



## BOARD OF HEALTH

The Thurston County Board of Health has responsibility and authority for public health in both incorporated and unincorporated areas of the County.

### Minutes of October 13, 2011

Public Hearing to receive testimony on a proposed septic system operation and maintenance program for a portion of the Nisqually Reach Shellfish Protection District.

#### SUMMARY OF ITEMS

##### 1) CALL MEETING TO ORDER

Chair Wolfe called the public hearing to order at 6:45 P.M. at the Thurston County Fairground Expo Center.

**Attendance:** Chair Wolfe, Vice-Chair Valenzuela, Commissioner Romero, Art Starry Environmental Health Director, and Clerk of the Board of Health Kathy Patton.

Commissioner Wolfe explained the purpose of the hearing and that the creation of the program requires action by both the Thurston County Board of health and the Thurston County Board of County Commissioners. There are two ordinances, one for the Board of Health and the other for the County Commissioners that are needed to create the septic system program and funding mechanism.

Chair Wolfe noted that three comments have been provided prior to the hearing. One from the Olympia Master Builders, another from the Combined Nisqually and Henderson Shellfish Protection District Stakeholder Committee, and one from the Nisqually Estuary Protection Association. These comments will be combined with any other comments received at the hearing this evening. If comments were not able to be made at the hearing the record will be held open until Friday, October 21, 2011 at 5:00 PM for additional comments.

Chair Wolfe explained the process that would be used to receive testimony and that each person would have three timed minutes to testify.

Art Starry, Environmental Health Director, Public Health and Social Services Department, provided the following summary statement.

To implement the septic system operation and maintenance program recommended by stakeholders for the Nisqually Shellfish Protection District, both the Thurston County Board of Health and the Thurston County Board of County Commissioners must adopt ordinances.

The ordinance before the **Thurston County Board of County Commissioners** will revise the shellfish protection district boundary, amend the district program work plan, and establish rates and charges to fund an on-site sewage system operation and maintenance program. The proposed



ordinance will:

- Establish rates and charges within a portion of the Nisqually Reach Shellfish Protection District; and,
- Amend the Nisqually Reach Shellfish Protection District boundaries.

The **Thurston County Board of Health** ordinance establishes the area where special on-site sewage system management requirements are needed and to specify those requirements. The proposed ordinance will amend Article IV to:

- Define marine recovery areas and establish requirements for on-site sewage systems located within them;
- Create a marine recovery area called the Nisqually Reach Watershed Protection Area;
- Adopt a special management program for on-site sewage systems within the Nisqually Reach Watershed Protection Area;
- Establish exceptions to certain fees for on-site sewage systems on properties subject to Nisqually Reach Shellfish Protection District rates and charges for on-site sewage system operation and maintenance; and,
- Recognize the Henderson Watershed Protection Area as a marine recovery area.

Implementing the Nisqually Reach Shellfish Protection District on-site sewage system operation and maintenance program will reduce fecal coliform pollution that originates from on-site sewage systems. Fecal coliform contamination from on-site sewage systems has contributed to commercial shellfish harvesting restrictions within the Nisqually Reach. Adopting the program helps implement the *Thurston County On-site Sewage System Management Plan*, and designating the Nisqually and Henderson areas as Marine Recovery Areas allows Thurston County to better comply with RCW 70.118A, which requires us to identify areas where on-site sewage systems are a significant factor contributing to concerns with shellfish areas that have been threatened or downgraded. The operation and maintenance program will be funded through rates and charges imposed within a portion of the Nisqually Reach Shellfish Protection District that will be called the Nisqually Reach Watershed Protection Area.

Written testimony was provided by the following people and a copy is attached to the minutes.

Citizen – Tom Cook  
Olympia Master Builders – Angela White  
Thurston County Combined Nisqually & Henderson  
Shellfish Protection District Stakeholder Committee – Tris Carlson  
Nisqually Estuary Protection Association – Greg Tolbert  
Sierra Club–Washington State Chapter

Testimony was as follows:

**Mike Colasurdo** – Septic systems are a small part of the problem. Watershed issues are more than just



the septic tanks and septic tank owners have to foot the bill. Noted other issues from domestic animals, stormwater, and retention ponds that have not been taken into consideration.

**Arthur Overman** – Wanted to know how the fee was calculated and had several other fee or budget related questions. Was directed to Environmental Health staff in the room to try to answer his questions. Is this money going into a dedicated fund and can it be siphoned off from this program to pay for other things or deficits? What defines a waterfront property?

**Edward Level** – Noted concerns that property within City of Lacey would not be part of this program and the program doesn't address this issue. Also noted that there is a need to deal with Puget Sound, and not just the inlet. Need to deal with pollution from Nisqually River, Anderson Island, and all the lands on that side of the river. Only addressing those portions that are in the County and that just won't solve the problem. To this point, I don't know what the system does with respect to stopping these polluters. I don't see how this program is going to accomplish much in the way of stopping the polluters. All the literature I've seen with respect to the Henderson Inlet is that they do have a 3-year inspection program. I fail to see how that is going to accomplish any change. I don't see how this particular thing addresses the problems of pollution.

The second thing that concerns me is the equitableness of the charges everybody pays regardless of the condition of their system. Their system may be foolproof – I'm on a Glendon; it's a good system. My neighbors are all on a system that is as good as mine or better. But they are going to get stuck for some money, and I don't know why they should be stuck. I don't know why the people of the city of Lacey should get a free ride, if they're going to get a free ride. And I would want to get some response as to why it is equitable to charge some people who have 'good' systems and not charge other people who don't have good systems and have no assurance that they not going to continue to have 'bad' systems.

**Randy Lindblad** - Had a couple points. Doesn't see here any particular benefit for the individual property owner. I think the cost should be just spread among all the taxes. If you're close to the water or on the water you'll pay anywhere from 10 to 20 times what the people pay if they're not on the waterfront. I don't see any benefit for my couple of clams I collect every year. I had hoped to offset my taxes by maybe getting into aquaculture. Then I find there's a moratorium for unknown reasons despite the fact that they seemed to have approved it. Today I get a note from the tribe – they'll be out to collect at least half my clams on the beach.

I'm actually already in the Henderson Area Inlet. It costs about \$500. Then they decided that they'd come back and do a dye test whenever they want to. Don't think you're going to get off with once every six years. A lot of it makes no sense to me.

**Bryan Wilson** – Resident for twenty-five years in the Nisqually Reach area and is on a septic system. Has been a member of the stakeholder group that advised the County on this ordinance. Many of us have had similar questions like those heard tonight. Years spent reviewing the evidence regarding the various causes of the pollution and closure of the shellfish beds. The closure is a problem that needs to be addressed and this ordinance is part of the solution.



**Tom Cook** - Complimented the Environmental Health staff and the Nisqually Reach citizen advisory group for producing a proposed sound septic system operation and maintenance program for the Nisqually Reach watershed. It is his hope that this program is fully implemented. 1580 acres are currently prohibited to shellfish harvest and can have this prohibition lifted and return to its natural unpolluted status. I support both ordinances for final adoption.

**Rod Erickson** - Overall, I'm not opposed to it. Need to address the boundaries that were created. I would like to know what effort the county staff, or the developers of the program put into trying to determine what subsets of the area would very unlikely contribute to any kind of water runoff or hydrology efforts to get water into the Sound. I've heard repeatedly that there's a public health concern with septic systems as well in Nisqually Reach. I understand this is a shellfish / water / Sound issue. I want to know specifically what public health issues in Thurston County have been associated with septic systems. And if you could please tell me those specifics, locations, times, maybe even over the last 5-year period.

**Don Malatesta** – Thank you for organizing this meeting and others. He is here tonight because he would like to be a good steward of his property and not ruin it. Has lived for 12 years in the Nisqually Reach, has a waterfront business where he conducts kayaking tours. For 12 years has experienced maintaining and upgrading his septic system. His customers appreciate the beauty and clear water. Failing systems are not the only cause of bad water quality, but science has determined that they are one of the causes. One quarter of the systems in his area were tested and found to be failing. Speaking as a property owner, business owner, and a taxpayer he fully supports this ordinance.

**Andy Miga** - Since the cost to homeowners is quite considerable perhaps this ordinance should have a provision to kill it. Perhaps it's not the lowest hanging fruit and after a couple of years perhaps effectiveness could be examined and if cost benefits are not justified against other causes then perhaps it should be killed in a few years. There will be a bureaucracy created around it and usually they try to justify their existence so this is quite important.

**Larry Mulhauser** - I think that all of us that are here are good stewards of our property and our septic systems. I think we all support what this proposition wants to have, but like the economy and like everybody else that has to live on a budget. Why can't this be implemented without increasing costs and make your department more efficient. That is what we have to do and that is what I think government needs to do.

**Tom Cook** - Couple of questions. One, I want to comment on the man that has been a member of the stakeholders out there in Henderson Inlet. I believe the job you did out there is should be commended for that. However, I do believe, and one of my main questions is - the Henderson Inlet is a completely different and enclosed ecosystem as compared to the Nisqually watershed. The Nisqually watershed is just not included by the Nisqually Reach – I'd like to know what studies were done, what's been done for the fact that the Nisqually River goes clear to the bottom of Mt Rainier. That the Nisqually watershed covers at least 2 or 3 additional counties. What would be done if this measure, which I believe is a stopgap measure, does not work? What is going to be done in 5 years if we still have the same problem because the Nisqually watershed encompasses a lot more than Nisqually Reach and a few septic tanks. I understand that possibly, septic tanks need to be fixed, but I do not believe that this measure is going to work. I wonder what kind of studies have been done to check the whole entire Nisqually system, and the impact of fecal matter from birds and elk and cattle that live along the river and its tributaries that carries all the way from the Nisqually basin clear up to the bottom of Mt Rainier.



There are large herds of elk and there are major cities of Yelm and Eatonville. How much pollution do those cities contribute to the impact on the shellfish beds?

**Susan Macomson** - She was also testifying on behalf of the Sierra Club. With the budget deficits being seen in every county and every state agency in Washington, legitimate sources of revenue should be examined for all activities. For several decades, the shellfish industry has been depending on considerable state resources from the Puget Sound Partnership to the Department of Ecology to the Department of Health to the Department of Natural Resources, Shellfish Protection Districts, and County staff. Large-scale growers are benefiting from these significant expenditures on our behalf, with little finance / cost-sharing benefits for the citizens of the state of Washington. The average 1 acre, shellfish, geoduck farm makes a million dollars; they are paying virtually no taxes, state taxes. They are paying very small amount of state taxes; they pay no sales tax for shellfish exported outside of the country. The majority of clams, oysters, and mussels are exported. 90% of geoducks are exported. No export taxes, excise taxes - no. Business and occupational taxes - no. Property taxes, tideland, and shellfish farms should be appraised as agriculture lands as defined in the state statute. As I listen to all these people talking, you know they're talking about being fairly taxed. In this case, we are being asked to subsidize the shellfish industry who wants clean water so they can make millions of dollars. We are not looking at what the shellfish industry does. The shellfish industry is breaking the WAC laws and the Federal Clean Water Act by plastics in the water, by degradation of the water in their extraction process, by what the geoducks do and mainly by elimination of other species, including diving ducks, otters, raccoons, starfish, moon snails, crabs, and fly fish. These are on their species eradication list because they are considered pests. I live on the Nisqually Reach and you are asking us to pay this tax. We want clean water, but what is the outcome? Is the outcome so that the shellfish industry can make millions? Or is the outcome so that we can have a cleaner Puget Sound and a better ecosystem throughout. If it is for the shellfish industry, we are not going to have a better ecosystem. We are going to have clean water with nothing else in it.

**Chris Bredeson** - I'm concerned about this proposal for a number of reasons. In this economy, this is not the time for a tax increase. I know this is not being called a tax increase, but as one 2008 politician said, you can put lipstick on a pig, but it is still a pig and this is a tax increase. This is not the time to be putting this on homeowners in our area, who are having difficulty making ends meet. I own several hundred feet of Nisqually riverfront property and many of my rights have been taken away for the water and to have pure water. There are 200-foot setbacks, there is logging restrictions, and different things can't be done by property owners and additional encroachments on landowners and is uncalled for. I urge you not to pass this at this time.

**Dottie Cole** - I got this in the mail last week and this is the first time I have ever heard of this. I have lived on my property at least since 2007. I have spoken to 2 or 3 of my neighbors; they've never heard about it. So I'm learning new information tonight. From what I can hear from some of you, some of you are for it, some of you are against it. My home is right now upside down on its mortgage; there's two foreclosures right next door to me. One, the septic tank has failed. The mortgage company would not pay to fix it; they had a buyer. I called the city on it; the city said there was nothing they could do because no one lives there. At this time, the economy is in a state and I don't think another tax should be imposed. To me people are sitting on a budget; I work for 14 doctors and take care of Medicare / Medicaid patients that cannot even pay their medical bills. Most of them have gone to collection because they cannot afford it and that is our rule. To impose even \$35 on them is a lot. I am going to be educated more on this, now that I have gotten this. I am in the middle of an adoption of two little girls that I got a knock on my door to take care of. I have been busy with that instead of sitting down and reading this. I would like to be educated more on this because I do want clean water for my girls that I have newly adopted. I would like to know why more information has not been passed out to homeowners. I have been reading things that came in my mail. So, if anyone wants to give me information, talk to me. I am going to be here. I would like to hear. Thank you.



**Rick Thomas** – If the ordinance were to pass, a sunset clause should be included and should be for a very short time period. For the average person, this is nothing more than just an additional tax. I've lived on my property of just under an acre for 20 years. The young lady who just came up and spoke about not given notice of what was going on is / has been my experience for 20 years. The same thing happened with this particular thing. The first time I knew anything was going on was when I got the yellow slip. That's not fair to private property owners. Secondly, I just want to echo a couple of other things that I heard here that I made notes before I came. First, the Henderson area is a completely different area than the Nisqually Reach. I happen to live up on the ridge; the soil is very pervious. We are a hundred feet above the aquifer there it doesn't even compare. Outdoorsman and would like to be able to get shellfish. I just have no confidence that the plan that has been put in place right now, is going to accomplish that at all.

**Glenn Raiha** - Are you aware of the fact that LOTT – Lacey, Thurston, Olympia through their wastewater treatment plant discharges 2 million gallons a day in to our groundwater and that wastewater is only partially treated. It doesn't remove all the chlorine or organic compounds that it creates; it doesn't remove any of the antibiotics and a whole variety of personal care items and drugs that are in the water that are being injected into our groundwater supply at the rate of 2 million gallons a day. Are you aware of the fact that the Thurston County landfill at Hawks Prairie has an imperfect or actually negligent liner? It only captures part of the percolation that goes through that landfill. Are you aware of the fact that there's all kinds of medical establishments and industrial establishments that are out in the Hawks Prairie area that will add viruses, drugs, and a whole variety of pollutants to the water that the wastewater treatment plant can't treat and they turn around and they inject that into our groundwater supply. I think that if you balance it all this is just absolute nonsense for you to ask the public of Thurston County to pay a tax to maintain their septic systems, when Thurston County and LOTT are injecting pollutants that are 100 times worse.

**Glen Morgan** - I'm not affected by this ordinance directly. I'm also the project manager for Stop Taking Our Property Thurston County. I was contacted by many of our members who live in this area, and that's why I'm here, tonight. I'm also on the Board of the Thurston County Farm Bureau. We all want clean water and we all want clean shellfish. Especially somebody who's a 5<sup>th</sup> generation Washingtonian and I grew up shucking oysters and digging clams myself along the Canal. The challenge of this situation is the whole testing methodology used in targeting septic tank owners. Part of that is related to things we've seen with the Farm Bureau, that the Department of Ecology, for example, failing to do adequate DNA testing on the type of fecal coliform most of that fecal coliform, especially in Nisqually Reach is generally going to be by animals or other sources, not human. LOTT is not the only polluter in this area. Fort Lewis also has a discharge line that comes out into Nisqually Reach just the other side of the county line. It's actually in Pierce County and the DNA testing is inadequate. So, you're really looking at one of the smallest subsets of potential pollution. But it is an easy group to get tax money from and ultimately that's really, what this is about. I really think that's the problem. I think the training program is great. If you can train people to test their septic systems and septic system's failing, that's good. But to punish everybody who actually has functioning septic systems for that training program, I think is probably misguided. I'm sure there's room within the Health Department budget to do that. The shellfish owners could/should pay for the training program. Shellfish farms would want to pay for that, I think would be something that good community outreach that they can do for us instead of taxing everybody who has a septic systems. So, I think that would be something that could be looked at as well. But, in its current form I just think this is nothing but a tax and punishment to private property owners. I don't think it's going to achieve the stated goals. Thank you very much.

**Mike Werner** - I'm the president of a homeowner association, which has approximately 72 homes in the subdivision. I represent them tonight. The major thing I've heard from my homeowners in my area is that they are concerned this is the first time they've heard about this. I've been on the website; I've look at all the supporting documentation. But, we really haven't been informed of this effort before we received the yellow



slip in the mail. A lot of people are concerned about that. Within our own subdivision, we've done a considerable amount of work to maintain our retention pond. The major concern I've heard is with the lack of knowledge prior to tonight's meeting and process.

**Lee Whazlak** - I don't think what you're hearing here is the concerns of the septic tanks. I think you're hearing concerns of the fees and how they're being approached and attached to the property. I think those are the bigger concerns that you're hearing here. The other piece that I see in here is that the sunset clause is set out 10 years, and probably should be five. The other pieces are that the boundaries seem somewhat fluid. I would anticipate that those would be defined in the near future. It's easy to redraw a boundary, and since this is a county ordinance, it's very easy to do that. If I was the property owner, I would be really concerned that it really does feel like a tax...for people on fixed incomes and those issues. I think you are going to find a pushback from more of the property owners when they kind of catch wind of this, and catch the feel for what's going on here. I don't think that they want not to comply; I don't think that's the issue. I think the issue is the implementation. So, I would suggest that the committee go back and revisit the implementation and the methodology rather than go down this path.

**Daniel Hull** – Lives in the Lehr Beach area near the boat launch and nature center. Definitely, support proposal; pumping and inspections need to begin. There are many issues with Puget Sound and we all need to take a little bit of the responsibility. We need to solve problems one problem at a time and septic issues can be a problem.

**William Beavse** - My place is on 61<sup>st</sup> it's a cabin and has been a cabin there of ours for 60 years. It's no more square footage than when it started. What I'd like to know are those cabins with hardly any volume going to be charged the same as a full-time resident. Secondly, I thought I heard the first speaker say that senior citizens and handicapped wouldn't have to pay fees. Did I hear that right? As the one man said, it's not only domestic animals but wild animals out in the wild. I think that doing the DNA test is important. A lot of us can't afford to pay the fees either. It's overkill. A number of years ago we went through all this, the dye tests and had to fix our tanks, got approved. I think that should be sufficient.

**Fred Michaelson** – Lives in a sixteen-lot subdivision that is on a community septic system. Outlined the various organizations and groups that he has belonged to. He noted that the public, over the years, has been contacted several times about this issue. There are lots of different types of pollution, as a layperson he would like to see this area cleaned up. Provided some historical background on LOTT and proposals that were made for treatment of sewage and locations for treatment.

**Larry Anderson** - Appreciates the work that has been done, and supports the goals of the program. Hopes pump report is enough and will serve as the reporting requirement for this program.

**David Losey** - Sounds like you folks have a really big job ahead. The first speaker said something about the committee being assigned the task of locating the sources of this pollutant and getting it cleaned up. I think that's a great idea. It sounds to me like the committee says we need to sit back and let's charge everybody that has a septic tank a fee to get it dug. For me that kind of logic is the same logic as if my car gets hit out here in the parking lot then I should be able to charge everybody here to help get it fixed. The gentlemen said that we have our septic tanks pumped regularly and they have to send their report that says it works or it doesn't work. That happens regularly, and yet, you want me to pay \$60 a year for information you already have. I too am on a fixed income, and it just doesn't make sense to charge people with septic tanks just because they have one. I know that no one has been out to check my septic tank to see if it is one of the causes of pollution. I know that reports are turned in every 3 years when I get it pumped and it says my septic tank is in working condition. So, find the source rather than stick everybody that has one. I won't charge everybody that has a car out there to help fix my car.



**Don Mench** - I live in the Meadows. I looked at the map and I don't think I'm in this yet. I support everyone cleaning up everything. As far as carte blanc, sending out another tax, not getting any more money. We're done. We've already sent the governor a message that you're not getting any more. Has maintained his septic system every 5 years since 1981.

**Lorraine Lunsford** – Noted that there is a \$145 tax that you are asking for schools. She works for a school in the area. There are five or six schools in North Thurston Public Schools that will be affected. They have taken a pay cut, lost employees, and now you want \$145 for the school and we know who is going to pay that when those taxes go through.

**John Pattin** - You're going in the right direction, but more work to do. There's more involved than just the septic tanks. Mr. Cook and his comments about just look up the river all the way to Mt Rainier. It's true. But, what about the coast? I'm talking about tidewater. All along I-5 from the Nisqually River to Tacoma, at one time, those were all docks, loading docks, and still stuck in the mud are posts with creosote. Have you looked into this? How far does that creosote travel with the tides? Because it dumps right on top of the shellfish. And, I think that should be looked into also. The other thing is that if there is 1500 acres plus of shellfish beds – when that bed is complete who benefits the most? I know when this gentleman got a phone call / letter from the Nisqually Indian tribe saying 'we're taking 50 percent of your shells' – who's going to get 50 percent of those shells in those 1500 acres? What have they done to help with the cost of the money you're trying to get from us? We get clean water but they're going to get clean shellfish? I just hope you think about that; I don't think I'm way off to the right. I do think you're going in the right direction; I do think it's positive; I just think you have a lot of work to do.

**Bonnie Lampert** – You are asking us to pay for people who don't take care of their systems. They maintain theirs, why should we maintain our system if others up the river don't.

**Carol Prine** – Currently part of Henderson program; are they in both programs. This was the first they've heard of this program. Will you double-check your boundaries to make sure the property isn't in both programs?

## 2) ADJOURNMENT

The meeting was adjourned.

**BOARD OF HEALTH**  
**Thurston County, Washington**

  
KAREN VALENZUELA, Chair

CATHY WOLFE

  
CATHY WOLFE, Vice-Chair

SANDRA ROMERO

  
SANDRA ROMERO, Commissioner

KAREN VALENZUELA

ATTEST:

  
Kathy Patton, Clerk of the Board

Date: 12/6/11