

Skagit County Conservation Futures Program Advisory Committee
Meeting Minutes
Tuesday, February 9, 2010

Members in attendance:

Carolyn Kelly, Chair
Dave Hedlin
Mike Hulbert
Alan Merritt
Keith Wiggers

Members not in attendance:

Scott DeGraw
Andrea Xaver

Others in attendance:

Gary Christensen, Skagit County
Kendra Smith, Skagit County
Bob Helton
Cora Amburn-Lijek, Skagit CD

Open:

Chair Carolyn Kelly called the meeting to order at 7:10a.m.

Agenda:

The CFAC reviewed and revised the agenda.

Motion 10-04: Mike Hulbert made a motion, seconded by Keith Wiggers, to approve the agenda changes adding elections, term limits, policies, and permit code policies, which was moved above January minutes approval. The motion passed unanimously.

Member Updates:

Dave Hedlin reported that he had made a presentation about the Farmland Legacy Program (FLP) to the Western Washington Agriculture Association. Dave got the main points from Kendra. It went well.

Keith Wiggers handed-out copies of an *American Farmland Trust, Fall 2009* article about the role of farming in protecting the environment, including farmland conservation easements. The article includes an interview with Jay Gordon, dairy farmer and director of the Washington State Dairy Federation.

Carolyn Kelly said the Agricultural Advisory Board meeting was postponed to next week because many members were planning to attend the farm show. Mac Kaufman, Department of Ecology (DOE), will be talking about compliance.

Permit Code Policies

Gary Christensen, Skagit County Planning and Development Services, gave an overview of the permit code policies issues. Gary discussed this issue at the Agricultural Advisory Board's (AAB) meeting last month. The AAB decided to refer it to its land use subcommittee, which is to provide comments to the Planning and Development Services. The code change under discussion would restrict the siting of non-agricultural structures to the edges of the property or in clusters with other non-agricultural structures in order to reduce their impacts on the agriculture zone and to take the least amount of land out of production. If a single-family residence were sited in the middle of a 40-acre field, it could interfere with flyover pesticide application or farming of the land. It is also important that siting of a non-agricultural structure does not interfere or impede a neighbor's farming. Currently the administrative code uses the phrasing "close proximity," which is unclear. The County is trying to be more specific in order to be closer to the intent of the code. Kendra said there used to be a specific figure, but there were so many requests for waivers, which took up a lot of County staff time, that the wording was changed to "close proximity" in 1998. It was felt the farmer landowners would know best where to place the non-agricultural structures to have the least amount of impact on farming. Carolyn said that she had to read the code wording several times to clarify its intent. She understands it to say that if there is a building envelope that has already been developed, then the landowner is supposed to build inside the envelope. However, if there is insufficient development area for the new structure, then the landowner can build outside of the boundary line, but within 35 feet of the boundary. Kendra said she also understands the code to say that if you are going to build a non-agricultural structure on zoned agricultural land and the adjacent parcel already has a structure on it, the landowner has to build close to the structure on the adjacent parcel. Gary said that is correct and is true even when different people own the parcels. Farmers can still build worker housing, but its location is restricted. Temporary structures (e.g. double wide mobile homes) are allowed in certain cases, such as the need to take care of an elderly or sick family member or for caretaker purposes. This is only allowed as long as the condition (i.e., sick relative) remains in effect. The temporary structure must be removed as soon as the condition no longer exists. Gary said that accessory buildings could be added as long as they are not more than 50% of the square feet of the existing main dwelling and does not exceed 900 square feet.

Kendra said that drain fields currently do not have to be on the main parcel, which has resulted in some even being across the road from the main parcel, and they don't even have to be on the landowner's own property. She said the code should require the drain field to be on the landowner's property. Mike Hulbert said he is concerned about the permit code change's effect on agriculture. Carolyn asked about farm worker housing on agricultural land. It is still confusing as to why the farm on Cook Road was allowed so many units. The farm camp on Whitmarsh Road was discussed. Gary said the camp was dilapidated and had failing septic systems. The landowner proposed building townhouse condos that would abut the city limits and asked Burlington to extend the sewers to the project. Burlington has not yet made a decision. Gary said better housing for farm workers is a good thing, but the siting of this project is questionable.

Notification of Sale of Property with Conservation Easement

Carolyn asked what the procedure is when a property with a conservation easement is sold. Kendra said it is the landowner's responsibility to notify the County of the sale. Gary said there is no way for the Planning and Development Services to know about a sale. Carolyn said it might be a good idea to remind FLP landowners that they need to notify us when they sell their property. Gary suggested sending a reminder along with an annual letter of self-certification. Kendra said that the requirement for landowners to notify us upon the sale of the property could be written into the title so that the new landowner sees it and/or the title company sees it. Currently the easement says it is the landowner's responsibility to notify the CFAC when they sell their property. Mike asked whether the new landowner could claim "innocent buyer" status. Kendra said title insurance would cover that type of situation. Dave said although it may be the previous landowner's responsibility to notify us, and the new landowner's responsibility to be familiar with the easement, the Commissioners have heard appeals in the past from new landowners claiming they did not know about the restrictions of an easement.

Minutes

Motion 10-05: Dave Hedlin made a motion, seconded by Keith Wiggers, to approve the minutes as amended. The motion passed unanimously.

Financial Report

Kendra apologized for the lack of a financial report. Due to insufficient staff a report could not be generated. Kendra said there are no changes in the finances. We are waiting for USDA to make it a grant payment.

OLD BUSINESS

Easement Language Amendments

Kendra said she had emailed two sections of the easement pertaining to monitoring and stewardship to the CFAC. She asked the members to look it over and let her know if changes are needed. The CFAC may want to review the enforcement language, but we have only had two cases to deal with. The first one was with the first easement. The second one is current, and Kendra is trying to figure out how to handle the situation. Keith asked whether there is a step-by-step policy on violations. Kendra said it is spelled out in the easement. One reason people are reluctant to sign up for an FLP easement is the restrictions listed in the easement.

Report on USDA Grant Properties

Kendra said the hazmat studies have been ordered. These were supposed to have been done two and half months ago. USDA expects to get the reports on the 23rd, so Kendra

hopes to close on the Elde and two Cruse properties on February 28. They will be paid with County funds, which USDA will reimburse. It usually takes about a month for USDA reimbursements. Kendra has not submitted the Olsen or two Lee properties to escrow yet as she was not sure about the timeline of the USDA process. Keith asked if there has been a problem with this funding. Kendra said in the past USDA has taken about two weeks to process our grant applications, so she had expected to close on Elde and the Cruse properties in November. This time it has taken several months. She would not have put the funds in escrow when she did if she had known the process would take so long.

January Action Items

Application Dates for Property Matrix: Not all board members had their matrix with them to add the application dates. Kendra asked the board to bring the matrix to the next meeting at which time she will give the application dates to be added to the matrix.

39 and 1 Easements: Kendra said that at the end of 2009, there were 62 FLP easements and 29 39 and 1s. Carolyn confirmed that the CFAC is not responsible for the 39 and 1s monitoring. The County is thinking about hiring the Skagit Conservation District (SCD) to do the monitoring on the 39 and 1s. Kendra said the County has had 39 and 1s since about 2001. They are all about 39 acres. Mike asked if the easement language is the same as the FLP easement. Kendra said it has been the same since 2000 or 2001.

Skagitonians to Preserve Farmland (SPF) Easements:

Kendra said the SPF has asked if the FLP would take on some of its easements. We would be able to charge them for administering and monitoring them, which would offset our costs. Keith said that our mission is to protect land. However, the more that can be protected through enforcement, the less it costs the program. Keith asked Lori Kyle, SCD, how much monitoring costs. Lori said it is difficult to say because it depends on the size of the property and many other variables. She can work out a per acre estimate. Keith said if any of the SPF properties have enforcement issues, there could be catastrophic costs and possibly no solutions to the problems. In considering whether to accept these easements or not, we also need to look at their easement language to be sure we can accept the easement.

Complaint: Carolyn checked to see if the complaint discussed last month was within the FLP easement boundaries or not. The area of complaint is within the easement boundaries. Carolyn added that it has not been shown that the landowner has a violation; but he has been strongly advised to get some assistance with water quality.

Executive Session

The only new appraisal came in yesterday on the Moe property, so there wasn't time to prepare it for today.

NEW BUSINESS

Report on New Properties

Kendra has one new potential landowner, Spitzer-Olsen, who has not decided whether to enroll or not. The property is currently for sale. There is one home site on it, and Britt Slough and Dike Road border it. The realtor thinks Kendra's easement estimate is too high. Kendra said her estimate is a range based on our past easements. Weidenbach senior has not submitted his application yet, but another member of the family has made an appointment with Kendra to discuss signing up. Kendra let them know that the property has to have a clean title.

Funding

Farm Bill

Keith asked if there has been any discussion about next year's farm bill. Kendra said she has not heard anything. Most of the farm bill funding is in subsidies; only a small percentage goes toward natural resources. Kendra said that the bulk of the stimulus bill funding would be going toward food stamps and transportation as it's felt that is where it will have the biggest impact. Dave said food stamps go straight into the economy so has a quick impact. Keith said when owners of large farms receive subsidies, they usually don't spend it, which that doesn't help the economy as much.

Commission Funding

Carolyn said if the Washington State Conservation Commission (WSCC) sponsors our applications to the RCO for WWRP funding, we don't have to have match. Keith asked what the requirements and parameters would be. Carolyn said a higher priority is given to habitat easements. Kendra said they are not in the UGAs.

Recreation and Conservation Office (RCO)

Kendra gave her input to the RCO on prioritization and eligible applicants.

General

Kendra said the fact Skagit County has done so well with its farmland preservation program she is hearing we don't need funding, and that other places need it more. Dave said we needed to focus on the toolbox approach. Packaging is the big key, plus being able to match a grant with a project.

Policies and Procedures

Policies: Keith said the policies that the CFAC needs to work on are staff performance review, committee performance reviews, and elections. Keith has been looking for electronic templates on-line. Carolyn said she and Kendra would start working on the policies by looking for what policies are already in place. Carolyn said that Andrea had asked about term limits. She asked Kendra to send Andrea the current County language.

Kendra said at first there were no term limits for the CFAC members, then term limits were added. Certain boards have a permanent seat on the CFAC. They include the Skagit Conservation District, Skagit Land Trust, and the Skagitonians to Preserve Farmland. There are no term limits for these representatives.

Procedures: We need to decide who will set the agenda and when it will be sent out and when we want monitoring reports to be given to the board. Carolyn said it's time for elections. She suggested that we schedule the election in April.

Agricultural Land Mapping

Kendra handed out maps developed by Josh Greenberg, Skagit County GIS Department. The *Active Agriculture in the Ag-Nrl Zone map* shows the total zone to be 88,770 acres with 66,976 acres in agricultural land use. The second number was obtained by taking out roads, buildings, and forestlands. Based on this data 76% of the Ag-Nrl Zone is being used for agriculture. The *Land Cover/Use in the Ag-Nrl Zone map* shows the cultivated land. The *Agriculture Use by Zoning map* shows agricultural production in rural resource and rural reserve zoned lands outside of Ag-Nrl Zoned lands, which adds about another 9,000 acres in agricultural. However, these areas are not protected because they are not zoned Ag-Nrl.

Mike said that when the Department of Transportation (DOT) was talking about wetland mitigation, they said Skagit County had 250,000 acres of agricultural land. Dave said it is important to know how many acres are actually in active agriculture because decisions are made based on this number.

This mapping was funded by the Alternative Futures Committee, which wants to know if there are other lands that can be zoned agricultural.

Carolyn said that soils in these areas are not always prime, but they are still good. Dave said Skagit soils are in the top 1% of soils in the world, and the worst soils in Skagit County are still within the top 10% of soils in the world. There was a discussion about areas where the map could be inaccurate. Dave pointed out that Fir Island has a lot of sloughs that are not farmed. The area in Bayview shows a lot of agricultural land, but there are a lot of houses there. Carolyn said there is also a lot of pastureland in Bayview. Consideration also needs to be given to agriculture in forestlands. Mike said we should focus on the agricultural land and should show these maps to the Commissioners. Dave asked Kendra to let Josh know the maps contain very useful information, and that we want to keep refining it. The board would like Josh to do a presentation. Kendra said she thought it was important that the board look at the maps and tweak them somewhat before having Josh make a presentation. Kendra asked the board to review the maps and come back with questions and/or observations. Mike said that he was hoping that Josh would come in with the maps on his computer and answer the board's questions. Mike said he would also like Josh to have work sessions with other groups, such as the Skagitonians to Preserve Farmland. Kendra said Josh is meeting with several boards, including the AAB. Mike said we should discuss it at next month's meeting. Mike said local farmers would be able to give Josh useful feedback. Carolyn said we could concentrate on one area at each meeting. Dave said we should take our time doing this and give Josh input that he can use to tweak the maps.

Easement Monitoring Work Session

Lori Kyle, SCD, handed out several matrixes. One listed all of the easements' grantors, addresses, total acres, development right, record number, date easement recorded, payment, USDA federal funding, local funding, other funding, parcel numbers, type of easement, source of funds, current landowner, whether the property has sold, phone number, date of application, score, farm type, last date monitored, and next scheduled monitoring. The second one listed just the easements with NRCS grants. The last one listed properties Lori needs information about. Kendra said she has been working with Josh and Kim to correct some of the numbers that are incorrect. Keith said that Lori could contact the title company for the missing information. Lori said she was not sure whether she had the authority to do that nor how much time she should spend on tracking down the information. Some of the FLP easements were participants in the Riparian Habitat Program (RHP), a grant SCD had and for which Lori did the monitoring. Consequently, there is a lot more information available on those easements.

Keith asked about how much time Lori spends on FLP. Lori said it depends on the time of year, but on average she spends about half her time on FLP. She is currently monitoring 62 properties. When Lori started doing the monitoring for the FLP program, it took a lot more time because she had to take a lot of photos to establish a baseline. Alan asked if annual monitoring is required. Carolyn said it was. Kendra said that NRCS said it would be giving us a monitoring template including guidance on the frequency of site visits, but we have never received one. Lori said the more she does this monitoring, the more efficient she becomes. As the landowners get to know her, some are willing to let her monitor and enter their property without prior notice, which takes a lot less time than those landowners that want to be notified before Lori does a site visit. When she does a site visit, Lori brings a binder that contains the NRCS contract, if applicable, which she reviews before the site visit because each is a little different. Lori takes field notes then transfers them to a summary report. At the end of each month, Lori writes a detailed report that she turns in with her time sheet. The NRCS auditor reviewed these monthly reports and felt they were well done. Kendra asked Lori to email the report to her every month. Lori monitors each property once a year unless there is a problem. Keith asked that Lori keep the original field notes in the binder especially if they contain more details than the summaries. Lori said that is not a problem. Keith said he would like to spend more time reviewing the binders. Carolyn said he could look at the ones Lori brought today here at the County or come by the SCD office any time. Lori said she understood that her job was to check whether the landowner was in compliance or not. Keith said that Lori's role is a serious one, and that she should not answer too many questions, but rather refer landowners back to the CFAC. Lori said that she does that. She observes and reports what she sees. Lori said she has been doing monitoring for many years. When the SCD first started monitoring, there was a lot of animosity on the part of the landowners at first. She gave out the business cards of the lead technician and asked landowners to contact him with their questions. That worked well.

Adjournment

Chair Carolyn Kelly adjourned the meeting at 9:05 a.m.

Submitted by: _____
Cora Amburn-Lijek

Approved by the CFAC Board on _____ as _____

Chair Carolyn Kelly