

## **San Juan Initiative**

### **Issue Paper for May 28th Meeting**

Draft May 22, 2009

This is an exciting time. After two years of planning, the San Juan Initiative is on the verge of meaningfully changing the way we protect shoreline habitats in San Juan. We have made substantive progress in improving the effectiveness of the information network between agencies and for the public and we have clarified and enhanced the regulatory and enforcement systems in San Juan County. Thank you for all the hard work and commitment you have shown as a leader on the Policy Group and as a member of a community dedicated to protecting Puget Sound.

This paper provides the background information we need in order to engage in the upcoming May 28th discussion and make key decisions about our next steps.

This paper has three sections:

1. Advancing Actions that Protect the San Juans
2. Implementing the San Juan Initiative Recommendations: Tracking and Measuring Success
3. Conclusion

### **Section 1. Advancing Actions that Protect the San Juans**

Based on Policy Group direction at the April 2009 meeting, staff held a total of seven public workshops on San Juan, Orcas and Lopez Islands to gather community feedback on two of the Initiative's main approaches to improving protection:

- A. Improving information resources and technical assistance
- B. Improving shoreline regulations

Over 100 people attended in total. Three of the seven workshops continued our dialogue with construction and real estate professionals. The other four meetings were open to the general public but largely attended by shoreline property owners. Advocates from "both sides of the fence" commended the San Juan Initiative on its collaborative and substantive approach; the dialogue within the meetings was also substantive—as well as spirited. Staff summarized the community input in "Summary of Community Workshops, 5.20.09." While that document contains a more in depth description of the community's input, this paper summarizes the key conclusions from these meetings to help inform the Policy Group's decisions about next steps.

## **Issue A: Actions for improving information resources and technical assistance**

At the last meeting, the Policy Group endorsed a four-tier approach to improving information resources and technical assistance. The first tier is general information for a broad audience, the subsequent tiers improve individual property owners and planners access to site specific information. As described at the last meeting, the San Juan Initiative is working to improve information for second and third tiers which includes improving site specific information on the web and improving technical expertise provided on site.

Within the tiering system, the focus on property owner's access to technical assistance and County Planning staff's access to expert advice during permit review seem most critical to improving the overall information delivery system. These two aspects were discussed at the public meetings.

Staff solicited information from the community and listened to their concerns and ideas. The information gathered was condensed into the findings below which are separated into two parts: technical assistance for property owners and technical expertise for the County Planning and Community Development Department.

### **Technical Assistance for Property Owners**

#### **Findings from Community Discussions**

- People want to develop and maintain property along the shoreline in a way that protects the resources and meets their needs as property owners.
- They are encouraged by the opportunity for free technical assistance to determine how to best manage shoreline vegetation, create views and beach access as well as better understand how to address shoreline erosion.
- They do not think County government is the best choice for providing technical assistance to property owners because of its budget challenges.
- Free technical assistance would be greatly appreciated by the community and they feel it would increase their ability to protect shoreline.
- Public recognition for good stewardship and tax incentives would create a lot of goodwill and would encourage property owners to do more.

#### **Staff recommendations:**

Staff recommends the Conservation District become the source of free, high quality technical assistance to property owners for managing their shoreline property. The Conservation District is already seen as a neutral and a highly-skilled provider of technical resources for farmers and foresters through their

farm and forest plan program. Staff recommends that the Conservation District create a similar program for shoreline property owners. This program would use existing Conservation District resources to work with individual landowners to create property specific “shoreline resource” plans. Each plan would address ecological functions, views, beach access and/or erosion depending on the needs of the landowner. The process of developing these plans in concert with experts would help landowners maintain and improve ecological functions required by the County while also better addressing landowners own hopes and desires for their property. The best management practices would be designed to be consistent with the Critical Areas Ordinance and the Shoreline Master Program. Using the Conservation District shoreline management plan process would give property owners access to the guidance they need and provide some certainty that they were complying with vegetation retention requirements in the building process.

Staff also recommends the Policy Group support the Conservation District to create and run a public recognition program that highlights property owners for good stewardship. Funding for the Conservation District will be discussed at June meeting.

***Questions for Policy Group:***

1. *Do you support the Conservation District as the organization to provide technical assistance to property owners?*

If the Policy Group supports the staff recommendations, staff will work with the Conservation District to:

- a. Identify the technical qualifications and expertise necessary to develop a “shoreline resource plan” as part of their natural resource inventory program for San Juan County.
- b. Collaborate with the County Planning Department to ensure that the management practices developed for the shoreline resource plans meet the objectives of the regulatory programs.
- c. Identify funding levels necessary to run the program.

**Technical expertise for the County Planning and Community Development Department**

**Findings from Community Discussions**

- a. Community members agree that the Community Development and Planning Department lacks sufficient expertise to address detailed and technical questions or provide creative ideas for how to meet property owner needs while protecting ecological functions.

- b. They believe this lack of technical resource in the permit review process leads to inconsistent regulatory interpretation and a reduced sense of trust between the community and CDPD.
- c. They questioned whether the County government could ever afford to have full time experts on staff and worried about the potential for “dueling experts”.
- d. They are concerned about landowners paying twice for expertise from two different professionals, first to help design their project and second for the County to review their project application.
- e. Property owners are looking to the County to help them understand how to protect the shoreline with accurate and up-to-date scientific information.
- f. There appears to be community support for increased permit fees if those fees result in more consistent review of shoreline applications. The community appears supportive of increasing fees for those projects that require additional review. These types of projects include:
  - i. Bulkheads on beaches and bluffs
  - ii. Vegetation management plans on beaches and bluffs.
- g. The final suggestion that came out of every workshop was for a list of “county approved” technical experts that understood county policies and how to protect ecological value on a site. This is an idea that appears to have great support from the community but Ron Hendrickson’s current understanding is that this would be illegal under Washington State law.

**Staff recommendations**

1. Explore the legal issues of creating a list of qualified technical experts.
2. Develop a fee-based structure for the County to hire technical experts on complicated issues where the potential for environmental damage is significant.

***Questions for Policy Group:***

1. *Do you agree with the staff recommendation to explore the possibility for the County to develop a list of technical experts?*
2. *Do you agree that a fee structure should be developed for the County to hire technical experts?*

## **Issue B: Actions for Improving Shoreline Regulations**

This portion of the paper discusses two approaches the Initiative is pursuing to improve regulatory requirements. These are:

1. Improving Standards for Retention of Shoreline Trees and Ground Cover
2. Improving Standards for Protecting Beaches and Bluffs

### **Improving Standards for Retention of Shoreline Trees and Ground Cover**

The San Juan Initiative Policy Group decided at the April 17<sup>th</sup> meeting to further explore a new approach for retaining marine shoreline vegetation. They directed staff to seek feedback from the community prior to the Policy Group's full endorsement of the approach and designation of next steps.

The vegetation protection approach decided on by the Policy Group changes the objective of the County's regulations from an aesthetic goal to looking at tree and ground cover retention as a critical component of maintaining shoreline ecological function. The Policy Group, in deciding to embark on this approach, also stated the importance of maintaining the property owner's ability to create and maintain views as well as access the shoreline. The Policy Group supported development of both a prescriptive standard and a process for unique situations where prescriptive standards are not appropriate.

The staff developed a prescriptive standard that was discussed in the public workshops based on approaches used in Whatcom County and the State of Maine. The proposal was:

- 15 percent of trees between the setback of the house of the shoreline may be removed, such that the shoreline retains 85 percent of its trees over time.
- All ground cover is retained.
- Limbing of trees for "view windows" would be allowed.
- No clearing of trees greater than 250 square feet within the buffer area.
- If the prescriptive approach doesn't meet the property owner's need, then property owners may elect a site-specific process requiring additional technical review at additional cost.

### **Findings from Community Discussions:**

- a. There appears to be broad support for balancing property owner needs with ecological function of the marine shoreline and switch from a view-only approach to an ecological view of vegetation along the shoreline.
- b. There is not consensus on the prescriptive standard proposed by staff for retaining 85 percent of the trees for several reasons. Opinions

ranged from too high to achieve a view, to too little to retain vegetation function. The public questioned the scientific rationale and were concerned about administrative difficulties.

- c. There was general consensus that any standard adopted by the County Planning Department should prescribe the maximum clearing allowed to prevent damage to the environment and address landowner concerns for views, hazards and shoreline access. However, people thought the regulation should encourage most landowners to develop a vegetation management plan with the support of a group like the Conservation District. If the Conservation District's program was consistent with County-approved best management practices then each individual plan would not require formal approval by the County. The vegetation management plans would ensure that the ecological outcomes of an approved plan would have a high likelihood of providing equal or greater functions than would be provided by the single action of retaining 85 percent of the shoreline trees.
- d. A visual guide for property owners was suggested at every community workshop.

#### **Staff recommendations**

Based on the input from the community and additional work done by staff, we recommend moving forward in the following ways:

- a. Continue to work with Critical Areas Ordinance committee to change the existing language for protecting shoreline vegetation to one based on ecology. Staff will draft regulatory language based on the approach described above and provide the scientific citations to explain the 85 percent forest cover (or tree retention). Staff will also continue to work with the Conservation District on providing the technical expertise to property owners to create "shoreline resource plans" as described above. Details of how this would work will be brought to the meeting on May 28<sup>th</sup>.
- b. Staff will begin work on an illustrated compendium to the shoreline regulations that shows people good examples of maintaining ecological function while creating a view and shoreline access. This visual compendium would be part of the website content being developed by the Initiative.

***Question for Policy Group:*** *What refinements to the prescriptive standard recommended by staff need to be made? (i.e.: 85 percent of trees maintained.)*

### **Improving Standards for Protection of Beaches and Bluffs**

At the April 17<sup>th</sup> meeting, the Policy Group reached consensus on the Initiative's recommendation for a new standard for replacement bulkheads on beaches and bluffs. The new standard for replacement bulkheads would be:

- Repair of existing bulkheads would be allowed. Replacement of existing bulkheads would only be allowed if the main structure, septic or road was threatened by erosion. The difference between repair and replace will need to be defined.

The Policy Group directed staff to gather community input on this proposal and "test the waters." It was presented at all seven meetings.

### **Findings from Community Discussions**

- a. Most of the shoreline property owners agreed that replacement bulkheads should be placed above the tide line.
- b. There was no consensus but the majority of people agreed with the stricter standard that replacements should only be allowed when the main structure, septic or road is threatened. Two of the three trade group meetings and one property owner meeting supported the standard recommended by the Policy Group. But, at every meeting there were some participants that disagreed with any restrictions for bulkheads replacement (though almost all agreed that when replacing existing armoring, the structure should be moved out of the intertidal zone).
- c. The definition of "threatened," "repair," and "replacement" needs to be more fully fleshed out.

### **Staff Recommendations**

Based on the input from the community and additional work done by staff, we recommend the following:

- a. The San Juan Initiative has received additional grant funds from the Puget Sound Partnership to produce a white paper by June 17<sup>th</sup> that outlines the scientific and policy implications of various definitions of "threatened." This paper will:
  - Guide the Policy Group as they recommend a new standard for allowing bulkheads on beaches and bluffs.
  - Inform the Critical Areas Ordinance Committee.
  - Further the Puget Sound-wide discussion regarding hardening of marine shorelines.
- b. Staff will work with the County to draft regulatory language for the Critical Areas Ordinance Committee reflecting the Policy Group approach to replacement bulkheads.

- c. Staff will convene a small subgroup of the Policy Group to create a policy statement about when a bulkhead is deemed a “repair” or a “replace.”

**Question for Policy Group:** *Based on community input, does the Policy Group want to change their recommended standard for replacement bulkheads on beaches and bluffs? Should we move forward in drafting the regulatory language and should we convene a small subgroup to craft a “repair and replace” policy statement?*

## **Section 2: Implementation of San Juan Initiative Recommendations: How to Track and Measure Success?**

The San Juan Initiative has a suite of recommendations to improve protection of shoreline resources that were endorsed by the County Council in December, 2008. We are confident that, if implemented, the recommendations will result in effective protection of shorelines, increased staff and citizen capacity for ecosystem protection, and community support for necessary actions. In order to achieve these outcomes, the Policy Group outlined five objectives for an improved system of protection:

1. Tailor protection efforts to the ecological sensitivity of the shoreline.
2. Increase consistency in the building, buying and permitting process.
3. Develop a collaborative relationship between the public and private sector to resolve protection issues.
4. Provide information that is accessible, relevant and timely.
5. Encourage protective action and discourage non-compliance.

To determine if the recommendations and subsequent strategies and actions are supporting these objectives, staff proposes the following measures of success over two time periods, short term (6 months, June 09 – Dec 09) and longer term (18 months, June 09 – Dec. 2010). Following the discussion of the measures, the staff will refine the list and develop a recommendation of how monitoring should occur over time and how the San Juan Initiative will end. We will prepare a set of recommendations for the Policy Group to consider at the June meeting.

**Questions for Policy Group:** *Would the following benchmarks provide adequate information to know if implementation is on track and begin to lay the foundation for tracking effectiveness over time? Would you feel our efforts were successful if these benchmarks were achieved? What refinements do you recommend?*

1. Improving Shoreline Regulatory Programs
  - Short term benchmarks
    - a. County Council passes changes to Shoreline Master Program and Critical Areas Ordinance consistent with recommendations of the Policy Group.

- b. County Council endorses new post-construction inspection program and passes post-construction inspection fee to ensure sustainable funding.
- c. County has access to the appropriate level of technical expertise for review of complex permit situations and a funding mechanism has been adopted by the County Council for this improved technical review.
- d. An effective approach to enforcement is initiated that brings together county, state, and federal governments to work in partnership with the local community. County Council passes the proposed code enforcement ordinance and the fee to inspect shoreline structures.

Long term benchmarks:

- a. Funding is stable and supports staffing at CDPD and maintenance of the website and the other informational materials necessary to adequately inform key stakeholders.
- b. Guidance to applicants and contractors is clear and consistent throughout permit process. A survey of applicants and contractors could measure results.
- c. Fees and programs are having a positive impact on the public and the environment.

2. Improving Incentive Programs

Short term

- a. A program that gives positive recognition to landowners and contractors for good stewardship is initiated in County.
- b. Land Bank, Preservation Trust or The Nature Conservancy has initiated a pilot to protect soft shorelines through a partnership with land owners on narrow shoreline lots.
- c. A soft shore approach has been funded.

Long term

- a. New stewardship program is publicly and positively recognizing several hundred shoreline property owners annually and is a marketing tool used by realtors and property owners.

3. Improving Information Resources and Technical Assistance

Short term

- a. Conservation District is funded to develop and implement a “shoreline resource” plan program that provides free high-quality technical assistance to landowners and contractors.

- b. Conservation District program for “shoreline resource plans” has been used by 40-50 property owners and 20 trades group professionals.
- c. Landowners and trades group professionals see the Conservation District program as timely, pertinent to their needs, and as a resource to expand their knowledge of their property and the shoreline environment (measured by surveys).
- d. The new website content which connects key ecological features to regulatory requirements is being used by the community, by realtors selling properties, and by 25 percent of those seeking permits. This results in a positive and clear permitting process and home buyers who are clear about what can and can’t be done on their purchased lots.
- e. Ten property owners have constructed new access or maintained existing access to the shoreline in a manner that was easy for them and protected the ecosystem functions.
- f. Ten property owners have created a new view or maintained an existing view in a manner that was easy for them and protected the ecosystem functions.
- g. One hundred property owners have constructed new access and maintained existing access to the shoreline in a manner that was easy for them and protected the ecosystem functions.
- h. One hundred property owners have created a new view or maintained an existing view in a manner that was easy for them and protected the ecosystem functions.

#### Long term

- a. Forty to fifty shoreline property owners are using the technical assistance program annually.
- b. Property owners that have received technical assistance are using their knowledge to help neighbors with similar situations (i.e. master gardener approach).

#### 4. Protection of Ecosystem Functions

##### Short term

- a. Feeder bluffs have been mapped in San Juan County and the information is accessible to, and usable by, the public and planners.
- b. Several bulkheads have been repaired in a way that reduces the impact to the shoreline.
- c. Several new homes have been constructed in a manner that protects shoreline vegetation and meets homeowner needs for views and access.

Long term

- a. All bulkhead repairs occur in a manner that reduces their environmental impacts.
- b. All new homes have been constructed in a manner that preserves shoreline vegetation.

5. Changing Culture

Short term

- a. Builders and contractors report that they are working in a collaborative manner with the County Planning Department that produces their desired results.
- b. County staff and County Council report that they are working in a collaborative manner with builders and property owners in ways that produce desired results.
- c. There is broad public and agency support for the newly adopted changes to the County regulations and the Conservation Districts programs.

Long term

- a. Surveys of builders, property owners and County staff are positive about the working relationship and the ease of developing and maintaining property in a manner that protects ecosystem functions.

### **Section 3: Conclusion**

The May 28<sup>th</sup>, 2009 meeting of the San Juan Initiative Policy group marks the second to last meeting of this group under its initial design and intent.

Initially, community members, and even others outside the San Juan community, doubted the importance, relevance or ability of the Initiative to make significant advancements for protection. This paper describes a set of very specific and important actions currently being advanced that will produce beneficial on-the-ground results for the health of the shoreline and the people who live and work within it. It also describes a vision for what will be accomplished in six months and 18 months, and it presents ideas for how to best track and measure our success.

While the future staffing of the Initiative remains unclear, the power of the San Juan community to achieve results is now documented and underway. Once again, thank you. Your hard work and commitment is a great testimony to the vision of preserving land and shoreline in sustainable ways that support the community and protect our most vulnerable ecology.