

## SEPA Advisory Committee Meeting Notes August 15, 2013

### Welcome and Introductions

Neil Aaland, Facilitator, opened the meeting at 9:00 a.m. Introductions were made around the room and on the phone. The agenda was reviewed.

### Cultural/historic workgroup and report from workgroup

Tom Clingman summarized the status of the workgroup. The workgroup met about five times. Two primary proposals were the focus of discussion:

City proposal: provided notice requirement

Dawn Vyvyan proposal: adds timeframe, requirement to agree on mitigation

At the last meeting, they discussed Shoreline Master Program WAC requirements for shoreline areas and archaeological resources. There was interest in considering expansion of those requirements beyond shoreline areas. Tom is going to work on a final report to Rep. McCoy and Maia Bellon, and he wants to continue working on a legislative proposal for the upcoming session that incorporates these ideas.

Discussion points included:

- City proposal provides that anyone wanting notice can get it
- How close are the two proposals? [city proposal provides basic notice, Dawn's proposal added actionability and requirement to coordinate with tribes and DAHP]
- There are other laws in place that help
- Any agency can ask for notice now, by sending a letter to city or county

The topic then shifted to the proposals submitted earlier by the members of the Advisory Committee representing cultural and historic resources. Mary Rossi provided some overview comments. One part of the proposal would be at the "planning level", and the other part would be at the "project level". Discussion points included:

- Would a cultural resource management plan being in place mean the project level review would not need to happen? [some discussion indicated this would be the case]
- The plans would be prepared in consultation with DAHP
- Decisions from previous western Washington growth management board may provide some useful standards to consider
- Consider allowing each jurisdiction to adopt some higher threshold
- Not everyone will go to the maximum threshold, but standards for archaeology are less than for wetlands; need clearer standards
- Would be helpful to hear how things have gone with the first round of updates
- WADOT likes the planning level ideas
- Ecology had originally thought some of these ideas could be in guidance
- Some concern about guidance vs. rule; Clark County experience was they indicated in findings an impact on cultural and historic resources from increased thresholds, but the outcome of that was good, Clark County now has a data sharing agreement
- What is the consequence of not having adequate findings? [that has not been addressed]
- Using SEPA to address cultural/historic resources is the wrong way to go
- Some would love to see some requirements for this in GMA planning
- If a GMA comprehensive plan addresses these resources, needs to be implemented with development regulation(s)
- There is liability exposure with the DAHP agreement, needs to be modified by DAHP

- County concept is an easy one page notice which is provided to Ecology
- Three components of the C/H issue:
  - Notice
  - Exception to exemptions
  - Findings
- Should be a link between findings and project level review; findings should show how gaps would be addressed
- Summary of issue:
  - Trying to preserve exemption levels AND trying to do better
  - Can we replicate the finding process from phase 1?
  - Would that be enough for preserving existing levels?
  - Put a standard out that's clear

---Break at 10:50---

### **Public Notice**

- Why don't notice requirements apply to state agencies as well?
- Posting offsite might be difficult; we are used to thinking the property posted is the one proposed for development
- If NOAs are sent to Ecology, what will Ecology do with them?
  - Ecology can't do it yet, with current setup, but wants to be responsive
- Why not include public projects as well?
- Would this extend to non-SEPA items? [yes]
- Rule should give a date for implementation
- Rule should specify the type of location information required; need to be able to pinpoint location with greater accuracy
- This could tie in programmatic GMA proposals by referencing the 60-day notice requirement in GMA

### **Optional DNS**

- Annie Szvetcz summarized the idea; involves extending the optional DNS process to become mandatory for all determinations
  - Notice would be required before a threshold determination
- Some local governments like the ODNS process, others don't understand it
  - You'd lose notice when local governments want a consolidated comment period
- The comment period on a DNS can sometimes provide clues to appeal issues
- What happens with ability to appeal if you don't know what mitigating measures re proposed? Wouldn't this affect standing to appeal if you didn't comment, then didn't like the mitigation measures?
- This doesn't sound like streamlining
- Makes sense to allow input before a threshold decision

### **Consolidated permit process**

- This would allow a jurisdiction to consider ways to combine an environmental checklist with a project permit application; Ecology proposes consideration as a pilot but not for all
- The small workgroup of cities/counties/business/environmental members tried to figure this out
- It's worth trying to pursue but not right now with time available

### **Planned Actions**

- Would be useful for Ecology to provide guidance
- Should incorporate statutory guidance into the rule
- Why wouldn't other corrections to statutory guidance be included in the rule?
  - Brenden explained there are times where the legislative direction isn't clear, and sometimes it is – he is reluctant to automatically include all these topics
- There is confusion in case law regarding planned actions; some educational outreach on available tools would be useful, not in rule
- General agreement that won't be useful to just bring in the new language on cost recovery into the rule
- Neil asked members to send any specific needs regarding planned actions – in a week

### **Environmental Checklist**

- Reason for so many “not applicable” entries is checklist is not geared to the people who fill it out
  - Would get better info if questions were tightened up
- Ecology does not believe there is enough time for the overhaul that is required
  - Haven't had time to learn from phase 1 changes
- Advisory Committee could recommend that lead agencies be allowed to exclude from the checklist those areas that are “adequately addressed” (relates to section 240)
  - Could be allowed as part of adopting the local sepa ordinance; or direct the responsible official to do so on a case by case basis
- Some concerns about deleting questions but like the concept
- Should a pilot be pursued?
- Would be good if the administrative questions could be extracted; allow lead agencies to separate those out (e.g. zoning designation, comprehensive plan designations – that the local governments end up having to provide anyway)

### **Public Comment**

Miguel Perez likes the two proposals for “planning level” and “project level” review and urges consideration of these in the rule.

The meeting adjourned at 1:00 pm.