

San Juan Initiative Policy Group Meeting

April 17, 2009

Issues for Discussion

The Policy Group is at a critical juncture. We are finalizing proposed changes to regulations and information systems prior to public review in May and deciding the future of the San Juan Initiative. This paper outlines six issues for the Policy Group to discuss on April 17th.

The first four issues flow from the discussion paper, Phase 4 - Commit to Action, and subsequent input from the joint meeting of the Trades Group Work Team and County Planning Staff. The highest priority issues, which are captured below, focus on resolving policy issues about the regulatory changes raised in the joint meeting. SJI staff needs Policy Group feedback and direction on how to best address the issues and prepare for public review the first week of May.

The last two issues deal with the future of the San Juan Initiative.

Regulatory Issues

1. Should there be an easy-to-enforce prescriptive standard for creating and maintaining a view or should there be flexibility in how a view is created, and how the ecological and environmental functions of trees and shrubs are protected?

Regulators are balancing four objectives as they create standards for views and protection of vegetation: preservation of ecological function, enforceability, flexibility, and consistency of the interpretation of standards. For example, a very clear standard may be enforceable but could limit the flexibility to address site specific conditions and frustrate property owners if the standard does not make sense on their property. At the joint meeting of the Trades Group and the County staff, there was agreement on several points regarding the regulatory standards:

- The understory needs to be explicitly protected and it is not addressed by current regulations.
- The amount and type of natural vegetation can vary significantly in the islands based on soil type and exposure, and the regulations must address the variation that exists naturally.
- If a prescriptive standard addresses most situations, then one option is to create a process to allow for flexibility where the standard does not work.

At the joint meeting, two ideas for a prescriptive shoreline standard were discussed. The first was to allow 1/3 of each tree to be limbed and the second

was to allow only the lower third of each tree to be limbed. Although these standards would be easy to enforce, they may not fit most situations for creating a view or maintaining the health and function of the vegetation. There was agreement at the meeting that in special situations the property owner should be allowed to submit a vegetation management plan prepared by a certified arborist for approval by the County.

Staff is researching the approaches used by other jurisdictions and working with the Science Team to make sure we are achieving the appropriate ecological outcomes. Staff will provide examples at the meeting and will require guidance regarding what approach the Policy Group would like presented to the public.

2. When repairing a significant portion of an existing bulkhead, should a property owner be required to either move the structure above ordinary high water or install a soft shore structure?

In our case study we found most bulkheads extended into the intertidal zone of the beach. This affects forage fish spawning and natural sediment transport. Many of these bulkheads served to protect a lawn but were not necessary to protect the home. Given that these bulkheads are currently damaging the ecosystem, staff recommends that when repairs are requested for bulkheads that are not protecting a home, they should be required to be moved above the ordinary high water mark or replaced with a soft shore structure. Concerns raised by the Trade Group and County staff include:

- Would this change lead to more illegal bulkheading?
- Is the public and ecological gain in restoring the beach worth the private loss?

Does the Policy Group support this proposal?

3. Should there be different setback requirements for a home and different standards for a bulkhead when a home is adjacent to homes that don't meet the setback requirements or existing bulkhead standards?

There are two main perspectives on this issue:

- a) Supports a different standard due to fairness, believing there would not be significant ecological damage from one more structure.
- b) Does not support a different standard believing that the erosion on that property or vegetation could be of even greater significance since the adjacent parcels are no longer providing the ecological functions.

Which perspective does the Policy Group support?

4. When does the County require technical expertise to review permits and who should pay for the expertise?

Shoreline permits and protecting shoreline function is complicated. The County lacks the scientific expertise to evaluate the technical analyses provided by applicants. Without a feedback loop within the County to cross-evaluate technical work, any analysis and conclusion presented by a property owner is likely to be considered acceptable. Staff recommends the County require peer review, funded by the applicant, when the following activities are sought which put public resources at risk:

- Bulkheads on unstable bluffs or homes setback less than the standard.
- Defining when a house is threatened.
- Complicated issues related to the protection of vegetation.

This recommendation could result in the applicant paying twice for the expertise. Staff recommends that, to avoid the cost of two experts, the applicant has the option of paying the County to hire the expertise. Should this recommendation be taken forward to the public for discussion?

The Future of the San Juan Initiative

5. What resources and support systems need be in place after June 2009 to ensure successful implementation of the Initiative recommendations?

Existing funding for the SJI ends in June 2009. Implementation will require additional and on-going coordination with agencies and the County. For adoption of the regulatory recommendations and their ongoing implementation, the County needs policy support. The Policy Group has recommended periodic evaluation of success of the programs and this will require resources and policy oversight. SJI staff recommends that the Policy Group continue with staff support for one additional year in order to fulfill these functions. Staff proposes that the Policy Group requests Puget Sound Partnership to provide the on-going funding for this support as part of their implementation of the Action Agenda and advancing their number one priority, protection.

6. Should the Initiative pursue a grant with the US Fish and Wildlife Service to begin the terrestrial assessment and address protection of the Island Marble butterfly on San Juan Island?

The Policy Group agreed to pursue funding for a terrestrial analysis of protection effectiveness. A grant was submitted at the invitation of the USFWS for \$80,000. Upon review of the proposal, USFWS is considering a reduced level of funding that would support the first phase of the terrestrial analysis and an additional focus on protecting existing butterfly habitat on San Juan Island. At this point SJI staff has not found other opportunities to fund all four phases of the terrestrial work. But, by completing the first phase, the Initiative will be in a strong position

to apply for additional funds. Focusing on the butterfly, although important, may be a distraction from taking an ecosystem-based approach and would require a different level of public involvement on a single issue for just one island. Staff will provide more detail on the potential grant at the April 17th meeting.