

ITEMS DISCUSSED

1. CALL TO ORDER
2. ROLL CALL
3. INTRODUCTION TO THE CODE UPDATE PROJECT
4. ADJOURNMENT

1. CALL TO ORDER

The joint meeting of the Bainbridge Island City Council and Planning Commission was called to order at [6:37:19 PM](#)

2. ROLL CALL

The following City Council members were present: Bill Knobloch, Kirsten Hytopolous, Barry Peters, Kim Brackett, Bob Scales, and Hilary Franz.

The following Planning Commissioners were also in attendance: Maradel Gale, Martin Minkoff, Don Fisher, and Michael Lewars.

Also attending were Planning Director Kathy Cook, Planning Manager Libby Hudson, Special Project Planner Kelly Dickson, Code Enforcement Officer Meghan McKnight, Administrative Secretary Theresa Rice, and the Clarion/Wolfe/Reid/Waggoner consultant team of Don Elliott, Chuck Wolfe, and Michael Read.

Visitors included: Sarah Blossom, Kathy Blossom, Ron Eber, Steve Brown, Debbie Vann, Shirl Nadeua, Warren Nadeua, Patti Dusbabek, Melanie Keenan, Linda Costello, Sally Adams, Francis Jacobson, Rebecca Slattery, Elizabeth Resager, and Barbara Resager.

3. INTRODUCTION TO THE CODE UPDATE PROJECT

Planning Director Kathy Cook welcomed everyone and thanked them for attending. She told the audience that the code update is one of the department's most important projects for 2010. Initiated in 2008, the last two years has been an intensive staff-consultant effort reviewing the code line-by-line and holding periodic public meetings. Staff is particularly looking for input on whether or not the process and timelines are realistic.

[6:40:12 PM](#) After Planning Commissioners and City Council members introduced themselves; Director Cook explained that the current land use regulations are a combination of City of Winslow and Kitsap County regulations that have had a lot of band-aids applied. As a result, the code is complicated and confusing, for both citizens and staff. The Code Update is intended to better reflect the Comprehensive Plan, provide predictability, resolve inconsistencies, and make the code more user-friendly.

[6:43:39 PM](#) Director Cook also told the Council and Commission that the draft code looks significantly different; one of the challenges is how to show what has changed and what is the same. It does not change the Comprehensive Plan policies, zoning map or shoreline regulations. The update is not intended to make major policy shifts, but staff and the consultants have worked with the Ad Hoc committee consisting of two Council members and two Planning

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Commissioners when there were policy questions. The team has also worked with a Users' Group of professionals who use the code every day for input on what works and what doesn't work. Director Cook briefly explained how the update had been broken into modules and how and why there is a separate process for proposed changes to provisions for agriculture. She then introduced staff and the consultant team.

[6:46:19 PM](#) Don Elliott reviewed the original update process diagram and spoke briefly about the progress that has been made. Don also explained that the draft update has two kinds of footnotes – explanations of how code sections were rearranged (where it came from) and decisions that were made along the way on how to resolve inconsistencies.

[6:47:06 PM](#) The format for the meeting was reviewed and the audience was told that the question and answer period was intended to first obtain comments and questions from the Council and Planning Commission, and then it would be opened up to the audience. Don noted that there will be plenty of opportunities for public comment as the update moves through the adoption process.

[6:51:13 PM](#) Don began his presentation with the scope of the project, which included reorganizing and integrating the land use codes to remove internal inconsistencies, reflecting staff interpretations and reflect how applications are actually process, and strengthening links to the Comprehensive Plan. The scope did not include substantive changes to regulations, rezoning land or changes in density, or changes to the Critical Areas, Shoreline, or sign regulations.

[6:54:16 PM](#) The guiding themes for the Code Update project were:

- Improve user-friendliness and internal consistency.
- Protect the City's island character (i.e. reflect both urban and agricultural goals in the Comprehensive Plan).
- Encourage sustainable development.

[6:56:11 PM](#) Don showed portions of the permitted use table and land use procedures table and an example of the new process charts that were developed for the update in order to improve the code's user-friendliness. Protecting Island character involved clarifying the relationships between zoning, subdivision, shoreline, critical areas, and noise regulations. Don also briefly touched on prioritized open space, the new access and mobility section, historic preservation, the proposed changes in the agricultural provisions and how sustainability measures were incorporated before he introduced the question-and-answer session.

[7:19:37 PM](#) In reply to a question from Councilmember Barry Peters, Don said that the temporary contractors' parking, below-grade parking, and Housing Design Demonstration Project ordinances were incorporated into the update.

Councilmember Peters remarked that he was surprised, looking at the decision-making flow charts, to discover that the Planning Commission does not make any final decisions. He then asked questions about agricultural retail, stating that he is concerned about inadvertently preventing a commercially viable business from operating.

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[7:23:54 PM](#) Councilmember Kim Brackett asked if the consultants had verified the legal basis of the staff interpretations that were incorporated into the code. Don replied that they had been, in that Chuck Wolfe [a Washington land use attorney] was part of the update process.

[7:24:39 PM](#) Councilmember Bob Scales commented that it sounds like there is a slightly different process for agriculture and asked if this might be an opportunity to open agricultural provisions and go even further. Planning Director Cook replied that, if the Council decides that it needs more attention, it needs to be pulled out and processed separately. Those provisions are about 5% of the update and should not be allowed to slow down the adoption process for the other 95%.

Don added that promoting agriculture is a difficult issue from a legal standpoint because the city is an urban growth area and the Growth Management Act did not foresee agricultural uses in an urban growth setting. Chuck Wolfe added that there is a legion of Growth Management Hearings Board decisions having to do with agriculture and that there is only one other city that is trying to incorporate agricultural uses with urban zoning.

[7:30:05 PM](#) Councilmember Hilary Franz remarked that the question we should ask is whether we can reach the goals of protecting our agricultural heritage without necessarily having to go through the zoning process. Councilmember Scales said that he doesn't want to delay the code update process, but thinks that the Council may want to peel agriculture off to address after the update is done.

[7:32:19 PM](#) Bob Scales commented that the update team probably found some things that were really bad ideas or didn't work or would need major policy decisions during this process and asked if there would be other recommendations at the end of the adoption process. Don Elliott replied that some of those issues made it into the footnotes and Director Cook added that staff is anticipating that those kinds of ideas will come up and be placed in a "parking lot" for future consideration

[7:33:46 PM](#) Councilmember Kim Brackett stated that she is troubled by the process for Comprehensive Plan amendments and asked if some consideration of changing the process had been considered during the update. Director Cook replied that at the end of last year the Land Use Committee agreed (and the Ad Hoc Committee subsequently agreed) that the annual cycle is extremely burdensome. When Councilmember Brackett suggested that the Ad Hoc Committee propose amendments to the process, Don Elliott recommended that revisions to the Comprehensive Plan amendment process be developed as a free-standing ordinance that can be rolled into the update.

[7:38:37 PM](#) Planning Commissioner Martin Minkoff asked if the administrative manual will be adopted as part of the code or as a separate document. Don replied that many jurisdictions keep it as a separate document to facilitate amendments as regulations and processes change.

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[7:41:13 PM](#) *Ed Cannard* remarked that everything seems to fit except the agricultural provisions and complained about the length of time that has passed since the last meeting of the Agricultural Working Group.

After Kelly Dickson gave a brief overview of the process that has been used to work with the farming community to develop agricultural provisions, Director Cook explained that the delay was caused by the Land Use Committee's desire to host the next meeting coupled with an inability to fit it into the Council's schedule at the end of the year.

Don Elliott added the agricultural provisions are not found all in one place. He told the Councilmembers and Commissioners that there are agricultural issues on which agreement among the agricultural community will never be reached and suggested that only those provisions need to be separated from the rest of the update for separate review.

[7:44:24 PM](#) *Patty Dusbabek* disagrees that you can separate animal and vegetative farming if you want to talk organic farming and stated that all the animals on the island put together are not problematic. She is also concerned about the city telling her how to farm and the conditional use permit process. She believes that the proposed provisions really harms farmers and that staff have ignored what the farmers have said.

[7:48:20 PM](#) *Sarah Blossom* disagreed with Patty Dusbabek. She believes that a lot of progress has been made and said that the hindrance to the progress has not come from the city.

[7:50:01 PM](#) *Melanie Keenan* spoke about the difficulty of dealing with code enforcement complaints and feels strongly that staff must make sure that the complaints have some validity before any actions are taken. She was also concerned that the codes that were used to develop the draft agricultural provisions may have been written to assist large agricultural operations rather than the smaller farms that are on the Island.

[7:55:58 PM](#) A gentleman who described himself as a retired planner (in Oregon) who specialized in farmland protection advised the Council and the Commission to form a technical advisory group with representatives from NRCS, the State Dept. of Agriculture, and Soil Conservation to look at the density standards for numbers that work on the Island.

[7:57:07 PM](#) Another speaker said that she had two comments, one about agriculture and one that was not. Her first comment was that the animal categories are not correct and that the impacts of each animal should be considered. Her second concern is that recharge areas are being paved and stormwater is being directed into ditches, resulting in turbidity instead of recharge. Councilmember Franz replied that recharge is one of the things that was taken up last year when the Council adopted a low impact development ordinance.

[8:02:54 PM](#) *Debbie Vann* complimented the work that has been done and stated that she is having great difficulty figuring out if anything got left out. Don Elliott explained how he ensures that all the provisions are moved into the new code and suggested using a computer search function to locate specific sections.

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Ms. Vann also has a lot of questions about why some things were allowed and some things weren't. Director Cook replied that those things did not change unless there was a conflict or something needed to be clarified. Director Cook recommended that she stay involved in the update process at the Planning Commission.

Ed Cannard commented on timing and Director Cook replied.

[8:09:44 PM](#) Councilmember Kirsten Hytopolous, speaking about public process, said it may be unreasonable to ask members of the public to go through all of these footnotes. Kelly replied that staff is still working on how to bring the update forward for review. One document that may be helpful includes all the policy issues that have been taken to Ad Hoc.

[8:11:31 PM](#) Linda Costello is interested in retaining the character of the Island. She noted that Fort Ward is the only national historic on the island and was concerned that the Fort Ward Historic District chapter had been combined with the Historic Preservation chapter. Don replied that those chapters didn't change—they were just put both in one chapter.

[8:13:08 PM](#) Councilmember Hilary Franz wants to look at the definition of a confined feed lot. She is concerned that her property might be classified as a feed lot. She would like to add that issue to the Parking Lot.

[8:15:03 PM](#) Kelly Dickson explained that, although the code requires only zoning regulations to be processed through the Planning commission, all update titles will go through the Planning Commission, beginning in February. The schedule calls for taking the Planning Commission recommendations to City Council in February with adoption in spring, 2011. Kelly also said that the update team welcomes suggestions to make the code easier to use and/or to streamline it.

There were several comments from both City Council and the Planning Commission that they would like to adopt the update before the end of this year. It was decided that the Planning Commission process will serve as an indication of how quickly the Council process can proceed.

4. ADJOURNMENT

The special joint meeting of the Planning Commission and City Council ended at [8:26:26 PM](#).

Following are the notes that were written on the easel during the meeting:

- New Council ordinances – underground parking, HDDP
- Charge a fee to issue complaint – refund if valid
- Eliminate definitions that are not an issue today – separate out as what yet addressed cause no need
- Regulations and ordinances = same thing
- Planning Commission decisions only on noise variances
- Heavy ag retail – requirements for local production – don't want to prevent mix of local & not-so-local

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- Leasing portion of land for ag use – code silent about who at primary residence contracts accessory use
- Does 80% rule for ag products to be sold at retail unduly restrict farm stands?
- Verify regs for consistency w/ case law? Yes, especially focus on Washington law
- Ag process – in scope to investigate – take it further – open to add new regs – overlay district for ag? Difficult legal issue
- GMA issues: Bainbridge Island=island-wide city
- Can we preserve ag without going to zoning? Trade-offs must be assessed
- Don't want to delay major portion of project on ag issues
- Bad ideas needing policy changes?
- Recommendations for policy changes? Will track substantive issues for future consideration
- Comp Plan amendment process not smooth – LUC agreed for need to revise – Ad Hoc asked staff to review and improve process. Tackle it this year? Yes! Add to update as free-standing ordinance so doesn't stall update – lots of models out there – philosophically contrary to intent of having a Comp Plan
- Administrative Manual – no procedures eliminated or changed – adoption process or not
- Ag working group process – why so long since last meeting? Some provisions need more discussion – most do not – focus on areas of disagreement
- Cannot separate animal farming from manure
- Got to address chemicals
- Making a big issue out of a small issue
- Conditional use permits can tie up a farmer for 2 years – cost-prohibitive
- City standards contradict Dept. of Agriculture
- Lots of progress at Ag meetings – more could have been if not so combative
- Some ag issues taken out of context – new regs are more restrictive
- Anonymous complaints – false statements are driving changes in code – need common sense
- Bainbridge Island is small, has small ag operations – lots of county codes written to drive out small ag
- Interpretation by inexperienced staff (no ag experience)
- Roosters?
- Debate on density – get experts from all regulatory agencies to assess – conditions for ag
- Horses & cattle as large, mules as small, like chickens? Need to re-examine animal classifications
- Why not look at western counties rather than King & Pierce?
- Water use – aquifer recharge areas are being paved over with impervious surface – run-off going into Sound
- Council working on aquifer recharge
- Difficulty tracking all the changes
- Regarding permitted uses – mostly simply carried over from old code
- 6-8 months too long between ag meetings
- Public process – prepare document with only changes of substance

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- Historic preservation – Fort Ward = national district – cannot integrate with local design
- 18.36.03.24 – feed lot definition – could create non-conformities – unintended consequences
- With exception of few controversial ag regs – consider streamlining process – look for opportunities to do so
- 10-page memo on policy changes – should be focus of PC review
- Better to complete in 2010 – PC is smooth and fast, then council process can match
- We may need more specialized and separate process – don't want ag issues to bog down the balance
- Council may set up Ad Hoc to address
- Staff must have sufficient resources to streamline
- Technical memos very helpful
- Give local printer electronic files to print on demand