose supporting projects for which achieving “net benefit” represents a cost over-and-above project cost. The Chinook Bend project realized cost-savings as a result of the arrangement to provide fill for farm pads. This may not be true with most projects.

Action: Yvette described the process for drafting and approving a comment letter via email by the February 19 deadline. Forum members agreed to the proposed schedule.

2010 King Conservation District (KCD) Grant Process

For the benefit of new members, Perry first described the KCD assessment and its allocation among watershed forums, member jurisdictions and the KCD itself.

Action: In order to provide additional background for new members, Perry agreed to follow up by e-mail with materials from a previous meeting regarding the allocation of grant funds by project type, geographic area and recipient.

2009 KDC Grant Rounds

Perry provided an update on the resolution of outstanding issues from the 2009 KCD Grant Round. Since the Forum's last meeting KCD has approved two more projects (Morgan property and 162nd Street) from the Opportunity Fund.

KCD has held back final approval for a few of the projects recommended by the Forum in the 2009 round so applicants address outstanding reporting for prior projects. These outstanding reporting issues are being actively resolved between KCD and project sponsors.

Perry reminded the Forum that as part of the 2009 round the Tolt Riparian Planting project (City of Seattle – applicant) was approved pending a funding decision from the Salmon Recovery Funding Board. If the SRFB provided funding for the project, the Forum instead would provide a higher amount of funds (still less than requested) to King County for the approved monitoring project. The SRFB granted funding to Seattle – thus, King County will be informed of the revised funding level. The forum has agreed previously to reserve an additional \$14,000 from the 2010 round to complete the funding package for the King County monitoring effort.

2010 KCD Grant Rounds

Perry reviewed proposed changes to the Forum's funding priorities for the 2010 KCD Regular Grant Round. The proposed changes are the result of feedback from Forum members as well as the ranking committee following last year's grant round [see handout].

In addition, Perry has explored the possibility with ranking committee members to include outside reviewers or experts to participate in proposal evaluation for certain types of projects – such as Ralph Svrjcek from the Department of Ecology for water quality projects. Also, for the first time, KCD staff will likely sit in on Forum ranking committee discussions to gain additional background on projects.

Decision: The Forum approved the proposed funding priorities and the timeline for the KCD Regular Round. A proposed schedule for the Opportunity Fund Round is forthcoming later in the spring.

Snoqualmie Forum Inter-Local Agreement (ILA) Renewal

Yvette summarized the structure of the ILA that establishes the Snoqualmie Watershed Forum and described the overall mission for the benefit of new Forum representatives. 2010 is the final year of the current agreement. Each member jurisdiction is responsible for a portion of the cost of the agreement. For King County and the four cities, the cost-share is based on a proportional calculation

that integrates land area, population size and assessed value of tax parcels. The Snoqualmie Tribe pays a flat fee as its portion of the cost share.

Thus far, Forum staff have been able to secure grants from KCD each year for some of the Forum's coordination and project support activities. These grants have offset the cities' portion of the cost-shares. However, the size of the city shares has grown due to substantial population growth in incorporated areas. In 2009, certain KCD board members indicated their resistance to funding Forum programmatic/coordination services under future grant rounds.

Due to the timing of local budget processes, the ILA-renewal discussions must begin early in 2010. Yvette proposes a two-phase process [see handout] that includes consultation with local government staff, Forum members (including alternates), possibly mayors and council committees, as well as citizen representatives. The consultation phase would take place between late January and March, culminating in an extended Forum meeting in March to develop recommendations for the remainder of the renewal process.

The second phase of the process involves the development of the agreement itself, followed by review and approval by the Forum, and subsequently by each member government.

Decision: The Forum approved the proposed ILA renegotiation process with a request that staff investigate moving the March 17 meeting to March 24 - and to confirm the final date via email.

General Forum Business

- *Chair / Vice-Chair Selection:* The selection of the Forum Chair and Vice Chair was postponed due to the absence of the current Chair and the fact that certain forum representative assignments are pending final decisions in the respective Councils.
- *KCD Advisory Committee:* Snoqualmie Forum has a seat on the KCD Advisory Committee. In the past this was a joint Watershed Forum/Suburban Cities Association representative. Staff recommend that the Forum have a separate representative on the Committee to eliminate potential conflicts between the two roles. Elizabeth Walker is willing to serving as our representative. Decision: The Forum approved the selection of Councilmember Walker as the Snoqualmie Watershed Forum representative to the KCD Advisory Committee and authorized Yvette to prepare and submit a letter to KCD confirming this appointment.
- Yvette announced that citizen representative Gary Roberts will be leaving the Forum following the sale of his home in the Carnation area. Gary has served on the Forum since its early years and has maintained a very high level of engagement, interest and contribution to the Forum's discussions. Forum members and staff wish Gary and his wife well on their next adventure. The process for filling the seat vacated by Mr. Roberts will be discussed at a future meeting.

Public Comment

No public comment.

Next Meeting

The next meeting will be Wednesday, March 24 from 5:00-9:00 pm at Snoqualmie City Hall. This will be an extended meeting to discuss the next Snoqualmie Forum Interlocal Agreement.