THURSTON COUNTY PLANNING COMMISSION

Minutes
February 22, 2006

1. **Call to Order**

Chair Roper called the special meeting of the Thurston County Planning Commission to order at 7:02 p.m. Everyone provided self-introductions.

a. **Attendance**

Member Present: Commissioners Tom Cole, Liz Kohlenberg, Chris Lane, Liz Lyman, Bob Musser, Scott Nelson, Joyce Roper, and Rhenda Iris-Strub.

Members Excused: Craig Ottavelli.

Staff Present: John Sonnen, and Recording Secretary Cheri Lindgren, Puget Sound Meeting Services.

b. **Approval of Agenda**

Commissioner Cole moved, seconded by Commissioner Kohlenberg, to approve the agenda as presented. Motion carried.

2. **Public Communications**

There were no public comments.

3. **Approval of Minutes**

Commissioner Kohlenberg moved, seconded by Commissioner Cole, to approve the minutes and accept the tapes of the January 25, 2006 meeting.

The following corrections were requested to the minutes of January 25, 2006:
The motion carried as amended.

Commissioner Cole moved, seconded by Commissioner Lyman, to approve the minutes and accept the tapes of the February 1, 2006 meeting.

The following corrections were requested to the minutes of February 1, 2006:

- Page 3, second paragraph from the bottom, second line, change “previously” to “in the past.”
- Page 5, second bullet point, fourth line, “Bauer” should be spelled “Bower.”
- Page 5, second bullet, fourth line, insert the words “former Planning Commissioner” in front of “Bob Bower.”
- Page 5, second bullet point, strike the third sentence entirely.
- Page 6, revise the first sentence to read, “In response to a question as to whether the 5-acre criteria on the current use tax program can be changed, Commissioner Lyman clarified it is a BoCC determined program and that the BoCC would have to change the policy.”
- Page 7, second bullet under Page 15, add the words “and the Administrative Procedures Act” to the end of the sentence.
- Page 8, first paragraph, last line, replace the words “practice rules” with “and fish program.”
- Page 8, first bullet under Page 20, add the words “beyond what’s currently” in front of “available” at the end of the sentence.
- Page 8, second bullet under Page 20, change the third sentence to read, “Commissioner Lyman said there is a range of riparian habitat widths.”
• Page 9, second paragraph from the bottom, revise the second from the last sentence to read, “Commissioner Strub requested the Commission receive further direction regarding whether rezoning volunteered lands would constitute illegal spot zoning before it takes up the issue.”

The motion carried as amended.

4. Critical Areas – Identify Information Needs for the Important Habitats (starting on page 15 of the comments matrix) and Wetlands Sections

(Staff: John Sonnen)

In reply to an inquiry from Commissioner Lyman, Chair Roper asked that she e-mail her comments concerning pages 1-15 of the Important Habitat and Species matrix directly to staff.

Chair Roper announced that in the future she will be asking for a “show of hands” more often and reserving motions for recommendations that are forwarded to the Board of County Commissioners (BoCC), approving the minutes, and/or approving the agendas.

Mr. Sonnen reported staff is compiling a separate list of research items and prioritizing it based on the timeline. Once the listing is complete, staff will present it to the Commission for review. In response to a brief discussion concerning review of a complete list of research items versus review of “piecemeal” lists, Mr. Sonnen conveyed it is staff’s intent to present one complete research items list in a recommended priority for the Commission’s review.

Staff and Commissioners continued with identifying information needs for Important Habitats and Species beginning on page 15 of the matrix.

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• Concerning the comment, “Table 8-5 states that the birds are “indicator species for relatively large and/or healthy prairie and may assist in protection of prairie habitat,” are any of the species “indicator species” for other types of habitat? Perhaps a representative from the Department of Fish and Wildlife could answer the question. Mr. Sonnen explained the primary focus is to protect the habitat. There are some species that are “indicators” of high quality habitat that may be more widely dispersed and perhaps there’s a need to provide protection in other locations. Chair Roper said “indicator species” were placed on a locally important species list because they exist in Thurston County. Some are also “indicators” of a prairie habitat if found there. Commissioner Kohlenberg said she’s interested in knowing how local species are defined and selected.

Page 18

• Under Scientific or Factual, comment “T-62” does not reference the issue described. What is the best available science (BAS) for expanding a list of rare and endangered species as outlined in the amendments? Mr. Sonnen said staff will research the testimony. A more fundamental question is whether the County expanded a list of rare and threatened species; i.e., what did the Commission change and what are the species.
• A staff analysis of the impacts of gravel mining in riparian and management zones concerning important habitats was requested.
• Related to the comment, “There may need to be a distinction made between agriculture occurring on designated agricultural resource lands and agriculture on other lands,” is that something the County can legally do? Is there a policy distinction? Mr. Sonnen said legal staff will provide the answer.
• In response to the issue “Blanket prohibition of mineral extraction not supported by BAS; mineral extraction singled out,” are there comparative data of the impacts of mining versus impacts of other activities? Mr. Sonnen replied there are similar data for wetlands. Staff could develop comparative data for habitat.

What are the pros and cons concerning removal of beaver ponds versus prohibiting removal of beaver ponds?

Staff and the Commission will resume review of the Important Habitats and Species matrix beginning with page 21 at a future meeting.

5. Critical Areas – Revise Draft Flooding Provisions Based on Public Comments
(Staff: John Sonnen)

Mr. Sonnen provided background information and key elements that should be addressed. There is little science related to flooding. The flooding chapter is geared to avoiding hazards for life, limb, and property. Some understanding of the habitat value of floodplains has been added that was not evident in earlier draft documents.

Region 10 of the Federal Emergency Management Agency (FEMA) authored a separate report that brought in to its model floodplain regulations habitat factors. The factors have been folded into the County’s proposed flooding and channel migration hazards draft ordinance. Channel migration is important for habitat in that it creates side channels and areas with diverse habitat that supports more fish per mile than a more channelized stream.

The Commission previously presented three research requests concerning flooding. One question asked whether FEMA considers certain regulatory provisions before determining whether a county or citizen is provided assistance. Staff contacted Department of Ecology (DOE). DOE indicated that theoretically, the County and/or citizens must be compliant. However, once an emergency has been declared, FEMA typically provides assistance. It tends to be more of a technical issue than a practical one. Thurston County’s regulations are award winning and among the highest rated in the United States.

Joe Butler, Department of Ecology, reported that Thurston County was chosen as number one in the nation for floodplain management for habitat conservation and watersheds. In response to the Commission’s discussion about beaver ponds, Mr. Butler explained it is not wise to break a
beaver pond during the time it is full. The downstream impact of an unknown quantity of water is not wise. Taking the level down a bit at a time is a safer method for removal. He spoke about the devastating effects flooding can have on the lives of those affected.

Mr. Sonnen reported the County’s floodplain regulations are contained in both the critical areas regulations that deal with land use limitations, and in Title 14.38 of the building code. Some of the comments in the Flooding/Channel Migration Hazards matrix pertain to the building code.

Commissioner Lyman commented that one of the important reasons that flood regulations should be protective is because there is a direct impact on the insurance rates that residents have to pay. Mr. Butler acknowledged that is true. The County’s rates are currently discounted by 25%. Adoption of an ordinance provides the opportunity to apply for a higher discount. The building code is also critical to all private property insurance programs and coverages in the County.

Discussion followed about the Stafford Act, whether heavy rain fall areas affect flood insurance rates, and how the federal government insurance program pool is structured.

Mr. Sonnen asked the Commission to focus on substantive changes at this point and members can forward editorial changes to staff. All changes will be tracked in the draft ordinance. Staff and Commissioners reviewed the Flooding/Channel Migration Hazards matrix issues and comments against the draft ordinance beginning with the Purposes section of the proposed ordinance. The following summarizes changes to the draft ordinance and discussion highlights.

- **On page 1 of the proposed ordinance, A, fourth line, replace the words “such as” with “including but not limited to.”**

- **On page 1 of the matrix, sub-chapter B, staff will include the comment, Preserve water quality and reduce floods by including limits on tree and vegetation clearing limits on paving in rural areas with the corresponding overarching issue.**

- **Incorporate the “hard bank armoring” matrix comment into the purpose statement in the Important Habitats and Species section. Retain the term “minimizing” rather than replacing it with the word “prohibiting” as suggested in the comment.**

- **On page 1 of the proposed ordinance, D, insert the words “quantity and” between the and quality.** In reply to an inquiry, Mr. Sonnen replied DOE submitted comment “L-618.”

- **Mr. Sonnen noted the legal question on the bottom of the first page of the comment summary matrix is addressed in Important Habitats and Species. The issue at the top of page 2, regulation increases floodplains by 100%, is a misinterpretation of the 100-year and 500-year floodplain definitions by the Farm Bureau. The definition for the 500-year floodplain has been deleted because it is not used in the code. It was interpreted that the definition for 500-year floodplain was replaced with the 100-year floodplain definition. Chair Roper said it would be responsive if staff could let members of the public know the**
Commission is addressing their particular issue(s). Mr. Sonnen said there is a frequently asked questions (FAQs) sheet that has been approved by the BoCC. If staff had the time to respond to the public comments, it would use a form letter approach.

- Related to the issue, change notification area from 300 in UGAs and 500 in rural to 2500 and 5000 respectively, on page 2 of the matrix, Mr. Sonnen referred to page 7-2 of the proposed ordinance, B, High Ground Water Flood Hazard Areas, 1, Map updating. He explained the new language provides a way for people to bring mapping errors to the County’s attention. He briefly explained the process. Staff suggests an alternative approach to the proposed noticing requirements. Rather than providing notice, require third party review of the map amendment request, an aggrieved party could appeal the map amendment request to the hearing examiner. By consensus, the Commission directed staff to revise the noticing requirements as stated in iii on page 7-3 of the proposed ordinance to 1,000 and 2,000 feet respectively.

- Staff presented a Lydar photograph of the Chehalis River. The proposed ordinance suggests the Development Services Department will delineate 100-year channel migration hazard areas on a map with the same title. Most channel migration areas fall within the 100-year floodplain. The Tribes expressed an interest that the County map channel migration areas for large reaches rather than doing incremental project-by-project mapping. There is no funding for the mapping project. However, the County may be eligible for funding under the Shoreline Master Program. The Commission indicated it was comfortable with the approach suggested by staff, that the mapping would be accomplished on a project-by-project basis with the applicant supplying the 100-year channel migration information to the County.

- Staff presented a document titled Summary of County Regulations on Agricultural Uses in Flood Areas dated February 22, 2006. Mr. Sonnen referred to page 3 of the comments matrix and the issue, should allow new agricultural activities in floodways and floodplains. He reviewed the legend associated with Table 7-1 on page 7-6 of the proposed ordinance. Specific to New agricultural activities, staff assumed the riparian habitat areas would coincide with or exceed the floodway. However, the most damaging aspect of flood is in the floodway itself because the velocity can be damaging. The regulations serve to keep structures out of harms way. Science says the areas along the stream banks that contain vegetation tend to slow the velocity of the floodwaters to allow some absorption that might not otherwise happen. Existing vegetation along floodways and floodplains tends to retard channel migration. FEMA acknowledges there are some things in the floodway outside of the riparian area that doesn’t significantly affect the velocity of the stream or impede the flow of water. FEMA suggests the area beyond the riparian area does slow waters and protects the area from the scour of moving water. FEMA suggests treating the entire floodway as a riparian area and provide protection. DOE has no problem allowing agricultural activities in the floodways as long as animals are kept out of the floodway. The Summary of County Regulations on Agricultural Uses in Flood Areas indicates counties allow agriculture in the floodplain and in the floodways. Some counties are attempting to deal with those aspects of agriculture that
causes problems. Some regulations make special accommodations for agriculture in terms of farm buildings. The County is proposing no such exceptions.

Commissioner Lyman said she is not prepared to make a decision based on something she hasn’t had an opportunity to review. Members need the information prior to the meeting. Commissioner Strub commented that it is unlikely the Commission can defer issues in light of its current workload. Her decision will not be based on what other counties are doing but on policies the Commission views as fair. By a majority hand vote, the Commission decided to defer prohibiting new agricultural activities in the floodway until Commissioners have an opportunity to review the summary of regulations.

- Commissioners and staff reviewed the comment, “...’installation of new utility lines and facilities in improved roads and utility corridors’ be designated as ‘permitted, subject to applicable standards’…” as stated on page 3 of the summary matrix. Mr. Sonnen said staff has a concern of permitting new utility lines and facilities in the channel migration hazard areas. The comment relates to the fourth section under Utilities on page 7-7 of the proposed ordinance. Mr. Butler commented new above ground utilities should be prohibited. Discussion of the standards and requirements proposed in the hazard areas as outlined in the table ensued. Puget Sound Energy (PSE) is suggesting the existing regulations address the concerns and PSE shouldn’t be held to other standards. Mr. Butler expressed a concern about utility activities in the floodways. Mr. Sonnen added PSE doesn’t have a problem when it’s working outside existing utility corridors or roads. PSE is suggesting if it’s working in a road section that’s been improved and graded and its only trenching and laying cable, they shouldn’t be subject to additional requirements.

Mr. Sonnen suggested adding a reference to the wetlands regulations.

Commissioner Lyman suggested “Installation of new utility lines and facilities in improved roads and utility corridors” could be divided into two sections - one for improved roads and one for utility corridors with different standards. Discussion ensued regarding “improved roads” and whether to prohibit new above ground utilities in channel migration zones. Chair Roper said she is more comfortable with requiring County review and approval.

Mr. Sonnen asked whether it makes sense to require a County permit in the floodway. There was general consensus by the Commission that it makes sense to require a County permit and review work in floodways. Discussion continued about a commercial utility installing lines versus a private property owner. Mr. Sonnen said further down the chart it’s implied there are lower level service lines. However, he said he is not sure if there is a level of lines between transmission lines and service lines that should be included. Further discussion of permitting requirements in public rights-of-way ensued.

Commissioner Kohlenberg asked about additional burdens the proposed regulations might place on the utilities. Mr. Butler said there are a number of processes taking place...
in the planning procedure that he reviews that do not require additional permits. He indicated he reviews new utility applications for impacts and provides comments to planning and roads. However, installation of new facilities should be reviewed. The Commission decided to leave the regulation as it stands for floodways.

Chair Roper said the Commission should review regulation G as it relates to high groundwater hazard and tailor the regulations to the potential impacts.

Discussion of construction of new utility transmission lines, utility corridors, outside of existing improved roads and utility corridors as it relates to coastal flood hazard areas followed. The requirements section is blank. PSE is interested in the County permitting the activity. Staff suggests the activity be permitted subject to County review and approval with standard “A” and add “(also see Section 17.15.870).” The Commission decided that was appropriate. Mr. Sonnen noted an inconsistency with the 100-year floodplain. Chair Roper said perhaps the distinction is facilities. The Commission clarified Utility facility should read, “Installation of new utility facility” and remove “and facilities” from the fourth row under the Utilities section. The requirement for construction of new utility transmission lines, utility corridors, outside of existing improved roads and utility corridors should show an “upside down triangle” (permitted subject to County review and approval) (A) under 100-year floodplain. Separate “Maintenance, repair, or replacement of utilities” to “Maintenance and repair of utilities” on one line and “Replacement of utilities” on a separate line.

- Staff and Commissioners discussed the requirements for Stair tower, stairway or mechanical lift within high groundwater hazard areas. Mr. Sonnen suggested permitting the activity subject to County review and approval (an “upside down triangle”) and including standards “A, G (also see Section 17.15.870).” The Commission concurred with staff’s suggestion.

- The Commission reviewed the “prohibit new housing in floodplain” issue on page 3 of the summary matrix. Mr. Sonnen referred to page 7-8 of the proposed ordinance and said “construction of primary structures” shows an “upside triangle” in the 100-year floodplains. Section O on page 7-26 carries language forward from the original critical areas regulations that allowed development of lots created before 1994. Section b is new language and requires construction outside of the floodplain unless there is no sufficient buildable area. Further conversation related to Section O and reasonable use exceptions followed. Commissioner Lyman conveyed she has always been uncomfortable with defining a blanket reasonable use exception subsumed within Section b. Chair Roper said the difference is Section b is subject to the standards of 1 a. There is a reference to Subsections Q in the second line of b that should be Subsections O.

Mr. Sonnen referred the Commission to item Q on page 7-28 of the proposed ordinance. Subdivisions are allowed in the floodplains. Item #2 on page 7-29 requires each lot be accessible by a road located outside of the 100-year floodplain. Each lot has to have
5,000 square feet or the minimum lot size outside of a floodplain. He said the actual access and building areas within a subdivision are required outside the floodplains and floodways.

6. **Staff Updates**

There were no staff updates.

7. **Calendar (tentative)**

Mr. Sonnen distributed a revised agenda to Commissioners. The March 1, 2006 meeting is dedicated to the rural rezoning study areas. If time allows, the Commission could pick up review of the Important Habitats and Species and/or information needs for Wetlands.

In reply to comments from Commissioner Lyman related to estuary and estuarine wetlands, Chair Roper suggested clarification of the terms could be addressed at the March 1, 2006 meeting.

8. **Adjournment**

There being no further business, Chair Roper adjourned the meeting at 9:36 p.m.

________________________________________
Joyce Roper, Chair
Liz Kohlenberg, Vice Chair

Prepared by Cheri Lindgren, Recording Secretary
Puget Sound Meeting Services
*Corrections made March 27, 2006, Cami Petersen*
## REQUEST FOR INFORMATION SUMMARY SHEET

<table>
<thead>
<tr>
<th>DATE OF REQUEST</th>
<th>ISSUE/REQUEST</th>
<th>AUTHOR</th>
<th>STAFF</th>
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<tbody>
<tr>
<td>1/26/05</td>
<td>Field Trip when begin working on Development Code Docket or at least comprehensive maps</td>
<td>Chair Kohlenberg</td>
<td>Advanced Planning Staff/N. Pritchett</td>
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<tr>
<td>1/26/05</td>
<td>Commissioner Cole has concerns for citizens and how they can find out if there are impediments as to what can be done with a piece of property</td>
<td>Commissioner Cole</td>
<td>Not identified</td>
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<tr>
<td>2/16/05</td>
<td>TCPC participate in the CFP process or comments</td>
<td>Commissioner Lyman</td>
<td>John Sonnen/Mark Swartout</td>
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<tr>
<td>6/22/05</td>
<td>A request was made to identify “certain geologists and geologic engineers” who refuse to work in Edgewood because they claimed their liability insurance carrier would not allow them to issue a letter or report without the hold harmless clause.</td>
<td>Commissioner Lyman</td>
<td>N. Pritchett</td>
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<td>6/22/05</td>
<td>Third Party Review report should include questions that should be addressed, such as how much additional stormwater will be introduced into the slopes by the proposed development. Chair Kohlenberg agreed to work with staff and draft some questions to include as part of the report requirements.</td>
<td>Chair Kohlenberg</td>
<td>N. Pritchett</td>
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<td>6/22/05</td>
<td>Obtain a more definitive answer about whether gravel resources are used from the mine in recycling operations.</td>
<td>Commission J. Hayes</td>
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<tr>
<td>6/22/05</td>
<td>Prepare a Countywide map to include all draft</td>
<td>J. Hayes</td>
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layers from the critical areas regulations in addition to other criteria to assist the Commission in its discussion.

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<td>7/6/05</td>
<td>Commissioner Cole referred to the Request for Information Summary Sheet attached to the minutes and noted his request on January 26, 2005 about concerns for citizen and how they can find out if there are impediments as to what can be done with a piece of property has not been addressed by staff nor has staff been identified who will address the question.</td>
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<tr>
<td>7/13/05</td>
<td>Discussion of an appropriate buffer width necessary to protect adjacent properties from fire management practices on prairies and air quality followed. Staff will investigate whether it’s unlawful to burn, and if there are specific things that could be taken into consideration to help establish an appropriate distance. Commissioners suggested staff could confer with the Fire District or U.S. Forest Service.</td>
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<td>7/13/05</td>
<td>The Commission requested staff investigate how to allow fish hatcheries without impacting the natural resources the County is attempting to protect.</td>
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<td>8/31/05</td>
<td>Mr. Sonnen said there were many comments from the public about justifiability of the document (CAO). Staff has received several suggestions about how to respond to the complaints. He noted each chapter includes a summary that pertains to existing uses that some individuals found helpful. Staff could adapt the information and post it on the County’s website.</td>
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<tr>
<td>8/31/05</td>
<td>Mr. Sonnen offered a suggestion of a test with staff and with frequent users of the CAO document by providing an explanation of how the document is organized and then test the</td>
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response to see if the person can work through and understand the document. The exercise will be in a form of a survey to seek some objectivity about the readability of the document.

8/31/05 Commissioner Strub requested inclusion of a definition list of all acronyms used in the document for easy reference by the reader. Mr. Sonnen acknowledged the request and suggested including a glossary of acronyms.

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9/21/05 Commissioners asked Commissioner Lyman to draft a letter to the County Board of Commissioners requesting the Board intercede on behalf of the Planning Commission to receive additional legal support.

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10/12/05 Staff asked members to consider an option of forming task forces to focus on key topics such as agriculture, mineral extractions, etc. The task force could consist of two or three Planning Commissioners and those with technical expertise to help address issues raised by the public. Additionally, consider examining how other jurisdictions have addressed similar issues. The task forces could make recommendations to the Planning Commission.

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12/7/05 Various requests regarding LAMIRDS:

1. Interest in viewing analysis for all LAMIRDs including Grand Mound.
2. Suggestion to include intervening properties between the areas shown in yellow to the left of #53 (Maytown Road SE area)
3. Supply larger maps for the open house on December 8, 2005
4. Determine what is located on the area located within the tribe’s UGA

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12/7/05 Commitment to the BoCC to provide a companion piece in addition to the proposed

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</table>
draft (CAO) to help the Board to determine the range of science and options

2/15/06 Follow up with legal staff to ascertain how many other counties have been challenged by Futurewise
Commissioner Cole Jennifer Hayes

2/15/06 Staff to check to ensure the refined map (Map 2 Rural Character) looks at 20 acre or greater parcels
Commissioner Ottavelli Jennifer Hayes

2/15/06 Interest expressed by several Commissioners to receive a map combining aquifer/sensitive areas, unbuildable areas, and rural character as well as adding marine conservation lands and also the above combination with the exclusion of rural character to ascertain how the rezoning study areas look
Commissioners Staff

2/15/06 Ascertain whether it is possible to provide an interactive workshop showing several map combinations
Commissioners GIS Staff

2/15/06 Obtain legal opinion regarding risks associated with large removal of large areas of agricultural lands from the rezone study areas project
Jennifer Hayes Staff

2/15/06 Staff was requested to provide the Commission with a recommendation concerning a protocol for drafting a volunteer program. Commissioner Strub requested staff work with the Farm Bureau also.
Commissioner Ottavelli Jennifer Hayes

2/22/06 Commissioner Kohlenberg requested knowing how local species are defined and selected
Commissioner Staff

2/22/06 Staff to research public testimony regarding what is the BAS for expanding a list of rare and endangered species as outlined in the amendment
Commission Staff

2/22/06 Requested staff analysis of the impacts of gravel mining in riparian and management zones concerning important habitats
Commission Staff

2/22/06 Research with legal staff what the distinction is of agriculture occurring on designated agriculture resource lands and agriculture on other lands
Commission Legal Staff

2/22/06 Provide comparative data for habitat about the impacts of mining similar to data on impacts to wetlands caused by mining
Commission Staff
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<tbody>
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<td>2/22/06</td>
<td>Ascertain pros and cons for removing beaver ponds versus prohibiting the removal of beaver ponds.</td>
<td>Commission</td>
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<tr>
<td>2/22/06</td>
<td>Discuss clarification of terms related to estuary and estuarine wetlands</td>
<td>Staff to add to 3/1/06 agenda</td>
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Chair: Roper/Commissioner Lyman