

Skagit County Planning Commission
Deliberations: Flood Damage Prevention Ordinance
Work Session: 2011 Code Amendments, Volume 2
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Chairman Jason Easton: Good evening. I'm Jason Easton, the Chair of the Planning Commission. I now call the Planning Commission (gavel) to order. Tonight's agenda is in front of you, Commissioners. Are there any suggestions for additions to the agenda?

(silence)

Chairman Easton: Hearing and seeing none, we will take the agenda, then, on consensus as is and we will begin tonight's deliberations on the Flood Damage Prevention Ordinance, also referred to by more letters in the alphabet than I prefer to count, but we'll call it the "BiOp" tonight. I've asked Mr. DeVries to give us a two-minute introduction so that those at home know what we're discussing. Then my plan would be to take questions of staff. From there we'll move into recalling witnesses, if needed, and then to the actual deliberations. All right? With that, we'll turn it over to Tim. Good evening, Tim.

Tim DeVries: Good evening, Mr. Chair. Thank you. My name's Tim DeVries. I'm the Building Official/Floodplain Manager for Skagit County, working with the Planning and Development Services Department.

The reason that we are here for deliberations on the flood damage prevention ordinance is that we are required through our participation in the National Flood Insurance Program to provide adequate coverage for the Endangered Species – under the Endangered Species Act for protection of endangered Chinook salmon and Orca whales and their habitat.

In order to accomplish this, there were a number of changes necessary to the flood damage prevention regulations, as well as a few changes to the critical areas regulations. And so we have gone through a work session and we've gone through a public hearing, and that is why we're here tonight: to go through the deliberations.

Chairman Easton: Excellent. You were transmitted electronically or in the mail all the comments that we received – that were received by the Department by the deadline. You also received a staff response. So everyone received all those notices? Excellent. All right.

At this time are there any questions for staff concerning this process? Mary?

Mary McGoffin: One of the issues that the Fisheries and Environmental Service for Sauk-Suiattle and Swinomish Tribe brought up was that we don't have a channel migration zone done yet. So they were concerned that none of the rest would follow without that being done. How are you going to address that to FEMA? Are you going to just say we're working on it?

Mr. DeVries: The paperwork that's been submitted to FEMA is the same paperwork that you have been working with for the last couple of months. We know that the channel migration zone will be required to be mapped as a result of the Shoreline Master Program update. FEMA will need to decide whether allowing that two- or three-year period of time for the update to take place will be satisfactory or whether they will require some action – some other action – to be taken on the part of the County in the interim. And so we don't have a clear answer for you on what we intend to do until we're a little bit further along with our review under FEMA.

Ms. McGoffin: Okay.

Chairman Easton: Other questions? Annie.

Annie Lohman: Tim, you showed us during our work session a map on your PowerPoint of the drainage district. I think it was Drainage District 19. And you have in there some ditches that are identified as a potential protected review area. Yet a lot of those ditches we have drainage maintenance agreements and they are classified as a –

we call it “yellow water” in here, which is actually a DNR classification of “X,” which means that they’re man-made constructed and there’s no fish habitat and they are basically just mapped, but they’re not one of the five types of classification. They’re kind of like set aside. So how do we get you to use our DFI agreement – Drainage Fish Initiative – that’s already had review and consultation?

Mr. DeVries: I have heard that topic brought up just within the last day or two. Until then I was not aware of the distinction between artificial watercourses being man-made and natural watercourses. The – and I’m going to defer to a couple of the people who worked on the project that are in the audience, Oscar Graham or Betsy Stevenson, who understand the critical areas regulations much better than I do. But my understanding is that when we had to – when we had to determine which waters were subject to a heightened review, we used the DNR stream typing that, it’s my belief, is referred to in the critical areas ordinance. And even if this – even if the 14.34 were amended to exclude them, there would still be an issue with using a stream typing that comes from the critical areas ordinance. And so I’m not sure how we would do that.

Ms. Lohman: I’m suggesting that you might be in error. Because we’ve already got NOAA, NMFS, Ecology, Fish and Wildlife, and the Army Corps has issued a permit and signed the JARPA saying that these are classified “X.” So I’m saying that you might be using information that’s incorrect.

Carol Ehlers: When was this done?

Ms. Lohman: Well, it was signed 2011.

Ms. Ehlers: Well, that may be part of it because the critical areas ordinance was done in 2007.

Ms. Lohman: And, I mean, it’s reviewed every year. It’s for a period of time, but every year there’s an annual review.

Mr. DeVries: Because this is not an area that I have a great deal of experience in, I’m going to defer to Betsy Stevenson, Manager and Senior Planner with the Department.

Ms. Lohman: Well, and further, with the water it’s not considered waters of the state if it’s “X,” the yellow ___.

Mr. DeVries: I have heard that, yes. I’ve heard that just within the last couple of days.

Chairman Easton: Betsy, can you enlighten us?

Betsy Stevenson: I’m not sure I can answer your question because I’m not sure you’re really asking a question. I think you’re more making a statement. But, according to our code language, artificial water courses are defined and they are also discussed in our

ongoing agriculture section of the critical areas ordinance and they are included. So, the agreements –

Ms. Ehlers: Included in what?

Ms. Stevenson: They would be considered – the purpose and intent of the ongoing agriculture section, number 1 under 14.24.120 – “The purpose of this Section is to address 2 mandates under the Growth Management Act... (a) to protect the existing functions and values of fish and wildlife habitat conservation areas...in and adjacent to natural, modified natural and artificial watercourses as defined in...14.04.020 (collectively ‘watercourses’), and (b) to conserve and protect agricultural lands of long-term commercial significance, specifically those lands in ongoing agricultural activity as defined” in “14.04.020 that are located adjacent to these watercourses.”

And the definition of “artificial watercourse”: “Ditches and other water conveyance systems not constructed from natural watercourses which are artificially constructed and actively maintained for irrigation and drainage. Artificial watercourses include lateral field ditches used to drain farm land where the ditch did not replace a natural watercourse.”

So they are included as something that we will look at and it is part of what we do under 120. The agreements that you’re talking about were things that were done separately from any County processes, as far as I understand it. We weren’t invited to the table in those agreements. We weren’t party to those agreements. So they were done independently of what our code requirements are. It doesn’t mean that in the process that we will be going through shortly to evaluate the Ruckelshaus program that we’re going to need to look at we can’t take a look at that and see what it says and what it looks like.

I guess you made more of a statement than asked a question, but that’s what our code says.

Chairman Easton: Carol – before we go to Carol, let’s make sure that Annie’s run her course here.

Ms. Lohman: I am – I’m trying to suggest that there’s a conflict.

Ms. Stevenson: Right. I would agree with you.

Ms. Lohman: Yeah. So –

Ms. Stevenson: But whether we’re wrong or not I guess –

Ms. Lohman: I guess I’m not saying that one is right or wrong. I’m just saying we’ve got a conflict here.

Ms. Stevenson: Okay, I think that's what you said, but that's fine. Also, Mary, we do have draft maps, as part of the Shoreline update, that are starting to look at the channel migration zone.

Ms. McGoffin: Oh.

Ms. Stevenson: Thank you.

Chairman Easton: Why don't you stay there, Betsy? I think Carol may have a question for you.

Ms. Ehlers: Carol has more of a comment.

Ms. Stevenson: Okay.

Chairman Easton: Okay.

Ms. Ehlers: How many of these fish-ag – different versions of this – have we faced in the last fifteen years? It's high time that there was correlation among all of them, because to expect this group to have this set of negotiations and some other group to have a set of negotiations and some other group to come in, such as this one.

Chairman Easton: Mm-hmm.

Ms. Ehlers: When you end up with – at last count, there are five different groups claiming that they have the authority to decide exactly what goes on in the streams of this county, with or without protecting agriculture, it makes it almost impossible for anyone to have confidence in the process.

Chairman Easton: I understand your frustration. I just want to remind the Commission that our scope of work here is our scope of work here, basically. And so I want – I recognize – we are not going to solve the fact that there are five people that are – five different organizations or entities that are involved in that. And so I want to kind of curtail our conversation around the scope of what we're being asked to do by the Commissioners and by the staff in relationship to this topic.

Ms. Ehlers: You're quite correct, but if we do not make a mini-protest then nothing will ever be admitted to be going on.

Chairman Easton: Far be it from me to ever ban a mini-protest or to distract from one.

Ms. Lohman: But –

Chairman Easton: Annie.

Ms. Lohman: For the record, though, I do not believe these consultations were done in secret and I believe that the Ag Association was very upfront that we've been working on it, because it's been a multi-year journey.

Chairman Easton: And I want to clarify: I don't mean that your comments about the appearance of this conflict – or actually we have an agreement that there appears to be a conflict. I was out of order. I just want to try to frame the conversation. Matt?

Matt Mahaffie: A general question for somebody on staff, just for my curiosity: What would be a price difference for getting flood insurance on the commercial market versus something that is sponsored by FEMA? I'm sure somebody must have thought about that at some time.

Mr. DeVries: What I hear from FEMA – that the average, unincorporated County flood insurance policy is somewhere around \$700 a year, maybe as much as \$800 a year. And certainly what would come into that is how expensive the buildings are that are being insured. But the private insurance numbers that I've heard range anywhere from 2500, maybe \$3000, to as much as 5 or \$6000 a year. Even within the NFIP insurance, if you don't –

Chairman Easton: Yeah, help us with the acronym. Thank you.

Mr. DeVries: National Flood Insurance Program, administered by FEMA. Even within that program, if – the 6 or \$700 a year premium is when everything complies – if you're out of compliance in one or two minor areas it can still be \$1800 a year.

Chairman Easton: Other questions for staff?

Ms. Ehlers: I have –

Chairman Easton: Carol?

Ms. Ehlers: I have some minor questions in terms of language. Do you want to talk about them beforehand or when we get to that section in the text?

Mr. DeVries: At your pleasure.

Ms. Ehlers: Well, there are two general questions. The Samish River is not on the errata list, and yet I find it mentioned in here as being included in this.

Mr. DeVries: Yes.

Ms. Ehlers: Is it?

Mr. DeVries: Yes.

Ms. Ehlers: Even though it's not required by the BiOp?

Mr. DeVries: Well, I don't believe that you can say it's not required by the BiOp because perhaps the language in the BiOp and the way that FEMA is applying the BiOp there's a discrepancy between. But the way that FEMA has framed their requirements it – the applicability is within the special flood hazard area, which is – includes floodplains of not just the Skagit and the Samish but many other streams and rivers that happen to be in the county. If it's within the special flood hazard area that FEMA maps, then it applies.

Ms. Ehlers: Even though it doesn't – isn't part of Tier 1 Chinook?

Mr. DeVries: Yes. That distinction has not been made in any of the documentation from FEMA that we have been –

Chairman Easton: So you're confident as to – I mean, you're in a significant position within the county – you're confident this is not an overreach to include the Samish?

Mr. DeVries: Yes.

Ms. Ehlers: It says, "Skagit County and all NFIP communities adjacent to the Skagit River, Sauk and Suiattle Rivers." This is in the second errata list.

Mr. DeVries: I understand.

Ms. Ehlers: Okay.

Mr. DeVries: FEMA has been imposing these regulations on the special flood hazard area that they map, and where that area stops their opinion is that – correctly – that their authority stops. But it is contained within the special flood hazard area and there's – in none of the information we've received from them is there a distinction between floodplains from individual water bodies.

Ms. Ehlers: Okay, my second question –

Chairman Easton: We need to stay here for a second, Carol. Matt wants to follow up on that.

Mr. Mahaffie: I just want to mention that would be a point I'd like to deliberate.

Chairman Easton: We'll make a note of that. We will deal with that. I have a question about this and then we'll go to your topic. You can understand the Commissioners' – you know, at least more than one Commissioners' – concern that because the Samish

is not blatantly spelled out, you know, that this has the appearance of, you know, creep. You are – and you're on the record now being confident that this is not an extension that you're uncomfortable with. You feel this is a – this is a – this is within the realm in which we need to deliberate?

Mr. DeVries: That's –

Chairman Easton: And include the Samish?

Mr. DeVries: That's fully within my understanding and I will go a step further to outline that when asked if this – if these regulations applied to the coastal flooding areas, the answer was yes. So it could be Guemes Island or it could be the flood areas off of Fidalgo. And these regulations – these NFIP regulations – will still apply because it is a jurisdictional floodplain, a mapped floodplain.

Chairman Easton: You see the challenge, though?

Mr. DeVries: Yes.

Chairman Easton: With it not being named, it puts us in an awkward – sort of awkward position. Carol?

Ms. Ehlers: There is evidence backing what you say in the draft flood plan that Public Works put together. In chapter 1, there are two maps. One map is the watershed, one map is the floodplain. They ignore Glacier Peak, but that's all right. The floodplain includes the lower Samish delta. The comment by Lorna Ellestad at one point was – in full disgust – that FEMA used the wrong map and didn't use the one that had the lower Samish in it. So that would indicate that if they map it, then you more or less perhaps have to include it. But I did think we ought to raise the issue.

Chairman Easton: I'm glad you did. Do you have another question? Or, Director?

Gary Christensen: I think we're – in a response to kind of this conversation – I think we are both in agreement, the Department as well as the Planning Commission, that we do not want these Biological Opinion regulations to apply to areas for which FEMA has no jurisdiction. So whether all the rivers, lakes and streams and coastal areas are named or unnamed, we're in agreement that we are not trying to reach any further.

Chairman Easton: No, and I appreciate that.

Mr. Christensen: Just to find – yeah.

Chairman Easton: No, I appreciate that and that is by no means not – I'm not trying to accuse the Department –

Mr. Christensen: No, I –

Chairman Easton: – of over – because of the way – the awkwardness of the way this is not described –

Mr. Christensen: Yes.

Chairman Easton: – puts us in a position that it begs the question that needs to be asked.

Mr. Christensen: Sure.

Chairman Easton: Can we move off from that topic then, or do you have something to follow up on that, Annie?

Ms. Lohman: Sort of related.

Chairman Easton: We'll come back to you, Carol.

Ms. Lohman: In the Samish we have a lot of private dikes and levees, and there is some dike districts. They are not necessarily Corps of Engineer-maintained or -regulated dikes, although if you do anything on a dike you have to have a Corps permit and Corps involvement. So in your proposed ordinance you specifically say "Corps dikes," basically – to shorthand. What compelled you to pick that language? Or is that from FEMA, or –

Mr. DeVries: It's not from FEMA but the idea that these lower river dikes that we have that extend from the Burlington area down to the mouth that are Corps-inspected and -maintained levees, FEMA's opinion of them was that they probably offer 100-year protection or close to it without necessarily having the freeboard – the height above the flood level that is required to certify them – and that they felt that they offered a great deal of protection from the source of flooding, being the river, that – and so they were accepting of the idea that they created a separation between a source of flooding and flood storage. So the compensatory storage may not be necessary. They didn't necessarily feel the same way about the dikes or levees out in the Samish area that you're referring to.

Ms. Lohman: I'm thinking of a scenario that we had a few years ago where Burlington was contemplating having to breach a dike, and they were going to pour some water into the Samish that *wasn't* flooding. And I am concerned that that could be a more frequent scenario as the population inside Burlington increases. So yet we are just sitting there vulnerable then?

Mr. DeVries: I'm not sure I understand exactly your point.

Ms. Lohman: Um –

Ms. Ehlers: It used to be talked about a lot that the Skagit River would empty itself between Sedro-Woolley and Burlington slightly downstream from United General. And that was what over the years in the Flood Committee that I heard referred to the most by people. And the question raised as to what might be done to prevent this from happening because the people in the Samish would have no warning at all, just as they didn't – was it last year? – in flood when the County was unprepared to protect the Samish to the same level they usually protect the Skagit.

Mr. DeVries: Mm-hmm. Well, you know, I certainly can't –

Ms. Ehlers: There's no answer to that, but think about it.

Chairman Easton: You don't have to answer that. That would be a challenge that I'm not going to put you to. Any other questions for staff?

Ms. Lohman: I have one – sorry.

Chairman Easton: No, there's –

Ms. Lohman: I really did study this!

Chairman Easton: – there's no need to apologize, Commissioner. Go ahead.

Ms. Lohman: My question has to do with the usage of the word "private," and I believe PSE brought that up. And we had a lot of private utilities – private versus public utilities. We have a lot of private utilities in the county. We've got cable, telephone. We also have water companies and others above and below the ground. And I'm wondering why the distinction between above and below ground, because I would think that below ground, whether it be power or water, is a – you know, it's the least disturbing if the utility is underground. So I'm questioning why – it's two parts: Why the distinction between above and below ground, and the second is, Why saying "public" utility? Why not just say "utility" in general?

Mr. DeVries: Well, this is language we didn't select. It was – it is FEMA language. But having said that, the – I don't have any knowledge of why when NMFS was writing the BiOp or FEMA was preparing the documents that they did, I don't know why they chose above ground versus below ground, unless it had to do with the fact that you are going to disturb – when you are disturbing the ground, you can cause an adverse effect that, if you don't disturb the ground, perhaps you're not. I'm not sure if that played into it or not. It's an idea. But the language came from them. And, again, the distinction between "public" and "private," I'm not sure why they selected that particular language.

Ms. Ehlers: When the Natural Hazard Mitigation Plan was done and the law was passed that FEMA had to require this from every county, they were very pointed that it was only to protect *public* utilities. So no private utility can be included in the Hazard Mitigation Plan and apparently cannot apply for any kind of disaster money, and nor can you get insurance through that kind of a program. It's a rather common assumption, I find, in the United States to ignore drinking water as a utility.

Mr. DeVries: That's possible.

Ms. Ehlers: Although it's essential.

Chairman Easton: I want to follow up on the PSE comment letter. I found the Department's response slightly confusing, I guess. I know we're trying to be brief with our staff reports and we appreciate that, but I'm a little confused about the way in which we went from their comment to the County's response. And since it's been brought up I want to talk about it.

It's noted in our document on page 2 of the staff report under the list – it's number 11 – that it's – quote – the “Comment on the FEMA model Ordinance regarding elimination of the word ‘public’ in connection with utilities.” But then the County's response, Tim, was that – quote – for the PSE – this is from the PSE letter – in reference to a PSE letter – “The County draft document does contain the work ‘public’ in” relationship “to utilities.” Can you – can you clarify what your intentions there are? I understand PSE's comments, but I'm confused about how you – your response.

Chairman Easton: Do you guys follow me where I am?

Ms. Ehlers: Because it's PSE that wants “public” gone.

Chairman Easton: So PSE's requesting that the word “public” not be included in the definition of “utility.”

Mr. DeVries: Right.

Chairman Easton: But the County's draft proposal *does* contain the word “public” in relationship to utilities doesn't seem to be much of a response to their comment letter. So what I'm asking for is – and, again, I'm not trying to be critical. I'm just saying I need a better understanding of why that request is, in the County's opinion, unreasonable, if that's what you're saying – or not appropriate.

Mr. DeVries: The exemptions from having to have a flood permit at all are pretty limited and scrutinized pretty closely by FEMA, because the Biological Opinion was pretty narrow in what they intend to exempt. And so it did not seem appropriate to us that we would eliminate a word that would allow a lot of other exemptions that we really couldn't identify, so the word “public” was left in there.

Chairman Easton: Okay. I guess that helps me. Thank you.

Ms. Ehlers: Well, it doesn't help *me* any. Because it means – if I understand this – it means that if they wish to maintain above ground utilities, since they're a private company, that they have to go through an EIS to analyze the fish impact of replacing power lines?

Chairman Easton: That fall down?

Ms. Ehlers: That fall down? That doesn't make any sense. That's like the –

Mr. DeVries: The power lines that fall down are exempt from a flood permit in order to replace.

Chairman Easton: Because?

Mr. DeVries: Because they're above ground.

Chairman Easton: Okay, but in the context of PSE's letter, they were concerned that there was a need to apply for a – that they were going to have to apply for – let me pull that letter up. That might be helpful.

Mr. Christensen: Page 13.

Chairman Easton: Do you have that handy?

Mr. Christensen: Page 13.

Chairman Easton: Thank you. If the draft ordinance uses “the phrase ‘public utilities’ but” the “final model ordinance...dropped the word ‘public’” the “clarification is important so that” PSE “operations are included within this section of regulation. Regarding the phrase, ‘such as replacing downed power lines,’ the reason to omit this is because there are other routine activities that would not have an adverse effect on endangered species.”

And they go on to talk about how they replace old power poles every year. And that wouldn't be – obviously replacing an old power pole is technically not above ground only; it's also below ground.

Mr. DeVries: Well –

Chairman Easton: So you don't believe that they would need to – if a broken – if lines go down and a pole is broken, you don't agree with PSE's premise here, then?

Mr. DeVries: Their premise that?

Chairman Easton: My understanding is that their premise being that they would – they asked for this change so they wouldn't be required – so it was clear that they wouldn't be required to apply.

Mr. DeVries: And it's my opinion that saying normal, above ground maintenance such as replacing downed power lines is pretty self-explanatory that you are exempt.

Chairman Easton: The problem with that is that you use the phrase "above ground."

Dave Hughes: Poles go *in* the ground.

Chairman Easton: Yep. Poles aren't all above ground.

Ms. Lohman: Yeah. It's – you –

Chairman Easton: That's what I mean.

Ms. Lohman: Even if you just stick with PSE, for the sake of discussion, you're splitting a utility because they have both above and below ground.

Chairman Easton: Yeah. Particularly, yeah.

Mr. DeVries: I believe that if the poles are above ground, even though they're embedded for structural support, and they are downed for whatever reason, by whatever method, that replacing them is exempt, as opposed to providing undergrounded utilities where they're trenching wherever they're going and putting in newer or replacement undergrounded utilities. If replacing downed power lines includes embedding them in a newly augered hole, that's what it includes. And I believe that that activity would be exempt.

Ms. Ehlers: But are you implying that replacement of a waterline would *not* be exempt? That you'd have to go through an EIS process, the mini EIS process to do that?

Mr. DeVries: I believe that FEMA and NMFS are implying that by their language. But I don't believe an EIS is going to be required, either.

Chairman Easton: Well, she's using the phrase sort of in casual terms – a *mini* EIS, not the technical definition of an Environmental Impact Statement.

Mr. DeVries: Well, and whether there's anything going to be required – any sort of assessment – will depend on what the activity is and where it's located.

Ms. Ehlers: Well, yes. But one of the crucial elements of this entire discussion is found on page 5 of 14.24, where it says, "...the applicant must demonstrate that the proposal is not likely to adversely affect species..." So somebody, like a water company, is going to replace a pipeline and they have to prove – God knows how – that replacing a pipeline next to a road is not going to adversely affect the fish that's off in the distance 250 feet, or whatever it is. How do you prove something that is a negative? How do you prove that there *will be no possible effect* from trenching this thing?

Mr. DeVries: Okay.

Ms. Ehlers: Let's say it's 150 feet away from whatever creek there is. Mount Vernon gets to put a church next to one of – within 150 feet of a creek, but we're talking about utilities. How do you prove that it is not going to adversely affect something that is off in the distance that may not even have fish in it? This is a crucial element when we get to that Shoreline Management Plan.

Chairman Easton: Let's let him answer.

Ms. Ehlers: And this is something that we need to think about this evening and maybe come back to after we've thought about it after we've asked other questions.

Chairman Easton: Tim?

Mr. DeVries: The way it's determined is through a habitat assessment, if one is required, the same that – the same way that you would if you're within that review area, the protected review area, and a habitat assessment is required, there are certain elements that the consultant preparing the report needs to consider. And so it – whether it's trenching for an underground utility or building a house or bringing in fill material, the process that is followed is largely the same.

If it's not within that review area, then there's a checklist to be filled out to determine if an assessment is even going to be required. So if it's 300 feet away, or 400 feet away, not to mention more, and the checklist indicates that a habitat assessment would not be required, then that would be the end of – that would be the end of it.

Josh Axthelm: Can –

Ms. Ehlers: Well –

Chairman Easton: I want to remind the Commission members that I'd like you to make sure that I recognize you before I speak so that we can stay in a sense of order here. Josh had a question, then I'll come back to you, Carol.

Mr. Axthelm: Two things, one with the confusion with the power pole. Couldn't you just add the text that replace a power pole in the – couldn't you just add text for replacing a

power pole? I mean, it's pretty obvious you're replacing a power pole. I mean, with the confusion that seems to be going on, that seems logical.

Ms. Ehlers: Mm-hmm.

Mr. DeVries: And certainly through your deliberations, if you make a recommendation you could recommend that that language be changed. I don't think that that'd be –

Chairman Easton: I know it's premature for us to ask you what the – how the staff would respond to our recommendations before we make them, but that's sort of implied here.

Mr. DeVries: Yeah, I think that making that change wouldn't be material to FEMA or NMFS.

Chairman Easton: All right, well, let's make a note of that. We'll come back to that later.

Mr. Axthelm: The other one was the – with the underground issues. It wouldn't be that they wouldn't be allowed, right? I mean, they still would be allowed.

Mr. DeVries: Correct.

Mr. Axthelm: It's just you want to account for things like, let's say, silt fence or erosion or reseeded. Does that make sense?

Chairman Easton: Things like that.

Mr. Axthelm: To prevent future issues. To make sure that you're cleaning up after yourself and reseeded it and putting it back to the condition that it was previously.

Ms. Ehlers: That's already required.

Mr. DeVries: Yes. The intent is to, through the assess – when assessment is required, the intent is to ensure that you don't do some harm in the construction process that will have an adverse effect. And if you are not going to do harm to that level during the construction, then the project's approved. If you are certainly further away, you may not even have to do that. But it's not limited to just erosion and sedimentation control.

Mr. Axthelm: So your proof could be simply saying that you're going to reseed and you're going to put it back to the condition that it was.

Mr. DeVries: It will – no. If you are in proximity that says – that requires an assessment, someone will have to assess all of the areas that might be impacted. If

you're outside that, then the scope of your work and what you're proposing to do through your checklist may be sufficient.

Mr. Axthelm: Okay. Thank you.

Ms. Lohman: I guess I'm hung up on the –

Chairman Easton: Annie.

Ms. Lohman: I'm sorry.

Chairman Easton: I asked – I said Carol could go next.

Ms. Lohman: Sorry.

Chairman Easton: That's okay.

Ms. Ehlers: Well, we're both hung up. I cannot see why you'd have to go through any kind of assessment to replace an eight-inch water line that's leaking with another eight-inch water line. I just don't see it. And that's what we think of as maintenance.

But let me get to the question I've been wanting to ask for the last half-hour.

Chairman Easton: Not from a lack of having a chance to ask!

Ms. Ehlers: You're right, but I've been following through.

Chairman Easton: Go ahead.

Ms. Ehlers: In the errata, appendix B, on page 5, it talks about the riparian buffer zone and there's an interesting measurement that I've never seen ever time before. Usually the 250 feet they're talking about is measured horizontally. But in this case, it's measured perpendicularly.

Chairman Easton: Is that in the form of a –

Mr. DeVries: That doesn't mean that it's not horizontal.

Ms. Ehlers: No, "perpendicular," according to the definition in the dictionary, is that which is vertical.

Mr. DeVries: Well, in the field –

Unidentified female voice: No.

Ms. Ehlers: Yes. I looked it up.

Mr. DeVries: – that I work in, if your stream is running north and south and you're measuring perpendicular, you're measuring horizontally east and west – perpendicular to the flow.

Unidentified female voice: Right.

Chairman Easton: The intention is to be 250 feet away from the stream.

Ms. Ehlers: Well, that's all right. I have visions of somebody trying to –

Chairman Easton: Not be 250 feet away?

Ms. Ehlers: I live on a cliff and, you see, perpendicular for me goes this way. And it doesn't go that way. Always before they have said, "measured horizontally" from it, from the ordinary high water mark or the edge of the creek. So this is why the language is different from what we have used the last many years.

Chairman Easton: I see.

Ms. Ehlers: But now I understand that it's meant in its own unique way.

Chairman Easton: Other questions for staff? Annie?

Ms. Lohman: Yeah. I'm sorry to belabor the public/private issue. What would happen if we just said "utilities," "above ground utilities"? Because then that would cover our Internet providers and cable companies and telephone that are definitely private. Would we jeopardize ourselves doing that?

Chairman Easton: Jeopardize compliance or something?

Mr. DeVries: I don't know whether – I don't know the answer to that. If that's what is submitted to FEMA for their review, they may find that acceptable or they may not, for their own reasons. But –

Chairman Easton: We're going to move on, off the public/private issue, and put a little flag there. I'm sure one of the three or four of us who've talked about it will bring it up when we actually get to the deliberational parts where we're not agreeing – probably not agreeing – with the Department's draft.

Ms. Ehlers: And we could put in a finding.

Chairman Easton: Yeah. Mary?

Ms. McGoffin: No.

Chairman Easton: Okay. Any other questions for staff before we delve into deliberations? Carol?

Ms. Ehlers: In 14.34, the Flood Damage Prevention, on page 3, it talks about –

Chairman Easton: What line are you on?

Ms. Ehlers: I'm on line 4.

Chairman Easton: Thank you.

Ms. Ehlers: Isn't it nice to have lines on these documents –

Chairman Easton: Yes, it's great. Go ahead.

Ms. Ehlers: – so you can actually refer to them? "...shall consider future conditions and the cumulative effects" of "anticipated future land use changes..." Now I can see thinking about future when you have a plan and you're talking about how it will eventually be implemented. I don't think we can plan and figure out what the future's going to give in – I mean, Kirk's trying for sixty years, but the future's a long time out. So are we talking immediate future? Ten-year future? Kirk's Envision Skagit future? I mean, how do I read this?

Mr. DeVries: The – I feel like I'm –

Ms. Ehlers: I'm not against it.

Mr. DeVries: – I feel like I'm being unnecessarily repetitive, but, again, the language is taken from FEMA's language. But what this section is referring to is that if the County decided that we were going to provide – we were going to perform our own study of, for instance, the Skagit River –

Chairman Easton: Okay, let – you don't need to – we don't need to do that. I mean, I'm not trying to cut you off but we are trying to move through timely-wise. I don't think we need to do that. Just saying that that's the language that you got from FEMA should deal with the Commissioner's question, but thank you for trying.

Mr. DeVries: All right.

Ms. McGoffin: Jason?

Chairman Easton: Mary.

Ms. McGoffin: Okay, this – you can make short order of this. So the same page – or roughly the same – page 5 – it would be line 11. It says, “Provided” – this is – you’re adding this. It’s in blue. Is that correct?

Mr. DeVries: Page 5?

Ms. McGoffin: Page 5 of your 14.24, Critical Areas –

Mr. DeVries: Oh, 14.24.

Ms. Ehlers: Oh, 14.24.

Ms. McGoffin: 14.24.

Chairman Easton: And you’re on line 11?

Ms. McGoffin: And I’m on line 11, the blue that you’ve inserted says that “...provided, that if the proposal is within the special flood hazard area...the applicant must demonstrate that the proposal is not likely to adversely affect species protected under the Endangered Species Act, or their habitat.”

Ms. Ehlers: Mm-hmm.

Ms. McGoffin: But aren’t they specifically saying salmon and Orca whales? Shouldn’t we just say salmon, Orca whales? Because –

Mr. DeVries: Well, I think that we’ve used that term throughout, but there wasn’t a specific reason that we used that language rather than something more particular.

Ms. McGoffin: Well, I mean –

Chairman Easton: Which raises an interesting question about whether we –

Ms. McGoffin: I don’t want to, like, do a blanket thing for every endangered thing. I mean, snails, whales, eagles.

Ms. Ehlers: That’s what the ordinance does.

Ms. McGoffin: I mean when all that they’re asking for – all that they’re asking for is the Chinook and the Orca.

Mr. DeVries: Right.

Ms. McGoffin: So maybe we’re giving them more than we need to.

Mr. DeVries: Possibly.

Chairman Easton: Let's come back to that in deliberations.

Ms. Ehlers: Well, and the Orca really aren't wandering around in freshwater streams.

Chairman Easton: Commissioner Ehlers, I'd like to remind you that I'd like you to let me recognize you first.

Ms. Ehlers: Yes, Commissioner Easton.

Chairman Easton: Thank you. We'll be travelling on the road later as a comedy duo. We'll announce our dates and times later. Any further questions for staff? So I just have one in – oh, I'm sorry. Dave, and then Josh.

Mr. Hughes: I've kind of been sitting here listening and I kind of was waiting for this one for towards the end. I know, you know, in your staff response, I believe it was to Randy, but I know Marianne brought it up, but are we jumping the gun? And I mean that in saying, What if we don't do anything now? Can a – let it go on option whatever it is to see how that goes and if it's too cumbersome then can we adopt something? Versus adopting something that's maybe more stricter than what we have to do? Because it's – I think we're all sitting here – or at least I am – are we doing something that maybe we don't have to do?

I know it's – I know there's – you know, they have that last section was their opinion of what you have to do, but, you know, there was – there's something in there that, you know, just are we? So are we jumping the gun on this? And, you know, I just want to hear it from you.

Mr. DeVries: Okay. My opinion? No, we're not jumping the gun. And the reason that I feel that way is because I do not believe that this is more onerous than the other path that we will automatically be under.

Chairman Easton: Commonly referred to as "option 3" or "door number 3."

Mr. DeVries: Right, a project by project approach. Because under such approach, with the exception of those few exceptions – or exemptions – from a floodplain permit that you can't amend, that there are no allowances that we've been trying to build in. And so I believe that door number 3 is a great deal more restrictive and will be a great deal more expensive on a per project basis. I can tell you that there are probably a dozen or so communities of the 122 floodplain communities that have already indicated that they will be under door 3, and all of those communities are ones – for instance, like in Skagit County, Anacortes, Concrete, Hamilton – that have very small floodplains and there's very few parcels affected by it and so maybe it makes more sense. But in all of the other communities where they have larger floodplains they haven't gone that route, and

I think that that general understanding is pretty consistent. So I don't feel like we're jumping the gun, but project by project and taking more time is – it's a path that could be followed.

Chairman Easton: Can you address the first part of his question, Tim, that was more along the lines of, Is it possible for us to choose not to meet the deadline? Obviously in our case we would just recommend that to the Commissioners; assume for a second that they took that action; then six months from now, six years from now, we come back and say, You know what? This project by project option 3 is not working. We want to propose something like what we've got in front of us now. Is that – is there allowance for that?

Mr. DeVries: Absolutely.

Chairman Easton: Okay, I just want to make sure we're clear.

Mr. DeVries: Yeah, we're automatically under door 3 until we have submitted something –

Chairman Easton: But by choosing door 3 – I just want the public to be clear – by choosing door 3, by not – if we made that choice, if the Commissioners made that choice –

Mr. DeVries: Right. Right.

Chairman Easton: – it doesn't preclude us from later coming back –

Mr. DeVries: Nope.

Chairman Easton: – and doing our own approach, like what we're dealing with tonight as a proposal.

Mr. DeVries: Yeah, it doesn't preclude that at all.

Chairman Easton: All right.

Ms. Ehlers: Hmm.

Chairman Easton: Matt?

Mr. Mahaffie: Tim was about to say something and I... just to be clear, even if we finish this tonight and it gets forwarded – door number 3 – until it's reviewed and approved by FEMA we're still under that and we may be for a significant amount of time.

Chairman Easton: That's a good point of clarification.

Mr. Mahaffie: So I –

Chairman Easton: So September 23rd might be *our* deadline, but it's definitely not FEMA's deadline.

Mr. Christensen: Yeah, we may by default have a trial period anyway under door 3 option.

Chairman Easton: Have they given you any timeframe about how long they think they're going to take to respond?

Mr. Christensen: Well, there are – and Tim knows better than I – we just saw an updated list where we know there's more than one now that are approved. Typically those are jurisdictions that have either chosen 1 or 3. Those that are pursuing 2, it's a much more deliberative review process. We've been getting encouraging comments from the Corps through our consultation process, but I would suspect that many of these jurisdictions who are choosing path 2 are going through a process of trying to find a program that's going to work for them. And no two are alike. And, as a result of that, it's going to take FEMA and NMFS some time to review the something less than 122 that probably all will come during the month of September.

Chairman Easton: So we could be number 7 in line, we could be number 70 in line.

Mr. Christensen: Yes.

Chairman Easton: Josh, do you have something? At this time – seeing no more questions for staff – it doesn't mean we can't ask them later – but does anybody wish to recall a witness or somebody who testified or wrote, for any clarifications or questions about their public comment?

(silence)

Chairman Easton: All right. Seeing none, I have a bit of a scheduling challenge I want to propose to you all. A number of people have come tonight expecting to address an issue at seven o'clock that – and I know we're a long ways away from being finished with this – or particularly could be a ways away from being finished with this process. Is the Commission agreeable to just sort of table this for a moment and to deal with the issue in relationship to the code amendment? Just the code amendment workshop around/concerning the Burlington-Edison School, so we can respect their time? Is that agreeable? All right. Well, we'll do that then and we'll come back to just – and then we'll actually go right into straight – into deliberations on this when we come back to it.

So at this time we'll recess for one minute while the staff switches places and gets prepared for that curve ball I just sent them. Thank you. (gavel) We're in recess.

(recess)

Chairman Easton: I call this session of the Skagit County (gavel) Planning Commission back to order. The issue – we’ve tabled our issue concerning the Flood Damage Prevention Ordinance deliberations temporarily to honor the twelfth birthday of Mrs. Browning’s daughter – I presume? – yes, and a birthday party she needs to get to. So thank you.

Carly will give us a brief introduction to just the code amendment as it relates to the School District and then I’d like to give the Superintendent a chance to comment. Carly?

Carly Ruacho: Thank you, Chairman Easton.

Chairman Easton: By the way, this is a work session, not a public hearing. This is a work session. Go ahead.

Ms. Ruacho: We are here tonight, as you just stated, for a work session on some possible code amendments. We’re calling them Version 2. We – as you remember, I’m sure, fondly the – what? 98, I think – code amendments that we did earlier this year.

Chairman Easton: Give or take.

Ms. Ruacho: Give or take. And what we have before you tonight are two. We’re focusing right now on just the specific ones that relate to school siting within the Bayview Ridge urban growth area, specifically the Bayview Ridge Residential zoning district.

So I presume you’ve all got in front of you the proposed code amendments. And, again, by “proposed,” it’s not the normal sequence where they’ve already been put out for public comment. This is a pre-release discussion with you, so these are possibilities. You could propose and recommend to the County Commissioners, you know, some changes; you could add to or – we still have time before we release. Ultimately the County Commissioners will be the body who puts out for public comment whatever code amendments they desire.

What we’ve got before you tonight are amendments to one section but it relates to four concerns that the School District had. Specifically, as we just move through them:

- Locating on the outside edge of Safety Zone 6. That provision is recommended to be removed, at their request;
- A change in the open space language. There would still be an open space requirement but it would read differently; and then

- A change to the height restriction. So the general height restriction is a maximum 40 feet and we're proposing here to add an exemption for schools to allow them to go to 55 feet, which is what they've indicated they need for their schools.

So we've proposed this, we have forwarded this to the Burlington-Edison School District – which is the school district this applies to – and we've received comments. You have copies. You had copies e-mailed to you yesterday and then you have a hard copy provided to you there. And reading just an excerpt from Superintendent Browning's letter is that: "We are comfortable with the changes you are recommending for Planning Commission consideration."

So they have indicated that this addresses the previous concerns. The remainder of the letter outlines some new concerns, or what they call "four subjects," that they would also like under consideration. These are new issues that they hadn't brought forward previously so they're not included in this round, but we certainly – as I said – we can discuss that tonight.

Chairman Easton: Okay.

Ms. Ruacho: And Laurel is here, you know, to address you if you want that, as well as, I think, some other representatives.

Chairman Easton: Great.

Mr. Christensen: I might add, if I may –

Chairman Easton: Yeah, sure.

Mr. Christensen: – before we hear from the School District, that the proposed code changes for the Residential zone are similar, if not identical, to those which you did for the Community Center zone.

Chairman Easton: Good point of clarification. Thank you. Superintendent? Thanks for joining us tonight. As Carly indicated, you've sent us a letter and we have all received it. It's in front of us. I just wanted to give you a chance if you wanted to address us. We're trying a – you're sort of our guinea pigs a little bit – we are trying a new form of working together with the work session side of what we do. So this actually hasn't gone out to public comment and we can still, between the three of us – the three entities here – work on some of these other suggestions that you've brought forward. So there's not a hard and fast inability for us to discuss other things.

But it seems that your team, as I've read this letter, has found that they are in agreement with some of the – with the changes –

Laurel Browning: Correct.

Chairman Easton: – that were proposed, but they found some other things that they feel like need to be addressed if we're going to hopefully close the door on this section of relationship code juggling and dancing that we've been doing.

Ms. Browning: Yeah, we appreciate the time to be here. I've asked John Ravnik to specifically go through the four areas – and we are comfortable with the modifications that came back in your proposal, and that was significant for us. And I thought John could come up and –

Chairman Easton: Great.

Ms. Browning: – go through four areas. That's his areas of expertise. So –

Chairman Easton: Excellent. Mr. Ravnik?

Ms. Browning: – is that acceptable?

Chairman Easton: Thank you. John, don't take too much time to address what we've already seen in writing.

John Ravnik: No, I won't.

Chairman Easton: But if it can help us understand –

Mr. Ravnik: I won't.

Chairman Easton: I'm more interested, to be honest – to kind of help you get started – in these four. Do you believe these to be, you know, more clarifications and aligning of the code, or are these substantially new issues that haven't been dealt with?

Mr. Ravnik: No, I think they're clarifications. Respectfully to staff, I wouldn't ever try to understand or remember every little nuance in every single code.

Chairman Easton: That's what Carly's for!

Mr. Ravnik: Well, and they do a heck of a job.

Chairman Easton: That's right.

Mr. Ravnik: I mean, talk about sifting through and trying to keep things organized and managed.

Chairman Easton: Sure.

Mr. Ravnik: And if it was one or two encyclopedias, but this is ten or twenty.

So real quickly on those: Subject #1 was the application to future PUD regulations. And that comes out of the BR-R code, and it talks about PUD “regulations are required for construction of 5 or more units within 1 legal lot of record or” – which is my emphasis here – “for residential land divisions when 5 or more building lots are proposed.”

Now everybody recognizes that it’s important to have schools in the vicinity of residential areas. And it would not be uncommon in any way for a school parcel – it could be 12 to 15 acres – could be created by the simple residential land subdivision process. Okay? Rather than doing individual subdivisions, a party could go in, create residential lots, and also create 15 acres off to the side if it has already been negotiated with the School District. That, in turn, causes the school site to be subject to the PUD regulations, which, in turn, don’t exist today. And school sites take three or four years, if they’re done very efficiently, to locate, negotiate, acquire, bond, site design, develop. There’s a lot of things that happen in there.

And so simply eliminating the ambiguity of having the school site potentially subject to the PUD regulations is our Subject #1. I don’t think that’s the intent of staff – is that a school site would be subject to it – and so we have brought up the matter and we have provided you a solution at the end of Subject #1 paragraph.

Chairman Easton: Any questions about Subject #1?

Mr. Ravnik: It’s more of a housekeeping element to all this.

Chairman Easton: Subject #2?

Mr. Ravnik: #2. We’re talking here – again, we’ve got a huge variety of codes. And as we make modifications to one code and other codes that may state the exact same thing, it’s just a housekeeping issue. What’s interesting in the Airport Environs Overlay, they require that schools and churches – nothing else that I can find – “shall include or abut a permanent open space.” Now I don’t know what relevance that has to the function of a school or a church, but because of the changes that are being made to the BR-R code that staff has done, where they have eliminated that and modified that particular language to – instead of stating the proposed site includes or abuts open space, staff’s recommendation, which the School District does support: “At least 25% of the proposed site will be permanent open space” – comma – “playfields” – comma – “or other active recreation areas.”

Our subject on #2 was simply consistency in code. I’m not questioning the relevance. I’m just saying, Let’s be consistent. If we’re going to change the BR-R, let’s apply it to the AEO.

Chairman Easton: Okay. And that's an overlay in this case that needs – would – right? You're talking about the Airport *Overlay* that should be adjusted to match the BR-R?

Mr. Ravnik. Yes, I am. Correct.

Chairman Easton: Okay.

Mr. Ravnik: Correct.

Chairman Easton: Any questions on Subject 2? Subject 3.

Mr. Ravnik: Subject 3's a rather unique item. I have to admit that I have not run across it in the past. This is in a rather short ordinance, Bayview Ridge Urban Growth Area. It speaks that a property owner and a development must have – must construct – drainage facilities, detention, water treatment, runoff treatment. We all have to abide by that.

Chairman Easton: Sure.

Mr. Ravnik: Not a problem. When you're within the Bayview – or for any property in the UGA – the code also states: "In addition, as a condition of development...on the subject property, and for all property in the UGA owned by the same owner, the owner shall sign an agreement not to protest a future LID or other pro rata" share "of costs to upgrade...surface water management system or install additional urban standard stormwater management improvements within 20 years, if such are determined necessary as part of surface or stormwater management standards in the Subarea..."

Boiled down this is kind of a confusing statement. If I do a development and I build a detention system and runoff treatment – all per the current standards – and I'm vested to that, and fifteen years down the road the Department of Ecology changes the regulations, I don't have to change my system. But I'm being told here that if Skagit County – or if it's a City regulation at the time – or a City jurisdiction – I'm going to have to be on the hook – and I can't disagree – for having to kick in my pro rata share to an unknown quantity of an unknown extent of drainage improvements for twenty years in the future. That applies to everybody up in the Bayview Ridge. It's not singling out the School District. So I'm bringing it up (as) more of a point of attention that if somebody hasn't brought this to your attention in the past, I'm surprised.

Ms. Ehlers: They haven't.

Chairman Easton: Okay. Any questions on #3? Remind folks, John, what "LID" stands for. We're trying to – we're trying, as a group, to be a little more proactive in not using as much acronyms.

Mr. Ravnik: Low Impact Development.

Chairman Easton: Thank you.

Mr. Ravnik: Okay.

Mr. Christensen: Local Improvement District.

Mr. Ravnik: It could be in both cases, yeah.

Chairman Easton: So which one is this one referring to?

Mr. Ravnik: This would probably be a Local Improvement District, wouldn't it, Gary?

Mr. Christensen: Yes.

Mr. Ravnik: Yeah.

Chairman Easton: Okay. Even better: Explain the acronyms that are double-used!

Mr. Ravnik: Yes.

Chairman Easton: Perfect.

Mr. Ravnik: Yep. Then item #4, Clarification of Uses. In the District's consideration – and they haven't entered into any negotiations, formal or informal, really with anybody – they've looked at areas of Bayview Ridge for school sites. That study examined four sites, as provided to staff.

I could not find an outright allowance for what one can do in the 4S zone. And one of the sites investigated has the school building out – I think it's in Bayview Ridge Residential – outside of the 4S zone, but it doesn't specifically address whether I could have structures in it. Not structures for a building, but if I put up a backstop that's more than four feet high I have to get a building permit. Now I have a structure.

So to avoid the excitement of the School District possibly being able to site at a home, but then to be told, No, you can't have congregations of kids in a 4S zone or No, you can't have a structure, it's like buying dancing shoes without any heels on them. It just doesn't quite cut it.

So it's a request for clarification. It's a request because I know that staff and the District have worked closely in trying to make sure that something fruitful can happen when the District needs to to the extent that we can eliminate whatabouts, we're doing our job.

Chairman Easton: Any questions about section 4?

Ms. Ehlers: well, it would help if we knew what section 4S meant.

Chairman Easton: I'm sorry – yeah, *Subject 4*. You –

Ms. Ruacho: It's a safety zone in the Airport Environs Overlay.

Mr. Ravnik: Yeah.

Ms. Ruacho: It's one of the zones.

Ms. Ehlers: I know that, but that doesn't tell us anything real in terms of land or –

Ms. Ruacho: We have the table for you to look at later.

Ms. Ehlers: So we're not supposed to talk about it tonight because –

Mr. Ravnik: Well, if you go to the 4S zone in the Airport Environs, it talks about "Existing residences and residential lots allowed to be replaced, built and/or created; provided that newly created residential lots are to be based on a 1 dwelling unit per 2-acre density." And then also, "Industrial development allowed with a maximum structure size of 100,000 square feet with no air emissions that obscure visibility."

And I think I'm reading the table correctly.

Mr. Christensen: Mm-hmm. Yeah.

Mr. Ravnik: So I allude to anybody.

Chairman Easton: I understand.

Mr. Ravnik: What can I do in the 4S zone.

Ms. Ehlers: Um –

Chairman Easton: You want to see what, Annie? Hang on, Carol.

Ms. Lohman: Can we put it so we can see it?

Ms. Ruacho: You want to see it?

Chairman Easton: Yeah, you want to – John can do it. Just put it on the overhead.

Ms. Ehlers: Is there a map someplace so that we can see where we're looking at?

Mr. Christensen: Yes.

Ms. Ehlers: To do planning just on the basis of words is not very practical.

Mr. Ravnik: Help me out. I'm a dinosaur at this kind of stuff. Thank you.

Chairman Easton: So this is what you just read, John?

Mr. Ravnik: Yes, that's correct.

Chairman Easton: Carly, to Carol's question about a map, is there anything handy? I realize that we're all kind of trying to figure this work session thing out here, but...sending you back and forth across the room...

Ms. Ehlers: Because –

Chairman Easton: While we're waiting for the map, are there any other questions for Mr. Ravnik?

Ms. Ehlers: Yes.

Chairman Easton: Carol?

Mr. Ravnik: Yes, ma'am?

Ms. Ehlers: I have heard –

Mr. Ravnik: Uh-oh.

Chairman Easton: Oh, boy. We're staying on the topic, though.

Ms. Ehlers: – it's the school siting; we're staying on topic – that there are pipelines close to this proposed school site – petroleum pipelines. How close?

Mr. Ravnik: In relation –

Chairman Easton: There are four potential sites.

Mr. Ravnik: There are four potential sites that we have – the District has asked me to look at.

Ms. Ehlers: Well, that's better than what we planned a long time ago. That's good.

Mr. Ravnik: Okay. And on the fourth site relative to the BR-R, which led to my question of the 4S zone, there isn't any pipeline in that vicinity. Okay?

Chairman Easton: Okay. Thank you.

Mr. Ravnik: To the subject that we have been talking about, there is none.

Chairman Easton: All right. Carly, do you want to go ahead and show us the – is there a question?

(silence)

Chairman Easton: All right. Carly, do you want to show us the map? Ah, yes. Awesome.

Ms. Ehlers: We don't need the western end of the site. Give us the eastern end.

Chairman Easton: She's going to – give her a second – she's going to pull it in.

Ms. Ruacho: Just so people watching on TV or people in the audience, this is the general vicinity of the Bayview Ridge Urban Growth Area and these – this outer dashed line, kind of a rectangular shape, is the extent of the Airport Environs Overlay, what we've been referring to tonight as the "AEO." The little yellow circles you see indicate the different safety zones. Some of them are duplicative and they're – I'll show you now what we're talking about. So what we're talking about right now is this zone that is the skinny rectangular shape. It's located here and it's located again over here. That's the 4S zone.

So I think what Mr. Ravnik is discussing is that this parcel here is designated BR-R and you can see that the safety zone 4S kind of juts into it a bit. So it's located in two safety zones: safety zone 6, which is this here which most of the language in the code addresses safety zone 6 for schools, and then there's this portion that is located in 4S that is this Bayview Ridge Residential zone that we're dealing with tonight.

Chairman Easton: Okay.

Ms. Ehlers: And the fire hall is located where? The fire hall on Peterson Road.

Mr. Ravnik: To the west, Carly.

Mr. Hughes: A little less – right there. Down. Right there.

Mr. Christensen: Right where that line comes up. A little more to the right, or to the east – no.

Chairman Easton: Josh has a question.

Mr. Axthelm: What happens in that dashed line area? What's that designated for?

Ms. Ruacho: It's an overlay zone so it's similar to a zoning district where you find your zoning district in the zoning code and it has a series of allowances or restrictions or regulations that pertain to it. So when you are in the situation where you have an overlay you have your underlying zoning district that you need to comply with and then you have basically a secondary one that can come with its own unique regulations.

Ms. McGoffin: So I'm looking at –

Chairman Easton: Mary.

Ms. McGoffin: I'm sorry.

Mr. Axthelm: It's the hazard. What hazard is –

Ms. McGoffin: What hazard?

Mr. Axthelm: – is in that?

Ms. Ehlers: Airplane.

Ms. Ruacho: It's an air – yeah.

Mr. Christensen: Principally –

Mr. Axthelm: I understand.

Mr. Christensen: Yeah. Principally –

Chairman Easton: I think we understand that it's airplanes. I think he's looking for something more specific.

Mr. Christensen: The "S" stands for "short" – for short runway; "L" stands for "long." So you'll see going from kind of southwest to northeast is the short runway for the Port. The longer runway is going from northeast to southeast. And typically the closer to the runway, or what they call the "departure" and the "arrival" zone, is where there's a higher possibility or risk of an accident. So as you get closer to the actual path of landing or takeoff there's more restrictions with regard to buildings and structures and so forth. The further you get from those areas, which would be represented as zone 6, there are less requirements.

Chairman Easton: All right, I have a question for staff, for Carly. I realize that you received – according to the stamp, this was received on the 27th of July and you've been on vacation – congratulations.

Ms. Ruacho: Thank you very much.

Chairman Easton: So and I realize, like you said, we're all trying to work through this new process of trying to do a televised work session while we're all here together. Does the Department have any sort of response to these additional thoughts yet? Or, you know, input to help us? I mean, they seem – I just want to – on the surface – I'll only speak for me – they seem, you know, reasonable. I'd say three out of four seem reasonable. I'm a little concerned about – to be honest – I'm a little concerned about Subject 3. But I find that at least three out of the four seem very reasonable. And I'll go into that in a little bit. But the – because it's more – I'll just say this: 3, Subject 3, has a lot more significant impact, if we were to address that, outside of what the Commissioners believe work product-wise we're working on. Not that there aren't things that we could do to improve. I'm sure there are things we can do to improve the code in Bayview.

Ms. Ruacho: Sure.

Chairman Easton: But it seems a bit outside of what we had been discussing. And Mr. Ravnik noticed us about that, or mentioned that. So what are your thoughts so far?

Ms. Ruacho: Yeah, I mean, we've definitely reviewed their comments. We've reviewed them pertaining to the code, and we're ready to discuss tonight with you our thoughts on their suggestions and, you know, what we think about them.

Chairman Easton: Okay.

Ms. Ruacho: Yeah, we're ready to do that.

Chairman Easton: So why don't we do that? Unless there's something else we need to do?

Ms. Ruacho: Do you want me to leave this map up, take it down, or –

Chairman Easton: I think that that would be helpful probably.

Ms. Ruacho: Okay.

Chairman Easton: And Carol thinks so, too.

Ms. Ehlers: Carol *really* thinks so but –

Chairman Easton: Carol goes third person and says that she thinks so!

Ms. Ehlers: – the map also illustrates something which we did. We discussed this entire plan without ever bringing up anything about petroleum pipelines.

Ms. Ruacho: That is true. It does not mention ___.

Chairman Easton: You're talking about the actual Bayview Ridge Plan?

Ms. Ruacho: The actual urban growth area.

Chairman Easton: Urban growth area.

Ms. Ehlers: Nobody mentioned them.

Chairman Easton: John, would you stay there? Because I actually think we're going to need you as we do this.

Mr. Ravnik: Okay. Thank you.

Chairman Easton: Thank you. Carol, are you finished? Okay.

Ms. Ehlers: Well –

Chairman Easton: Mar – I don't mean finished like – we'll get back to you. I just thought you were still talking! Okay, Mary. That was awkward.

Ms. Ehlers: ___ brief.

Ms. McGoffin: Mr. Ravnik, the parcel that has the 4S overlay, is that, like, the top of your four choices?

Mr. Ravnik: There has been no prioritizing at all.

Ms. McGoffin: Okay, you just want to know what you can do with it before you decide.

Mr. Ravnik: Yes. If, for instance, we were told no, you cannot have a playfield or a structure as a backstop out there, that would be very, very good guidance –

Ms. McGoffin: Okay.

Mr. Ravnik: – to the School District.

Chairman Easton: To help make your decision. Basically you haven't actually – these are just potential things – you haven't actually done any criteria work to boil these down or to place them in any sort of order.

Mr. Ravnik: You're exactly correct.

Chairman Easton: These are four random parcels, or parcels that look like they might work?

Mr. Ravnik: Literally.

Chairman Easton: Literally. All right. Carly, can you start with response 1 – or section 1 – Subject 1, and what are your thoughts on that change that's being proposed, or suggested?

Ms. Ruacho: We could take it that way, or I might suggest that we take it the easiest first and maybe dispatch a couple easy ones, and then take some harder one, if you want to do it that way.

Chairman Easton: Okay, whatever way you want to do it.

Ms. Ruacho: All right, well, let's move to Subject 2, then.

Chairman Easton: Subject 2.

Ms. Ruacho: So with their comments regarding the language being found in the BR-R section relating to open space and then being found in the AEO table, we would agree that that's the same language and that it would be beneficial to have the language changed in both areas. So, easy; like John indicated, housekeeping. We do want to maintain consistency wherever possible and we think that would be a good change to include in this.

Chairman Easton: Okay. This *is* a work session, so before we leave that subject behind if any of the Commissioners wish to comment on it again or disagree, please do. Carol?

Ms. Ehlers: I'd like to agree because this follows through with the concepts that we talked about.

Chairman Easton: Yeah – consistency. All right. And where will you take us next?

Ms. Ruacho: We will now go to Subject #4.

Chairman Easton: Okay.

Ms. Ruacho: And with Subject #4, as John indicated, it's really a request for clarification from the School District. They're not requesting a change per se, so it's nothing that they would specifically want action through your process. And we would agree that we don't see in the AEO table – the way the table is constructed it really is a list of restrictions or prohibitions, and so we don't see these items that they've indicated, which are backstops, playfields, playfield equipment and drive lanes. We don't see that

they are prohibited or restricted. What we would want to do is we would want to consult with the Port regarding their FAA requirements for a safety zone 4S and receive their comments on these four items that they're seeking clarification on, and then get back to the School District with the Port's comments and, you know, our interpretation there. And that's something that we can certainly do.

Chairman Easton: So my only concern about taking that approach is that we'd be right back here again if somebody else wants to buy that piece and doesn't know what can be or can't be done. I mean, you're going to consult one potential owner but you're not addressing – I mean, we literally have one piece of 4S and that's not only on – that's not the only – you showed us it's on two ends actually. And there's actually even a larger – some larger parcels down – one large parcel down on what would be the – what? What direction am I looking?

Mr. Mahaffie: Southeast.

Chairman Easton: The southeast. So if we don't –

Ms. Ehlers: In the Bayview Industrial.

Chairman Easton – so if we don't – if you don't actually codify – I mean, all the – isn't it true that all the other overlay sections are more clearly spelled out? What's allowed, in relationship to this question?

Ms. Ruacho: Well, like I say –

Chairman Easton: Or am I misunderstanding that there are some?

Ms. Ruacho: The way the table works for the safety zones is that it provides for restrictions and prohibitions. So the things that they've called out, they're wanting additional clarification that they're clearly not restricted or prohibited per the code, in our opinion.

Chairman Easton: Oh, in your opinion. Thank you. That clarifies it enough for me. Any other questions about that? Elinor.

Elinor Nakis: Well, I just want to make a comment that the map is real clear to me that let the buyer beware that planes are going to be flying right over that playground and – or if that was a site that you chose, I mean, that's not – that could be a potential dangerous situation or it just could be a noisy hazard _____ playground, you know?

Chairman Easton: Sure. Obviously the District's going to consider all the safety issues as it relates to the District. Josh?

Mr. Axthelm: And this is just my comment – is it considering the safety of the kids? It would seem to me to be the most important. And if this *is* an area that is a hazard area, I would suggest that they consider that.

Chairman Easton: So it doesn't – there's no need for any additions or action then on Subject 4. It's just a conversation then between yourselves and the District – the staff and the District?

Mr. Christensen: And the Port.

Ms. Ruacho: And the Port.

Chairman Easton: And the Port. All right.

Ms. Ruacho: If we found through that conversation with the Port that the table indicating the restrictions needs more clarification, then that's something that we can go forward with. But we need to have that conversation with the Port first. Right now we have –

Chairman Easton: Sure.

Ms. Ruacho: – basically two restrictions in the 4S zone and if there need to be more, based on FAA regulations or for the safety of, you know, that runway we could propose that. But we need to have that conversation first.

Chairman Easton: So is there consensus amongst the Commissioners then to ask the Department to have that conversation with both the District and the Port and then to – if a clarification's necessary, to come back to us with that sort of code amendment – as basically a code amendment that would be under *our* request? I mean, other people get to request code amendments. I guess we can sort of make that suggestion.

Mr. Christensen: Yeah, I –

Chairman Easton: Let me see if I have consensus before you comment on it.

Mr. Christensen: Okay.

Chairman Easton: It might moot.

Mr. Christensen: Yep.

Chairman Easton: Are you comfortable with what I just – do I need to restate it?

Ms. Ehlers: I would like to be sure that the FAA agreed to these things.

Chairman Easton: Isn't the FAA automatically involved because this is – the overlay is a work product of the FAA?

Mr. Christensen: It's probably a better question for the Port to address. But we really defer to the Port, and that's why a conversation with them –

Chairman Easton: – makes sense.

Mr. Christensen: And what we can do is we can have that three-way conversation before the proposal is ready to hit the streets.

Chairman Easton: Excellent.

Mr. Christensen: So we'll be ready.

Chairman Easton: Perfect.

Mr. Christensen: If we need to address it, we can; if it's good to go, it's taken care of.

Chairman Easton: Great. And if it's good to go, can you just make a note of it in the staff report?

Mr. Christensen: Sure.

Chairman Easton: So we see a paper trail that it actually got wrapped up.

Mr. Christensen: I think it seems reasonable.

Chairman Easton: Okay.

Mr. Christensen: We really defer to the Port.

Chairman Easton: Excellent. No, that makes sense to me. Carol?

Ms. Ehlers: This map makes it much clearer than I remember which of the runways will be the main runway. It's fairly obvious *why* this is the main runway – the one that starts over here at the corner of Farm to Market and Josh Wilson – because that's where the empty space is. But I don't remember that it was mapped out this clearly before. The person who showed me the touch and go pattern for the airport showed me it when the two runways were the same. And I now – having seen the testimony – understand why he didn't testify as to this because he'd have been killed by some of his neighbors. But he talked about the pattern where you take off on the one runway, you circle around, and you land on the other one. It's repetitive, again and again and again.

There was a comment from an Air Force pilot that there was no danger, but I'm not worried about an Air Force professional pilot. I'm worried about the guy learning. And there was on television an airplane that landed flat on a grade school. And there was a big to-do about it. It looks to me as though the way this pattern is from these runways that you might have a different touch and go pattern than what was shown to me, and from my experience living under two airline patterns here in this county you want to avoid having something like a school that is under one of these. But you can't tell from this map or your selection of your four which this might want to be. It might turn out to be that it's the touch and go pattern.

Chairman Easton: Correct.

Ms. Ehlers: So be sure that since we can't – we can't tell from this, but it is a safety and a noise issue. Please make sure that you pay attention in your final selection of this both the elevation, in terms of the plane running into it – I'm talking about inexperienced pilots that hardly have control of the plane and are scared spitless. That's one of my major concerns.

Chairman Easton: Okay. I look forward to hearing back from the Department about the ongoing conversation – the conversation you'll have with the Port and the District.

Carly, you've left two other subjects to cover. Which direction are we going, 1 or 3?

Ms. Ruacho: Why don't we go back to 1?

Chairman Easton: Number 1.

Ms. Ruacho: So this is the District's request for a language change regarding PUD regulations. Our thoughts on that would be that we probably wouldn't recommend seeing a change in the language at this point. The PUD regulations are in development. They're not yet developed. There will be an opportunity for the District to engage in the process of developing the PUD regulations to make sure that whatever standards are developed meet their needs. But the schools probably will be spoken to in the PUD regulation because we do anticipate a school there to be planned as, you know, as a unit for the whole vicinity. And so there'll be that opportunity for them to engage in the process as we develop it and then ultimately the legislative process that we always, you know, go through if, indeed, what we do propose doesn't meet their needs. But at this point putting in the language as suggested would virtually be an exemption from any PUD standards that come out of that process, and we feel like it would probably be best left to that process to address any concerns.

Ms. Ehlers: Why?

Chairman Easton: I'm going to go first and then we'll probably go to John and then Carol and probably Carly. A PUD in some ways is almost like an overlay. It can be

done in different places inside of a zone or in different zones, okay? By including language that – by including school planning inside of a PUD plan, does that make Skagit County unique in how they're dealing with their PUD ordinance? Because it seems that – my experience with PUD ordinances has been that they don't usually work into the school – or at least the ones I'm experienced with. I might be wrong, but my memory is that you don't usually see PUDs address school siting, that that's usually dealt with in the original zone. The PUD is now sort of – I know it's not technically an overlay, but it's similar. That's an additional level of development requirement. Director?

Mr. Christensen: Yeah, let me try to address it. This is a work in progress.

Chairman Easton: I get that.

Mr. Christensen: You know, so we're trying to figure it out as we go. But, yes, your characterization of what a PUD or a planned unit development is – it can really take on a lot of different looks. Bayview Ridge Subarea Plan does talk about a mixed use planned unit development so that could have applications for commercial-type uses, perhaps with commercial on the lower level and residential on top – I mean some of the things that we've heard about with walkable, livable communities.

So I think it really is somewhat similar to a large master site plan up there, which is going to look at a wide variety of land uses, both Commercial-Residential and perhaps Light Industrial, as well as public facilities. We have a fire station up there. There may be a community center or other kind of community parks, which all could become a component of the planned unit development ordinance.

So there have been drafts drafted, but certainly nothing that is ready in any shape or form. But I think what we really want to try to do is preserve as many options in that process by not necessarily exempting not just schools but other public facilities or commercial uses.

Chairman Easton: Okay.

Mr. Christensen: They all need to be considered, I think, under that giant umbrella, and there would be a legislative process for that. So if there was objections to whatever standard or guidelines that might come out there certainly would be an opportunity to raise those issues then.

Chairman Easton: Okay. Before we finish around the – there's many of you –

Mr. Hughes: Mine's just a follow-up.

Chairman Easton: Okay, I'll be back to you in a second. Superintendent, I know you need to get going. Whenever you need to go – I think we're done with the questions for

you. Thanks for providing your staff and consultants with us, and we'll keep working through this – if you do need to go.

Dave, you wanted to do a follow-up?

Mr. Hughes: Just quickly.

Chairman Easton: Then I'll come to John and Carol.

Mr. Hughes: Whether John or – you know, we're talking an instance of an ordinance being developed. I don't want to see the School District to get in a situation like they did on Peterson Road and have a deadline to buy some property then all of a sudden a PUD ordinance says, Ah, we've got this problem. This land is – we can't build a school there. Now maybe you could comment to that.

Chairman Easton: Maybe you don't want to.

Mr. Hughes: Well, do you get my gist here?

Mr. Ravnik: I do. You're exactly correct. Most of the time a PUD is applicable to a residential type of an atmosphere. To have multiple landowners in the Bayview Ridge and to consider the concept of there being a master plan is probably not logical because you have different people with different dreams. What's logical is to have a set of standards or a set of codes that your community supports, rather than saying that we can create a basket that everybody's going to ____.

Chairman Easton: I don't think that's what the Director was saying. I think the idea – remember it is true that this particular PUD does call for mixed use so –

Mr. Ravnik: Absolutely.

Chairman Easton: – you just clarified it as being in Residential but it – there is a possibility that you could end up in the PUD – you could end up looking at a piece of property that is part of a PUD that is not just Residential, that is Residential and Commercial, right?

Mr. Ravnik: That's correct. And I wasn't implying that this particular PUD didn't have Commercial.

Chairman Easton: Okay.

Mr. Ravnik: I said most of the time PUDs are centered towards Residential. It's difficult having four or five years to open the doors up on a school.

Chairman Easton: Right, and not have this stuff set down ____.

Mr. Ravnik: Exactly.

Chairman Easton: So what's the work plan – I'm sorry; I will get to you, Carol – what's the work plan sort of – what's the work – because that's not something – I don't believe we've discussed yet what the work plan – how the work plan approaches – the Department's work plan approaches the PUD ordinance.

Mr. Christensen: Yeah, that's a good question. I'm certainly sympathetic with the School District wanting to have some kind of certainty or assurances built into this process.

Chairman Easton: Sure.

Mr. Christensen: They don't want to go down any kind of site selection process only to find out at the end it can't happen. So we look at this PUD process as really engaging a number of stakeholders. What I can say is that we have spent a good part of this year working with principals, property owners, the Port of Skagit County in developing a scope of work which will provide kind of the next steps forward. And that is close to being finalized. And I think with that both the School District and others who certainly have a vested interest will probably have greater assurances and maybe some more certainty as to what the timeline is in the process.

Chairman Easton: And I realize that clarifying these things that are in front of us plus the PUD ordinance really does finish the work for the most part at Bayview.

Mr. Christensen: It's the final phase.

Chairman Easton: It's the final phase. So are we talking – I'm just being simple-minded here – are we talking – in your best opinion, are we months away or are we a year plus away from a PUD ordinance?

Mr. Christensen: Don't hold me to this. It's a guess.

Chairman Easton: I understand that.

Mr. Christensen: I'm going to say that it's possible in six months.

Chairman Easton: Okay.

Mr. Christensen: Now, you know, there could always be wild cards –

Chairman Easton: Of course.

Mr. Christensen: – and other things, but I think everybody who has been working on this scope of work – the Port, property owners and the County – are interested in making this happen as soon as possible.

Chairman Easton: Okay.

Mr. Christensen: So there's a –

Chairman Easton: I better go to Carol because I – I have to go to Carol because I made her wait so long. So, Carol?

Ms. Ehlers: Thank you. I think you're right to not want to be tied down to an individual PUD plat, because I think that constrains you in ways that's not quite reasonable, especially if this PUD goes in the direction of a homeowners association which would further tie you up.

Chairman Easton: Those would be fun meetings to be at.

Ms. Ehlers: From my experience, the homeowners association thing is where you create a situation that you don't know how to handle something, you give it to a bunch of naïve people to deal with and let them fight it out. I think it's the invention of the devil, but...I would like to keep the school system out of something like that. So I think you've expressed your opinion here in a way that's crucial for that kind of development. I just don't – whenever you do the PUD, I don't want the state law to be honored in reverse. If you cannot put a pipeline next to a school or you cannot put a pipeline next to high density, then you should have no business putting a school or high density closer to the pipeline than the pipeline may do it. It's WAC 480, either 75 or 93. So keep that one in mind.

There is a problem with this marvelous concept of housing over residences.

Chairman Easton: Okay, I think that's out of order, and we're not discussing –

Ms. Ehlers: They're very noisy.

Chairman Easton: – we're – Carol, are you finished with your comments?

Ms. Ehlers: In this instance. Thank you.

Chairman Easton: Thank you. Mary?

Ms. McGoffin: Well, as you go forward working on this, I would just say that just as the airport had prime land – everything about it: the topography, the orientation – it was given like the prime spot on that hill and everything else had to fill in around it. Well, I feel like public schools – things of public domain – should be given that pride of place

and that we should work around their needs so that – they shouldn't have to wedge themselves in somewhere, like in one of their four choices. We should be looking at where is the optimal place to put that school and then help make that work.

Mr. Christensen: I agree. I think that is –

Chairman Easton: And, by consensus, the Commission wants you to keep that – Mary's comments – in mind.

Mr. Christensen: Yeah, I wholeheartedly agree.

Chairman Easton: Yeah, and I'll add to that. I think – I want you to take some more time. I know it's only been the 27th since you got the letter. I want you to take some more time about – I'm not sure – if it was up for a public comment and we were in deliberations right now, I'd probably disagree with your decision about the PUD. So part of what this work session's style is to do is you're supposed to take our pulse, and I'll just say, for me, I think it's a bit over the top for us – from – on the way it surfaced. So I want the Department to consider that.

Mr. Christensen: Yeah.

Chairman Easton: And the other issue for me is we can't assume – and you gave the caveat, but I'll be clear to the public – we can't assume the PUD ordinance will be done in six months at Bayview Ridge and we do need to make sure everywhere we can give certainty to the District. If you believe after the PUD ordinance is done for now we keep the PUD ordinance away from involvement with the school, and then when you get to the process of doing the PUD ordinance and you want us to change it so the PUD has to – you know, the School District has to play within the PUD, I'd like that system better. So, you know, if you're confident down the road in the PUD process that you have to bring schools in let's go that route as opposed – in my – just my opinion – as opposed to keeping them a part of a plan that we don't when's it's going to – when it's actually going to be finished being written. Because that's going to hurt their abilities to – just to work on siting.

Mr. Christensen: Yeah.

Chairman Easton: Because without stability, siting's going to be – and, obviously, they're under a lot of scrutiny, as every district should be, but even more so because of the issues in the past their scrutiny is really significant. They've got to get this siting right. And they know that. I'm not saying anything they don't know. So I want to make sure the Department hears, at least from *this* Commissioner, that I think the better option is to keep the schools out of the PUD for now, and if you want to bring it back – bring it back with the PUD ordinance – let's give them some certainty while they're trying to find siting.

Mr. Christensen: Yeah. If – may I make a comment?

Chairman Easton: Sure.

Mr. Christensen: Certainly we look at development at Bayview Ridge as a collaborative process. There's the Port, there's the landowners, there's the County, there's various special purpose districts who are all providing services. So the anomaly here is this isn't a city with a bunch of departments and offices that controls or administers the area. So it's a challenge because there's a lot of different parties who are involved.

Now the problem with a landowner who wants to realize an investment expectation up there is going to want to know what the PUD requirements are and the design guidelines to come out of that, because they have in their mind what kind of land development they want to do, whether it's mixed use, whether it's Residential, whether it's Light Industrial. So the options that the School District has are based on some criteria: They need so much acreage; you know, there's a minimum amount of acreage that they need for a facility and playfields. And so they're going to look at that criteria and they'll engage various property owners and see who's willing to sell, but those property owners who are themselves developers want to know what the requirements are going to be in terms of how their overall land will be affected by a planned unit development ordinance.

So it's kind of a chicken and an egg thing, but I think you get there by really engaging in the School District, the Port and the property owners, and really by coming together. Then I think all our needs are met.

Chairman Easton: I agree. We're going to change the schedule again and tweak it just slightly. We'll take Subject 3 here in just a second. That's what's left, right?

Ms. Ruacho: Mm-hmm.

Chairman Easton: And then we will deal with the last part of our work session, which I don't expect to be very long. My goal is to be done with the work session as close to eight o'clock as possible so that we can get back into deliberations on the issue before us – on the NMFS BiOp issue. Carly, could you – Carly, could you go ahead and comment now about this Department's position on Subject 3?

Ms. Ruacho: Sure. And just a reminder: Subject 3 was the District's concern about a provision that relates to the entire Bayview Ridge UGA – so, as John indicated, it affects *all* landowners within the Bayview Ridge UGA – which is a requirement of a development permit – that upon issuance of a development permit, there is a statement required. It's an agreement. It's been developed; it's codified; and it is currently in use. It's a no-protest agreement that if a future local improvement district is needed between the time the agreement is signed and twenty years thereafter, that they cannot protest the creation and establishment of that local improvement district.

It's something that was important in the development of the Bayview Ridge UGA – important to the future of any concerns that come forward, any issues that arise over that twenty-year period – that the folks that have already developed can't opt out of paying some sort of a share of whatever need has arisen to the level that a local improvement district needs to be created. So, like I say, it's something that has been in effect and is in effect for folks who develop there. This agreement is signed.

And it's our position that we wouldn't want to see, you know, any specific exemption. We don't offer any exemptions for Commercial Industrial or a school. Everybody would just kind of be in the same group. If there's a need in the community to where a local improvement district is found necessary that they would establish that and you wouldn't be able to protest.

Now how the costs would be shared amongst, say, new development versus existing development – I mean, all that would come out of a process of establishing the local improvement district. This is just indicating that they couldn't protest the establishment of such a district.

Chairman Easton: So let's talk about, just for a second, the nuts and bolts of actually forming an LID, a local improvement district in this case. Because I'm afraid the public might – I know there's a lot of people in the room that are knowledgeable, but I'm afraid the public might think there's – you know, you read the phrase “has to sign” and “no protest” agreement, that kind of doesn't – neglects the fact that to form an LID there is some public process that has to happen. People don't just show up in a room and sign an agreement amongst six people and form one, right? I mean, there's – there *is* a public – I mean I think that's important for you, as the Department, to clarify for us and for the folks at home – briefly. The District would have a chance to impact an LID affecting them as it's being formed: yes or no?

Ms. Ruacho: Yes, they would definitely be involved, you know, as a stakeholder, as would anyone. But they are, you know, signing an agreement that they won't protest, you know, saying, I refuse this; I don't think we should have it. They could participate in what it would look like, but they can't say, I don't want to participate at all.

Chairman Easton: So the power's vested in the – who's the power vested in in forming an LID then? I know this is sort of Planning 101 or 201, but – the Department can't make an LID without a public hearing?

Mr. Christensen: I think this is more private-initiated. I don't think ____.

Chairman Easton: So this – what we're talking about is privately initiated.

Mr. Christensen: This would be a developer who wants to come in and put the initial infrastructure costs in and then wants to maybe be reimbursed for it at some later date.

Chairman Easton: So there may or may not – depending on how the developer handles it – may or may not consider this – the District, in this case – a stakeholder.

Mr. Christensen: Mm-hmm.

Chairman Easton: All right. Any questions? Elinor?

Ms. Nakis: Yeah. I mean I know that area pretty well up there because I walk it a lot. It's extremely wet. And so is there adequate – right now – is there adequate rules in what type of drainage or how the drainage will work? And the more people you put up there you're going to have an increasing amount of drainage problems, and I can see where, if they're trying to figure out how to pay for improvements and changes, they're going to have to come up with a LID.

Mr. Christensen: Well, you'll see here in the letter in that section under subsection 215(3)(c) it says, the "stormwater management improvements" – about the fourth line down – "shall be constructed consistent with the adopted Bay View Watershed Stormwater Management Plan Phase 1." So there is a plan in place.

Ms. Nakis: Oh, okay.

Mr. Christensen: And there are capital facility improvements associated with that. The county Utility District, as well as drainage districts, are all – you know, have had many discussions over many months, if not years, about how stormwater management is going to be addressed. It is one of the principle concerns up there.

Chairman Easton: Sure.

Ms. Nakis: Well, it's huge and it's going to affect the ag areas below it, you know?

Mr. Christensen: Yes. Yes.

Chairman Easton: Josh.

Mr. Axthelm: The way this looks to me is if the School District at a future date wouldn't be able to say anything about it. They wouldn't be able to pro – or not protest, but have an opinion. That's what –

Chairman Easton: It would depend on how their relationship with a given developer.

Mr. Axthelm: Yeah, and I –

Ms. Ruacho: Yeah, but not protesting something is different than not having an opinion and being involved in the way it's shaped.

Chairman Easton: And I don't want to get into the ___ in negotiations too much, but I would be highly surprised if the District put themselves in a position with a developer and not have had discussions about these kinds of things as they were considering a piece of land, as obviously stormwater being such an expensive and important part of the process. I do need to – we do need to move on. Carol, real briefly.

Ms. Ehlers: When we tried to – when we started the drainage utility in Skagit County it was a combination of Bay View Ridge and Fidalgo Island, both of whom were desperate, and there were photographs of six inches of water flowing down Peterson Road in 1990. And the way it's constructed now, everyone up there pays into the drainage utility an amount – one amount if they have a single-family house, and in businesses depending upon the impervious surface that they have, which has worked better than many other systems. It's under the management of the Public Works Department – Jan Flagan. And if I were you, I would talk to Jan Flagan to ask her what kinds of arrangements have been done, how it's been done, how it's worked. And in her understanding – because she knows more than just Skagit County – how whatever you might do, if you were to put in something like the EPA recommends – which would be of huge benefit to the whole group – that might be the center point for an effective Bayview plan that wouldn't be a drag on you but would be a complement.

Chairman Easton: Commissioners – thank you, Mr. Ravnik.

Mr. Ravnik: Am I excused, sir?

Chairman Easton: You are excused.

Mr. Ravnik: Thank you.

Chairman Easton: And I want to thank the District – Mr. Leander, Mrs. Browning – for coming. Is there anything else the Commissioners – you know, again, this is a work session. Do you – I want to just give you one really brief opportunity to make sure the Department has heard from you about anything as it relates to this potential code changes that we're going to be sending out to the public eventually? Yes, Annie?

Ms. Lohman: You're referring to these specific?

Chairman Easton: Yes. Well, we're going to come back to the one about – we're going to deal with the one that we haven't dealt with yet, the land divisions or subdivisions one, but go ahead. This is just about Burlington right now.

Ms. Lohman: The zoning – the ones that we already had in the hopper.

Chairman Easton: I'm just referring to issues as they relate to the changes in Bayview Ridge as they – as represented by the discussion concerning those draft changes in front of you in relationship to Bayview Ridge.

Ms. Lohman: Okay, I *do* have a question.

Chairman Easton: Go ahead.

Ms. Lohman: It says schools may not exceed the 40-foot height restriction, and you're talking strictly buildings, but what about other things?

Chairman Easton: Sport facilities?

Ms. Lohman: Yeah, like flag poles and other potential tall stuff that isn't a building. Are you guys covered for that?

Ms. Ruacho: There are exemptions, like poles being one of them, by happenstance. There are some things that are exempt from the height limits already. We're not proposing to change those things. But, generally, I would say things associated with a school, other than a flag pole, is – it's going to be the building. There's not going to be anything else that's going to be – that's going to exceed the height limit that's going to be associated with the school – would be a structure.

And so we're saying that the structure can exceed the 40 feet, so long as it's 55 feet or less. And that's a number that came from the District.

Chairman Easton: With a state – if a statement of support from the Port.

Ms. Ruacho: Right, for the specific location. You know, as we've talked about tonight there's different locations and this Port has different concerns, depending on where it is. But if the Port reviews the location and they support it, it could go – the school – could go to the 55 feet. It doesn't mean that the things that are currently exempt wouldn't still be exempt, flag poles being one of them. Those are just exempt outright.

Ms. Lohman: I wanted to make sure that anything *extra* got thought about.

Ms. Ruacho: There's a certain list. I can – I have the code book here. I can pull it out for you and we can look at that. But it's four or five things – antennas of certain kinds and flag poles and water towers and, you know, things like that.

Ms. Lohman: Okay.

Chairman Easton: It looks like John's got it there for us.

Ms. Ruacho: Hit the "out" button, John, if you see it there. There you go.

Chairman Easton: Number “i”? Any other questions on this portion of the topic?

(silence)

Chairman Easton: Okay, let me make just this one comment. I made a point of saying that my concern's about the PUD, but the Department could easily interpret that as meaning Jason said that but nobody – I mean, nobody else did. So it – don't assume because I made a statement about my concern about how I would vote if the PUD portion was presented to us as it's presented right now, and after the Burlington-Edison's comments, to mean that the staff is under some sort of understanding that that's how eight of you feel, or six of you feel. So that's the only spot where I've disagreed with staff tonight. I made the point of saying that because the reason I'm bringing this up is we're trying to find a way to make sure you're getting a chance to put input in during the work session. Because Matt's right: We don't want these turning into lectures; we want these to be an interactive conversation. So if there's something you have disagreed – I'm not going to go with the agreeing ones because that would just be kind of redundant – but if you disagree with something the staff has said tonight and you want them to know about that before they go and write this regulation, you need to say that now.

Okay –

Mr. Christensen: It's not just important for us, but for the Board of County Commissioners, as well –

Chairman Easton: Agreed.

Mr. Christensen: – who ultimately make the decision. It won't be the Department, but the Board.

Chairman Easton: And it won't be ours.

Mr. Christensen: And the purpose of bringing this before you is so that they have your input.

Chairman Easton: Right. And this isn't the last time we're going to give our input on this. Obviously we'll have multiple – another chance after this for deliberations.

Ms. Ruacho: Right. This is your pre-release opportunity –

Chairman Easton: Yes.

Ms. Ruacho: – to shape what it looks like before we put it out for public comment.

Chairman Easton: On any particular part of this, do you have any more pre-release comments? Carol, thirty seconds or less?

Ms. Ehlers: I've already said what I think about schools that are too high with the flight, and noise, and near pipelines. Safety is the basic issue – safety and being able to learn.

Chairman Easton: Okay. Excellent. Anyone else?

Mr. Axthelm: I believe they *should* have a right to protest those – the LID drainage improvements. It seems to me that that would be an issue. And then also I would hope that the schools would take – would not build in a hazard area, or even have the playfields for that matter –

Chairman Easton: Okay.

Mr. Axthelm: – in that 4S area.

Chairman Easton: Mr. Hughes? Mary? Elinor?

Ms. Nakis: I don't know. I think I said this, but I would just hope that the Drainage District that already exists up there –

Ms. Ruacho: It's the – the County added "Utility."

Ms. Nakis: Pardon?

Ms. Ruacho: The County "Drainage Utility."

Ms. Nakis: Yeah, that there's been adequate planning so that it is – it would be still viable in twenty years from now. And really think to the future. I mean if this – this is being promoted as a new community and, you know, there's plans for it. We have a lot of homes – I mean, this is a great opportunity to do it right from the very beginning.

Mr. Christensen: Yeah.

Ms. Ruacho: Absolutely.

Ms. Nakis: So an LID would not be necessary in the future.

Chairman Easton: Right. And with that, we're going to move on – sorry, did I cut you off?

Ms. Nakis: No.

Chairman Easton: At that, we're going to move on to the last part of our work session, Land divisions, 14.18. This came before you, Commissioners, a few months ago. At the time we were presented an option, a one-year extension. We approved the one-year – we *recommended* a one-year extension to the Commissioners. They approved that. At the time we had a number of discussions about whether we could have had more options, whether we could have considered or could consider a longer extension than one year in relationship to these plats. That conversation sparked a lot of good feedback or conversation between myself, representing you all, and the Department, and the legal staff trying to make sure that we have worked out ways to give us more options in the future when we deal with numbers – well, not just numbers, but – basically numbers, because we actually have had good success dealing with the options we have when it comes to words. But legal felt that we were going to have to call another public hearing and there was a deadline involved. The Commissioners directed the Department to get back to us in August about this issue. It's now before you. Interestingly enough it's before you with, again, just one number, and I would like to hear the Department's explanation on why we're looking at just this change as opposed to a range.

Ms. Ruacho: This time it was our understanding that you *wanted* a specific number. The concern last time was that you wanted the option of a two-year extension so in this specific case it didn't seem like a range was what you had asked for. But, certainly, as we're here pre-release and we have plenty of time and can bring different options to the Board of County Commissioners, if a range is more what you want to see it's an easy change. We can certainly bring that forward to the Commissioners – that that's more what you'd like to see. But you were pretty specific in your –

Chairman Easton: I specifically started a conversation about whether we could and we actually never actually deliberated on it because legal stepped in and basically said we couldn't –

Ms. Ruacho: Do anything.

Chairman Easton: – unless we had another hearing.

Ms. Ruacho: Yep.

Chairman Easton: And I had used the words “two years,” so I can see the confusion here but I'm more comfortable with putting this out to notice with a range.

Mr. Christensen: Mm-hmm.

Chairman Easton: I think that that's more – I think that should inspire some – I hope it will inspire some testimony from the public about what they need. You know, it'd be great if these developers who need these could come and make some comments. They'll have a chance to make public comments and written comments about it. But I'm

not sure two – I don't – I'm not married to two years as a magic number. I would suggest – and trying to move this part on because we definitely have some more work to do tonight – I think one to three is what we should send out to the public. Does anybody else want to make any comments about this? Carol?

Ms. Ehlers: Is this in addition to the six or seven that's already permitted?

Ms. Ruacho: Yes.

Ms. Lohman: Yeah, it's an extension.

Ms. Ehlers: Well, then when you put it out, you need to tell the public how many years extension is already in the code and be in the state law. It's time that we got these documents that related what is proposed, what the rest of the story is and what the state law says because then we can see it in context.

Ms. Ruacho: Sure. I think we could address that in a staff report.

Chairman Easton: Yeah, my only concern is, Is that a static number? Because like certain kinds of plats would have certain lengths? Or is it all – do you know what I'm saying?

Ms. Ruacho: It's a five-year.

Chairman Easton: Okay.

Ms. Ruacho: And then they've given the two-year sunsetted period, so a total of seven right now. It will set – that additional two years will sunset at a certain point. So then we are giving a local extension on top of that.

Chairman Easton: And currently we have given them a local one-year extension?

Ms. Ruacho: Correct.

Ms. Ehlers: So now we're talking –

Chairman Easton: So it's now eight and we could be extending it further than eight.

Mr. Christensen: Yes.

Chairman Easton: Okay. Thanks for the clarification.

Ms. Ruacho: And we are talking about subdivisions which are not short plats.

Chairman Easton: Right – a good clarification. Elinor and then Matt.

Ms. Nakis: You know, is there a possibility that there could be a rule that if you are behind in taxes and have been behind in taxes for several years and set a number of years, that those extensions don't apply to you? Because it seems to me that there's out-of-town developers that buy plots of land, don't pay taxes on them, and then they want all these concessions. And it costs our County a lot of money to give them those concessions.

Chairman Easton: Aren't there already –

Ms. Nakis: And they're not paying their taxes anyway, and that's costing us a lot too. And so to give them the incentive to pay their taxes – you see what I'm saying? – that they pay their taxes and then they would be allowed that two-year extension, but if they're not paying their taxes they don't get any special treatment.

Chairman Easton: Carly, this is outside of the subject. I'm going to sort of –

Ms. Ruacho: They have to pay their taxes to get a subdivision in our county.

Chairman Easton: Yeah, so that's –

Ms. Ruacho: You – we won't grant the approval.

Chairman Easton: That's important to note. You can't get a – say that again – and you can't get a subdivision –

Mr. Christensen: You can't get – a subdivision won't be approved until current – your taxes are paid in full.

Chairman Easton: Okay. But she's saying that –

Ms. Nakis: Well, okay. No, I do understand that. I understand that. But if they're in def – if they haven't paid their taxes in ten years and then they decide they want that extension and they come in and they pay their taxes up to date, that's revenue we haven't had for ten years.

Chairman Easton: Isn't that outside of the scope of the Planning Department's – I mean, the Planning Department and the Planning Commission's responsibilities? That's reaching into a whole other department's issues, right? I mean, we don't usually write code for the Assessor.

Ms. Ruacho: And I think it's actually a state law, and the way that it's written is, you know, that they have to be up-to-date at the time of approval. If we took it further than that, which we have the right to do but it's not something we've been contemplating

here. It'd probably be the subject of much more discussion and development before we would want to move forward with that type of thing.

Mr. Ravnik: Well, if you don't pay for –

Chairman Easton: John. You're not on the mic and this is not a public hearing. Yeah, Matt? Sorry, John.

Mr. Mahaffie: Just to answer: To the best of my knowledge, the County doesn't lose any money and tariffs and penalties are applied, and within three years it's foreclosed anyway. If you don't pay your taxes in three years, it's foreclosed and sold. It's kind of a moot point.

Ms. Nakis: Okay.

Chairman Easton: All right, so we have dispatched that. Any other –

Mr. Mahaffie: I had a question.

Chairman Easton: Oh, yeah. Matt had a question. Go ahead.

Mr. Mahaffie: Just as far as the extension – just a ball park number – how many subdivisions are we talking about?

Ms. Ruacho: That would be eligible for the extension?

Mr. Mahaffie: That are kind of up against that wall. Just ball park.

Ms. Ruacho: Well, when we came to you before we had one specific that was up against a timeline, which is why we wanted some type of an extension provision if we wanted to grant an extension to that specific one. Who might apply for this? That's difficult because this is going to apply from here on out. So how many it could apply to – that's really an unknown number. It's not just those that are existing that might be running up against their time limit, but it's all of them in the future who received preliminary approval and then want an extension at the end.

Chairman Easton: So – maybe I'll follow up here – so how many preliminarily approved plats are sitting on the books right now?

Mr. Christensen: Uh –

Chairman Easton: Approximately.

Mr. Christensen: I believe – I’m going to take a guess and hope I’m close – perhaps two dozen that are pending. Carly says she was going to say twenty-five, so I think it’s somewhere between twenty and thirty.

Chairman Easton: Okay. That gives us some –

Mr. Christensen: A number to kind of know.

Chairman Easton: Yeah, thank you. Annie?

Ms. Lohman: Question – I’m feeling kind of dense. A guy can have a plat – his property platted for a long time, right? There isn’t a deadline for him to do something, or is there?

Ms. Ruacho: Oh, I think I know what she means.

Mr. Christensen: There are state requirements and there are also local code requirements.

Ms. Ruacho: I think – Annie, correct me if I’m wrong – you mean you’ve subdivided and then you don’t build on it.

Ms. Lohman: Right.

Ms. Ruacho: Right. No, there’s no requirement. Once you finally have the individual lots, you don’t have to build on it in any certain time frame. What we’re talking about here is you’ve received preliminary approval and you haven’t taken it to the final step yet.

Ms. Lohman: So it’s after you’ve platted and you’ve gone to the step of, Okay, now I want to build a subdivision.

Mr. Christensen: So what you do – it’s a two-step process. “Preliminary approval” means this is basically how you want to develop your lots, you’re good to go, you now need to meet all of the conditions and you have x number of years to do that – to put your infrastructure in, your roads, your sewer, your water, any community facilities you might be required to do. But they’re not required to do that until they get preliminary approval, and then you have so much time to do it. You know, you wouldn’t put all of that investment into infrastructure to then be denied. So you get preliminary approval and then you’ve got x number of years in which to meet the conditions of preliminary approval.

Chairman Easton: Well, let’s give the staff some input – and I need this from, obviously, more than me, since I already did mine – of what you want to see, what you’re suggesting should be sent out to the public for comment. Do you want it going out as

two years? Do you want it going out as one to three years? What do you – what's your preference?

Mr. Mahaffie: Can we recall a witness?

Chairman Easton: We're in a work session so...You can talk to anybody you want in a work session, right?

Ms. Ruacho: Yep.

Mr. Mahaffie: Can I ask: Marianne, what did you say the first time?

Chairman Easton: She's going to go to the mic. And tell us who you are, please.

Marianne Manville-Ailles: Okay, I'm Marianne Manville-Ailles, with Skagit Surveyors and Engineers, and, as you know, we do a ton of these. And just for one little tiny point of clarification just about what you guys have been talking about, the plats right now where this is most – where it's most important are those – say the ones that were completed in 2007 or 2008 and have – you know, and were just getting to the point where they had all those costly infrastructure improvements coming in, the economy has crashed and they haven't been able to get financing. And it's those that the primary concern is about right now, because they've already used up a lot of that time that's built in to the state law. And so I understand, Carol, that you're concerned about, you know, having ten or fifteen years from today, but that is not where the primary concern is because we're *all* hoping that in ten or fifteen years we're all back in fat city.

Chairman Easton: And we can come back and revisit the removing of this extension. The Commissioners could direct the Department to come back to us and deal with that in the future. But let's get to Matt's question. Matt said when you first testified at this, what was your suggestion.

Ms. Manville-Ailles: What we had asked for, what we had talked about was not so much a finite set of time – this gets back to what I was just talking about before. The issue is to be able to give these developments that have had – even just to get to a preliminary plat there's a significant cost – a significant investment that has been made.

Chairman Easton: I need you to answer the question.

Ms. Manville-Ailles: I am, I am. I have to give this background –

Chairman Easton: Okay.

Ms. Manville-Ailles: – in order for you to understand. So there *is* a significant investment that's already been made. So now we need the – the additional time is based on economic circumstances, so I can't tell you that if you give me two years from

today that I'm going to be able to get financing and be able to get stuff finished. So what we would like to see and what I had asked for before was for the flexibility to say one- or more one- or two-year extensions, or two- or three-year extensions was what we were looking at in order to be able to cover those plats that right now can't get going and are going to go away – and in two years they may go away – and to preserve that right for them. That is – that's what the concern is -

Chairman Easton: Okay.

Ms. Manville-Ailles: – is to get us through this economic time. In the future when things are good, a two-year extension probably is going to be more than enough.

Chairman Easton: Thank you, Marianne.

Ms. Ehlers: Two on top of seven?

Ms. Manville-Ailles: In the future there won't be the seven because the seven is going to sunset. It'll be five –

Chairman Easton: Is there any appetite for discussion about an open-ended extension or a repetitive extension like Marianne just suggested?

Mr. Axthelm: I have – I have –

Chairman Easton: Josh.

Mr. Axthelm: Well, I have a question.

Chairman Easton: Okay.

Mr. Axthelm: The extension in normal circumstances – if the economy were good – would there be an extension available?

Ms. Ruacho: We did not sunset this provision so right now, like Jason was saying, this is in code until such time as the Commissioners would direct us to, you know, go through a process to recommend removing it. We don't have a sunset clause like the state does, so this would be on the books that you can have right now. It's a one-year extension at any point in the future.

Mr. Mahaffie: Was that that way in the past, though? Before the economic turndown, I guess you'd call it, or whatever, was that one-year available?

Ms. Ruacho: No, this is new.

Mr. Mahaffie: Okay.

Ms. Ruacho: We just did this – offering an extension. And it was offered as a one-year extension and then there was desire to possibly have that not just specifically a one-year extension but maybe something different.

Chairman Easton: Which is why we're back here today.

Ms. Ruacho: But having an extension *at all* is a new provision that we just passed, I think, in May.

Chairman Easton: Yeah.

Ms. Ruacho: There used to be one and then it went away.

Chairman Easton: Matt?

Mr. Mahaffie: You could ask for interest and open-endedness –

Chairman Easton: Yes, or like – I guess that's the language.

Mr. Mahaffie: I would express some interest. I'm well aware of how much trouble folks are having – even with a basic construction loan – to get financing.

Chairman Easton: Sure.

Mr. Mahaffie: I wouldn't want to, you know, not put a sunset on it, but I would entertain the thought of, you know, due diligence and trying to get the project going to leave it open-ended.

Chairman Easton: Okay. This is a work session so I need you to work with me. Mary, then Carol.

Ms. McGoffin: It just seems like if it's in response to this recession and we may not have another one for fifty years, that maybe it doesn't need to be in the code necessarily. Maybe it's just something the Commissioners could grant. Maybe we don't have to go to all this trouble to codify it.

Chairman Easton: They can't.

Ms. McGoffin: No? You can't? Okay.

Chairman Easton: They can't. Anyone else want to jump on Matt's band wagon? Carol? Or comment on it briefly? Carol?

Ms. Ehlers: I would be – since this – to follow Mary, this is not a typical recession. The last time we had this kind of downturn in this county was 1983 to '87 or '88. Is there some way that you can do it for plats that are now approved?

Chairman Easton: Preliminarily approved, you mean?

Ms. Ehlers: Preliminarily approved, to take care of the group that did go through this process and did get stuck, as compared to having it a nice California land speculation thing?

Ms. Ruacho: Yeah, what we typically do in those cases, which we have other places in the code, is we would put a date-certain. So it would say something like, “Any applicant who has received preliminary short or long subdivision approval as of” – and give a date-certain and it would apply only to them, if we do that. It’s certainly something we could do, and have done with other provisions.

Ms. Ehlers: That makes a good deal of sense, considering the problem that people are trying to address.

Chairman Easton: So one thing I’ve learned about our new work sessions is that they take longer than Jason *thinks* they’re going to take.

Ms. Ruacho: And there’s eight different opinions!

Chairman Easton: Eight, and we’re still looking for our ninth member. We’re only eight of nine right now. I’ll get to you in just a second. We really have to get back to our deliberations. They’re extremely time-sensitive, as you all know. So we now have two different – we actually have three, counting my suggestion. We have three completely different suggestions about what the code that we’d like the Department to consider drafting is in this work session tonight. Let’s see if we can get four. Annie?

Ms. Lohman: No, I was going to concur with Matt.

Chairman Easton: Okay.

Ms. Lohman: I think – and the key word is “due diligence” in what Matt said. So it’s not just a carte blanche – we’re going to give you an extension because the economy’s bad. It’s, You’re – we’ve done due diligence and you are a good egg and you’re just caught by circumstance.

Chairman Easton: How are you going to prove that they’re good eggs? How are you going to prove that they’re doing due diligence, and who’s going to be responsible for that?

Ms. Ehlers: And which bank are you going to ask?

Chairman Easton: My problem – my concern with your comments – Matt’s comments – is we’re supposed to be trying to give people *more* certainty, in theory, and I feel like we’re on the verge of giving them less.

Ms. Lohman: But if you have it for – I mean, this is not going to be like till the end of time. This is probably going to get revisited when the economy picks up.

Ms. Ruacho: Just for the sake of time –

Chairman Easton: Sure.

Ms. Ruacho: – what I could do – what we could do is we could present to the County Commissioners that there were these options; this is what was discussed: There was an open-ended, maybe two extensions, three extensions, unlimited extensions, as of a certain date, or just one to three years, and let them – I mean, just tell them that these were the options and give them to them as options and let them decide which option they want to go forward with.

Ms. McGoffin: Mm-hmm, that’s fine. Good.

Chairman Easton: Elinor?

Ms. Nakis: And I was going to agree with Carol.

Chairman Easton: Okay. Matt?

Mr. Mahaffie: I would also like to agree with Carol.

Chairman Easton: Wow, we might be working towards consensus. That’s three out of eight. Josh?

Mr. Axthelm: (inaudible)

Ms. Ruacho: Oh, date-certain. Okay – date-certain.

Chairman Easton: She’s talking about – Carol’s talking about date-certain.

Ms. Ruacho: I forgot which – I had written down here _____.

Chairman Easton: Where we would set that magical date – say, January 1, 2008, or something.

Ms. Ruacho: So maybe give the options with, There seemed to be a good majority – something like that.

Chairman Easton: Right, Carol? Am I framing that right?

Ms. Ehlers: Yes.

Ms. Ruacho: It's fair enough.

Chairman Easton: Okay, so there's a few of us that are leaning that way.

Ms. Ruacho: Sure.

Chairman Easton: Dave, do you want to make any comments?

(silence)

Chairman Easton: Mary?

Ms. McGoffin: I like the extensions – renewable extensions.

Mr. Christensen: Renewable?

Ms. McGoffin: Mm-hmm.

Mr. Christensen: Okay.

Chairman Easton: I'm open to voting for any of the above that are being discussed. I'm not married to anything, although I just want to make sure that whatever we do create is clarified. And I think Matt's version feels a little less – feels like it leaves too much out there for clarification, so I would either lean towards Carol's or my suggestion earlier of a set date. But I like the idea of sending it back – I shouldn't use the phrase "sending it back to the Commissioners" because that's gotten me in trouble before. I like the idea of seeking the opinion of the Commissioners about what type before we send this out to code. So the next time we would see this is the version that you work out with the Commissioners that will be sent out to the public for the public hearing, which is –

Mr. Christensen: The public hearing on September 6th.

Chairman Easton: September 6th. Thank you, Gary.

Ms. Ruacho: And before we move on – I know this is not what you wanted to hear, but there was one other one that I neglected to mention, which is just a real quick housekeeping –

Chairman Easton: Yeah.

Ms. Ruacho: – on signs. Just to change from the 2003 International Building Code to currently adopted, so each time it gets adopted we don't have to fix this reference. So that's included in here, as well.

Chairman Easton: Okay.

Ms. Ehlers: So moved.

Chairman Easton: Carly – yeah, and one more thing I forgot – Carly and I and Gary were contacted by Marianne on the 29th of June concerning our adoption on April 19th about – on a three-to-five vote – on a motion to approve the changes to a section of the code. Marianne believes that – in her e-mail – that there may have been a mistake made in what ended up actually going forward to the Commissioners for their approval.

Mr. Christensen: Yes.

Chairman Easton: The last time – and you and I didn't have a chance to talk about this, Carly, before you got back from vacation – but the last time you and I swapped e-mails about that you hadn't had a chance to look into that. Before this goes out for code, can you look into that and get back to us?

Ms. Ruacho: Yeah, we have looked extensively into it.

Chairman Easton: Oh, okay.

Ms. Ruacho: And there is discussions ongoing about what to do.

Chairman Easton: Okay, would you communicate – cc-ing to the rest of the Commission and myself, with a copy of Marianne's e-mail in it, the Department's response to that concern? Because it's couched in a way that sounds like it could have been something we intended to do. It might have been missed by me and the rest of us when we reviewed our recorded motion, and I just want to make sure that we clean that up.

Mr. Christensen: And we do, as well.

Chairman Easton: Excellent. That's great. With that, we will then –

Ms. Ehlers: Well, can't we get rid of the sign recommendation and approve it?

Chairman Easton: We can't because there hasn't been a public –

Ms. Ruacho: No!

Chairman Easton: – we can't because there hasn't been a public – it hasn't been noticed and – am I telling you that we can't do something because of a public hearing – lack of a public hearing? That's got to be a first.

Ms. Ruacho: It'll just be included in the package that comes forward for the public review.

Ms. Ehlers: Okay.

Chairman Easton: Wow! Make a note of that!

Ms. Ruacho: But it might be an easy one to dispense with.

Chairman Easton: Make a note of that. All right, we're going to switch back, okay?

Mr. Christensen: Thank you.

Chairman Easton: There was – we're switching back now, so the work session is over. I pronounce it a success. If you have other comments about it, send them to me or Carly.

All right, at this time, Commissioners, let's go back into our deliberations concerning the Biological Opinion. I'll give the Department a chance to change places. Thank you, Carly.

Ms. Ruacho: Yep.

Chairman Easton: Thank you, Marianne. At this time to – I believe – to move this process forward that my preference would be to allow for a section for recall because one witness has reappeared that I know one Commissioner wants to ask questions of. Following that I'd like to entertain a motion and then a discussion on the motion and then amendments and findings as the Commission sees fit.

Josh, I believe – or Matt, I believe you wanted to recall Mr. Shultz?

Mr. Mahaffie: Nope.

Chairman Easton: You didn't?

Mr. Mahaffie: Nope.

Chairman Easton: I'm sorry. Did someone ask me to recall Mr. Shultz?

Ms. Lohman: No, I just noted that he was here and I wanted to preserve that.

Chairman Easton: The ability to do that. Okay. Excellent. Just because I scheduled this sort of in a way where we did questions to staff and questions to the – to those who gave testimony doesn't mean that, as we get into deliberations, if you need another clarification you can still ask the staff or a public member of the audience who's here that question, as long as they had testified before or in writing. So I just was trying to organize this a little. See how that's working out.

Ms. Ehlers: How are you thinking of doing this motion, because I have another issue to raise?

Chairman Easton: Well, my thought was that someone's either going to feel strongly enough that they want to recommend to the Commissioners to ignore everything FEMA's ever said and the Biological Opinion and somebody might be bold enough to second it and there could be five votes in favor of that. I think that's probably slightly unlikely. The other option is that somebody's going to make the motion that they want to approve everything that's in front of us, and then go in and actually start amending that. That would be my preference for how we do it: have a motion to either approve or disapprove and amend or do findings accordingly. Is that agreeable?

Ms. Ehlers: That's better.

Chairman Easton: Excellent. At this time, would anyone wish to make a motion concerning the Biological Opinion?

Ms. Ehlers: We're talking just about the two laws? Because we didn't get –

Chairman Easton: I think the way in which we need –

Ms. Ehlers: We didn't get the Definition section.

Chairman Easton: I think the way in which we need to address this, in my opinion, would be the passing of the codes as individual codes and probably not as two – in two separate votes, one for code – the code – what's it? – 14.20, and the other one, which is 15-something.

Mr. Christensen: 24 and 34.

Mr. DeVries: 24 and 34.

Chairman Easton: 24 and 34. So I'd like to take them in that order. Do you want to address Carol's issue about the lack of Definitions?

Mr. DeVries: We didn't change or add to the Definitions. That's why you don't have 14.04 in front of you.

Chairman Easton: So there's no changes to the Definitions section.

Ms. Ehlers: Well, because that's not the way you've raised it in the – what's the name of that thing? – your checklist that you're using to educate the – educate FEMA. One of these things we got. Not in that book.

Chairman Easton: Was it the chart, the proposed draft submittal?

Ms. Ehlers: Yes, it was the Biological Opinion Proposed Skagit County Code Table of Code Amendments, the first thing that you gave us that day. And it started with Definitions and then it kept referring to "need to develop," "need to develop." And so I thought since you need to develop this stuff –

Chairman Easton: Do you know what she's talking about – the working draft you provided on the 23rd? Or was dated the 23rd?

Ms. Nakis: Right. I have it.

Ms. Ehlers: Mm-hmm. It was number 1 in the 23rd number.

Ms. Lohman: No. It's the one that starts –

Chairman Easton: Do you want to comment on that, Tim?

Mr. DeVries: We haven't made changes to 14.04. The document that she's referring to was a – is a work product that we provided to assist, and we're indicating that this is something that we may need to work on. But we have not done that work and we have not made those proposals.

Chairman Easton: Okay.

Ms. Ehlers: Okay, because –

Chairman Easton: Commissioners? Commissioner, do you have a question to Tim on this issue?

Ms. Nakis: Oh. No, I just realized I don't have this information. I wasn't here on the 28th when we dealt – I mean –

Chairman Easton: That wasn't e-mailed to you before the meeting on the 20 – I wasn't at that meeting, too, and I got it in my e-mail.

Ms. Nakis: Did you? Well, I probably have it if it was e-mailed.

Chairman Easton: I requested that the Department get it out before the 24th and they delivered it to us on the 23rd, I believe.

Mr. DeVries: I may have an extra copy.

Chairman Easton: We can share a copy with you, if you'd like. Okay, can we move on, Elinor?

Ms. Nakis: Sure.

Chairman Easton: Okay. So at this time the Chair would entertain a motion to deal with the proposal in front of us.

Ms. Ehlers: 14.24?

Mr. Mahaffie: Or 14.34?

Ms. Ehlers: Well, which one do you want first?

Chairman Easton: Whichever one you want to take first, Carol.

Ms. Ehlers: Well, hmm. You could start with 24. It comes before 34.

Chairman Easton: Excellent.

Ms. Ehlers: With the exception of one thing, it seems like it does the job. So I would move to approve. But I'd like to discuss one element of it after.

Chairman Easton: Okay. Sure. You're – you're –

Ms. Ehlers: I'm moving to approve 14.24 as amended. There aren't many changes.

Chairman Easton: Is there a second?

(silence)

Chairman Easton: Is there a second?

(silence)

Chairman Easton: Is there a need for some other discussion before we move to this part of the process?

Ms. Ehlers: Well, it seems like it kills it, doesn't it?

Chairman Easton: Does it die for a lack of a second, folks?

Ms. McGoffin: I'll second it.

Chairman Easton: It's been moved and seconded – moved by Carol and seconded by Mary – to adopt the amended section of Skagit County Code chapter 14.24.

Ms. Ehlers: Known as the “critical areas ordinance.”

Chairman Easton: Commonly referred to as the “critical areas ordinance.” Discussion. The maker of the motion can have the first crack at it.

Ms. Ehlers: She wishes to raise again the issue on page 5, line 12, in that “the applicant must demonstrate,” which I think is a reversal of what I learned at a legal seminar you told us to go to when no one else got there, by Mr. Mackie. That was on the shorelines, but the same principle obtains here. He was so useful I went to the second one, so I got seven hours of this. That the applicant should not have to prove that there is no hazard; that it is the government's job, whether it's on the shorelines or anywhere else, it's the government's job – who's saying that there is, by definition, the possibility of an adverse impact – that the government's the one that has to prove it.

Chairman Easton: Okay. Are you –

Ms. Ehlers: So I would say that –

Chairman Easton: Do you wish to amend the motion, or did you want that in the form of a finding or – I'm not clear on what your intentions here are.

Ms. Ehlers: I think that one should say the fisheries must demonstrate.

Chairman Easton: Does staff want to –

Ms. Ehlers: That the proposal *might* adversely affect. You see, it's a reversal of the idea.

Chairman Easton: I understand what you mean. So do you want to do that in the form of an amendment?

Ms. Ehlers: Okay. I wish Ryan were here with his ability to write. “That the government must demonstrate that the proposal is likely to adversely affect species.”

Chairman Easton: And you're making that in the form of an amendment to the proposed – to the – because we have a motion on the floor to approve it in the whole, so your amendment would be to change that language. And we'll get that language in just a second.

Ms. Ehlers: Is to modify the 14.24 by my suggested change.

Chairman Easton: Carly? Are you still here? She's not here.

Ms. Lohman: Betsy's flagging you.

Chairman Easton: Betsy?

Ms. Stevenson: Can I make a comment?

Chairman Easton: Well –

Ms. Stevenson: For clarification?

Chairman Easton: Okay, yeah, but I'm also going to have you do something else, too.

Ms. Stevenson: Okay.

Chairman Easton: I want you to work with the guys in the back to turn on the computer so you can actually type what her changes that she's suggesting are.

Ms. Stevenson: I think Ryan might be coming in.

Mr. Christensen: Yeah, I just – I just texted Ryan to show up.

Chairman Easton: Is he here?

Ms. Stevenson: Yeah.

Chairman Easton: He's in the building? All right. Well, why don't you start with your clarification and then Ryan'll bail you out.

Ms. Ehlers: Because Ryan is very good about taking my language and making it elegant.

Chairman Easton: It's good to have your own personal attorney.

Ms. Stevenson: I'm not trying to change your mind; I just want to make sure that you're clear on what you're changing. That's the section on variances. And normally the burden of proving that you should be allowed a variance is on the applicant and not on the governmental body.

Chairman Easton: That's an important clarification.

Ms. Stevenson: So I just want to make sure you're aware of that.

Chairman Easton: All right. Carol's amendment does not have a second. Is there a second to Carol's amendment?

(silence)

Chairman Easton: Hearing no second to the amendment, the amendment dies. Any other further comments on the approval of the motion? Matt?

Mr. Mahaffie: It comes back to the Samish area. It reaches in here in many different definitions of the special flood hazard area. I'm going to disagree with staff, you know, as far as the Tier 1 populations. I understand coastal floodplain; there might be association at some time. The Samish basin is managed by the state and the co-managers of the resource, and not specific – it specifically not be a Tier 1 population. To bring that watershed into it, I strongly disagree with.

Chairman Easton: So let me – help me understand how you're going to disagree. Are you going to disagree in the form of an amendment or are you going to disagree in the form of voting against the overall motion?

Mr. Mahaffie: It kind of depends. My suggestion would be in the form of an amendment to reference the Skagit watershed and associated areas of Tier 1 populations. And it would be a mapping amendment.

Ms. Lohman: I would second.

Ms. Ehlers: Yeah, I would like that very much.

Chairman Easton: Let me clarify the motion and restate it, like I should, and then I'll let staff make a comment. Tim, I'll be to you in just a second. So it's been moved and seconded – moved by Matt and seconded by Annie – to amend 14.24 – Skagit County Code 14.24 – to reference the Skagit watershed basin.

Mr. Mahaffie: I would just say "watershed."

Chairman Easton: Skagit watershed.

Mr. Mahaffie: And those saltwater areas –

Chairman Easton: And those saltwater areas –

Mr. Mahaffie: – of no saltwater but special floodplain –

Chairman Easton: – special floodplain –

Mr. Mahaffie: – flood hazard areas –

Ms. Ehlers: Why don't you do it _____?

Chairman Easton: We'll need you at the computer keys.

Mr. Mahaffie: There we go. ____ is smarter than I am.

Ms. Ehlers: Take it –

Chairman Easton: Is there some sort of friendly amendment happening here?

Ms. Ehlers: Mm-hmm. I'm helping *him* with language for a – which is kind of nice. Skagit County and all NFIP communities adjacent to the Skagit River, Sauk and Suiattle Rivers.

Chairman Easton: Is that a better way to put it? Are you agreeable to the –

Mr. Mahaffie: It still needs to reference saltwater because it still could be a saltwater association.

Chairman Easton: All right, why don't you withdraw your amendment, remake your amendment, have her hand that to you. You can add the word "saltwater" when you make the amendment, and then you can get a – you can see if you can get a second to your new amendment. But first I need you to withdraw your amendment.

Mr. Mahaffie: I will withdraw my amendment.

Chairman Easton: The seconder agrees?

Ms. Nakis: I'll second it.

Chairman Easton: Wait. I'm not calling for a second yet. I have to withdraw the – I'm withdrawing the motion.

Ms. Lohman: I agree.

Chairman Easton: Thank you. The motion's been – the motion has been – all right, the motion for the amendment has been withdrawn. Matt?

Mr. Mahaffie: That still doesn't work. I'm sorry, Carol.

Mr. DeVries: Mr. Chair? Mr. Chair?

Chairman Easton: I promise when I'm ready I promised you I would come to you, but I don't even know what the motion is yet for you to comment on. So I will come back to you. I promise. Matt, do you want to make an amendment or do you want to hear from Tim first?

Mr. Mahaffie: Let's hear from Tim.

Chairman Easton: All right, we'll hear from Tim first. It's fine with me!

Mr. DeVries: I thought that we were – we had a motion to approve and were under discussion in amendments of 14.24, and I think that Matt's comments, while understandable, probably belong in 14.34, which is not under discussion at this point.

Chairman Easton: That's a great point of order. Are you reference – are you sure you're referencing the section that I'm supposed to be in?

Mr. Mahaffie: I am. It would be better referenced in 14.34. He's correct; it's, however, still referenced in 14.24.

(several people talking at the same time)

Mr. Mahaffie: It would be better to reference it in 14.34.

Chairman Easton: So you want to withdraw your motion and bring it back up when we go to 14.34? You just said that it's also mentioned in 14.24.

Mr. Mahaffie: It would be better to mention it first in 14.34, because 14.24 references _____.

Chairman Easton: I've got an idea. Here's what I'm going to do. Carol, will you withdraw your – would you consider withdrawing your motion to approve 14.34 – or 14.24? So that we could have a discussion about 14.34 and Matt could address his issues there and then deal with 24 as a side. I know that it doesn't do it numerically, but it seems to address this major issue. Would you?

Ms. Ehlers: That's fine.

Chairman Easton: Would the seconder agree?

Ms. McGoffin: Yes.

Chairman Easton: All right. So the motion to approve 14.24 has been removed, so at this time the Chair would entertain a motion concerning chapter 14.34. Would anyone like to help me?

Mr. Mahaffie: I move to approve 14.34.

Chairman Easton: As adopted – is there a second? – or as amended. Is there a second?

(silence)

Chairman Easton: Come on. We can't even talk – y'all, we can't even talk about this unless somebody seconds this. Or we're going to kill the whole thing.

Ms. Ehlers: Well, all right. Then let's second it for the purposes of discussion.

Chairman Easton: All right, now we're in ___. It's been moved and seconded to approve section – the amended code section chapter 14.34. Could you put that on the screen for us? We have 14.24 in front of us. Thank you.

Mr. Axthelm: I have a suggestion.

Chairman Easton: All right. And for discussion, we'll start with Josh.

Mr. Axthelm: No – generally.

Chairman Easton: Oh.

Mr. Axthelm: Do we really have to approve or disapprove something, or can we discuss each of these items without having an approval of it?

Chairman Easton: I'm trying to accomplish getting us to the place that sometime in the near future we come to a decision. I made the decision, as Chair, that the best place for us to go was to the place of dealing with motions and discussion. If you don't believe that that's the best – you know, if the Commission doesn't believe that's the best way to handle it, I'd like to hear that. I'm trying to bring some structure to how we try to deliberate on this. I'm afraid – I'm concerned that we've already used a considerable part of our time tonight and we haven't actually started to do the – the work of the deliberations. If we go into another general discussion, it's going to prevent us from doing that again for quite a period of time.

You don't feel like you've had a chance to be heard in a way that you want – you don't want to be heard right now in direct relationship to a motion?

Mr. Axthelm: Not at this point.

Chairman Easton: But you'd like to say something.

Mr. Axthelm: (inaudible)

Chairman Easton: You'd like – well, I'm trying to allow for a lot of room to discuss. We'll have plenty of time to discuss any of –

Mr. Axthelm: Okay.

Chairman Easton: – these sections as we go through.

Ms. Lohman: I – I –

Chairman Easton: Annie, do you want to help me? You're my parliamentarian.

Ms. Lohman: Well, sort of.

Chairman Easton: I made you my parliamentarian so...

Ms. Lohman: I almost wish that we could approve it after we've kind of gone through and made our mini changes, and those would be a multiple – the potential of multiple motions as we work through, starting on page 1. And then at the end you have an overall – as we have amended this document, then the overall motion would be "as the Planning Commission has amended it." I think we've got a bit – we're stumbling because it's so huge and there're so many things we want to write on.

Chairman Easton: I understand. I have been instructed before by legal staff that this was the – I *believe* that I was – tonight I was actually using their preferred method, but I think Ryan wants to add something.

Ryan Walters: Under the code, you need to have one recommendation for the proposal. So however you want to get there, but you need to have one recommendation for the proposal. So you're recommending to the Board that you approve or not approve or approve with modifications the proposal. So the proposal has a couple components, so you can deal with them individually or however you want to do it. What I told you before –

Chairman Easton: Yeah.

Mr. Walters: – was that typically under Robert's Rules you start with a motion.

Ms. Lohman: That's right.

Mr. Walters: I mean, and that's – there's nothing happening on the floor without a motion, and then you amend the motion, you discuss the motion, you discuss the amendments to the motion. You do all that, but you work with a motion to begin with.

Chairman Easton: And with that –

Mr. Walters: So –

Chairman Easton: And with that in mind, then the Chair's decision will be that we continue – although it might be clunky – with the process as I just laid out, where we're going to go through – and now you can amend one line after the other after the other, Annie or anyone else, and we will have votes on amendments, but I'm going to work from the positive – “positive” is the wrong word. We're going to work from the point of view of approval. So, you know, that doesn't mean you have to vote for it. It just means that that's what we're – that's the framework within we're doing the discussion.

Ms. Ehlers: Okay.

Chairman Easton: Okay?

Ms. Ehlers: The person who makes the motion has the right to say something as does the seconder, and the seconder is ready to – does the maker have one?

Chairman Easton: I agree. Does the maker of the motion have anything to say?

Mr. Axthelm: I'm trying to figure out how to word it still.

Ms. Ehlers: Do you want me to start then?

Mr. Axthelm: Yes, please.

Chairman Easton: All right, Carol? And then Josh.

Ms. Ehlers: Okay. Carol wishes to refer to a book which I'm sorry the rest of you have not – do not necessarily have. It's put out by FEMA. It's called “Answers to Questions About the NFIP,” the National Flood Insurance Program. And having read all the comments that were put in, I have virtually semi-memorized this thing, which is in very clear English. And since it is clear to me that anyone who currently has a mortgage from anything the federal government has ever thought of subsidizing –

Chairman Easton: Commissioner?

Ms. Ehlers: – whether it's Veterans' Affairs or whatever –

Chairman Easton: Commissioner?

Ms. Ehlers: Wait a minute.

Chairman Easton: Now. You're out of order –

Ms. Ehlers: No, I'm not.

Chairman Easton: No, you are. That's a finding.

Ms. Ehlers: No.

Chairman Easton: And an additional –

Ms. Ehlers: It's a reason. And the reason says that – what this talks about mandating is what I see in 14.34.

Chairman Easton: All right.

Ms. Ehlers: With –

Chairman Easton: We will have to – to make sure that you get your reference in, I think you were out of – I understand that you're speaking in favor of your motion, but part of what you said needs to be repeated later during the findings period so that what you've referenced – make sure it gets part of the record.

Ms. Ehlers: I'll be glad to do it again.

Chairman Easton: I'm sure you will.

Ms. Ehlers: But I think people need to know that I'm not being unreasonable in my source of information for my recommendation.

Chairman Easton: My objection to the order we're doing that in is not about you being unreasonable. I find you very reasonable. Let's –

Ms. Ehlers: Okay.

Chairman Easton: – move on. Any other discussion? This is where I would entertain – oh, I'm sorry. Josh, and then we'll come back to Matt. Josh?

Mr. Axthelm: No. Mine just was a – it's about the discussion itself. I mean, I think we'd have a lot easier discussion if we could discuss each of the items instead of having to entertain a motion at the same time.

Chairman Easton: Okay. Josh, all you need to do – any subject you want to discuss, go grab the line, tell me where it is, make an amendment, have enough support on the Commission to have a second, then you're welcome to discuss it until I cut off discussion or until we all pass out.

Mr. Axthelm: Okay.

Chairman Easton: So you still _____.

Mr. Axthelm: I _____ faster.

Chairman Easton: You can still do all of what you're asking for but I'm trying to follow through on my commitment to bring some sense of order to this.

Mr. Axthelm: Okay.

Chairman Easton: Did – Matt, did you have an amendment? I dropped 14.24 and picked up 14.34 on behalf of you.

Mr. Mahaffie: I have several.

Chairman Easton: Do you have amendment?

Mr. Mahaffie: Can I also throw a reason in there first?

Chairman Easton: Of course. You can speak to the motion. Sure.

Mr. Mahaffie: Okay. The reason – I understand staff's position and my understanding is that we're already going to be in a lag time. We don't know, you know, as it's written, what our chances are of getting it approved.

Chairman Easton: Okay. You're explaining an amendment. You're giving your reasons for an amendment you haven't made yet. Help me.

Mr. Mahaffie: I'm just – it's for all of my amendments.

Chairman Easton: Okay, so – oh, for all your amendments.

Mr. Mahaffie: I would like, you know, to make our wish list now and if it fails it fails. We don't know how it's going to turn out. So I would like to amend 14.34.055. The first one would be to add "excluding the Samish River watershed from the protected review area."

Chairman Easton: To exclude the language –

Mr. Mahaffie: To include the language "excluding the Samish River watershed."

Chairman Easton: Oh, to include the language "excluding the Samish River watershed."

Mr. Christensen: Yeah.

Mr. Mahaffie: That leaves everything else.

Chairman Easton: We know from earlier that you disagree with this – and you'll have a lot of time to prepare and then get to go present to the Commissioners why you disagree with this *if* I get votes enough to support this amendment and then if the plan gets approved. So you have lots of time.

Mr. DeVries: It wasn't a disagreement.

Chairman Easton: Okay. So if it's not about a disagreement, then what is it? Do you need a clarification?

Mr. DeVries: Yes.

Chairman Easton: Help me. What do you need?

Mr. DeVries: The Samish River floodplain or the Samish River watershed? Because –

Ms. Ehlers: Floodplain.

Chairman Easton: Matt, you're the maker of the motion, and I still don't have a second yet because I haven't asked for one but do you want to –

Mr. Mahaffie: Floodplain.

Mr. Walters: I'm just going to track the motions on the screen.

Chairman Easton: I appreciate that. That's going to help me. But the motion to amend 14.34.055 to *add* – I don't think that's what we want to do. We want to actually *exclude*. Right?

Mr. Mahaffie: Add the language.

Chairman Easton: We're *excluding* the language, or are we *adding* the language?

Ms. Lohman: No, no – we're *adding*.

Ms. Ehlers: You have to add it because it isn't in there.

Chairman Easton: Yeah, put quotes around "excluding the Samish." That would make it clearer. Thank you.

Ms. Lohman: He needs a second. I'll second it.

Chairman Easton: Yeah, I was going to wait until I actually had a finished motion. Is that – I want to make sure that's what he wanted as a motion. Sorry, Annie. Is that what you want for a motion?

Mr. Mahaffie: Yeah, it would – it comes up in multiple places and –

Chairman Easton: Well, we'll reference those multiple places in a second. Let's have some discussion about this first – or second and first. Is that what you – is that the intention of your motion?

Mr. Mahaffie: That is the intention.

Chairman Easton: Okay, is there a second?

Ms. Lohman: Yes.

Chairman Easton: Okay, it's been moved and seconded – moved by Matt and seconded by Annie – to amend 14.34.055 to add an exclusion of the Samish River floodplain from the protected area. And we would – I think we'd be – for clarification, would you put some sort of underline from the word "exclusion" through the – I want to make sure we're clear about what needs to be added to the code.

Mr. Mahaffie: As I say, it's not just – it's also the floodway, the riparian habitat zone. It's everything, basically.

Chairman Easton: So did you want to amend this then? Does this get at the intent of what you're trying to do?

Mr. Mahaffie: Yeah, close enough.

Chairman Easton: Close enough.

Ms. Ehlers: Do you want the evidence now?

Chairman Easton: Discussion on the amendment – first to the amendment-maker. Do you want to give us your justification now? Or do you – or if you feel like you already have, you don't have to.

Mr. Mahaffie: It comes back to, yeah, Tier 1 Chinook. There are none in the Samish River basin. It's managed specifically by the state and the co-managers collaboratively not to. So that's it.

Chairman Easton: Okay, that's his reason. Secunder, Annie?

Ms. Lohman: Well, I agree with Matt.

Chairman Easton: Okay, do you want to add anything else to the discussion?

Ms. Lohman: No.

Chairman Easton: Okay. Any others? (I'm) going to go to anybody who wants to speak. Anybody *against* the motion? Want to speak against it?

(silence)

Chairman Easton: All right. Seeing none, I'll – any further discussion?

(silence)

Chairman Easton: I'll call for the question. All those in favor of the amendment as you see on the screen, please signify by saying – do you want a roll call on amendments, too, Ryan?

Mr. Walters: I don't care.

Chairman Easton: Signify by saying aye. Aye.

Ms. Lohman, Ms. Ehlers, Ms. Nakis, Mr. Hughes, Ms. McGoffin, Mr. Mahaffie and Mr. Axthelm: Aye

Chairman Easton: All those opposed.

(silence)

Chairman Easton: Any abstentions?

(silence)

Chairman Easton: The motion carries eight-zero.

Mr. Walters: And now we are back to the motion that is above that.

Chairman Easton: Correct. So we're now – I'll reopen discussion for – concerning the motion to approve 14.34.

Ms. Ehlers: I have another amendment.

Chairman Easton: Carol?

Ms. Ehlers: On page 4, in 14.34.100, paren 1, paren a, it says that septic tanks and drain fields – it reads to me from what (b) says that (a) is not permitted and that doesn't make sense. So I would – Ryan, you'll have to clarify my understanding of this, but *new* septic tanks and drain fields is what the question is, not maintaining the existing ones. Because there's a state WAC that mandates that you maintain and test and replace, if necessary, any septic tank or drain field that is not functioning and there is a concept known as marine recovery area which is widely used in Skagit County wherever there's any possible contact between what a septic system has and the fish-bearing marine environment. So if you have grant money and spending a fortune insisting that you have new septic tanks and drain fields, you don't tell somebody you can't do it.

Chairman Easton: Okay, do you want to make a motion?

Ms. Ehlers: I wish to –

Chairman Easton: Or an amendment – excuse me.

Ms. Ehlers: I wish to add the word “new” in front of septic tank and drain field.

Chairman Easton: You want it to read “New septic tanks and new drain fields”?

Ms. Ehlers: Mm-hmm.

Chairman Easton: Add the word “new” in front of drain fields, please, Ryan. Any –

Ms. Ehlers: Does that make it clear that maintaining old ones is okay?

Mr. Walters: It might become a question if you want to expand or something like that.

Ms. Ehlers: Well, the Drainage Utility – the state WAC might mandate it. Because you might have put in an –

Mr. Walters: There're lots of things state laws might mandate that you might also need special review of.

Ms. Ehlers: Well, I can – yeah, okay.

Mr. Walters: Yeah.

Chairman Easton: So is there a need for clarification? I mean, I haven't sought a second yet because I don't feel like we've settled on a motion yet. So, Carol?

Mr. Walters: It also says “as well as those activities,” so it might encompass others.

Ms. Ehlers: Excuse me?

Mr. Walters: It says “as well as those activities...that may or may not otherwise require” development permits there. It might anyway encompass others. So –

Ms. Ehlers: Somebody wrote a letter to us saying that they were not being allowed to fix their septic system. And that’s what made me look at this very carefully.

Mr. Walters: Which my sense is the Department wouldn’t have a problem with, but perhaps your addition adds more clarity there. Tim might have something to add, though.

Chairman Easton: Tim?

Mr. DeVries: This section is three examples of things that prior to this change did not require a floodplain development permit that now will require a floodplain development permit. That’s just a permit for the floodplain. It has nothing to do with whether you’re allowed to do it or required to do it or not.

Chairman Easton: Okay.

Ms. Ehlers: And you don’t have to do it – you don’t have to do an assessment? On the environmental impact of replacing your lousy septic tank with a good one?

Mr. DeVries: That would depend on where your septic system is going.

Chairman Easton: Okay. Is there a second to the motion?

(silence)

Chairman Easton: It dies for a lack of a second.

Ms. Ehlers: Okay.

Chairman Easton: Annie?

Ms. Lohman: I would like to make a motion that – for an amendment to strike the word “public” on line 19 – public utilities – and just say “utilities.”

Mr. Christensen: Which subsection, what page and what line?

Ms. Lohman: Sorry, I was – page 4, under the exemptions, item (d), line 19.

Mr. Christensen: (2)(d) – okay.

Ms. Ehlers: I’ll second that.

Chairman Easton: Okay, well, let's get a chance to get it down in writing so we all know what we're –

Mr. Hughes: Just striking the one word, right?

Ms. Ehlers: Yeah.

Chairman Easton: Can you put "public" in italics? Or – this gets at the PSE stuff. So it's been moved and seconded – it was moved by – I'm sorry – it was moved by Carol and seconded by –

Ms. Ehlers: Moved by Annie, seconded by Carol.

Chairman Easton: Oh, Annie. Moved by Carol, seconded by Annie. Thank you.

Ms. Ehlers: Reverse.

Chairman Easton: Discussions, first with the motion-maker. Annie?

Ms. Lohman: I think we have some other utilities that aren't necessarily public that would be affected, and I don't think we need to parse them out.

Chairman Easton: Okay. Carol?

Ms. Ehlers: Agree.

Chairman Easton: Josh?

Mr. Axthelm: No, I agree. I'd like to add that in these situations we were talking about the above the ground/below the ground issue – that you're putting something in there to affect a pole replacement.

Chairman Easton: So do you want to make that in the form of a second – a different amendment, or do you want to ask if you can make that in the form of a friendly amendment so the motion maker – they seem like separate issues to me.

Ms. Lohman: I would like it to be separate.

Mr. Axthelm: (inaudible)

Chairman Easton: All right. Josh, if you want to make that – the motion maker doesn't agree to your friendly – suggested friendly amendment, but you're welcome to make that as an amendment. Come back – we'll come back to you in just a second and you

can make it in the form of an amendment. Anyone want to speak opposed to the motion, the motion to amend?

Mr. Hughes: You're just replacing power poles.

Chairman Easton: Hang on. We'll get there.

Mr. Hughes: I'm talking to Josh.

Chairman Easton: Oh, okay.

(laughter)

Chairman Easton: Sorry! All right, so no – any further discussion?

(silence)

Chairman Easton: Seeing none, all those in favor of the motion to amend 14.34.100(2)(d) to strike the word “public,” signify by saying aye. Aye.

Ms. Lohman, Ms. Nakis, Ms. Ehlers, Mr. Hughes, Ms. McGoffin, Mr. Axthelm and Mr. Mahaffie: Aye.

Chairman Easton: Any opposed?

(silence)

Chairman Easton: Abstentions?

(silence)

Chairman Easton: Motion passes eight-zero. Josh?

Mr. Axthelm: I would motion to add the – in that same area – to add “replace” – how did you put that? To replace utility poles.

Mr. Hughes: “Such as replacing downed power lines and utility poles” there.

Mr. Axthelm: Yeah.

Mr. Hughes: Or just take –

Mr. Axthelm: Because there is the –

Chairman Easton: Do you just want to add the word “downed” –

Mr. Axthelm: There is the “downed power lines” in there.

Mr. Hughes: Strike “such as replacing” then.

Ms. Axthelm: And utility poles.

Chairman Easton: Didn’t PSE say they wanted the phrase – they asked if we could take the phrase “such as replacing downed power lines” so that it was more inclusive of any other type of repairs they would need to do?

Ms. Lohman: Mm-hmm.

Ms. Ehlers: Mm-hmm.

Chairman Easton: Is that a friendly amendment that someone else would like to make, since I’m the Chair?

Mr. Axthelm: That sounds great. Yep.

Chairman Easton: Okay, so it’s now been amended to read –

Mr. Hughes: Period after “facilities.”

Ms. Ehlers: Period.

Mr. Christensen: Just period after “facilities”?

Ms. Ehlers: Mm-hmm.

Chairman Easton: Period after “facilities.” Is that – the way that’s drafted, Gary, can you see the way that’s drafted on the screen? Does that work for making sure it gets into code right? It’s a little different than – Ryan phrased it differently than the period after. Yeah, that’s fine. Okay. All right.

Mr. Axthelm: Well, I think –

Chairman Easton: Hang on.

Mr. Axthelm: The issue that somebody had brought up was that it says “above ground public utilities.” I guess that would include it, though. Is that what you’re saying – is that replacing a pole would include – would be included in the “above ground public utilities”?

Ms. Ehlers: I hope so.

Mr. DeVries: Replacing it back in the ground would be part of replacing a downed power line or something above ground, yes.

Mr. Axthelm: It would be considered – okay.

Mr. DeVries: Yes.

Mr. Axthelm: Perfect.

Chairman Easton: Okay, does anybody else want to speak to this motion? Because I do. I don't think we just accomplished what we were trying to accomplish. I'm a little concerned.

Mr. Walters: I don't –

Chairman Easton: What?

Mr. Walters: I don't think so either.

Chairman Easton: Yeah, because we still have this phrase “above ground.” Shouldn't it be “Normal maintenance of public utilities and facilities”? Then you – then you'd just –

Mr. Hughes: Let's really open a can of worms. I'd go for that, too.

Ms. Ehlers: I would too.

Mr. Hughes: That's above ground and below.

Chairman Easton: Right, then you just deal with it. I mean, Josh, are you open to an amendment to do that? To just make it – just make it the “Normal maintenance of utilities and facilities”?

Mr. Axthelm: Saying that any facility – any facilities and utilities like underground – any pipes and stuff underground you could maintain?

Chairman Easton: Yeah. I'm trying to take the – I think things got confused when we had that discussion earlier. Things were confused by the word “above,” so – “above ground,” I mean.

Ms. Ehlers: So you would have it read, “Normal maintenance of public utilities” –

Ms. Lohman: No, no: “of utilities...”

Chairman Easton: We've already taken “public” out.

Ms. Ehlers: “Normal maintenance of utilities and facilities.”

Chairman Easton: Yes. Period. Are you willing to accept that as a friendly amendment or do you want me to dispatch with your – do you want me to deal with your amendment?

Mr. Axthelm: No. I think that works fine. It works great.

Chairman Easton: Does the seconder agree to that? Oh, I need a second, actually.

Mr. Mahaffie: Second.

Chairman Easton: So it's been moved by Josh and seconded by Matt to strike the words “above ground” in the section that is referenced here on your screen, 14.34.100(2)(d). Any further discussion?

Ms. Nakis: I just have a question. This is in reference to what doesn't need a permit to get done?

Chairman Easton: In the sub – we're in the subsection that – yeah. We're in the exemptions. Yes.

Ms. Nakis: Right.

Chairman Easton: Tim's saying “yes.”

Ms. Nakis: So all utility companies would have that exemption.

Chairman Easton: Would – yes. The way this would read would be “Normal maintenance of” – “Normal maintenance of utilities and facilities,” would be an exemption.

Ms. Ehlers: I like that.

Chairman Easton: Are you – do you want to speak against the motion?

Ms. Nakis: Well, no, I'm just curious with – what if they just wanted to increase the size of their site?

Chairman Easton: That would not be – in my opinion – that wouldn't meet the definition that this Department's ever used for “maintenance.” Correct?

Mr. Hughes: I agree!

Chairman Easton: Right, Gary?

Mr. Christensen: Yes.

Chairman Easton: Okay. So that would be outside of maintenance. That would definitely be expansion or something – other word in the code. Carol?

Ms. Ehlers: Well, let's accept that we agree that you could replace up to an eight-inch pipe without a permit. So you could replace a two-inch pipe with a six-inch pipe.

Mr. Christensen: For a water line, yeah.

Ms. Ehlers: For a water line – yeah.

Chairman Easton: Does that need to be noted here?

Mr. DeVries: No.

Chairman Easton: That's in a different section of code.

Mr. DeVries: That's a – yeah, that's –

Chairman Easton: That's a different section of code. All right. Anyone want to speak to the motion, for or against?

Ms. Ehlers: I like it.

Chairman Easton: We okay to move on?

Ms. Nakis: Yeah, yeah.

Chairman Easton: Okay. All those in favor, signify by saying aye.

Ms. Ehlers, Chairman Easton, Ms. Lohman, Mr. Hughes, Mr. Axthelm, Ms. Nakis, Ms. McGoffin and Mr. Mahaffie: Aye.

Chairman Easton: All those opposed?

(silence)

Mr. Walters: Josh and who?

Chairman Easton: Uh, Josh and –

Mr. Christensen: Josh moved and Matt seconded.

Chairman Easton: Approved. _____ approved. All right. Who's up next? Anyone? Didn't – before we go on, hang on one second. Remember you said you thought you were going to have to do the motion you did first in multiple locations, so you might want to be watching for those other locations.

Mr. Axthelm: (inaudible)

Chairman Easton: Okay, I'm just checking. I think we're going to Dave first. Dave?

Mr. Hughes: Same page, and I want a clarification first.

Chairman Easton: Sure.

Mr. Hughes: Line 9: "Dumping or" – you know, I'm more concerned about the storage of toxic or hazardous waste materials. Is that a can of Drano in a house that's 50 feet from a river?

Chairman Easton: Tim, how do you define "storage of toxic"? Is there some sort of minimum requirement?

Mr. DeVries: That's generally meant to – that's generally meant to be an area where you're depositing on the ground, not inside your – the house kitchen, but depositing on the ground in quantities that may not reach the level of requiring a grading permit.

Mr. Hughes: But I'm looking at the word "storage," not the dumping. I understand you want to **dump past this** waste but, I mean, hazardous waste materials could be my heating oil tank or where we stored fuel or my barn that I keep pesticides – you know, I might store my pesticides in. That storage.

Chairman Easton: Let me guess. This is default language from FEMA.

Mr. DeVries: No.

Mr. Axthelm: Is that not addressed in building code?

Mr. DeVries: Yeah.

Mr. Axthelm: With hazardous – quantities of hazardous materials, is if it's under that certain quantity it's not considered.

Ms. Manville-Ailles: It says that in _____.

Mr. Hughes: Yeah, in any quantity and it's – and it's –

Chairman Easton: So why are we using the phrase “any quantity”?

Mr. DeVries: It’s language that came from FEMA. As they –

Several Commissioners: Hmm...

Chairman Easton: You may actually repeat that a few times tonight.

Mr. DeVries: As examples – it’s a list of examples. It’s possible that somebody has a storage building that they’re keeping a pretty safe product in and they decide they’re going to take it out and they’re going to deposit something more hazardous in it that could leach into the ground, and if it’s near a water body there could be –

Chairman Easton: Ryan just pulled up a hazardous waste definition from the code. Could you raise up that, Ryan? Is that what that is? That’s from the – that’s a –

Mr. Walters: It’s from 14.04.

Chairman Easton: 14.04 in Definitions?

Mr. Walters: Sub 5.

Chairman Easton: Dave, do you want to ask for more clarification or do you want to make a motion or an amendment?

Mr. Hughes: Well, I –

Ms. Lohman: Are you saying that we can’t have Skagit farmers _____ anymore?

Mr. DeVries: I’m not saying that.

Ms. Ehlers: There’s language in 14.24.320 that talks about prohibited activities in aquifer 1, and the floodplain is aquifer 1.

Chairman Easton: We’ll get to 14.24, which brings me to the next thing I need to discuss with you. We are at the nine o’clock witching hour. What is the pleasure of the Commission concerning extending our meeting or re-adjourning – extending our deliberations to another evening? I need some – Matt’s of the mind that we’re not going to be able to finish tonight. I’m thinking that the longest I would extend this for would be an hour. So do you feel like you could accomplish what you need to accomplish in the next hour?

(silence)

Chairman Easton: Any other opinions besides Matt’s?

Ms. Lohman: I don't think we can get the whole thing done in tonight, but I think we should go at least another hour and get as far as we can.

Chairman Easton: Well, that's another opinion. Dave?

Mr. Hughes: I mean, if we're not going to get it done, let's –

Chairman Easton: Come back?

Mr. Hughes: – bag it now because three o'clock comes early, or three-thirty.

Chairman Easton: Okay. Josh? Mary? Anyone else? Carol?

Ms. Ehlers: We don't make very – we have not historically made very good decisions after nine-thirty.

Chairman Easton: I don't remember too many meetings going past nine-thirty, but –

Ms. Ehlers: Oh, in the old days we used to go until ten.

Chairman Easton: I know. I miss the old days.

Mr. Hughes: Oh, eleven!

Chairman Easton: Eleven.

Ms. Ehlers: Yes.

Mr. Axthelm: I'm flexible.

Chairman Easton: I'm comfortable under my chairmanship that we will never reach eleven o'clock. I'll say that right now. Josh, you're flexible?

Mr. Axthelm: I'm flexible. Whatever – that's fine.

Ms. Ehlers: I just –

Chairman Easton: You got a date for me?

Mr. Christensen: I do. In fact, maybe what will help you in your discussion on this subject under General Business I was going to be suggesting that we probably have more meetings between now and the end of the year, based on a number of legislative proposals which are going to require your attention. And they're not going to be quick and easy. So my suggestion would be that we meet twice a month, probably the first

Tuesday, which is your regular meeting each month, and then the third Tuesday, with maybe one exception. But the next meeting would be Tuesday, August the 23. You know, let me hand out a schedule so you can see what's coming up and maybe that will –

Ms. Ehlers: I read through this all day.

Mr. Christensen: Yeah.

Chairman Easton: Yeah, this is the – is this the same one you e-mailed us earlier?

Mr. Christensen: Same one but revised again.

Chairman Easton: Oh, okay.

Mr. Christensen: So you'll just get a better idea of what's ahead of you and then you can plan accordingly. If you want to meet longer, you can meet longer, or if you want to do more next time you meet you can do so.

Mr. Hughes: We'll start right with this –

Chairman Easton: The idea here that I'm thinking of, folks, is that we – Ryan and Betsy, how much time do you expect a work session to take on Ruckelshaus? Am I saying that right?

Mr. Walters: We're not going to be brief.

Chairman Easton: So does that mean you're north of an hour? Am I looking at two hours? Expect –

Mr. Walters: At least an hour.

Chairman Easton: Expect this Commission asking you questions, too.

Mr. Walters: At least an hour.

Chairman Easton: Actually we need to have sort of an exchange of information.

Mr. Walters: It's a work session.

Chairman Easton: Right.

Ms. Lohman: And it has a deadline.

Chairman Easton: Not a lecture, as Matt would say.

Ms. Lohman: You have a date certain on that one.

Chairman Easton: Yes.

Mr. Walters: It's on the schedule.

Chairman Easton: Well, no. We have a date certain that – she's right. She's referencing the fact that state law requires action by the end of the year. Correct?

Ms. Lohman: Okay.

Chairman Easton: January – someone?

Mr. Walters: No.

Mr. Christensen: January 22nd, but there are some other earlier deadlines.

Mr. Walters: There are a lot of other deadlines that we could get into now, but we'll be getting into our hour or more.

Chairman Easton: No way I'd listen. Bill isn't here.

Mr. Christensen: So I think Bill –

Chairman Easton: What do you think Bill needs?

Mr. Christensen: Bill would be less than an hour, maybe could be done in a half-hour. So conceivably you could say if Ryan and Betsy need an hour and Bill's a half-hour, you'd have then another hour-and-a-half. Is that right? Six to nine.

Chairman Easton: I think it's probably more realistic that Ryan and Betsy are going to need an hour-and-a-half.

Ms. Ehlers: Mm-hmm.

Chairman Easton: Betsy?

Ms. Stevenson: One-and-a-half hours_____.

Mr. Axthelm: Can we get a little –

Chairman Easton: I think Betsy thinks that Bill's going to get more than a half-an-hour.

Mr. Christensen: So maybe it's an hour for each, if –

Chairman Easton: Okay, how about the NPDES land clearing regulations? How time-sensitive is that, Mr. Director?

Mr. Christensen: We are required to have that before you, I think – a public hearing before November.

Ms. Ehlers: Well, Ruckelshaus –

Chairman Easton: I know we're up against them all being time-sensitive thus far. Okay, here's what I propose. I propose that we move the work session with Bill to – on the land clearing – to the first half of the meeting on the 6th, or the second half. Because I like public hearings – I want to have public hearings on the 6th.

Mr. Christensen: Yeah, unfortunately he's out of town on that day. That's why we scheduled him on the 23rd.

Ms. McGoffin: Maybe somebody else could speak for him.

Chairman Easton: Are you married to the fact that Bill's got to make the presentation at the work session, Gary?

Mr. Christensen: Yeah, he's the project manager.

Chairman Easton: Okay. Sorry, I'm just trying to figure something out.

Mr. Christensen: Betsy, what about the land clearing? Is that – Bill needs to make that presentation or is that Public Works and you've been somewhat involved with it?

Chairman Easton: Could we do it without Bill?

Ms. Stevenson: No.

Chairman Easton: Okay. I'm not saying we *should*; I'm just asking.

Ms. Stevenson: (inaudible)

Mr. Christensen: But he's been the lead project manager.

Chairman Easton: Okay. All right, not to get too far into the ___ about your guys' deadlines, but does moving your work session –

Mr. Walters: Do not move that later.

Chairman Easton: I cannot move that to September 6th?

Ms. Stevenson: I won't be here.

Mr. Walters: They're –

Ms. Lohman: They're not there.

Mr. Walters: You could move it earlier.

Chairman Easton: This is a riddle wrap and a conundrum and I'm stuck in it. A fricking fortune cookie.

Ms. Lohman: Can you split them up? Put one on the –

Chairman Easton: I guess – you know what? You guys, do you want a Thursday meeting in August? You want to go three meetings in August?

Mr. Axthelm: No.

Chairman Easton: One response no. Anyone else?

Ms. Ehlers: Well, not the second Thursday.

Chairman Easton: Yeah.

Ms. McGoffin: Can we or can't we finish what we're doing today on the 6th?

Chairman Easton: Okay – Tim? Good question. I've got till the 22nd with the Commissioners – right? – on this one, on NMFS, the BiOp. Can I push the rest of this till September 6th?

Mr. DeVries: Our plan had been to – if we could – if they could deliberate and we didn't have to come back for – on another agenda item – for like consent, then yes. We were planning to be in front of them three times in September, and if we could combine two of them into one trip, then, yes, we could do that.

Chairman Easton: Do you believe that's within the realm of possibility, Gary?

Mr. Christensen: Well, let me just say that I think there is an advantage to the County getting their proposal – their legislative action – in before September 22nd, because I'd rather be number 35 rather than number 100 in the list. I suspect there's going to be a lot submitting right around September 22nd, and if we're a week ahead of that I think we are better positioned for a quicker response.

Chairman Easton: How many Commissioners are taking the Short Course?

Mr. Walters: I would suggest –

Chairman Easton: How many – just a second – how many Commissioners are taking the Short Course?

Ms. Lohman: You know, I'm willing to forgo that.

Ms. Ehlers: I am.

Mr. Walters: I don't think you should.

Chairman Easton: Yeah. I'm under the impression the Commissioners don't want me to encourage that.

Mr. Walters: Yeah.

Chairman Easton: They actually are considering the idea of making it a requirement.

Mr. Walters: I would suggest that if you could stomach meeting three times in September that you could –

Chairman Easton: That's the direction I'm going in.

Mr. Walters: – that you could move land clearing beyond September 6th and you could stack up August 23rd with BiOp __.

Chairman Easton: All right, here's what I want to do. I want to take – you know what? That Tuesday meeting – I mean, that September 6th meeting right now is going to be really short. I just don't expect a lot of public testimony on the topics that are coming up, and the deliberations – I don't expect a lot of deliberations. But I mean I could be wrong.

Ms. Ehlers: Well, have we seen those codes? Are these the ones we just talked about?

Mr. Christensen: Yes.

Chairman Easton: Yeah, that's the one we had the work session on.

Ms. Ehlers: Oh. Well, then why don't we do the NPDES that night?

Mr. Christensen: Bill is not available on the 6th.

Chairman Easton: Bill's not in town.

Ms. Ehlers: Oh.

Mr. Walters: You could bump it a week.

Ms. Nakis: What about the Ruckelshaus? Does that have to be done on –

Chairman Easton: We can't; we already tried that.

Ms. Nakis: Oh.

Chairman Easton: Okay – boy, this has got to be fun to watch at home on TV. I'm sorry. _____. I apologize.

Mr. Walters: You could bump the September 6th meeting a week maybe. Will Bill be back then, Gary?

Chairman Easton: Will Bill be back on the 13th? Anyone?

Mr. Christensen: Um –

Mr. Axthelm: Why don't we just bite the bullet and do a Thursday meeting _____?

Mr. Christensen: So have the work session on NPDES and the public hearing on – what? – the 13th?

Chairman Easton: Yeah.

Mr. Christensen: I could try that.

Chairman Easton: It works in relationship to extending – I mean, it gives – you give people more notice so you're not worried about notice issues on the hearing.

Mr. Christensen: Right. That may work. I'll have to check.

Chairman Easton: Okay, that's our first option –

Mr. Christensen: Okay.

Chairman Easton: – and our second option will be a meeting on – you are not going to like this, but I don't know what else to do – our third option, I can't schedule a third – I don't feel right about scheduling a third meeting in September, so our third meeting would be on Thursday, the 25th, if the staff cannot accommodate the strong desire of the Planning Commission to rearrange the schedule as we laid out before, with moving

NPDES and the public hearing to the 13th and finishing our deliberations here following the work session with – on Ruckelshaus on the 23rd.

Mr. Walters: If we put the dot camera on the screen, you can see.

Chairman Easton: I think that accomplishes – what do you have for me? Oh. That's what I had in mind.

Mr. Christensen: Yeah, the other option rather than meeting twice in one week on –

Chairman Easton: Are we going to come back on the 30th?

Mr. Christensen: Come back on the 30th –

Chairman Easton: You guys like that better?

Mr. Christensen: – which would be just one meeting each of those weeks rather than a Tuesday and Thursday.

Chairman Easton: Dave?

Mr. Christensen: But your preference –

Mr. Hughes: I won't be here.

Chairman Easton: Dave will not be here.

Mr. Mahaffie: When's Labor Day?

Chairman Easton: Labor Day is –

Mr. Hughes: The 5th.

Chairman Easton: – the 5th.

Mr. Hughes: I –

Chairman Easton: Dave will not be available if we took that option.

Mr. Hughes: I might not make it back on the 5th because I'm not going to drive back from vacation on Monday.

Chairman Easton: Well, it doesn't look like – we're having a meeting on the 6th anyway.

Mr. Hughes: Well, a public hearing.

Chairman Easton: No, we moved it to the 13th. So there actually wouldn't be a meeting on the 6th, and the proposed – here's the proposal I'm making: I propose that we move the work session that we didn't finish tonight to the second half of our meeting on the 23rd of August. I propose that the new date for the public hearing and deliberations on 2011 code amendments version 2 be on September 13th. Following the public hearing would be – Ryan, change that arrow so it comes after the public hearing, please – following the public hearing would be the NPDES land in the second half of the meeting.

Mr. Christensen: Okay.

Chairman Easton: That is our – everything the Department can do in their power to make that happen. If that doesn't happen, then reserve the date of the 20 – Thursday, the 25th, as the other option. And on that Thursday, the 25th, the only action we would take that night then would be to do the deliberations we were unable to finish tonight.

Mr. Hughes: That's fine.

Ms. Ehlers: September or August?

Chairman Easton: August – September – August, 25th.

Mr. Hughes: Otherwise the deliberations are when?

Chairman Easton: If staff can – staff will get back to us in the next couple of days, right, Gary?

Mr. Christensen: I'll know tomorrow.

Chairman Easton: Okay.

Ms. McGoffin: August 23rd.

Chairman Easton: August 23rd will be the deliberations.

Mr. Hughes: 23rd or 25th we're going to finish what we ____.

Chairman Easton: 23rd or 25th we will finish this.

Mr. Hughes: Okay.

Chairman Easton: I apologize for the pain.

Mr. Christensen: Well, that's okay.

Chairman Easton: All right, so I need a motion to extend deliberations.

Ms. Ehlers: So moved.

Chairman Easton: Second?

Mr. Axthelm: Second.

Chairman Easton: It's been moved by Carol, seconded by Josh, to extend the deliberations to August 23rd or 25th, to be noticed by the staff in your normal contact ways.

Any other general business that needs to come before the – oh, Ryan, did I leave a motion – an amendment – on the table when I stopped discussion at nine o'clock?

Mr. Hughes: No.

Mr. Walters: No, we switched back to PowerPoint –

Chairman Easton: Can we switch back to PowerPoint, please?

Mr. Hughes: I was –

Chairman Easton: You were discussing.

Mr. Hughes: I was up and I wanted a clarification.

Chairman Easton: Okay. I just wanted to make sure I didn't leave anything undone.

Mr. Hughes: And I had not made a motion.

Chairman Easton: Thank you. All right, just so –

Mr. Walters: You were apparently discussing your motion to approve 14.34.

Chairman Easton: Correct.

Ms. Ehlers: And we're tabling that.

Chairman Easton: And we are tabling – yeah. We'll table those discussions and extend our deliberations so the public can be notified, and the Department will make sure that the website notes when our deliberations will be since we can't currently say that tonight.

Mr. Christensen: I will put it on the website, we'll do an e-mail listserve.

Chairman Easton: Excellent.

Mr. Christensen: We'll get the word out.

Chairman Easton: Okay. Other general business before the Department – or the Department has other general business before the P – Planning Commission.

Mr. Christensen: Just one item.

Chairman Easton: Yes, sir.

Mr. Christensen: Just as a reminder, effective this week or today or now, you now have – those of you that want e-mail correspondence with the County, you have your own e-mail County accounts that are now up and running and operational.

Chairman Easton: Is anybody having problems checking their e-mail with the County – your new County e-mail address?

Mr. Hughes: I e-mailed Carly _____.

Mr. Christensen: Yeah, we're doing paper copies. Yeah.

Mr. Hughes: Most of the stuff, I don't get.

Mr. Christensen: Yep. So Carol and Dave, we're doing paper copies. Everybody else has County e-mail accounts.

Chairman Easton: Okay. And that's where you'll send us information and that's where we're – if we are to communicate with the public, that's the account you want us to communicate from.

Mr. Christensen: Yes. Yes.

Chairman Easton: I just have one. It's very – a significant set of challenges with the IT Department in trying to make checking my e-mail actually easy.

Mr. Christensen: Yeah.

Chairman Easton: Which we weren't able to accomplish. Because of that, I'm going to request that my personal and my County e-mail get my inbox in the mail – just the information flowing from the Department to me, not – I'll return – you know, I'll send public information – if I send something to the public I will, as of today, start using that account now that I've been told that that's the plan. You all right with that?

Mr. Walters: I think that that is probably fine. Let's talk about the IT issue.

Chairman Easton: Yeah, okay. I think we've – all right. Anything other – is there anything else to come before the Commission?

Mr. Christensen: I have no other items.

Chairman Easton: A question from the public: You'll have to go to the microphone so I can hear you, or they can hear you. Mr. Shultz, can you identify yourself?

John Shultz: Yeah. My name's John Shultz, 160 Cascade Place, Burlington, Washington, and just one question. I know we're late in the process and I know you're going to still be deliberating. Is there any possibility of additional comments, either with or – they would address provisions that you haven't dealt with yet.

Chairman Easton: The Commission would have to consider an extension or reopening of the public comment period because it has been closed. It was closed effective the 27th. The Commission does reserve its rights to recall anyone who wrote – who either submitted public hearing – testimony – publically or in writing. We can do that throughout our whole time of deliberations, even though I structured things to have questions earlier in the evening. Is there any – obviously we have a request here that – is there any desire of the Commission to reopen the public comment period?

Ms. Ehlers: No, but we have a history of asking questions.

Chairman Easton: We definitely have a history of asking questions. So anyone else want to speak to the idea of opening it?

(silence)

Chairman Easton: Okay. Sorry, John. That's not the will of the Commission.

Mr. Shultz: Okay. Thank you.

Chairman Easton: I would encourage you to be here at deliberations. There's always the potential that you could be called upon. Thank you, though. I appreciate your time.

Anything else?

(silence)

Chairman Easton: All right, we're adjourned (gavel).