

Siuslaw Estuary Partnership

An Integrated Multiple Objective Approach To Watershed Protection and Restoration

Elected Official Stakeholder Group March 31, 2011 Meeting Notes

Thursday March 31, 2011
6:30-8:00 p.m.
Florence City Hall
250 Highway 101, Florence

Present:

Stakeholders: Jim Grano, Siuslaw Watershed Council Leadership Board/Executive Committee Member, Chair; Sally Owens, Port of Siuslaw; Sue Roberts, Florence City Council; Bob Garcia, Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians; Fuzzy Gates, Siuslaw Soil and Water District; Jerry Nordin, Heceta Water District; Jay Bozievich, Lane County Board of Commissioners
City of Florence Staff (City): Sandra Belson, Community Development Director, Project Manager; Carol Heinkel, Planning Consultant, Project Coordinator; Wendy Farley, Senior Planner
City of Florence Volunteer: Clarence Lysdale
Siuslaw Watershed Council Staff (SWC): Liz Vollmer-Buhl

1. Welcome, Introductions, and Committee Role and Process

(Attachments: Table of Products and Stakeholder Roles;
Elected Official Stakeholders Group Consensus Process)
Jim Grano, Siuslaw Watershed Council, Chair

Jim introduced himself and asked others to do the same. He pointed to the attachments in the Group's packet related to how the Group operates, including the Products, Timeline, Stakeholder Roles, and the Consensus Process. In reference to the Timeline, he said all of the products are proceeding according to schedule.

In reference to the consensus process, he asked the members to read through these materials carefully in preparation for the next meeting; and he will go over these materials in more detail then. He said he does not think it is necessary to do that tonight as there are no consensus items on tonight's agenda.

2. **Agenda Review and Meeting Notes (Attachments)**

Jim went over the agenda and the meeting notes. No changes to the notes were requested and Jim said that they would be considered final then as no formal action is needed for this group.

Jim said there has been a request to move the Key Estuary Wetlands status report (Agenda Item #8: Information Item) by Liz Vollmer-Buhl up to after the Public Comments. There were no objections.

3. **Public Comment**

No public comments were presented at this time.

Fuzzy Gates asked about the status of the Stormwater Design Manual. Sandra said the Manual has been reviewed and accepted by the City Council. Carol said that she is now reviewing the Florence City Code, Comprehensive Plan, and Stormwater Management Plan for amendments necessary to make all the documents consistent. She said this is necessary because these documents have all been prepared and updated at different times and it is important to bring them all into alignment. She said that amendment package will be going to the Planning Commission and City Council next. Fuzzy asked if the Manual is on the web site. Carol said yes it is and there is a link to it on the Stakeholder agenda; so, they can control click on that link and it should come right up on the screen. Alternatively, they can go to the Water Quality and Quantity page of the web site.

8. **Information Items and Update Reports:**

For Information Only:

■ *Key Estuary Wetlands*

Liz said that the Waite Ranch site has now been acquired. The North Fork Marsh Site B Management Plan is being prepared and is in draft form. She said it will be a reference site for the Siuslaw estuary and other estuaries along the coast. She handed out slides (attached) and went over those with the group. She said that many if not all of the bodies or agencies represented by the Elected Official Stakeholders are partners in, or play a role in, this project. Sue Roberts asked for more specifics about the North Fork Marsh. Liz said it was by the shake mill, owned by the Womper family who approached the Watershed Council.

Fuzzy asked when the restoration work will start. Liz said 2012 or later. She said the Oregon Department of Fish and Wildlife (ODFW) is funding the engineering assessment for McKenzie River Trust.

4. Climate Change Report Draft 3/24/11 (Attachment)

Carol Heinkel, Facilitator

Carol said this draft report was prepared by the Interdisciplinary Team. She gave a brief description of the Team and their scientific expertise, including hydrogeology consultants. She said the report has also been reviewed by staff from the Oregon Climate Change Research Institute (OCCRI) and that OCCRI staff will present the information at the April 25 Open House.

Pointing to the "Table of Products and Stakeholder Roles," Carol said this report is one of the products from this project and, as shown, it is for information only. It is authored by the staff team. The Stakeholder Groups will not be asked to endorse it or adopt it, although the City and its partners may want to give more consideration to the Potential Strategies in the report.

Carol gave a brief summary of the draft report and the key issues. She said that the Interdisciplinary Team started working on the report in October and that there have been several versions of the draft since then. She said the key challenges for the Team in preparing this report were: 1) new sources were being prepared and released that replaced sources in the previous draft; and 2) to find data that is specific, or at least relevant to, the Florence area. For example, the two main sources relied upon in the last draft for the locally-relevant information were completely replaced in December with the Oregon Climate Change Adaptation Framework; and the Oregon Climate Change Research Institute came out with the first Oregon Climate Change Assessment Report in December. She said the good news is that these recent reports contain much more detail that is relevant to Oregon and, although more limited, information relevant to the Florence area. She said getting information relevant to Florence was the greatest challenge in writing this because there has been very little study of the Florence area specifically.

She said, for example, one of the new pieces of information was a map that shows the low elevation areas in Florence. She said this map was created from an on-line tool developed by the University of Arizona that allows one to zoom in on an area and it shows the low elevation areas. In Florence, this is along the estuary and the North Fork and at the northern end of the aquifer boundary. She said the tool indicates that these areas would be inundated with a 3 foot rise in sea level, which is predicted to occur by the year 2100. She said there are limitations to the tool because tectonic conditions are not taken into account. However, other sources cited in the report, especially the Oregon Climate Change Assessment Report, state that the entire Oregon coast is likely to be inundated under this scenario, including Florence. So, taken together with the other data in the report, these would appear to be vulnerable areas to sea level rise.

Carol asked if there were any requested changes or edits to the report or comments in general. She said she will do her best to answer their questions and that she is a planner, not a scientist; so, any technical questions she would need to pass along to the Team.

In response to a question about the potential for salt water intrusion to affect Clear Lake, Jay responded that the general flow of the aquifer was toward the estuary and ocean and therefore, salt water would have to flow against the aquifer to reach Clear Lake.

Sue said she likes the focus in the report, and especially the Potential Strategies, on adapting to climate change. She said it appears that there is a good chance climate change will happen as predicted and it is important for us to be aware of and prepared for it.

Jay said he agrees with Sue's comment about the focus on adapting to climate change and he supports the Potential Strategies because they are all things that should be done in any event. He said he disagrees with the conclusions about climate change in the report however.

Carol said she understands that and that she believes the Team recognizes there are different points of view. She said to address that they were careful not to come up with any new findings or conclusions and to carefully document the sources for all of the statements excerpted from the sources in the report. She asked Jay and others in the Group if they knew of additional sources that they would like the Team to consider including in the report.

Jay said he can provide the names of many sources that dispute that global warming is occurring and asked if the report could recognize that. Carol replied that she will pass along any sources or comments he or other Group members send her to the Interdisciplinary Team to consider including in the report. She said she will pass along to the Team his request that the report contain a statement that recognizes that there are different points of view on this topic.

Jay said he really likes the Potential Strategies in the report and that those are all things that we should be doing anyway.

5. Draft Newsletter (Attachment)

Wendy Farley-Campbell

Wendy handed out an updated mock-up of the newsletter and explained the changes made in response to comments received since the mailout. She went over the changes requested by the Community Stakeholders. She asked for comments.

Sue said she liked the newsletter because it was simple enough that people will read it.

Wendy said she will print the newsletter out and copies will be handed out at the Green Fair on Saturday. She said it will go to the printers tomorrow (Friday) and will be mailed to all residents and businesses around April 14.

6. Siuslaw Estuary Trail Vision: Location and Design Options, Stakeholder Review Draft 2/17/2011 (Attachment)

Wendy Farley-Campbell

Questions and Answers; Provide Comments

Wendy described the report and the process for developing it. She said the Public Education and Stewardship Team directed that a Technical Team be formed that included the state and federal agencies whose sign-off on the trail is necessary so that any potential obstacles could be addressed at the outset rather than later in the process. She read the list of the agencies the team members represented with the key permitting agencies being the Department of State Lands, Department of Land Conservation and Development, US Army Corps of Engineers, and the Department of Fish and Wildlife. She said their buy-in on the vision is critical because if they support the vision, that will help facilitate approval of state and federal permits in getting it on the ground. She said Sally Owens, Port Commissioner, also participated because of the key role the Port and the Port's property plays in the trail. She said the preferred options presented in the report are the options that the entire Technical Team supported. She said she also met with all of the property owners affected by the options and they agreed to include their property in the vision report.

Wendy said the state and federal agencies have similar requirements when it comes to the estuary; that upland is preferred and, when upland is not possible, that the trail be in the estuary in a manner that minimizes the extent and the impact on the estuary.

Wendy handed out four graphics that showed the four sections of the trail that were in the original options presented to the Technical Team. She said the Technical Team walked the entire length of the trail together, where access allowed, and discussed the options. She walked the Group through each section and relayed the discussion by the Team and their reasons for their preferred options.

Wendy said the Dredged Materials Disposal (DMD) Site was discussed. She said that the team preferred for the constructed walkway to continue upland along the edge of the Port's campground, behind the DMD Site; and, in addition, for a signed, natural, footpath to loop around the Site into the estuary at this location. She said this portion of the trail, the footpath, is owned by Don Saxon. Wendy said there is a well worn footpath at this spot today. Wendy said that the

Dredged Disposal Plan and state law does not allow the DMD Site to be altered or used for an observation platform or a trail. For this reason, the state and federal agencies held that a footpath in the estuary would most likely meet their criteria, i.e., that no alternative upland location is feasible and the footpath would minimize impacts on the estuary.

Wendy went on to explain that an elevated walkway on pilings was preferred to connect the former Middle School property to the trail at the mouth of Munsel Creek, provided that findings can be made that no upland location is feasible. She said the issue here is that the upland portion of the trail in this location would have to be located along the back yards of private homes. If that is not feasible, the elevated walkway in this location would be necessary because the estuary here is high marsh and too wet for a footpath. The elevated walkway, if allowed, would be a highlight of the trail; the views of the estuary at this spot are stunning.

Wendy said that the option preferred by the Team would connect the trail with the riparian area along the west side of Munsel Creek through forested wetlands. She said this riparian area is quite pretty and visible from Highway 126.

Wendy said there is an undersized culvert under Highway 126 at this spot and that reconstructing the culvert and constructing a bridge or tunnel for pedestrians was preferred.

She asked the Group for comments. None were offered. She said that she will bring this back to the Group at their next meeting and ask them to agree to release the report for public review at the Open House.

7. Wetlands and Riparian Areas (Attachment)

Sandra Belson and Clarence Lysdale

Sandra went over the memo in the packet that was prepared by her and Carol Heinkel. She said she will cover the topic of wetlands and that Clarence Lysdale, Community Volunteer, will cover the topic of Riparian Areas.

Sandra said the memo provides background information to set the stage for a discussion of the Florence Wetland Inventory and policy options at their April 11 meeting; and then to present to the public at the April 25 Open House.

Sandra said the study area for this project is larger than the city and the UGB, but smaller than the aquifer, as that is what the budget allowed.

Sandra explained the meaning of the terms in the memo and the process for conducting the inventory. She said the City has an existing inventory that was done in 1996 and the same firm that did that inventory is the consultant for this one: Pacific Habitat Services (PHS).

She said that the local wetland Inventory (LWI) is not specific enough to serve as a wetland delineation, i.e., the site-specific survey made by the State and federal agencies. She said the LWI is better than the National Wetland Inventory (NWI) which is quite general. She said that the consultants received permission to go on private property to do some of the inventory work, and, where permission was not granted, off-site work was done using aerial photos and other data sets. She said there was an Open House last fall and the results of the inventory were presented to all the property owners responding to the invite.

Sandra said that the assessment method used in this project is the ORWAP method – Oregon Rapid Wetland Assessment Protocol. She said that, in talking to the consultants, it seems that the method is not really that “rapid” because it can take a long time to answer all the detailed questions for each area that ORWAP requires. She said the method is new and that it has only been used in Deschutes County.

She explained the criteria for determining “significance” in the Oregon Administrative Rules (OAR). She said that two of the criteria currently used in the Florence Inventory are “Public Use & Recognition” and “Provisionary Services.” She said the OAR does not require these criteria be used; and, thus, it is an option to include them or not. She said there are 4 or 5 wetlands that would be considered significant solely on the basis of these criteria.

Jay said that he would support using incentives and agreements from property owners over regulations to protect wetlands. He said that otherwise Measure 49 would apply.¹

Fuzzy asked if private property rights will be an issue in protecting the wetlands.

Sandra said yes, although to be considered a “taking,” the government would have to limit all use of the property.

Jay said that the local government could limit the use for public health and safety reasons, but not for environmental protections; in that case, compensation is required under Measure 49.

¹ “Measure 49 provides a property owner to claim a “takings” that is remedied either through compensation or waivers for new land use regulations. Measure 49 defines the category of land use regulations that are eligible for relief to include only those regulations that limit residential uses of property or that restrict farming or forest practices. In addition, under Measure 49, relief is provided only if the owner demonstrates that the new regulations have reduced the value of property. For claims based on regulation of residential uses, claimants are exempted from regulation only to the extent necessary to allow additional residential development of a value comparable to the value lost as a result of the regulation.” *Measure 49 Guide*, Oregon Department of Land Conservation and Development: http://www.oregon.gov/LCD/MEASURE49/docs/general/m49_guide.pdf

Sally said that one of the options available when you develop a wetland is mitigation and that is why there are mitigation banks.

Sandra said that it is important to remember that wetlands are already regulated by state and federal laws.

Jay said he agrees and that is one reason why the incentive-based approach at the local level makes more sense than regulations, especially with the requirements in Measure 49 for compensation and waivers.

Sandra said that more detail will be included in their packets for their April 11 meeting; and, at that meeting, they will be asked to provide their input on what to present to the public at the open house. She asked if Carol had anything to add.

Carol noted that one of the benefits of the assessment method in ORWAP is that it provides a comprehensive assessment about the role of wetlands in water quality and flood control, two key issues for the City of Florence. She said that will be more apparent when Mike Miller presents that aspect of the project at the next Group meeting.

Clarence then presented the Riparian Area Inventory background information. He said that riparian areas include stream banks and lake shores; and there is a lot of similarity between wetlands and riparian area procedures. He said the Urban Riparian Inventory and Assessment Guide (URIAG) is parallel to the ORWAP for wetlands. He said the URIAG was adopted by the State after the 1996 Florence Wetlands and Riparian Areas Inventory was completed. He said, like wetlands, it is necessary to do an inventory, an assessment, and then to ultimately decide significance and how to protect the significant resources. He said one of the issues is that the extent of the riparian areas in the Guide is determined by the typical height of the dominant tree species and the "typical heights" are listed in the Guide but do not always match up with reality for specific locations. He said in Florence, the dominant trees are Douglas Fir, which the Guide gives a typical height of 120 feet, and Shore Pine, which the Guide gives a typical height of 50 feet.

He said the realities on the ground are that 120 feet is too wide of a riparian width in most cases. He said that the state allows local jurisdictions to use an alternative, consistent, rational approach; so, in doing the inventory in Florence, he went with the criteria in the 1996 Florence Inventory, i.e., where there is a natural break in topography, in some cases, and typical tree height in others.

He said each area is broken into "reaches" which are further defined and assessed. He said there are 4 or 5 reaches in Munsel Creek. He passed the inventory information over to Pacific Habitat Services and they are preparing the

analysis for the report. He said the assessment criteria include water quality, flood management, thermal regulation, and wildlife habitat.

The final step is to determine how and to what extent to protect the riparian areas. He said local governments have a lot of discretion over what is significant and how to protect riparian areas; but Goal 5 requires the adoption of protection measures.

8. Information Items and Update Reports:

For Information Only:

- *Endorsed Guiding Principles (Attachment)*

Sandra referred the Group to the Guiding Principles in their packets. She said these Principles provide guidance on the development of products and proposals. For example, she asked the Group to review the Guiding Principles for Wetlands and Riparian Areas because these will guide the staff in preparing proposals for the values and protection measures.

She said the Principles were endorsed by the City and all of the bodies represented on the Elected Official Stakeholder Group except the Port. She said they are not policy or requirements, and intended only to provide guidance. She referred to Sally to address the Port's reasons for not endorsing them.

Sally said she believed there was an earlier version of the Guiding Principles that the Port was reviewing. She asked if changes had been made to that version. After some discussion among members, the Group was referred to the change made by the Florence City Council on page 13 of the document that added the following Guiding Principle: " 4. Recognize private property rights by requiring due process and thus avoid the unconstitutional "taking" of private property."

It was further noted that this Guiding Principle is footnoted as follows: "The Florence City Council added this Principle after the Guiding Principles were endorsed by the Siuslaw Watershed Council, the Siuslaw Soil and Water Conservation District, and the Heceta Water District."

So, it was determined that the Lane County Board of Commissioners and the Confederated Tribes endorsed the same version as the City, i.e., the version that included Guiding Principle #4.

Sally asked if she should now take this version back to the Port Commission and ask them to consider endorsement. Sandra said that was an option for her and the Port Commission and endorsement by the Commission would certainly be welcome, although not required.

- Water Monitoring Program Status Reports (Attachments)
- Aquifer Protection Plan Work Plan (Attachment)

- *Florence Stormwater Design Manual (Attachment)*
- *Stormwater Demonstration Site*

These items were carried over to the April 11 meeting because Mike Miller, Florence Public Works Director, was absent due to illness. Bob asked how deep the new deep monitoring well is and commented that the Tribes' wells could be the first affected by saltwater intrusion. Carol said she did not know and that Mike will be able to answer those questions next meeting. Jerry asked if the next packet could include a map of all well locations. Sandra said she will pass that along to Mike.

- *Key Estuary Wetlands*
- *Wetlands and Riparian Areas (Attachments)*

These two items were covered earlier in the meeting.

9. **Public Comment**

Jim said he would like to make a comment as a member of the public. He said one of the activities he is involved in is to facilitate stewardship activities for the Siuslaw School District. He said in February he worked with the staff from this project on Student Workshops and Field Trips for the Middle School 8th Grade Science Class that involved one day-long in-class workshops (5) and two days in the field doing restoration and exploration. He said follow-up is planned in the way of a restoration workshop on April 12 for youth but he could use adult volunteers. He said that it would be a SOLV project. He said it starts at 9:00; there will be a break for lunch; and more after lunch. He said if any of them are interested in participating or knows of others who are, to please contact him or Wendy.

10. **Sum Up and Next Meeting Agenda Topics**

Next Meeting: April 11, 2011, 6:30-8:00 pm

Agenda Topics: Wetland and Riparian Areas Inventory and Policy Options; release Estuary Trail Report for public review; agree on comments to Climate Change Report; status report on Water Quality and Quantity and map of test wells; and preparation for the Open House.

11. **Adjourn** The Group adjourned and their picture was taken for the Newsletter and the web site.

Key Dates: Monday, April 25, 2011: Public Open House, Florence Events Center, 4:00-7:00 pm


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Key Estuary Wetlands Project Slides



Key Estuary Wetlands Protection and Restoration

- Site A—Waite Ranch:
 - Phase I: Property acquisition; Preliminary site assessment (SEP, WWRI, ODFW, OWEB)
 - Phase II: Site analysis, restoration feasibility, planning, design & environmental permitting
 - Phase III: Levee and tidegate removal implementation (construction)
 - Phase IV: Post-construction monitoring and research



Key Estuary Wetlands Protection and Restoration

Site A—Waite Ranch:

- Phase I: Property acquisition; Preliminary site assessment (SEP, WWRI, ODFW, OWEB)
 - McKenzie River Trust (MRT) has acquired Waite Ranch!
- Preliminary Site Assessment Continues:
 - River channel profiles adjacent to Waite
 - Water level and barometric pressure data
 - Communication with tidal hydrologists
 - Elevation survey
 - Infrastructure information



Key Estuary Wetlands Protection and Restoration

- Site B: North Fork Marsh
 - 2009: MRT Acquired
 - 2010: Baseline Inventories and Develop Management Plan
 - Baseline Inventories Done
 - Maps Created for Management Planning
 - Management Plan Drafts under review

