

**Shellfish Public Meeting: November 19, 2001**  
**Heritage Hall**  
**6:00 pm – 7:15 pm**

**NOTES**

Opening remarks

Mark Swartout opened the meeting at 6:15 pm, inviting the public to comment on the two ordinances created for Nisqually Reach and Henderson Inlet Shellfish Protection Districts. He referred them to a mailing sent out by the county, which includes a summary of what the public had commented on at previous meetings and outreach efforts.

Swartout described the ordinances, highlighting the “Purpose” statements and noting that the goals and objectives of the programs will be further defined during Phase 1. He also noted Section 7 of the ordinances calling for legislative review of the Shellfish Protection Programs four years after the date of adoption.

Swartout pointed out the attached boundary maps for each district, noting that the boundaries were created for planning purposes and could change as a result of Phase 1. He went over the attached phased work programs that respond to issues raised by the public in previous meetings. After Phase I, Swartout said he anticipates a new ordinance and a new work program adopted for Phase II.

He said that the Board will be discussing comments from this meeting and additional mailed-in comments at a 4 p.m. briefing tomorrow (11.20.01). A public hearing will be held December 11, 6pm, at Heritage Hall, after which the Board may adopt the ordinances, or wait to adopt on Monday, December 17 at the regular Board meeting.

Swartout opened the meeting to public comment.

Public Comment

Bob James

*Comment:* Expressed concern over the large area south and east of Pattison that is within the boundary, stating that there is no runoff from that area due to permeable soils and no culverts under the road. Said he lives in the area and supports the idea of the districts, but does not contribute to surface flows within the boundaries.

*Response:* Swartout said the boundaries were established from the 1980s basin planning efforts and further refinement is possible. The Phase I group has the task of determining the boundaries, and a question remains if only properties with surface flow to Henderson and Nisqually are included.

Lea Mitchell

*Comment:* Concerned that parts of the new proposal don't incorporate concerns of the majority at last public meeting, citing a call for the county to put more emphasis on

enforcement and to provide adequate financing. Understood from the last meeting that the Commissioners were interested in increasing enforcement, but this element still seems missing from the proposal.

*Response:* Swartout said that the discussion is still ongoing by the Commissioners, and said he hadn't promised at the last meeting that the issue would be resolved by this meeting.

*Comment:* Ms. Mitchell asked for confirmation that enforcement isn't an element of the current proposal.

*Response:* Swartout pointed to Section C in the work program (land use enforcement), which highlights enforcement efforts.

Robin Downey

*Comment:* Distressed that Section 2 of the Henderson Inlet ordinance seeks only to prevent further downgrades, which keeps the status quo and doesn't meet intent or letter of law. She cited RCW 90.72 calling for the "elimination or decrease of contaminants," with which the ordinance would not comply.

Tom Holz

*Comment:* Understands the complexity of issues, but is concerned that land use enforcement clause in section C of the work program does not go far enough, as it allows continued pollutant loading. Called for a moratorium on development while in the planning stages of the program.

Paul Klinkosz

*Comment:* Concerned with lack of dates in work program. Lack of a target date will mean Phase I continuing on and on. Asked for clearer target dates against which to measure progress, especially a completion date for Phase I.

*Swartout reminded audience to provide comments in writing on green sheet by early tomorrow morning.*

Lea Mitchell

*Comment:* Asked about the process and what comments the briefing on Tuesday would relate to the Board.

*Response:* Swartout said the comments made tonight and e-mails leading up to it would be presented on Tuesday.

Paul Klinkosz

*Comment:* Asked for monitoring of additional creeks in Henderson Inlet, not just Woodland and Woodard Creeks as described in Section 8 of the ordinance. Said it would be good to plan for the future and monitor these other tributaries.

Lea Mitchell

*Comment:* Asked for clarification on who would participate in the public involvement piece.

*Swartout:* The Board will decide how the public involvement process will look after the New Year. They will be looking at different models. They appear to want people who live within the Districts to be involved, because these will be the people implementing what comes from the program. Briefing dates with the Board will be posted on the county web site. One of first things the Board will do is write a letter of concurrence with the shellfish response strategy.

Jerry Yamashita

*Comment:* Read a prepared statement, noting that people's responsibility is huge in this effort and their understanding and participation is important. People are relying too much on the government. No one is solely responsible, but collectively we are responsible. Called on the conscience and collective responsibility of people in the watershed to cooperate with public health people to dye test septic systems, and for farmers to use best management practices (BMPs) to control farm waste. Cited a 28% participation rate last time there was dye testing. "The County could not do anything without money or cooperation of the people. That is why we are facing the establishment of the Districts. But it is not too late to cooperate with the county health department and conservation district. These are the best ways to get what you want- no new taxes and fees, but quick and easy problem solving through cooperation. If not cooperating, it will take lots of money and time. If we look back over last 10 to 20 years, we've had similar plans to make corrections in the watershed, but nothing changed. If you are serious about saving money and having no new taxes, working together will save money and feel great. If we don't, the generation that follows us sooner or later will have to face up to the pollution problem. This does not have to be the legacy for future generations. Let's work together."

Fred Michelson

*Comment:* Noted that he had asked the Commissioners at the last meeting to be innovative. Wants Commissioners to sign a statement like what Mr. Yamashita read, showing leadership and asking for cooperation with the types of things that Mr. Yamashita mentioned. Making this statement could save a lot of time and grief. Noted that over the past 8 months while the county was working on this ordinance, there has been no monitoring in McAllister. This is a missed opportunity. Said we need to take advantage of the times of the year when watershed can teach us how it is working. Department of Health (DOH) and Department of Ecology (DOE) are testing and monitoring, and the county should put someone with that agency team to share the responsibility. DOH recently informed him that fecal counts are up at the public boat dock. The County is missing opportunities by not being aggressive enough—the comments tonight are asking for specifics. Gave example from the work program of "routing land use proposals to interest groups." How exactly will that be done? Asked for more detail on the specific steps to be taken. Would appreciate the county to sign off on the Shellfish Response Strategy. Asked if the county doesn't like the document why are they at the table? Reiterated his request for the Commissioners to make a statement with a positive voice to the community. Said this is an important quality of life issue.

Krag Unsoeld

*Comment:* Questioned the county's response to what they had heard at previous meetings. Shared results from the April public meeting. 30 people wanted to adopt a phased program, but one that included correcting known sources of pollution, increased monitoring, and developing a plan for financing. Under the known source of stormwater activities, only 5 people wanted to continue current efforts, 9 wanted to focus on increasing stormwater work in the Districts, and 5 wanted to increase work in the Districts without decreasing it elsewhere. Under agricultural activities, 49 people commented. 5 wanted to continue current program. Asked the Board if that was the resounding voice the county was responding to. 22 people wanted to increase technical assistance and increase implementation of farm plans. Summarized by saying that most people wanted more effort. Under on-site systems (maintenance and testing), only 2 of 44 people wanted the owner to maintain the system. Only 4 people thought current testing was ok. Seventeen people supported testing under a risk-based program. Fourteen people supported testing of all septic systems within the boundary. This means 31 people wanted systems inspected. Asked who the county is responding to, and if it is people influencing the Board between public meetings. Noted that as Board of Health, it is the Commissioner's responsibility to see to protection of county's public and environmental health, and called upon the Commissioners to do what people expect.

Jim Cabbage

*Comment:* Noted that his behavior is mediated by enforcement. Gave the example if he had a failing septic with a \$7,000 bill to fix it, he would need an incentive to fix it. Agreed that failing septic are an obvious cause of the problem. Sees two ways to help: give septic owners money, proposing a 2 year granting time to help after which there would be enforcement only, no help. Understands that money is needed for this, but that the county does have money. Cited the thousands of dollars the County spent to try and site a sewer line out Cooper Point to prevent pollution problems. Asked if this was general fund money.

*Response:* Commissioner Oberquell said she didn't know the source of all the monies used in that project. Commissioner O'Sullivan said that after I- 747 the county is facing a crunch, talking about different options to save money. Made the point that the county is not going to take any action without the science and logic to support it.

*Comment:* Mr. Cabbage said the work program needs to outline when we will have enough data to take action. In his experience at DOE, you will never have all the data you need, but still need to take action.

*Response:* Commissioner O'Sullivan expressed concern about finger-pointed at farmers he saw at the last meeting.

Several in the audience disagreed with that statement.

*Comment:* Mr. Cabbage said he hears from the group that most people would encourage more enforcement.

Catherine Gyls

*Comment:* Said she is tired of hearing there is no money. Noted that the county had a record income in the past few years. Thinks the county has been more concerned for what is profitable for development, and cited development projects in the Nisqually area. Reiterated that nobody was finger pointing at farmers, who she supports. Said there used to be 2000 cows in the valley and are far fewer now, so how could the cows now be causing the problem? Stated she thinks upland runoff into the creeks and the county tide gates along McAllister Creek are the problem. The tide gates are like a septic system leaching straight out, and the county is responsible for them but isn't doing anything. Said there are thousands of water samples being taken, and more studies will cause more downgrades, and the situation is getting worse. Said this situation is going to hurt our children, grandchildren, and so on. Stressed that this is a quality of life issue.

Krag Unsoeld

*Comment:* Thinks that we have studies that show it is cheaper to prevent damage than to clean it up. Henderson and Nisqually are a tribute to the expense of having to cleanup. We need to learn from this example and prevent closures and downgrades in our other inlets like Eld and Skookum. We need to do the common-sense things like regular septic expenses and avoid business and personal health losses.

Tim Ransom, Puget Sound Water Quality Action Team

*Comment:* Congratulated the county and employees of biting this tough bullet. Noted that the issue will be difficult both economically and technically. Sees a solution for the political issues: 1) Provide an end point for Phase I, or else it looks like a delaying tactic; 2) Deal with onsite septic systems. Said it has been a political issue whether or not people are going to volunteer to have their septic systems inspected and fixed. It takes leadership from the county to show what is the right thing to do. Encouraged the county to get involved in the Shellfish Response Strategy as soon as possible to coordinate with other agencies and avoid trying to solve problems that may not be the county's.

Lisa Noble, People for Puget Sound

*Comment:* Cited the lack of a timeline as a major issue. Concentrating on existing programs and funding got us into the problem in the first place. Called for more change sooner than when Phase I may or may not end.

Fred Michelson

*Comment:* Encouraged staff to consider putting into the ordinance both the detail of how work program items will be done and by when they will be done. Said that using a phased process means attaching phases to dates. Since we're so short on funds, there is a need to focus on getting cooperation among watershed residents. This will shorten the time it takes to change the condition. Said that the public and other agencies at the table with the closure response strategies are also assets for the county.

Steve Langer

*Comment:* Concerned with the language of Section 2, page 2 of the Henderson Inlet ordinance, which seems to give up on areas that have been permanently closed to

harvesting due to pollution problems. Encourages adding “reopening areas recently closed, and as a long-term goal reopening all closed areas due to pollution.” Appreciates that the District boundaries are the whole watershed. In Section 4, pointed out the need for an end point to Phase I, which has gone on for 17 years. Stated he is glad there is a mechanism to fund the program because money is needed to make the program happen. Encouraged Commissioners to work with City of Lacey to look at what the city is doing for those streams coming out of the urban areas of Lacey; efforts should be coordinated with the city. Noted that the City should look at water quality issues as well as water quantity.

Fred Michelson

*Comment:* Asked for clarification as to what will happen to the meeting notes.

*Response:* Swartout said the meeting notes will go to the Board and be posted on the web site. At 4 pm Tuesday (11.20.01) the Board will look at comments and make recommendations on the ordinances.

*Comment:* Mr. Michelson asked for clarification as to how the hearing will work.

*Response:* Swartout said the hearing will work similar to this public meeting, but more formal. The Commissioners will conduct it. Depending on what level of changes the Board wants to make as a result of the hearing, they will either choose to make small changes and adopt, or make if the changes are very substantive there may need to be another public hearing.

Lea Mitchell

*Comment:* Asked when the revised ordinance will be available in advance of the December 11 hearing.

*Response:* Swartout said he would e-mail the final proposals to his e-mail list, and post them on the web site within a week. Said the public could also call him to have it sent to them directly.

#### *Closing remarks*

The comment concluded at 7:15 pm. Commissioner O’Sullivan thanked the audience for coming, and thanked staff. Said that the he wants to make sure that what we do is supported by science and logic so that we protect farmers and shellfish growers and get community buy-in. Said the county is not walking away from the problem, and is committed to getting the job done.

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#### *Written comment (submitted at meeting)*

- Program is inadequate, ineffective, a step backwards. Critical elements that must be included: mandatory testing, septic compliance program; a time limit of 6 months max on Phase I; an honest appraisal of past plans and the fact we’ve been here before; more publicity on the county’s nonpoint ordinance and more active enforcement; don’t leave the definition of “public involvement” for phase I to the Commissioners;

recognize and incorporate elements of shellfish closure response strategy; Section 2 is not a viable goal and should be changed to reopen existing beds and prevent future closures; be honest with summaries and message the community is giving to the county at public meetings; definition of who the “public” is should be confirmed in final ordinances (public includes citizens, tribes, labor and environmental groups, shellfish growers, agencies); public needs adequate information on the budget for the program and funding sources; district boundaries should be the whole watershed; don’t write off Henderson Inlet.

- Proposals lack timeline and measurable goals. Phase I needs a timeline. No new programs and no new funding will get us nowhere. Existing programs got us to the downgrades so how can we expect them to solve the problem? Should be a moratorium on development in the District areas until problem is identified and fixed. No good to study a problem we are continuously adding to. Why is the county not working more closely with Puget Sound Water Quality Action Team and their strategy?
- Make a firm timeline. Outline how program will be evaluated. Add a stronger provision for enforcement. Do not wait for good science - the science is already here. We know the sources of pollution and what to do. Need to reduce pollution at the source. The goal must be to reopen the closed beds.
- There are no teeth to this plan. Need action now.

## **SUMMARY OF COMMENTS & CONCERNS**

*(\*) refers to number of individuals who made the comment*

- **Target dates/timeline (5).** The ordinance should include target dates, especially for the conclusion of Phase I. The plan should have a timeline.
- **Enforcement and incentives (4).**
  - Clarify enforcement in the short-term.
  - Consider giving money to people within a 2-year time frame, after which there is enforcement.
- **Prevention and monitoring (4).** Concentrate on preventing this situation in other inlets. Monitor additional creeks, do more monitoring of existing creeks.
- **Public involvement (4).** Clarify who will be asked to participate. Need to more accurately reflect public comment in ordinances.
- **Funding (3).** Clarify funding priority, mechanism and resources.
- **Recovery of shellfish beds (3).** Ordinance should be changed to reflect a goal of recovering beds in Henderson, not maintaining status quo. Goal should be to re-open all beds to harvest.
- **Coordination with other agencies (3).** Need to coordinate with shared response strategy and ongoing work by state agencies. Should work with City of Lacey on monitoring and prevention.
- **Action (3).** Need to speed up actions and get to work now, not wait until Phase II.
- **Boundaries.** Boundaries are good (2). May include inappropriate areas that don't contribute to pollution (1).
- **Collective responsibility (2).** Everyone must take responsibility by taking part in septic dye tests, using BMPs, etc.
- **Causes of problems (2).** Farmers are not the problem. County tide gates are a problem. Upland runoff and septic are problems.
- **Development (2).** There is too much new construction. Establish a building moratorium while doing planning for the Districts.
- **Leadership (1).** Commissioners should make a public statement to lead a cooperative effort.
- **Details (1).** Ordinances need more details on how work will be accomplished.