



Clean Water Advisory Committee

May 19, 2022

Committee Members in Attendance: Jenny DeGroot, Bob Eagan, Vicki Heater, Ann Jarrell, Judy Meyer, Kimbal Sundberg

Ex-officio, County support staff, and members of public: Paul Andersson, Steve Krueger, Jolyn Leslie, Byron Rot, Kendra Smith, Kyle Dodd, Cindy Wolf

8:34 AM Welcome and Coast Salish Acknowledgement *Kim Sundberg*

Let us acknowledge we reside on the ancestral lands and waters of the Coast Salish people who have called this place home since time immemorial and let us honor inherent, aboriginal and treaty rights that have been passed down from generation to generation.

8:35 AM Agency Updates *Jolyn Leslie*

Jolyn: we're leaving our office; lease expires end of July. Don't know yet where DOH will be physically based.

Period of applying for state loans for system consolidation will be open June 1-30. There's a webinar next week on Wednesday for anyone who wants to learn more about that loan process and what projects are applicable

8:37 AM Approval of March 2022 meeting minutes *Kim Sundberg*

No objections or changes. Judy moves to approve the minutes, Jenny seconds, all in favor. Minutes approved.

8:38 AM Public Comments

none

8:39 AM 2017 Comp Plan – Water Resources Element discussion in light of Planning Commission recommendations to the Council *Kim Sundberg*

Kim: working off of updated changes by planning committee, this is our chance to make recommendations. This plan dictates road map County will use to deal with water issues for the next 10 years.

Kyle Dodd: Water element draft from 2017, brought to council 2018-19. Several policies were reworked. I was recently at the May 6 Planning commission meeting, tried to offer some context about where CWAC is coming from. Now we're in a period of public comment before final draft comes before council.

David Williams (Director of Community Development): In April we presented the water element portion of the comprehensive plan that included CWAC recommendations. Then some changes were made. The way the comp plan works is that all smaller advisory bodies with expertise feed into planning commission that makes a final unified recommendation that feeds into county council. I've seen some concerns, and I want to say that staff remains neutral. The commission had their own discussion and recommendations. Moving forward CWAC still has opportunity to provide comments to commission in July and to county council. If you disagree with statements in the plan, I encourage you to discuss and provide options, can be transmitted through Kyle or as part of public comment in July. Still opportunity for discussion, I encourage that

QUESTIONS

Kim: will this be passed in July?

David: It'll be a public hearing in July, after which a formal recommendation is made, and entire document is transferred to County Council. Then several months more of hearings where we discuss sections at meetings. Fully vetted in November in early December, aiming to have it done by end of 2022

Jenny: would you rather our group send recommendations through Kyle as a committee? OR since many of us have expertise in different components, for example I was part of drafting original document as an individual. Please let us know how to proceed

David: everyone has two voices, committee as a whole and as a citizen in areas where you may agree or disagree with committee. The committee can decide how to communicate, can also relay comments to me

Judy: I'd like to see the committee make comments. Since we worked hard on preliminary document, I feel like CWAC has a responsibility as a whole and that's a more powerful comment than from individuals

Cindy: One thing that concerned me in this water element is that there were a few inaccurate statements that were allowed to stand as part of public record. I wonder if there's some process moving forward to ensure there's some expert in the room when the council is considering a technical document like this

ACTION ITEM: David will confirm dates for both the briefing and public hearing; Kyle will send out to CWAC

Kim: would that be appropriate for CWAC members to be present in those meetings? Can we request that CWAC be formally recognized to participate in the discussions before the public hearing?

Vicki: I wanted definite dates and a process to go through. I was expecting today to go through the document and look preliminarily at elements that have been changed and maybe a little background

David: I have the document pulled up now with changes highlighted (shares screen). Under Goals,

- goal #2 establish coordinated programs – added in 'agricultural uses'
- #6, wording changed to "explore methods" of monitoring and measuring. added "to enable water resource management"

Judy: you can explore methods, but what if you don't apply any of them

Byron: they changed it from active to passive

Jenny: we've moved beyond exploring options, we want implementation

NOTE: David just emailed this document, includes David's highlights

Vicki: San Juan had been developed without proving adequate water supply and it took decades of work to correct

Jolyn: now law requires establishing water resources for building permit,

[Whatcom County vs. Hirst, Futurewise, et. al. - October 6, 2016 Supreme Court Opinion \(wa.gov\)](#)

Here's another link, [Hirst decision - Washington State Department of Ecology](#), the 2nd key point of this decision states: "If a county determined that water was not legally available for a new use, the county would not be able to approve a building permit — even if a well was already drilled"

Bob: over the years we've seen the need for education, need to constantly bring people up to speed

- #7, change to gray water
- #11 was significantly changed, "coordinate water planning and protection efforts among county depts." What was taken out was specific naming of departments.

Judy: I like naming them, especially DNR because salmon protection requires coordination. This is vague

Vicki: I think that was the original intention, to spell out what the coordination involved

- #12 changed to establish policies developing rain catchment systems

Vicki: so, the original point was eliminated, that development doesn't impact water available for agriculture. Getting into policy realm gets murky because it's about water rights. The rain catchment issue in SJC has gone back and forth for years. There's history codified, it's in county code. now the State is following our lead.

Judy: whatever we write, I hope that history is included, it's incredibly important

David: anything underlined is a new addition to the document

- #13 encourage policies that support water availability in response to climate change
- #14 encourage responsible use of water

Then gets into some policies,

1. recommend and maintain a county-wide water budget
2. recommend funding and maintain a county hydrologist

Kim: but a policy should be an action item. I have a problem with the word 'recommend' in a policy document.

Judy: recommendations can be ignored, that's not a policy

7. Encourage the retention of healthy and native soils where related to water quality

Kim: the word encourage also shouldn't be in a policy

Cindy: that piece bothers me in that I thought the retention of healthy soils were always related water quality.

Vicki: correct, all the landscape relates to water quality

Byron: so that statement can say, "for the purpose of water quality, the retention of soils..." less wishy-washy

David:

10. change 'eliminate' to 'mitigate'.

Kim: that word is not strong enough; often used to allow rather than avoid impacts

Jenny: this plan should partner with our latest Salmon Recovery chapter update. Restoring, not mitigating.

Judy: was the planning commission aware of that Salmon recovery plan

David: salmon was a point at the meeting, but not sure they were aware of that document

ACTION ITEM: in presentation of our comments we should include that, point out documents aren't compatible

12. 'ensure that existing manmade ponds are properly permitted', that was struck out

Byron: that's in direct contradiction of our Salmon recovery plan

Judy: but permitting is the law. We are outraged

13. eliminated, duplicated other codes

15. struck, 'required new wells to water meters...'

Kim: provide some history from Eastsound in which this system showed big improvements in finding leaks, etc. There was a lot of support in community to allow them to report electronically with incentives. Why take this out?

Ann Jarrell: maybe it's the electronic part they object to, if people could be the ones to report

Kyle: meters are already required on wells. Group B water systems are required to take water meter readings

The new step was requiring them to be electronically reportable. On May 6, the planning commission made comments about the expense to public of these systems.

David: remember the comp plan isn't law. There will still be more steps, just having it as a policy here doesn't make it so – still need to develop the framework next year.

Kim: I think they've overblown this; electronic meters are not a big cost; the electronic endpoint can be added to existing meter.

Jenny: This is another component where the history would make a big difference, talking about how it helped in Eastsound in managing water resources

16. Create incentives...

17. add in "source", (all on CWAC like this).

18. was struck, 'conduct a minimum of 20 Group B systems...'

19. Was struck, 'maintain a cooperative relationship with systems that supply the

UGA's"...

Kim: why wouldn't you want to maintain a relationship with the UGA's?

Vicki: there's a loaded history there, I can see removing it.

Jolyn: why cut sanitary surveys of group water systems?

Kyle: we can still do them at the department level

Judy: one thing missing from this document that's acknowledged in some earlier paragraphs is monitoring of agricultural use. Is that included elsewhere in document?

Kim: that's one of the largest uses of water countywide, dwarfs many residential uses

Judy: we don't know what the use is because it isn't monitored

Jenny: I think it's more about encouraging stewardship through the VSP. Ag isn't under same requirements

David: Agricultural water use is referred to in small section 4.3.2.1

ACTION ITEM: can we agree that we will write comments through Kyle? Kim proposes to be the recipient of comments and write a draft letter we can circulate amongst ourselves

Judy: or have a small subcommittee that works on it?

Kim: I will put out an offer to accept comments on these changes and compile them into a memo to Kyle

Kyle: we won't have another meeting before July hearing so if we could do that electronically that would be great

Paul: I sit on the Agricultural Resources Committee and we've also provided many edits on this. A coordinated response may or may not be helpful, maybe someone from each committee could touch base

- Faith Van de Putte would be a good contact for that

Kim: I offer to be a point-of-contact. But I think CWAC needs to offer its own comments as a committee

David: clarifying dates, **July 1** – for the briefing, **July 15** – for the public hearing

Packets go out 10 days ahead of time. If I could get comments 2 weeks before July 1,

Wednesday June 15th I can guarantee they'll be included in their packets and on the website.

Kim: I'll try to get comments to Kyle by close of business the Friday before, June 10th

Judy: if it's from the whole committee will we have a way of approving them?

ACTION ITEM: Kim will write comments based on these meeting minutes, then send out to committee

Cindy: concerned about chokepoints of information. What's the process if commentary that CWAC gives and gets processed by planning commission still doesn't influence final recommendation by planning commission? IF we want to make sure these things are considered by council, we need to make sure they're encouraged to look at it

Kyle: If we're still concerned about next iteration by planning commission we can go directly to council

Paul: The Ag Resource Committee plans to submit comments to County Council as well as Planning Commission

9:39 AM Ground and surface water bacteria risk - Annual septic inspection/compliance program Kyle Dodd

There is a requirement to have an on-site septic inspected annually. Update on that program: We have 8,800 onsite-sewage systems in County. Historically more than 3K+ inspections done per year.

In 2020: 2465 inspections completed, about a quarter of county-wide systems. We sent out 88 failure letters, leading to 10 notices of violation. From all of inspections, licensed wastewater inspector reports findings. If failing or in non-compliance, we write a failure letter. We give property owners time to address, then notice of violation

In 2021: 2196 inspections, led to 46 failure letters, at present no notices of violation (meaning failures have been addresses or designs approved and awaiting availability of contractors)

Judy: do you send out notices saying you need to inspect your septic system?

Kyle: hampered a bit by emergency response and new permitting database. But yes, postcards

Judy: if homeowner doesn't respond...?

Kyle: our enforcement is focused on sensitive areas near bodies of water, particularly near estuaries

Paul: Are homeowners allowed to conduct their own septic inspections, if certified by a county trainer? Does county training program still exist?

Kyle: Pollution identification correction program. Part of that is from marine water quality sampling/shellfish, or from dept. of environmental stewardship coming up with high fecal counts, our staff will engage and correct.

We have projects now around Reef Net Bay on Shaw (formerly Squaw Bay that abuts Upright channel) and at Westcott Bay. State DOH has requested additional samples. We have been doing so monthly since February. We found an animal enclosure there and engaged with upland parcel owner, worked with CD to put in fencing, and saw some improved water quality. This past year a few more hits, found that the fencing didn't extend as far as needed. So, property owner is working with CD on cost-share program to install more fencing. Also, Westcott Bay (Kyle shares screen/shows map). We're following up with property owners, site visits, we've located one failure and another animal enclosure with potential storm drainage. We will continue to investigate into June, coordinate with other agencies, and share results

Ann: what's the nature of sample that you take at sites?

Kyle: free flowing surface water, we analyze for fecal coliform to determine impacts from septic or other animals

Vicki: this is an appropriate advisory group to be discussing septic issues. The same as with boaters, they must dump it somewhere, we should keep that on our radar

Kyle: we have a list of licensed pumpers on our website

Kendra: spoke with Denise about what's going on at treatment plant, we'll continue to discourage illegal dumping

Kim: a lot of people wondering about the dumpsite that was at the county fairgrounds?

Kyle: we think an actual sewer utility is most appropriate for that and not just the county fairgrounds that's on a septic tank. But no one in our department is aware of a history of a dumpsite at fairgrounds

Kendra: both RV's and boats can have those high concentrations of chemicals

Kim: Port bought a new barge with a holding tank, plan to use to pump out boats, then goes into Town sewer at controlled rate. But just putting out a press release that RV's need to make alternative plans makes me worry it'll get dumped illegally.

10:05 AM 2022 CIP. In July you will vote to update the CIP. This is a reminder of the projects in the CIP now and a discussion of what to expect for July. *Kendra Smith*

Annually we review the capital improvements program, make recommendations for new projects

Kendra share screen with spreadsheet with schedule of currently active projects:

1. Garrison Creek corridor – Byron working on that
2. Prune Alley – under construction, plan to have done by Sept/fall
3. Market street bioretention project –extension, construction conflicts next to prune alley, construct in spring 2023
4. False Bay Creek Corridor Restoration
5. Lopez Village Farmers market – appropriate sized bioswale, carrying all the water from Lopez
6. Lopez Village ditch retrofit

7. Small works countywide – a fund for emerging issues, largely small-scale drainage problems
8. West Sound Creek Corridor restoration (Crow Valley). Hope to bump up as more landowners get engaged
9. Weeks Wetland Bioswale on Lopez, site sits low, can't get a design
10. Lopez Tide Gates – hoping to deal with at some point, start process
11. Tower Rd Stormwater BMP's
12. Fishtrap and Bayhead Creeks Culvert Replacements –bidding in September, construction next summer.
13. Cascade Creek Flow Restoration, ACTION ITEM: Byron will reach out to Peter on this one
14. Davis Bay Richardson Marsh – in the queue at a planning level stage. We want to do some marsh restoration
15. Crescent Beach Estuary Restoration – Byron has closed out project, receiving reimbursement from State. I hope the long-term removal of Crescent Beach Road will be considered someday and restore that beach for pedestrians. We can't enlarge culvert large enough to protect the property that owns the kayak company

ACTION ITEM: Byron present results of Crescent Beach Restoration study at the July meeting?

Judy: is Lopez the only island with tidegates?

Kendra: that I'm aware of, Lopez are the only that are an issue. We have a couple at Mackay, and at Stanley. At Odlin we left in the concrete structure and took out the gates so now it's basically a culvert

So that's our plan. We haven't applied for any grants but that'll be an effort to start next year for future projects.

One question for the CWAC, what's our role in the culvert repairs? The county road fund is seriously depleted and coming in for a road levy increase. It looks like CW Utility will work on culverts that are along streams, split costs of some culverts. But there's a lot of infrastructure failure with these big storm events.

Kim: from the TAG reviewing culvert proposal, and detail that WDFW will be here this summer inventorying culverts, stay tuned to hear about a lot of culverts that need to be replaced especially to help fish. I think we'll need to go to the State for help because we're talking about expensive upgrades

Steve: WDFW won't likely be out until 2023 for the culvert assessment, all culverts, regardless of fish passage, should be sized to pass a 100-yr flow.

Kendra: For next meeting we'll put our heads together about new projects, probably just adding one or two to list.

If folks have identified things that should be added please let me know

Kyle: I'm heading to a 10:30, I will send an email update on GW subcommittee meeting. Thanks all

10:28 AM Surface water subcommittee updates
Sundberg

Kim

We have almost \$2 million to spend in County on salmon recovery, some money to CD for Garrison Creek restoration that would directly impact water quality. Includes fencing of livestock and planting around creek.

On False Bay creek, Byron is planting at SJPT property. We need a datalogger at Zylstra – is Byron doing that?

ACTION ITEM: Byron will get tidbits in soon (installed June 2nd)

Kim: no decision yet about water rights issue on False Bay creek, nothing to report on Trust water rights. This year it appears to be business as usual on management of Zylstra Lake and downstream irrigation of private property with no metering.

Byron: there's groundwater monitoring happening, I'll email Kyle and Lynn about that with suggestion that we should move forward. I have 23 vials left, mostly congregated on Shaw. Let's talk about how to achieve that

Kim: UW plans to continue taking samples in False Bay watershed this summer

10:32 AM Groundwater

We met and discussed USGS proposal. And on results of groundwater monitoring on Lopez indicates chloride levels are rising, trend is showing up over time. Kyle and I will talk later today about proposal to dive deeper into data, get a better picture. The question is, what's the cause – seawater intrusion? Climate change? Etc.

ACTION ITEM: Vicki will share consultants' report with Judy

Steve: I hope we incorporate some tree retention policy into future water conservation efforts in the County!

ACTION ITEM: Kim will be sending out that draft comment letter in next two weeks

10:35 AM Adjourn. Next full committee meeting July 21, 2022