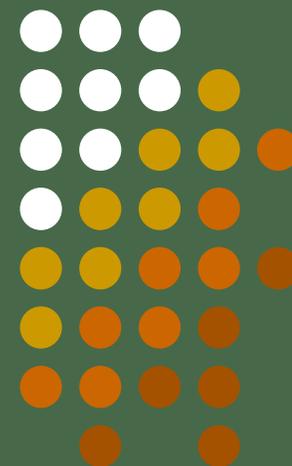


# SMP Development:

Public Involvement in the months leading to SMP Adoption

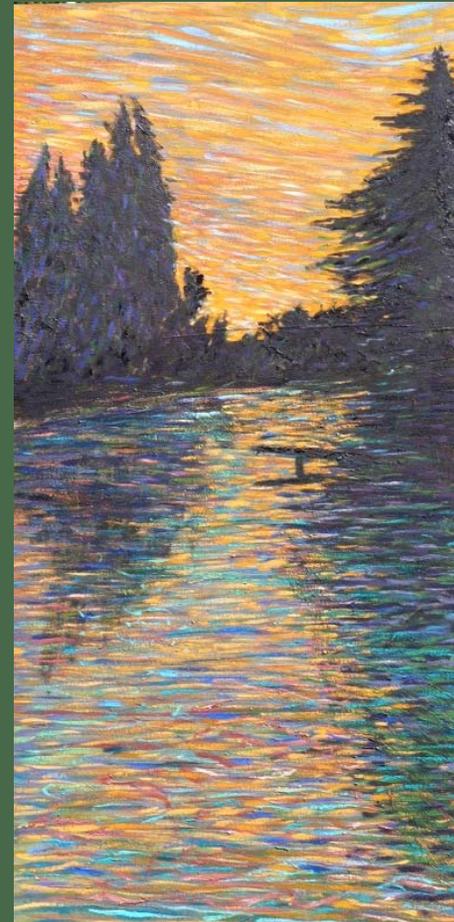
Jeffrey Stewart  
Washington Department of Ecology



# The Arc of a Shoreline Master Program



- Building an SMP begins with land use analysis, technical review, and science evaluation
- It proceeds to regulatory development based on the science
- Then it gets political.



# Dueling ideologies



- In some jurisdictions, **managing misinformation** will prove just as necessary as keeping the public informed about your progress in SMP Development.
- Some citizens have strongly held anti-government views.
- Some of these folks believe the United States Constitution is “on their side...”
- Some will tell you the government has no right to regulate land use according to State Law.

# Organized Opposition



- The focus of this presentation is the late stages of SMP development, when a draft plan is in formal public review.
- Much of your initial Public Participation Plan has already been enacted by now...
- Formal Adoption proceedings often attract a “new” public...

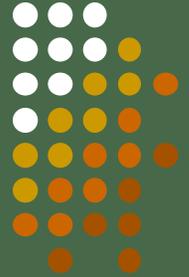


# Early & Continuous participation



- An effective public process leading to adoption of a Shoreline Master Program will:
- Start early in the process.
- Inform citizens of regulations that will affect them
- Educate regarding uses and values of shoreline areas
- Include public comments in determining SMP content
- Document the SMP belongs to the community

# Community values



- The Shoreline Act is set up to have local waterfront conditions and community values included in the way its shorelines are regulated and used.
- Guidelines Requirements must be met.



# Every Jurisdiction is Different



- The SMP Guidelines are written broadly, so that cities and counties all across Washington State can apply the principles.
- Copying Guidelines language is often done by consultants, but its not the best approach to writing an SMP.
- How the Guidelines are applied must reflect local needs and community values
- While drafting the SMP, keep track of how public involvement informed the content and structure of the document.



# What Do Citizens Want?

Source: Public Policy Research Institute and Consensus Building Institute



- **Information:** The public wants to learn as much as possible about the proposed regulations.
- **A Clear Role:** The public wants the agency to be clear about the role of the public in the decision making process. The agency must clarify its expectations as well as the constraints it faces in terms of public involvement.
- **A Significant Role:** The public wants to influence the decision to whatever degree is possible.



# What Do Citizens Want?

Source: Public Policy Research Institute and Consensus Building Institute



- **A Better Understanding of How Things Work:**
- The public wants to learn all it can about how the government makes decisions, and where the key points are for influencing the decision.
- **Respect:** The public wants agencies and decision makers to respect their needs, interests, and viewpoints.
- **Responsiveness:** The public wants to know what an agency does with its input.

# Jefferson County example



## Planning Commission Handout Jefferson County SMP Update Project

### Comparison of Existing and Proposed SMPs Key Similarities and Differences in Performance Standards

Note to Reviewers: This table summarizes the regulations (also known as performance standards) contained in the existing and proposed Jefferson County Shoreline Master Programs. It does not compare the existing and proposed SMP policies or the administrative provisions. The SMP topics listed reflect the main regulatory uses and modifications; these topics appear in a future section and may have different titles in the existing and proposed SMPs. This summary table is intended to facilitate a general comparison of the major regulatory changes being proposed in the December 3, 2008 Preliminary Draft SMP. The regulations listed below are paraphrased in most cases. Readers are encouraged to refer to the actual SMP documents for a full and official description of the existing and proposed regulations.

SMP Topic	Section Reference <sup>1</sup> (Existing SMP / Proposed SMP)	Main Similarities (Regulations that appear in both the existing and proposed SMPs)	Main Differences (Regulations that appear only in the proposed SMP or requirements that have been removed/deleted)
Purpose	1.20/1.1	Purpose is to guide development and implement the Shoreline Management Act.	Additional purposes: Achieve "no net loss" and plan for restoration.
Goals	1.20/3.1 to 3.7	Includes goals for Economic Development, Conservation, Recreation, Historic/Cultural Resources, Shoreline Use, Circulation, Public Access, Restoration and Water Quality.	Goal statements are expanded and each one includes a purpose statement.
Jurisdiction	3.10/4.1 and 4.2	Definition of "shorelines" is unchanged: Rivers > 20 cfs mean annual flow Lakes > 20 acres Marine shores	<ul style="list-style-type: none"> <li>Upper limit of jurisdiction on rivers is different based on new stream flow data by U.S. Geological Survey.</li> <li>Channel migration zones on major rivers included in SMP jurisdiction.</li> <li>Four additional lakes added based on new data regarding lake size.</li> </ul>
Applicability	3.30/1.2	<ul style="list-style-type: none"> <li>Program does not apply to Federal or Tribal lands.</li> <li>All development must comply with Program regardless of whether a shoreline permit is required.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

<sup>1</sup> Section numbering. Number to the left of / refers to the section numbering in the stand-alone 1989 Jefferson County SMP. Number to the right of / refers to the Article and Subsection number in the December 3, 2008 PD SMP.

- A useful side-by-side comparison, a synopsis of old and new SMP requirements, was provided to the Planning Commission along with the Draft SMP.

# Early engagers, After activists



- No matter how well you set things up to include all interested parties early on, some people will wait until the end.
- These folks may claim to have been excluded and ignored
- Accusations and misinformation are commonly voiced – sometimes angrily.
- Those who wait for the political process leading to SMP Adoption to speak up are mostly focused on disrupting the Adoption.



# Delaying Tactics



- \* Citizens opposed to an SMP being adopted will often try to slow the process of adoption down.
- \* Have a clear plan leading to adoption, with schedule and milestones, and opportunities for comment

# Controversy, productively engaged



- *“It ain’t over till its over....”*
- An SMP will be changing in details until it is Adopted.
- As the document takes shape, the particulars attract attention, some of which will be negative.
- Broadcast of misinformation may be used to get people agitated- playing to their fears- so its important to set the facts straight.



# Challenge the Science



- Testimony against proposed 150 foot buffers included assertions that “there’s no basis for this in science...” and,
- “They’re using science to steal your property.”
- In fact, there is general agreement 150’ would be the MINIMUM needed to maintain viable habitat.



# Considering and Changing...



- Its almost certain that “...you can’t please everyone.”
- Adherence to the SMA and the Guidelines means **not all points are negotiable.**
- Your having sought participation, listened to everyone, and fairly considered their concerns- all this all needs to be on the record.

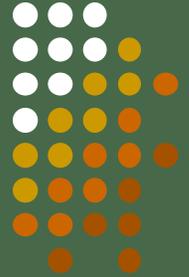
# Work it through....



- Criticism can lead to clarity, to changes that improve the SMP- if an open-minded, facts based dialogue is fostered.



# Controversy to consensus



- An example of controversy productively engaged:
- In Port Townsend, it was through the Shoreline Advisory Group doing SMP development that long-smoldering polarities got resolved about levels of development and use at Point Hudson marina.

# Port Townsend example



- When the local adoption was done, only three people testified at Ecology's statewide hearing.
- All were expressing support for the proposed SMP.

# Jefferson County example



- As the Jefferson SMP neared completion of 2+ years of efforts to inform and engage the public, a group of citizens that had earlier opposed the County's CAO adoption began testifying to the Planning Commission.
- Many expressed bitter opposition, claimed the SMP had been drafted in secret, and repeatedly threatened litigation.



# Hot Button Issues / Jefferson County



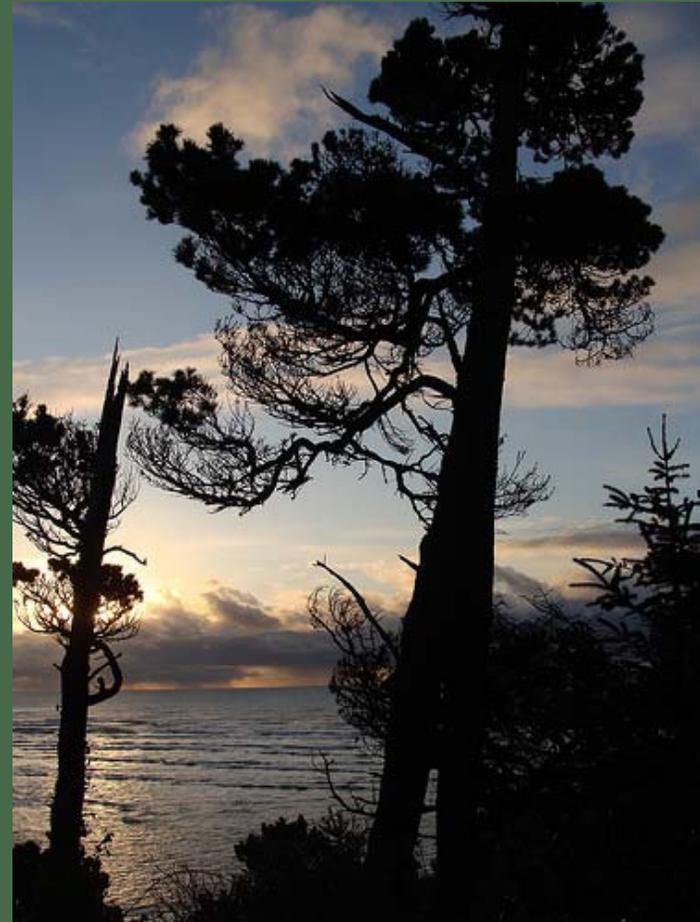
- Establishing a uniform **buffer zone**, and whether the buffer width is “based on science.”
- Reconstruction of damaged buildings which are in **non-conforming** locations
- Allowing new homes to be built or existing ones expanded in the buffer zone of nonconforming lots.
- **Public access**/ Private property
- Permits/ regulation of **geoduck aquaculture** and net pen fish hatcheries, vs. traditional means of harvest aquaculture



# Opinions about Public Access



- “Where is it written that those who have not can impose on those who do? Shorelines everywhere are for sale to those who earn the right to live there.”
- “If they want public access, they can damn well pony up the cash.”



# Facts about Public Access



- Its important to educate people about the facts & law on public access.
- Many people have misunderstandings about why public access is an issue, and how the SMA is meant to provide increased public access.



# Facts about Public Access

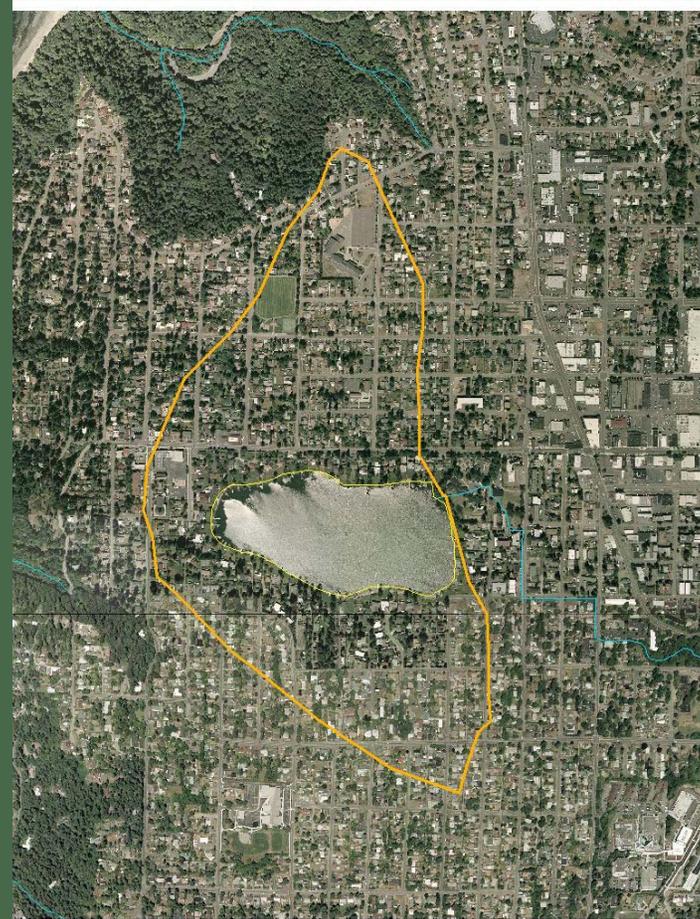


- Unlike some coastal states, Washington's tidelands and beaches are not all in public ownership.
- The state Legislature elected to sell its tidelands and beaches in 1889. The practice continued for about 80 years, until the Legislature changed the law in 1971.
- Today, an estimated 60 to 70 percent of Washington's tidelands are in private hands. Public access is available only to about 30 percent of the state's shorelines.

# Lake Burien example



- “The people who own the lakeside houses are the only ones who have access to the lake, despite the fact that federal law deems any lake surface of this size to be public. The public could be dropped from the sky into the lake, but the public cannot cross private property to get in.”  
Jen Graves

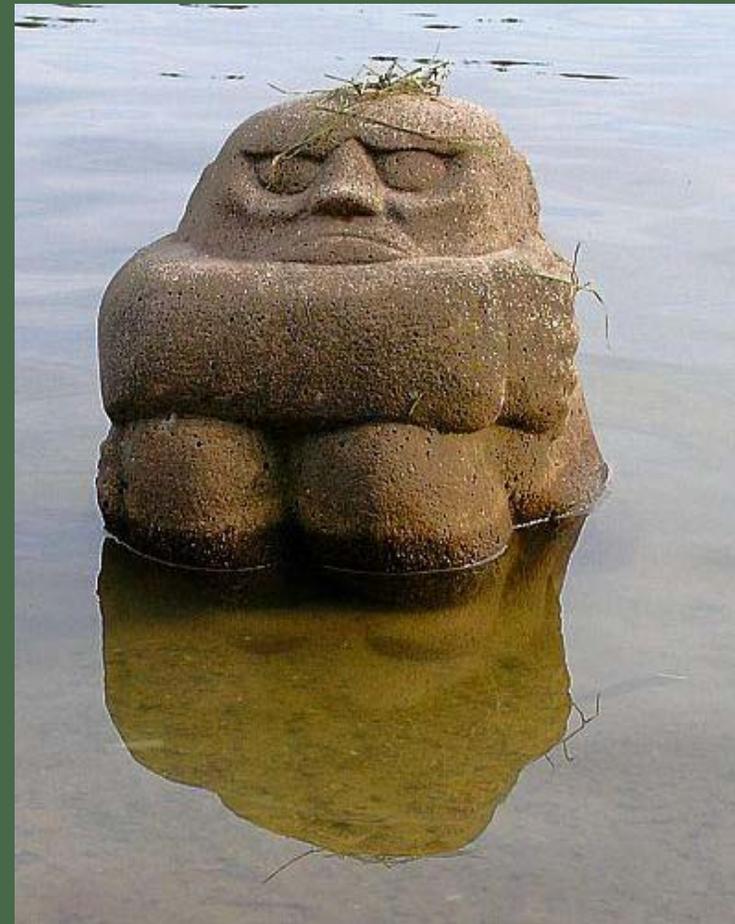


# What can I say?



- *“It’s the guilty until proven innocent principle. One size fits all buffer is ludicrous. A buffer is virtually the beach. I consider myself an endangered species, and I want protection.”*

- (Testimony provided to Jefferson County Planning Commission)



# Myth Busters



- Pay attention to what antagonists are saying.
- Keep website current with accurate information.
- Issue press releases and/or flyers with facts to address the concerns or clarify the truth.
- When misinformation gets broadcast in the news, its important to call for retractions.



# Open House/ Call & response



- Hosting an open house or forum may be a good way to bring people from different perspectives together and have concerns get aired and addressed openly.
- Be organized about gathering comments .
- Be able to show how the comments were considered, and what changes to the document resulted.



# Document the public process



- Hold at least one Public Hearing
- Keep records of who attends, record the comments, and identify responses.
- Names and addresses of interested parties a submittal requirement





# Document the public process

- Its essential to both “invite and encourage public participation,” per the WAC, and to show how it was done.
- Doing public involvement while drafting an SMP is not enough- it must also be documented.
- You can respond to antagonists with a clear conscience and a public record, showing that opportunities to participate were offered and ignored.
- This will not make some of these people less angry. It probably won't stop their complaining. Some people think the government is their enemy.
- Listen with due respect, look for misunderstandings you may be able to correct, and do what you can to find common ground.

# Practical Problem Identification



- Always keep an open mind:
- Some complaints are quite valid, and may lead to significant improvements in how an SMP addresses the particular needs of its community.



# SMP relative to Real World

- A key success measure for an SMP is how well the goals and policies are aligned, and how those relate to the real world of local shoreline areas and those who use them.
- Clarity and brevity in writing the document will greatly favor its acceptance by the public.





# State review follows Local

- After the local adoption process has led to locally approved SMP:
- Ecology will host a Statewide public hearing and take any further comments
- A formal local response is required for these comments.





# State level review : Jefferson County and Port Townsend examples

- Convening Advisory Groups and documenting public involvement met the Guidelines requirements for:
- Consulting State Agencies and Tribal Governments
- Inviting and encouraging public comment
- Educating & Involving citizens in SMP development.



# Summary

- Public is a partner in the SMP process
- RCW and WAC call for coordination and public participation
- Ecology's review includes checking for compliance with requirements, including public participation
- Lack of public participation is basis for appeal & overturning SMP



# Questions?

