

# MASON COUNTY PLANNING ADVISORY COMMISSION

February 13, 2012

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## 1. CALL TO ORDER

The meeting was called to order at 6:00 pm by Chair Dennis Pickard.

## 2. ROLL CALL

**Members Present:** Bill Dewey, Dennis Pickard, Randy Neatherlin, Jim Sims, and Ken VanBuskirk. Cathi Bright was excused.

**Staff Present:** Allan Borden, and Barbara Adkins.

## 3. APPROVAL OF MINUTES

None.

## 4. NEW BUSINESS

The annual election of Chair and Vice Chair was conducted. Randy Neatherlin was elected Chair, and Dennis Pickard was elected Vice Chair. At that time, Randy Neatherlin assumed the Chair position.

Barbara Adkins opened the public hearing on the Belfair Sewer Amendments.

Randy Neatherlin inquired if there are any conflicts of interest regarding this issue. Ken VanBuskirk stated he had some exparte contacts with not only the group that call themselves Advocates for Responsible Development in Belfair, and also numerous neighbors and citizens. I have attended several BOCC meetings in Belfair in regards to the sewer. Ken stated he didn't feel it would hinder his ability to hear this issue. Bill Dewey stated for a point of clarification, Bill's understanding is that this is a legislative issue and it's not inappropriate to have those conversations. Randy Neatherlin stated he has had some of the same conversations that Ken has had.

Barbara Adkins stated this reports provides a brief history and analysis on proposed amendments to Mason County's Development Regulations. Specifically, the proposal reflects an amendment to Section 17.03.030

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of Title 17 (Zoning), as it relates to mandatory connections to public sewer for all new development within the Belfair Urban Growth Area. The amendments are being considered in an effort to maintain consistency between and within the Mason County Codes. Recent updates to Title 13, Section 13.31 (Belfair Sanitary Sewer Code) have rendered portions of the Code to now be inconsistent. The BOCC adopted a revised Title 13.31 of the Belfair Sewer code. The language added by the BOCC was ***on property within 500 feet of the alignment of the Belfair wastewater reclamation facility's pipeline shall be connected to public sewers.*** This is different than it was before which was basically all new development.

Jim Sims inquired when the original 13.30 was adopted and then the adjustment. The revision was adopted on August, 2011.

Barbara Adkins explained when that was adopted they also directed that staff bring a proposal forward within 60 days that brought Section 17 with the same language that 13.31 has. That language states under Existing Lots of Record ***within five hundred feet of the alignment of the Belfair wastewater reclamation facility's pipeline*** was added under (a). The difference in this language was that originally the zoning code does not allow any development outside. If you're within 500 feet, you connect to sewer; if you're not within 500 feet, septic are not allowed. By adding this new language it's only required development within 500 feet to connect. Limiting that it now allows for septic to be utilized outside of that 500 feet.

Also added was (b), ***All new development or redevelopment using an approved or allowed onsite or community/group system shall enter into an appropriate agreement with the Mason County Department of Utilities and Waste Management agreeing to connect directly to the public sewer in accordance with MCC Title 13.31, within one (1) year after the date of official notice to connect providing the sewer is within five hundred feet of the closest property line.*** With this change that allows connection within 500 feet and those outside of 500 feet with an agreement that they will connect. The PAC need to consider this proposed language, and either recommend it to the BOCC, or not revise it. If it is not revised, then the language in 17 stays more restrictive.

PAC discussed the differences in the two languages regarding time frame for hookups. They are inconsistent. Barbara Adkins explained that given that this section has an actual time frame, then it should prevail. 13.31 does not have the one year perimeter that this does.

Ken VanBuskirk inquired when the BOCC gave you 60 days to attempt to align it, one of the things I read in the paper quoted one of the commissioners felt that staff was going to reduce the hookups from 500 feet to 200 feet and bring that back to the BOCC. Randy Neatherlin stated he heard that statement at the meeting. Barbara Adkins stated that the transcript of that meeting said that Commissioner Sheldon asked that that be looked at. That would have to be looked at by Utilities and not by DCD. Ken VanBuskirk inquired on page 1 of the Issue Paper it talks about 300 feet. Barbara Adkins stated that happened over a long period of time and history. Ken VanBuskirk stated you talk about the potential changes in the Belfair UGA boundaries. That will have an affect on the CFP. Ken inquired about the summary in the staff report which states you expect this to be challenged.

Barbara Adkins explained that she wants everyone to be aware of the history and to be aware when we start to make changes on something that was so controversial and took us so long to get to that we should be cautious. Ken VanBuskirk inquired if the Prosecuting Attorney has reviewed these proposed changes, and Barbara Adkins responded he has not.

Randy Neatherlin inquired about the language regarding the verbiage that was used at the BOCC meeting. Barbara Adkins stated there was a question as to whether the 200 feet was part of Commissioner's motion, and it was not. Randy Neatherlin inquired if there was an action item that brought this forward. Randy Neatherlin stated there was no motion from this board in the first place; it was just the idea of the BOCC's conversation that brought forward this package. Part of that conversation was Tim Sheldon's aspect of the 200 feet as well as any other commissioner that was in there. Since it wasn't a motion I would think it would go to his suggestion on that aspect as well. Barbara Adkins stated the 200 feet issue is something that needs to be done by Utilities; not by us. We can't do that analysis. Even if we did do that, we would go right back to being inconsistent again.

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Tom Moore, Interim Director for Utilities, noted Barbara Adkins explained in her presentation that people cannot construct if they're outside of 500 feet. However, with the sewer system in place, is it not true that they could build a connection to the existing pipe and, in fact, build a home or any new development? Barbara Adkins responded there is nothing prohibiting if they're outside, just not requiring if they're outside. Tom Moore stated he wanted to make that clear. You're required to hook up within 500 feet; outside of 500 feet you need to bring the sewer line to the sewer system. Barbara Adkins noted that was correct. Tom Moore stated while it might be cost prohibitive, there's not a moratorium at this time.

Bob Harris of Belfair stated that he reads it differently. He interprets it that if you live 501 feet away, one foot away from the trunk line of the sewer, you could go ahead and develop your property and that would include a septic system if deemed necessary. Barbara Adkins stated that is correct, if this is actually adopted.

John Gunter of Belfair inquired why the change from 500 feet to 200 feet would not be a part of this meeting at all. Barbara Adkins explained that it requires an analysis of the sewer that we can't perform. Barbara Adkins further explained she can't make the change without knowing the implications of such change.

Jim Sims inquired if it is more technical than a cost method analysis, or technical from the capacity of the system. Dennis Pickard stated there are more things involved with it than that, but it doesn't preclude us from discussing or proposing that particular issue. John Gunter stated if it's not going to be written down anywhere tonight, can we at least talk about it? Randy Neatherlin stated we can discuss it later in the meeting.

The public comment portion of the meeting was opened.

Tom Moore stated there is certainly more to it than a cost benefit analysis. Some of the changes you are proposing have to do with our ability to get wastewater. This plant was constructed based on the criteria that we had to deal with at that time. That included some significant growth rates and it also included some pretty distinct time lines as to when subsequent phases would come into play and connect. That impacts both the funding aspect of this project but also the amount of wastewater we receive. Tom Moore further explained the sewer was built so that it wasn't obsolete the day it opened. It's constructed such that we can incrementally bring subsequent phases and capacity of the treatment plant, but at this point with the change from allowing septic tanks and possibly the change of reducing the mandatory connection from 500 to 200 feet, particularly in Phase I, would eliminate the requirement for people to connect, many of whom have already paid their changes and/or extended their lines. It would impact that in a negative way. In addition, with respect to the allowance of septic tanks, the way the ordinance was written was to satisfy the concern that we were only sewerage a small portion of the UGA. In some cases, there would be a need for county participation in this, such as a construction of a large pump station or crossing a large wetland. The plan was to have development pay for development. If you were to allow septic systems, there would be no incentive for any development to extend those lines. The moratorium came about when there was no sewer there to connect to, yet we still couldn't provide septic systems. We have a treatment plant that will need about 75,000 gallons a day at a minimum to operate effectively; we can probably do it less efficiently with about 60,000 gallons a day.

Ken VanBuskirk stated he heard that DOE has threatened to pull their grants if the UGA boundaries are changed. Tom Moore stated he has heard there has been some conversations on my level with engineers at Doe, and it was mentioned. Ken VanBuskirk noted it would be nice if the PAC were told of some of those conversations so we don't feel like we're just spinning our wheels. Tom Moore explained he understands, but there have no formal contact in that regard. The basis for many of the grants was that we were eliminating a specific number of septic systems, and going to prevent future septic systems in the UGA. It could certainly be a real threat.

Randy Neatherlin inquired of Tom Moore is he is standing in opposition of this change. Tom Moore stated he wouldn't call it opposition, but he just needs to know how he's going to make this work. We've spent a lot of time and money building this.

Bill Dewey noted that Tom's not really excited about the septic option because you lose that developer pay

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option for those that are a ways away. He inquired of Barbara Adkins if that's a direction that the BOCC gave to you. Barbara Adkins stated she was directed to amend this language to coincide with the sewer language; not the outfall of that. Tom Moore stated the sewer ordinance was absent on the discussion on septic tanks. It doesn't really allow for septic.

Barbara Adkins explained as it's currently written, if you are not connected to sewer, you cannot get a permit for an onsite septic. So if you don't connect to sewer, you can't develop your lot. Barbara Adkins explained that Chapter 13 does not. It states property within 500 feet .... So basically that restriction is only limited to that property within 500 feet, where before it was everything.

Bob Harris stated he testified about Emmett Dobe's request to add close to fifty properties that were adjoining the UGA and after that there was no more discussion. Barbara Adkins explained that proposal is totally dead. Bob Harris asked for a clarification on the number of hookups. He's heard the number 425 and inquired if that is the amount that is needed to do the 60,000 gallons a day. Tom Moore explained if you add up 155 times that number you get somewhere in that neighborhood. Bob Harris inquired about the grant for extending the line down to phase 2. He inquired if that grant can be held in limbo, or are there restraints regarding timelines. Tom Moore explained it's five years.

Gordon Wilson, Consultant, has prepared some scenarios that have identified economic impacts of some of things you're considering. The way the BOCC has set up the program, owners of existing structures can pay a reduced charge if they do it by a certain deadline, which is the \$3000.00 rate. The real fee is \$5,000.00 without the special discount. It will be \$6000.00 next year, next \$7,900.00, next \$10, 200.00, next \$13,000 and finally the highest level is \$16 300.00. The treatment plant is a very large fixed investment, and when you have very few customers bearing the weight of all that cost it makes for very high rates. When you have a broader customer base then you can get more moderate rates. Phase I is on the hook for the first several years, but Phase II is scheduled to begin service in 2016. The BOCC decided they would commit to funding through additional general county resources whatever is needed to fill the gaps so the rates will not have to rise about \$96.00 per month. The key question researched is what happens after five years? Well, it then becomes self supporting.

How high does it go after that point? In Phase I there's already a core of people who are exposed to the risk of five years from now of getting a really steep rate shock if we don't generate some growth between now and then. Gordon Wilson outlines some scenarios of the Belfair Sewer Rate Forecast, and discussed by the PAC.

John Gunter inquired if the system was originally built smaller to scale as a whole, would these prices still be that high as far as monthly charges. Gordon Wilson explained that depends on a couple of variables. The costs would have been lower, however many of the costs have to do with just building a new treatment plant at all.

Bob Harris stated inquired about the money added in by the county. Mr. Wilson explained that is a grant, and there's no repayment. Mr. Wilson explained unless the state takes away the .09 money, is pretty safe. If they did pull it away it would make the rates so draconian.

Randy Neatherlin opened the public comment portion of the hearing.

Bob Harris complimented Barbara Adkins for the excellent staff report before you tonight. She did exactly just what the county wanted to do to coordinate these two titles. This moratorium really didn't have to go into effect, and that we could have been working harder to integrate the Belfair sewer into the UGA without such stringent limits on economic growth. We should be attracting new business as we put the sewer in, and not scare away people. He stated proposed Title 17 changes will help to minimize an obvious economic burden, but every Mason County citizen may soon be required to pay more to sustain the Belfair sewer. Mason County's only solution to date is to rid itself of all responsibility for the Belfair sewer by asking the Utilities Department to provide staffing for a Utilities/Privatization Analysis. Proposed Title 17 changes will help all Mason County residents, property owners and business owners survive a looming county wide calamity as

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evidenced in Birmingham Alabama November 2011 when the Jefferson County Sewer System forced the county into bankruptcy. Mason County Commissioners have built a sewer system that may devastate the North Mason community and encourage growth in other UGA's such as Shelton, Port Orchard, Bremerton, and Silverdale.

John Gunter of Belfair stated he wanted to talk about the 500' to 200' and said across the cities and counties it's 200'. He inquired about where the 500' came from. The decision from 2006 was worded in such a way that I don't think they were requiring the system to have to be hooked up. There is a provision for a failed system but other than that it doesn't say you must hook up to the system. I was under the impression that was going to be discussed tonight. The way this is is like interpretation of something said at a meeting and then gets interpreted differently. This is a mess, and this sewer system is going to fall on this county.

Randy Neatherlin stated that the PAC is only allowed to deal with so much as well. We all have a lot of questions but we can only deal with what is in front of us here.

Pat Loudin of Belfair questioned the 500' and 200' issue. Between now and the 17<sup>th</sup> all you're going to do is agree with this or not. Randy Neatherlin stated we can make a recommendation to the BOCC about what to do with what's in front of us. That can include suggested amendments.

Randy Neatherlin closed the public comment period of the hearing.

Jim Sims inquired what was the source of 500'. Barbara Adkins stated it came from Emmett. There was never any real solid formula that went behind that particular number. Randy Neatherlin stated that properties are only so wide, so they may be within the 500' but if there's two properties between that line, you can't force the properties to give them an easement.

Jim Sims stated his difficulty is being asked to make a decision based on a proposal of 500', but we don't know what the alternatives are. Dennis Pickard stated we are asked to make a recommendation to make an inconsistent code provision consistent with something the county has already passed.

Ken VanBuskirk stated his wife co-chaired the GMA group that Barbara mentioned. We've been involved with the process and I served on the sub-area planning group back in 2002. It was approved by two lame duck commissioners and one staying commissioner voted against it. There has been a lot of concern at that end of the county for quite some time. I've been asking the BOCC to re-establish some sort of advisory group for Belfair and North Mason for at least 6 years. I would be comfortable approving this at this point but there's definitely some additions I'd like to see looked at. I'd like to recommend that they take a much closer look at 200' rather than 500'. They need to consider the establishment of this advisory group as soon as they can. I was at the BOCC meeting and heard loud and clear that the citizens want to be involved; they don't want to be there by name only. Also, this impacts things we do with the CFP, this speaks specifically to new development. As a recommendation, CF-503 needs to be looked at again. I was the only one that voted against the CFP last fall because I felt strongly that unless their system failed, they shouldn't be required to hook up. Mr. Dobey brought Title 17 to us to ask that owners be able to hook up outside the UGA. You can only do that if specific cases of failures and public health risk exist. Now there's currently people outside the UGA who are hooked up to the existing sewer. Those are the three things I would like to see added to this recommendation.

Miscellaneous discussion regarding the inconsistencies of Title 17 and Title 13 as well as the 500' vs 200'.

Randy Neatherlin stated he doesn't see the benefit of 500' and neither does the state. If we could change that I would like to see it changed. Dennis Pickard stated he is not comfortable varying from what has already been approved.

Dennis Pickard stated he would also like to add "In accordance with MCC Title 13.31, no later than a year after the date the sewer is within 500' of said property". Also, "Shall, prior to issuance of permits for the development or redevelopment, or appropriate agreement". Dennis then made a motion for recommendation along with his two amendments to send it on to the BOCC for their approval. Jim Sims seconded the motion.

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Bill Dewey stated he would like to see this reviewed by the Prosecutor's office before it is brought before the BOCC.

Ken VanBuskirk stated we need to talk about the UGA.

Dennis Pickard suggested that after we address the motion we have before us that we leave the hearing open to add a separate motion regarding that. Ken VanBuskirk stated he wanted to interject on the concurrency of the hearings board two years ago increased the density from 3 units per acre to 4 units per acre to make the plan. That makes a big difference especially if the lands are full of wetlands. It's not urban development right now so to run it into a residential area that is as developed as it's going to be, we need to address those things.

Randy Neatherlin stated the BOCC were under the assumption that these people had to be hooked up; they don't think anybody would push that now with the hearings board. There's a court case in Clallam County versus Washington State Growth Management Board in which they were found to be successful on an appeal. They found they overstepped their bounds by trying to regulate that they had to hook up. Dennis Pickard stated the language we're looking at amending tonight has been the subject for several prior amendments that we've been here for. Last time this came up I read some of the prior decisions and the real concurrency argument had to do with the creation of new lots and at urban densities providing urban services versus previously existing lots. That distinction is an important one.

The motion on the table was voted on and passed unambitiously. Ken VanBuskirk then made a motion for additional recommendations to the BOCC 1) regarding looking at the 200' issue and have it be for new development only; 2) establishing of the Belfair Advisory Group for the UGA ; and 3) review Policy CF-503 as it relates to this issue. The motion was seconded by Dennis Pickard. A vote was taken and the motion passed unambitiously.

Barbara Adkins stated that the advisory group is already moving forward. She explained she took an issue paper and a draft resolution to the BOCC this morning, and because Mr. Sheldon was not present, they asked I hold it over. That ball is rolling.

Meeting adjourned.