

**Skagit County Planning Commission
Public Hearing: Guemes Island Seawater Intrusion Amendment
May 28, 2024**

Planning

Commissioners: Kathy Mitchell, District 1 (absent)
Vince Henley, District 1 (absent)
Angela Day, District 1
Amy Hughes, District 2 (absent)
Tim Raschko, Chair, District 2
Joe Woodmansee, District 2
Tammy Candler, Vice Chair, District 3
Martha Rose, District 3
Jen Hutchison, District 3

PDS Staff: Jack Moore, Director
Robby Eckroth, Senior Planner
Tara Satushek, Senior Planner

Public Hearing

Commenters: Mark Madden
Stephen Orsini
Mark Brown, Guemes Island Planning Advisory Committee
Jep Burdock

Chair Tim Raschko: (gavel) Good evening and welcome to the May 28th, 2024, meeting of the Skagit County Planning Commission. We are missing tonight – let's see, we're missing Commissioner Mitchell and Commissioner Vince. I'm having a senior moment!

Vice Chair Tammy Candler: Commissioner Henley and also Hughes.

Chair Raschko: And Commissioner Hughes. Commissioner Hughes was going to maybe Zoom in. Is there any evidence of that?

Robby Eckroth: Not at this moment.

Chair Raschko: Okay. Thank you. So I call for a motion to approve the minutes of May 14th, please.

Commissioner Angela Day: And so moved.

Commissioner Martha Rose: I'll second it.

Chair Raschko: It's moved and seconded to approve the minutes of May 14th. Is there any discussion of the minutes, any changes?

(silence)

Chair Raschko: If not, then all in favor of it, say “aye.”

Multiple Commissioners: Aye.

Chair Raschko: All opposed?

(silence)

Chair Raschko: So it passes unanimously. We have time tonight for Public Remarks. This is an opportunity for *anyone* to speak to the Planning Commission about *any* topic except items scheduled on the agenda for a public hearing – which is tonight’s subject – or items that have had a public hearing and are still under Planning Commission deliberation. Public Remarks, which is *not* part of the formal public participation process for any development regulation or Comprehensive Plan amendment project, is limited to three minutes per speaker and up to 15 minutes total. So does anybody wish to just make a general public remark?

(silence)

Chair Raschko: And seeing none, we’ll close the Public Remarks, which takes us to our main agenda item tonight, which is a public hearing on the Guemes Island Seawater Intrusion Amendment. I have a signup form here. What I’d appreciate is I’ll call the first person and I will also call the second person, and if the second person would stand. If you’re not ready yet, we’re going to _____. If the second person would stand nearby, then you can quickly take the podium when the first finishes. And I’d ask for cooperation in the matter of the fact that you will be addressing the Planning Commission rather than the audience. So please ask for no show of hands for any subject or anything else, and I’d also appreciate no boos, no cheering, and all of that so everybody can be treated respectfully and we can proceed with haste.

So we’ll now have a presentation by Robby.

Mr. Eckroth: Thank you, Commissioners. My name is Robby Eckroth. I’m a senior long range planner with Skagit County Planning and Development Services. So today we are here to hold a public hearing on the Guemes Island Seawater Intrusion Amendments. I have a short presentation to give before we start the public hearing to summarize the amendment and then also to provide the next steps in the process.

So this slide summarizes the existing code, which requires the following if an application is proposing to use an existing – oh, sorry. I’m going to start over on that. So this slide summarizes the existing code, which requires the following if an application’s proposing use of a well. So that includes a site plan, a(n) estimated depth of the well, the estimated land elevation of the well, depth and chloride levels of surrounding wells, drilling plan, and applicable fees. And just to be clear, that is existing code. That’s what is already being utilized when reviewing applications.

So the proposed amendment would add language to Skagit County Code 14.24.382 to require the same information that is already required for wells associated with a development permit to be submitted prior to drilling a well in a sole source aquifer – which the only sole source aquifer in Skagit County is Guemes Island. And that would be required regardless if it’s associated with development.

The new proposed language would require an applicant who wishes to drill a well in a sole source aquifer to submit an application regardless of the type of development application. The siting

depth and other information can protect the applicant and neighboring property owners against seawater intrusion.

So next steps in the process:

- June 11th, the Planning Commission will be holding deliberations where they will be making a recommendation to the Board of County Commissioners;
- July 1st will be – at 10 a.m. – will be the Board of County Commissioners’ work session to review the proposed amendments and the Planning Commission’s recommendation;
- And then July 23rd at 10 a.m. will be the Board of County Commissioners’ deliberations meeting where they will make a decision on whether to adopt, deny, or defer the proposed amendments to a later work program. And supporting documents for this code amendment can be found on the website link on the screen here on the Skagit County website.

So the public comment period is still open and it closes May 30th, this Thursday, at 4:30 p.m. There’s three options to comment – mailing, emailing, or commenting today at the public hearing. If you choose to submit a public comment in writing, please – or if you choose to *mail*, please mail to 1800 Continental Place, Mount Vernon, Washington. And if you choose to email, please email pdscomments@co.skagit.wa.us. And if you submit written comment, please provide your full name and address for any submitted comments.

And that is a summary of my presentation. I believe we’re ready to proceed to the public hearing.

Chair Raschko: Are there any questions for Mr. Eckroth?

(silence)

Chair Raschko: All right. Thank you. Okay, one thing other I’d like to mention is that testimony is limited to three minutes, and we are going to hold to that because it’s not fair if somebody runs way over and somebody else cut their thing short, you know, in order to comply. So it will be strictly adhered to.

So the first person we have is Mark Madden and he will be followed by Stephen Orsini.

Mark Madden: Good evening. Mark Madden, 4910 North Indian Village Lane, Guemes. I’m a licensed professional engineer in Washington state and I’m opposed to the study requirements for prior well drilling on Guemes Island for three main reasons:

First, the proposed study elements do nothing to prevent seawater intrusion or aquifer contamination. Site plans and drilling plans or payment of fees have no impact on either seawater intrusion or aquifer (sic) contamination.

Second, the proponents of the studies claim they are necessary because of well-documented seawater intrusion. Seawater intrusion is not well-documented. Where are the lab reports? Although well drillers have noticed a few pockets where seawater is found, it is not a common occurrence and *nothing* in the past 20 years shows intrusion from well-drilling. Changes in seawater level are a much greater concern.

And third, Guemes Island sole source aquifers (sic) do not need more protection. The sole source is rainwater. Rainwater is less likely to become contaminated in streams, rivers, or lakes, and if rainwater *was* contaminated it would be filtered by dirt, sand, and rocks before reaching faucets.

Much of the three billion gallons of rainwater falling on Guemes Island each year will flow through the aquifers and drain back to the sea. What is wrong with the age-old health rules that require a landowner to show potable water before being issued a building permit? Has that caused any problems?

The proposed studies either deny wells or add costs to landowners wishing to build on their building lots. The proposed study requires a location, depth, and chloride levels of surrounding wells. If neighbors do not give this information drilling can be denied. Without drilling, a landowner cannot show water and not showing water, a landowner cannot have a building permit.

The proposed study is also restrictive to property owners with existing wells. They may wish to dig another well in place of their hand-dug well or for many other reasons. The preliminary well-drilling study provides no benefit to property owners or to aquifers. Who does it benefit? Thank you for your time.

Chair Raschko: Thank you. Okay, Mr. Orsini, followed by Michael Brown.

Stephen Orsini: My name is Steve Orsini. I live at 4971 Guemes Island Road. That is on Guemes. My well failed from seawater intrusion in 1998.

First of all, thank you for the opportunity to present and have this discussion. This amendment is about – that's C23-1 – is about protecting the senior water right holders of Guemes Island, *not* about limiting development of a new lot. By pre-inspecting a well site before the well is drilled, the property developer will be given information about the likelihood this proposed well may itself be vulnerable to seawater intrusion or will contribute to seawater intrusion on nearby existing wells. The hydrogeologic information will help the developer to decide whether to drill a well or opt for Skagit County-approved rainwater catchment system to provide the new house with its potable water.

The requirements of information including neighboring well chlorides is not new language. This requirement already exists in the code language once the well is drilled. By adopting C23-1, the exact same requirements are to be met *before* the well is drilled. The current code language is simply not being enforced.

The C23-1 code amendment applies only to Guemes Island because it is a federally designated sole source aquifer and a critical area defined by Skagit County. Guemes Islanders have proven a way to allow continued development even if a well on a new lot is a bad idea. The proof of the viability of rainwater catchment for safe drinking water is already being adopted in new building on Guemes over the option of drilling another well. Further, this option gets the new house out of the threat of losing its new well to seawater pollution in an era of seawater rise.

The current system of well drilling on Guemes has made matters worse. On the north end of the island, some 40 houses have now lost potable drinking water due to seawater intrusion. This is because a one-foot drop in the aquifer head height leads to a 40-foot rise of the seawater underneath the aquifer. The cost of replacement of a senior water right well runs from 10,000 to 100,00 dollars. Mine was 95,000. Why does the County continue a policy which hands senior water rights to the newest junior water right applicant from, say, Idaho or California? C23-1 is a way to stop this egregious subversion of water rights. Thank you very much.

Chair Raschko: Thank you. Michael Brown, followed by Jep Burdock.

Michael Brown: Thank you very much. My name is Michael Brown, 4366 Clark Point Road, Guemes Island. I have been on the board of the Guemes Island Planning Advisory Committee since 2015, and in that time have seen the County and the island struggle to close an important loophole in the code regarding well drilling. As I am sure all of you know by now, the island *has* experienced well failures in the northeast, west, and southwest sections, a fact that the Department of Ecology noted in their report dated 1995 to the County asking that no new wells be drilled in those areas of known seawater intrusion. In fact, one section on the west side of the island very near where Mr. Madden lives, or has a house, all those wells failed and they have to now use a public utility that is managed by the County. I am sure you folks are aware of that. The County staff, upon direction from the Commissioners, have drafted language that mandates that the information well drillers already gather must be submitted prior to drilling. GIPAC supports that change, which will assess whether the proposed well *would* have a deleterious effect on neighboring wells. Since the County has an obligation under the Growth Management Act to deny a well if it is drilled in an area of known seawater intrusion, and since the whole of Guemes Island has been deemed a critical area because it is serviced by a sole source aquifer, it makes sense to address the viability of a proposed well prior to being drilled.

The County has made strides in recognizing the water problems on Guemes, allowing rainwater catchment as a viable alternative to well water, and acknowledges the catastrophic effect a failed aquifer would have on the islanders. Please approve this staff-written code clarification, C23-1. Thank you.

Chair Raschko: Thank you. Mr. Burdock?

Jep Burdock: I'm Jep Burdock. I live on 5117 South Shore Drive. And if any of you have been out to Guemes Island, I live across from the peach preserve which borders on the south end of the island. And when I moved there 32 years ago I had two wells within 300 feet of where I am right now. Now I have seven additional wells that were within the – under 400 feet from where I am, all getting passed, sometimes for new construction, sometimes for exactly one renovation. The other ones are all new construction.

And so my property was zoned five acres. I have 10 acres, and then in the '90s it got switched to 10 acres. And next to me is the 2.8 zoning, so there's quite a few more wells that are coming in. And my concern is is that it's the same very – you know, it seems the smart thing to start looking at the water situation there in the long run. Because as more people move to the island, especially with, you know, the different activities going on with, you know, Airbnb's and things like that, people tend to use a lot of water. And we are going to – looking at Whatcom County's situation where that they had 30,000 people who are going to have to kind of figure out where they're going to get their water from or justify it. I think we need to start – it seems like such a small thing that we've been talking about of just saying whether or not, you know, it's a – whether you're going to get a building permit and *then* you have to put a well in, or you can just buy a piece of land and put a well in with the Department of Ecology approval. I think it should be that everybody should start looking for, you know, what their well is and how it's going to affect other wells around. And if it costs a little bit more that it would be, you know, justified for, you know, not only for the islanders – the person who's drilling the well know, but also for the long range planning. And the other thing, we've been working at this for a long time and Steve Orsini's been working on it *quite* a long time, and so for his good health I'd ask you to pass it.

(laughter)

Mr. Burdock: Thank you very much.

Chair Raschko: Thank you. That exhausts our list of signed-up speakers. Is there anybody else who had not signed up that would wish to speak?

(silence)

Chair Raschko: Is there anybody online that you know of?

Tara Satushek: No.

Chair Raschko: No. Okay. Well, thank you very much, everybody, for your testimony tonight. It was well appreciated.

Mr. Brown: Just a brief question. May I?

Chair Raschko: Just this time, sir.

Mr. Brown: Okay. I just want to let you know that our attorney, our staff attorney, has sent in a brief to the Planning Commission, so at your leisure that'll be something you guys can be able to read.

Chair Raschko: All right. Thank you. So that will conclude our public hearing. I thank everybody involved. And we turn now to our Director's Update. So if everybody's planning on staying, it's great. If not, in order to let the meeting continue uninterrupted we ask you to go ahead and leave now, but you're perfectly welcome to stay. So we'll take a moment here.

(silence)

Chair Raschko: All right, we'll have the Director's Update. Mr. Moore, please.

Jack Moore: Thank you. Good evening. I just wanted to share some – an upcoming date reminder that we have a June 18 special Planning Commission meeting so that we could hear updates to our permit procedures. It's going to be the public hearing for those permit procedures. Thank you all for being available for that in that we are attempting to stay on a timeframe to get these procedures in place, hopefully by the time the County switches over to our new permit software. The procedures are mirroring how some of the software is being configured so that we can implement some streamlining in our processing. So thank you for your willingness to be available for the public hearing on the proposed permit procedure update.

Secondly, we have some Comprehensive Plan Update open house dates and locations scheduled, thanks to our long range planning team. I'd just like to share that. In Anacortes on June 20 at 5:30 p.m. at The Depot. There will be an open house there. On June 26 at 5:30 at the Sedro-Woolley Community Center. June 27 at 5:30 at Concrete High School. Anyone interested, please keep an eye on our website and advertisements for more available opportunity for public comment and participation in the Comprehensive Plan Update effort that is underway.

In the next couple weeks, we'll be holding stakeholder interviews with individual boards and groups to reach out to them and get some input and spur some conversation. Additionally we are looking at a number of public events that staff will be attending – community events and fairs, et cetera – so that we can get out to where the people are and try to get the feel for some of the input from the community on various aspects of the County's long range plan.

I think that's all I had to share tonight, unless there are questions that I could answer for the Commission.

Chair Raschko: Are there any questions?

Commissioner Day: I have a couple of questions about the Guemes Island seawater intrusion ordinance. Is that appropriate?

Chair Raschko: I think so.

Mr. Eckroth: If it's a process question. I don't know if we're supposed to be speaking about anything related to a specific amendment unless we're on that agenda item. Just thinking about Robert's Rules and procedures, and considering we had some people from the public that may have appreciated hearing that.

Commissioner Day: Yeah, agreed. So clarifying questions, probably not.

Mr. Eckroth: So we at the next meeting on June 11th there will be opportunity for questions about the specific amendment, and we'll be providing some more information as well, as well as providing a summary of the public comments.

Commissioner Day: That sounds great. So procedure-wise, it says "Deliberations." Does that mean we are also expected to make a recommendation that evening?

Mr. Eckroth: That is correct. Yeah, and you can also send in those questions as well, so we're sure to get those before that meeting. Thank you, Jack, for that. It's a great point.

Commissioner Day: Okay.

Mr. Eckroth: Yeah.

Commissioner Day: Well, thank you.

Chair Raschko: Anything else?

(silence)

Chair Raschko: Thank you. Wow, we're setting a record tonight. It's time for Planning Commissioner Comments and Announcements. Jen?

Commissioner Jen Hutchison: I have nothing.

Chair Raschko: No?

Commissioner Rose: Nope, nothing.

Commissioner Joe Woodmansee: Maybe to follow up on the previous comment. The deliberations are that night but it's not mandatory that we come up with a recommendation that night. I mean, we could have a deliberation that causes us *not* to be able to come to a recommendation. So just a point of clarification that the goal may be that, but it's not a guaranteed

result. So just to point out that, you know, it's not a mandatory situation. Hopefully we get to that place and we get to do a recommendation, but – that's all.

Vice Chair Candler: I want to reiterate that. We've had that situation where people have had questions and we had to carry over.

Commissioner Woodmansee: Yeah, go ahead.

Vice Chair Candler: Commissioner Woodmansee did notice we should maybe re-address item number 2 because there is a typo on the minutes indicating a joint meeting with the Board of County Commissioners, which it wasn't. I don't know if I need to make a formal motion to remove that from the minutes but...

Chair Raschko: Do you want to make such a motion?

Vice Chair Candler: I'll make a motion. If we can reopen item number 2, I think that my motion would be to remove the indication on the minutes that it was a joint meeting with the Board of County Commissioners. I *think* that's left over from something old.

Commissioner Hutchison: Thank you.

Chair Raschko: Okay, so there's been a motion made to amend the meeting minutes from May 14th.

Commissioner Woodmansee: I'll second it.

Chair Raschko: Discussion?

Commissioner Day: Thanks for noticing that.

Chair Raschko: I'll say I noticed it and then forgot all about it!

(laughter)

Chair Raschko: So any more discussion?

(silence)

Chair Raschko: All those in favor, please say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Those opposed?

(silence)

Chair Raschko: That carries. Thank you. Okay, anything else?

Vice Chair Candler: Well, I just had a question. We have at times – and I don't want to limit the ability of the public to talk to us, but we have in the past decided that we were only going to have public remarks – *not* have public remarks on nights we had public hearings. I don't know if people

– I just think – personally I think it’s confusing. These guys weren’t confused. They’ve been here a few times. But sometimes people get confused and they think that that’s public remarks are the start of the public hearing and they start talking about things that they can’t. It’s only happened a few times. But I don’t know if we want to get a consensus or if maybe I’m the only one who has a concern about that.

Also, on those nights – and tonight was a quick – obviously – meeting, but some nights public hearings go – every minute of what we need is used for the public hearing itself, and so I think historically sometimes we’ve removed that agenda item *only* on nights we have public hearings, which is only a few times a year. So just a thought.

Chair Raschko: Well, I thought we did have some discussion in that regard – not having both on the same, the same meeting. But do we have a consensus? I would agree with you, Tammy.

Commissioner Day: I don’t know – may I speak?

Chair Raschko: You may speak.

Commissioner Day: I’m not sure. I see the potential for confusion. But I also think that we don’t want to limit the public’s access to be able to address, you know, the Planning Commission. That’s what we’re here for – is to be a sounding board or be, you know, hear the voices of the community. I don’t know if we want to limit that. And if it hasn’t been a particular, you know, hot item on the agenda before maybe it’s not a concern to just leave it there.

Chair Raschko: My recollection is that we discussed that kind of. Didn’t we decide that we would have public remarks every other meeting or – does anybody remember?

Commissioner Rose: I don’t remember that.

Vice Chair Candler: My recollection was only that – in conjunction with a hearing. That was my only recollection of the discussion.

Chair Raschko: It might have been a conversation I just had with the staff – former staff, prior staff.

Vice Chair Candler: Any other thoughts?

Commissioner Woodmansee: My recollection was that we started to discuss that and then I felt like that we backed off and determined that we shouldn’t eliminate it because of the limited amount of times that people can address the entire commission on a different subject that’s not on the agenda that night. But we could go back and see what we discussed before, because we definitely had a discussion about it.

Commissioner Rose: I think Tim’s been doing a great job clarifying that at the beginning.

Female Commissioner: Mm-hmm, yeah.

Commissioner Rose: So I don’t see why it would be a problem to leave it.

Chair Raschko: Well, it sounds like there’s a consensus that we have public remarks every meeting.

Commissioner Day: I don't see it hurting at three minutes apiece.

Vice Chair Candler: All right. I just wanted to raise it because it's come up before and I – but we have a consensus so I'm good with that.

Chair Raschko: Okay.

Vice Chair Candler: That's all I have.

Chair Raschko: Great. Have you anything, Angela?

Commissioner Day: No. Thank you, everyone.

Chair Raschko: I don't either. Just say thank you for everybody, and with that we will stand adjourned.