CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
SPECIAL MEETING MINUTES

March 24, 2010 | Bellevue City Hall
6:30 p.m. | Conference Room 1E-108

COMMISSIONERS PRESENT:	Chair Sheffels, Commissioners Ferris, Hamlin, Himebaugh, Turner
COMMISSIONERS ABSENT:	Commissioners Lai, Mathews
STAFF PRESENT:	Paul Inghram, Department of Planning and Community Development
GUEST SPEAKERS:	Diane Tebelius, Gilbert Pauley, Norman MacLeod, Robert Thorp, Richard Johnson, Charlie Klinge, Martin Nizlek, Washington Sensible Shorelines Association
RECORDING SECRETARY:	Gerry Lindsay

1. PRESENTATION

A. Washington Sensible Shorelines Association

This special meeting of the Planning Commission consisted of a series of presentations by the Washington Sensible Shorelines Association to the Planning Commission. Representing the Washington Sensible Shorelines Association, Diane Tebelius introduced herself and the topics for the evening.

She explained that Washington Sensible Shorelines Association was founded by concerned homeowners who wanted to participate in the development of regulations that affect the shorelines of the city. She thanked Chair Sheffels and the Commission for the opportunity to make the presentation.

Chair Sheffels introduced the members of the Planning Commission and explained that the Planning Commission deals primarily with land use issues and the Comprehensive Plan. This includes reviewing and making a recommendation on the update of the Shoreline Master Program. She said the members are volunteers appointed by the City Council.

Two videos were presented that provided historic and ecologic background information regarding Phantom Lake and Larson Lake, as well as Lake Sammamish and Lake Washington. The information detailed physical changes made to the lakes and how the lakes have been impacted by construction and government actions over the years, as well as data concerning the kokanee, salmon and other fish populations in lakes Sammamish and Washington.

Dr. Gil Pauley made a presentation regarding the salmon populations and fish behavior in lakes Washington and Sammamish. His presentation included review of food and habitat effects for salmon, kokanee, and cuthrought and rainbow trout, including comparisons of lakes Sammamish and Washington to the Copper River. He discussed the predation risk for salmon detailing the effects of bass, docks, and large woody debris. He also provided detailed comments regarding

other science reports, including those prepared by or previously presented to the city. Dr. Pauley suggested conducting peer review of some of the city reports and for the city to develop regulations based on good science.

Norm MacLeod, founder of the Environmental Sciences Peer Review Institute, talked about the importance of having science papers peer reviewed. Mr. MacLeod commented that people in the same scientific field can produce reports with a wide range of quality. He noted that the reports the city will rely on in developing regulations should be peer reviewed to validate their scientific claims.

Robert Thorpe introduced himself as a certified planner and principal of RW Thorpe and Associates. He discussed myths of the shoreline master program process and then shared with the Commission five case studies aimed at reviewing the impact of the proposed regulations on value, use, permitting time and cost, reasonable probable outcome, and the effect on residents' reasonable expectations of using their waterfront.

Richard Johnson presented a review of Lake Sammamish shoreline armoring that he conducted with Dallas Evans and Scott Sheffield, residents that live on Lake Sammamish. They took photographs of every Lake Sammamish waterfront property when the water level was at its highest. Their findings disputed the information regarding shoreline armoring and overwater structures reported by the city's consultant, The Watershed Company. Messrs. Johnson, Evans, and Sheffield found that during the spawning season when the lake level is at its lowest, only 7.4 percent of the Lake Sammamish shoreline is armored. When the lake level is at its highest, only 36 percent of the shoreline is armored.

Charley Klinge introduced himself as a land use attorney with some 22 years experience in the field. He discussed the difference between the Shoreline Management Act and the Growth Management Act. The focus of the Shoreline Management Act is to manage development on the shorelines, not prohibit development, and single family uses, including recreational docks, are a priority use of the shorelines. The state regulations known as the ecology guidelines direct the Planning Commission to review the most current and accurate technical information available. In addition, the Commission is to consider all information provided by interested parties, and even non-technical information based on citizen observations and other data that some might call anecdotal evidence. In considering all of the information, the ecology guidelines do not require a certain result, but rather they provide that the city must sort out the conflicting information and make a reasoned decision.

Mr. Johnson presented several case studies to demonstrate situations in which the current city rules go beyond mitigation and either prohibit reasonable projects or require enhancement. Mr. Johnson suggested the case studies and other examples demonstrate that changes are required to create development regulations that fairly identify impacts to existing shoreline functions and impose reasonable mitigation. Even ecology's guidelines direct the city to avoid development regulations that impose enhancement or restoration. The Planning Commission and the city need to follow that direction. As the city moves forward to update the Shoreline Master Program, it should follow the three C's in adopting regulations: clarity, consistency and certainty. All efforts should be focused on effective programs that protect the lakes and the salmon, and should avoid development regulations that fail to accomplish anything except conflict with property owners.

Ms. Tebelius welcomed questions from the Commissioners.

Commissioner Ferris asked Dr. Pauley if in his opinion tapered or layback bulkheads are preferable to vertical bulkheads. Dr. Pauley said his preference is for riprap bulkheads. A

tapered concrete bulkhead would have a lesser impact, but concrete does not dissipate the waves like rocks do. In either case, the more a bulkhead is leaned back, the less the impact.

Commissioner Ferris asked if a building setback is appropriate in terms of mitigating impacts to the ecology of the lake, and if so whether 25 feet is a reasonable setback. Dr. Pauley said that is not his area of expertise. He said he read in the best available science report that the consultant recommended imposing a bond on homeowners to assure planted areas remain viable. The fact is, no one can guarantee living things will continue to live and the requirement for a bond is preposterous.

Commissioner Ferris said his understanding is that when lawn is allowed to be planted up to the edge of the water, the fertilizers and the like that are applied to the lawn run off into the lake creating a detrimental impact. Native plants work better because they do not need to be fertilized. Dr. Pauley said there are ways to keep lawns green other than by using fertilizers.

Commissioner Hamlin asked for comment on the study that talked about the salmon avoiding docks as they move through the lake. Dr. Pauley said Tabor published a report that was done for the city of Mercer Island in which he says most salmon go under the dock, though a few may go around. Chapman's report on the Wells Dam reservoir indicates that 60 to 70 percent of the salmon go under the docks. The pertinent point to consider, however, is that there is no relationship to predation based on going either under or around a dock. There is no published study that says there is an increased rate of predation based on salmon moving under a dock.

Chair Sheffels asked Dr. Pauley how he would characterize the general health of the fish population in both Lake Sammamish and Lake Washington. Dr. Pauley said the results the fish hatchery is getting are fantastic. The Bear Creek spawning figures are very close to equilibrium, which is positive. The genetic interbreeding of native fish and hatchery fish is a potential concern, though it has not yet been studied on Lake Sammamish.

Commissioner Himebaugh asked Mr. Klinge to explain the regulatory difference between the Redmond approach and what Bellevue currently has. Mr. Klinge said Bellevue requires a buffer, and anyone wanting to do any work in the first 25 feet of the ordinary high water mark must obtain a critical area permit and work within the restrictions. In addition, a primary structure must be set back 50 feet, and any accessory structures that are within 50 feet are declared nonconforming structures which, under Bellevue's rules, cannot even be repaired. In Redmond, the conclusion drawn was that because the shoreline is so urbanized, trying to establish a buffer and requiring individual properties to do plantings here and there would not accomplish anything. They established a 35-foot setback which is flexible; it can be reduced in exchange for some plantings. It is not a no-touch buffer. There are a number of structures located within the 25- to 50-foot buffer and setback zones. The code is written to logically draw the line around the perimeter of primary structures so that they do not become nonconforming. However, any action to add on or remodel that encroaches into the setback or the buffer triggers a critical area permit. Under the Shoreline Management Act, single family homes are an exempt use, so a property owner is not supposed to be required to go through a permitting process aimed at deciding if a structure is appropriate or not.

Commissioner Turner asked if in an urbanized area there is any real benefit to having a 25-foot setback. Mr. Klinge said historically the setback has been 25 feet, and there are a number of structures that are at that mark. Keeping the setback at 25 feet makes a lot of sense from the standpoint of equality of use.

Commissioner Hamlin asked how many residences were impacted by the Shoreline Master

Program update in Redmond. Dr. Nizlek said there are about 100 parcels on the Redmond portion of Lake Sammamish. There are some 400 in Bellevue.

Commissioner Turner asked which of the reports used by the city to develop policy are most important to have peer reviewed. Dr. Pauley suggested any document that will affect land use should be reviewed. The docks and pier report was not peer reviewed, nor was the 2005 report.

Commissioner Ferris said the issues facing Phantom Lake are much different from those facing either Lake Sammamish or Lake Washington. The issues Phantom Lake has are primarily related to stormwater runoff. He asked if there is any documentation relative to the shoreline on Phantom Lake the Commission should have. Dr. Nizlek said his group does not have a lot of stormwater data. Stormwater runoff is something the city is supposed to be monitoring.

Mr. Klinge pointed out that the shorelines analysis report and the old best available science report for Lake Sammamish, Lake Washington and Phantom Lake came to the same conclusion, that the lakes are all highly urbanized and highly altered from their historic states. Relative to Lake Washington and Lake Sammamish, the report states that current and likely future land use practices preclude the possibility of the shoreline functioning as a natural shoreline to benefit salmonids. A similar statement is included with regard to Phantom Lake. It will not be possible to transform the shorelines back to a natural state.

Ms. Tebelius added that a report specific to Phantom Lake is being prepared.

Chair Sheffels indicated the Commissioners had no additional questions.

The meeting ended at 9:06 p.m.

Paul Inghram
Staff to the Planning Commission

5/12/10
Date

Pat Sheffels
Chair of the Planning Commission

5/12/10
Date