

**Skagit County Planning Commission
Election of Officers
Presentation: Legislative Reform
Discussion: 2013 Work Program
Other Business
January 8, 2013**

Commissioners: **Annie Lohman, Chair
Josh Axthelm, Vice Chair
Carol Ehlers
Keith Greenwood
Matt Mahaffie
Elinor Nakis
Dave Hughes (absent)
Jason Easton (absent)**

Staff: **Dale Pernula, Planning Director
Ryan Walters, Civil Deputy Pros. Attorney
Gary Christensen, Planning Manager**

Public Commenters: **Roger Mitchell
Tom Stowe
Howard Gulley
John Bouslog
Ed Stauffer**

Chair Annie Lohman: (gavel) I call to order the Skagit County Planning Commission. It's Tuesday, January 8th, 2013, and it's a couple minutes after 6 p.m. If you guys could review the agenda, and if you see any changes to the agenda, please let me know. The one change that I would like to propose is that we move item number 5, the Election of Officers, to be the first item of business.

Carol Ehlers: We can't have an election of officers because there's four of us – four positions that are up for appointment at the end of the month. So I'm going to propose that we postpone that until next month.

Chair Lohman: Dale?

Dale Pernula: It *is* in the bylaws that at the first meeting of the year you elect the officers. That might be problematic in this case but it *is* in the bylaws.

Chair Lohman: Right.

Ms. Ehlers: That was because in the old days it was set up so that the Commission was full in people by the first of the year. But four years ago there were games played with the Planning Commission and that changed. So what I would like is to go back to the days where the Planning Commission was full by the first of the year so we *could* honor that. But meanwhile since there are four spots up – Annie and I and Matt, and then Mary’s replacement – it would not be appropriate, I think, for us to have an election.

Chair Lohman: Well, I would like to propose that we go ahead and have the election and then when we are all officially reappointed that we have a new election just for – it’s kind of funny because of this weird situation that we’re in, but I don’t know how else we could do it because we have a bylaw that says we have to have an election on the first meeting of the year.

Ms. Ehlers: Yeah, we do, and it’s this kind of lack of planning – like four years ago – that we tend to do.

Chair Lohman: Ryan, did you –

Ryan Walters: I’m not sure what happened four years ago but I do have some thoughts on that that maybe we can address under item 2.

Chair Lohman: Go ahead.

Mr. Walters: Do you want to move to item 2?

Chair Lohman: Yes. Is that okay with the Commission?

Keith Greenwood: That’s fine if that’ll help.

Josh Axthelm: Mm-hmm.

Chair Lohman: Okay, up for election we have the position of the Chair and the Vice Chair. Currently I am serving as the Chair and Josh Axthelm is serving as the Vice Chair. Are there any nominations for the position of Chair?

Ms. Ehlers: I nominate Annie Lohman.

Matt Mahaffie: Second.

Mr. Axthelm: Second.

Chair Lohman: Are there any other nominations?

(silence)

Chair Lohman: Are there any other nominations?

(silence)

Chair Lohman: Are there any other nominations, for the third time?

(silence)

Chair Lohman: Seeing no other nominations, Annie Lohman – well, you know what? I can't do this. Excuse me.

Ms. Ehlers: Josh has to do it.

Chair Lohman: Josh, you have to do it.

(laughter)

Chair Lohman: Sorry!

Mr. Axthelm: Okay. So are there any nominations for the Chair?

Ms. Ehlers: No, we've done that.

Mr. Axthelm: Well, I thought you said we can't do it. Can you do the whole thing?

Chair Lohman: No. I have to hand it over.

Mr. Axthelm: So...

Ms. Ehlers: Shall we repeat this –

Chair Lohman: Yes, go ahead.

Ms. Ehlers: – conversation? And I shall again nominate Annie Lohman as Chair of the Commission.

Mr. Axthelm: Okay. Are there any other nominations or seconds?

Mr. Greenwood: Second.

Mr. Axthelm: Are there any other nominations?

(silence)

Mr. Axthelm: Do I have to repeat it three times?

Chair Lohman: Mm-hmm.

Mr. Axthelm: Are there any other nominations?

(silence)

Mr. Axthelm: Are there any other nominations?

(silence)

Mr. Axthelm: Seeing no other nominations –

Ms. Ehlers: Can I move by acclamation?

Mr. Axthelm: What does that mean?

Ms. Ehlers: That means that we don't go through the – well, I forgot. Keith might disagree. You might disagree. Sorry.

Mr. Axthelm: All those in favor?

Ms. Ehlers, Elinor Nakis, Chair Lohman, Mr. Mahaffie, Mr. Axthelm and Mr. Greenwood: Aye.

Mr. Axthelm: All those opposed?

(silence)

Ms. Ehlers: That takes care of that.

Mr. Axthelm: Seeing no opposed, Annie's the Chair.

Chair Lohman: Thank you, everybody. Sorry about that! So now up for nomination is the position of Vice Chair. Are there any nominations for the position of Vice Chair?

Mr. Greenwood: I'd like to nominate Josh Axthelm for Vice Chair.

Chair Lohman: I'll second that. So it's been moved and seconded to nominate Josh Axthelm. Are there any other nominations?

(silence)

Chair Lohman: Are there any other nominations?

(silence)

Chair Lohman: Are there any other nominations, for the third time?

(silence)

Chair Lohman: Seeing none, Josh Axthelm's been nominated to be Vice Chair. All those in favor, say "aye."

Ms. Ehlers, Mr. Greenwood, Chair Lohman, Ms. Nakis, Mr. Mahaffie and Mr. Axthelm: Aye.

Chair Lohman: Aye. All those opposed, say "nay."

(silence)

Chair Lohman: So Josh is our current Vice Chair.

Mr. Axthelm: Thank you.

Chair Lohman: Ryan, did you want to have some comments on this?

Mr. Walters: I was going to address that in my presentation.

Chair Lohman: Okay – on Miscellaneous or right now?

Mr. Walters: Well, under item 2 on the agenda.

Chair Lohman: Okay, so let's move to item number 2, which is Legislative Reform Presentation.

Mr. Walters: Did you want to introduce it?

Mr. Pernula: I could just make a brief presentation. This is something that's been worked on for over a year now. I believe that staff has met with both the Board of County Commissioners and the Planning Commission over a year ago and there has been some direction taken. Ryan's going to be making a presentation on the status of this legislative reform ordinance and there will be a hearing scheduled later this month before the Board of County Commissioners.

Ms. Ehlers: You mean we're supposed to decide tonight without seeing it?

Mr. Walters: Nope.

Ms. Ehlers: That's good because there's been far too much presented to us in this way.

Mr. Walters: And this isn't one of those. So this presentation is about the legislative reform options that we came to talk to you about last February and last March after the Board of County Commissioners sent you a letter last January asking you a series of seventeen questions about how the Planning Commission is working, how do you think it could work better, what were your favorite moments – that kind of thing. We sort of put it on hold after March because we were in the midst of getting a new Planning Director and because we realized that by that time we were sort of much farther along in the terms. And one of the problems we were hoping to solve is the re-staggering of terms – I think that Commissioner Ehlers mentioned earlier – and it's January 31 of *this* year that several terms end. So I'm going to get to that in a second. But that's sort of why we held off on making additional progress on it last year. But now we're back because that January 31 deadline is coming up so it's sort of a nice date to adopt the ordinance in order to effectively re-stagger the terms.

So we've tried to take everybody's feedback into account, both the Board of County Commissioners' and the Planning Commission's. This ordinance addresses three chapters of code. First, Skagit County Code 2.80, which is a new chapter dealing with administrative departments. We don't currently have a code provision or really anything in the code that details the administrative departments of the County. My feeling is that's a best practice to describe the administrative departments. These are Planning Department, Public Works Department, Health Department – the non-elected officials. So we in this ordinance would add a chapter to describe what the Planning Department is, the fact that it has a director, the fact that it has a building official and a fire marshal. So that chapter covers that.

It also addresses some sections of 14.02, the General Provisions chapter. That's where the Planning Commission is currently described. And what it does is – what the ordinance would do is strike out the existing Planning Commission chapter and replace it with a new, *better* Planning Commission chapter that addresses a lot of the questions that have come up over the last couple years. And then it also goes on in 14.08 to revise the Legislative Actions chapter. That chapter in Title 14 addresses the process for adopting development regulations, adopting the official controls on development, and also Comprehensive Plan amendments and that kind of thing. And what we wanted to do was flesh out what the public process is supposed to be and how that is all supposed to go in a much more detailed way and yet easier to read – more lists, fewer paragraphs – so that it's more useful as a guide, as a checklist to staff when they're going through it, and that it also provides a little bit more structure as to how that process works.

So first I want to highlight the changes in the ordinance that will apply to you. The Planning Commission changes include, first of all, some minor things like adoption of Robert's Rules, which basically you're already using now. And you'll be able to adopt special rules to modify or implement those rules. It also requires continuing education for Planning Commissioners. Planning Commissioners will need to attend at least one training or continuing education event per year. Training might involve something presented by staff or a Prosecutor's office staff, or it might include like the Short Course

that several of you attended that's put on by the Department of Commerce each year. There's one coming up, I think, in April in Bellingham. So I think the expectation is we provide a number of opportunities for this but we also want to make sure the Planning Commissioners are getting refresher in these types of issues. I know that Commissioner Ehlers has mentioned before training in SEPA. That would be another opportunity, you know, to get some training.

But one of the big things that we're doing here in the ordinance is reconfiguring the terms and making the terms three-year terms. That actually was the Planning Director who came up with this idea. We have three County Commissioners, there are nine Planning Commissioners. If we have three-year terms, each County Commissioner can get an appointment every year. And we really like this idea because it's extremely structured. Previously we were required to have staggered terms but because they didn't evenly divide into nine they got off – I don't know exactly when, but maybe four years ago – so that terms now don't end on a staggered basis. With three-year terms, nine Planning Commissioners, three County Commissioners, and three County Commissioner districts we can evenly stagger them and evenly space them out. We also will implement a consistent end date for the terms. Every term will end January 31 of every year – not December 31 because that gets into Christmas and then there's always a rush at the end of the year, so we pushed it back a little bit.

Ms. Ehlers: Then are you going to change the bylaws so we have the election *after* the terms?

Mr. Walters: Yes, we will do that. That makes sense and that's the type of thing that we're trying to accomplish. Now that also means that all Planning Commissioners will need to be reappointed because the mechanism for making this happen is we dissolve the Planning Department and the Planning Commission and then reconstitute them in one act. So it will also detail the appointment procedure for later appointments, other than initial appointments.

So if you look at the list of current Planning Commissioners you'll see that four terms – pretty much half of the Planning Commission – ends at the end of this month. That's problematic. There's also another one that ends later this year, and then there are three that end next year, none of which are on the same date. So we – this was the problem that we identified last year, that eight Planning Commissioners were going to be replaced or have to be reappointed over the span of two years. We didn't want that. We wanted them to be evenly staggered so that if there's turnover there's an even pace of turnover as much as possible, rather than a wholesale replacement of the Planning Commission at any given time.

Here's what's *not* changing. We are not proposing in the ordinance any term limits. We are not proposing to change – we're not giving you a stipend. That was the joke bullet that somehow appeared second on the list. And there's no change in the number of members. As you may recall, we suggested that maybe you might want to receive a stipend and you declined. So that was your chance. Sorry, Keith – you weren't here.

Now there's also changes to our legislative process. That's the 14.08 chapter of code. And the first important bullet is that the ordinance will require the Board of County Commissioners to initiate any legislative proposals. So my feeling is that this is a good idea both for the Board of County Commissioners, for the public, but also for the Department so the Department doesn't get conflicting directive on what it is it's supposed to work on. This will mean that the Board of County Commissioners will adopt a work program as they've been doing for the Department, probably at the beginning of each year but they can modify it whenever they want. The important point is that the Department will not be allowed to push forward a proposal that the Board of County Commissioners hasn't already authorized in concept. So if the Department is bringing something to you, it's because it's on the legislative work plan that's been adopted by the Board of County Commissioners by resolution. They won't be adopting by resolution what the proposal is, but they'll be adopting the idea for the proposal – the basic subject of what the proposal is supposed to be. Things that would be on that work plan are something that, I think, is going to come up later on your agenda tonight – but, you know, things like the Shoreline Plan, things that we are required to do. Those would have to be on the work plan in order for the Department to work on them and move them forward through the legislative process.

So that is sort of an important bullet point. There was a provision in the code already that said the Board *may* initiate proposals in this way. Now it's required. If the Board wants the Department to work on it, they have to adopt a resolution directing the Department to work on it.

Second, there are updated public notice procedures –

Ms. Ehlers: Ryan?

Mr. Walters: Yes?

Ms. Ehlers: Does this mean that the Board of County Commissioners would do what I have not seen done, and that is coordinate among the three departments that they're responsible for so that – for example, the Natural Hazard Mitigation Plan, which must be done next year, is on the list for *may* do but it *has* to be done by federal law. The Planning Department *has* to cooperate with it. Emergency Management is the one who *has* to take the lead. It's something Public Works *has* to take part in because they deal with the hazards. And this kind of proposal you're making would then enable the County to do what it has not done very well, which is coordinate the work programs of departments so that departments are not only *enabled* to work together but perhaps *required* to.

Mr. Walters: I don't think that it would *ensure* that that coordination happens. It might help move in that direction.

Ms. Ehlers: It needs to happen.

Mr. Walters: What it hopefully would do is also provide the Board with a holistic view of the Department's work load and expected deadlines and time frames at one time so that the Department isn't taking on additional projects if they can't expect to reasonably have man hours available to devote to it. So it will hopefully deal with resource allocation within the Department. It doesn't really address coordination between the Planning Department and other departments, but it might help.

Ms. Ehlers: May I suggest that it's really necessary?

Mr. Walters: Yeah, the Natural Hazard Mitigation Plan – not that I'm really familiar with it, but it's not a legislative matter for adoption into County code.

Ms. Ehlers: Yes, it is.

Mr. Walters: It is?

Ms. Ehlers: It's a legally mandated – federally legally mandated plan required by Congress of FEMA as of 2002, and the reason I know about it is I got put on the committee. It has to be revised and modernized every five years. The most recent edition was 2008, which rather says that it has to be done in this next year or year-and-a-half. There's another plan that I heard about that – the Comprehensive Emergency Plan, which I've never heard of with the Planning Department, and what that's role is I don't know but Emergency Management's working on that right now. But this Hazard Mitigation Plan deals with flood, it deals with fire, it deals with earthquake, it deals with the kinds of problems that we read in the newspapers with Katrina and Sandy – which is the water and the wind category – but also the earthquakes that happen in California and other places. And the hazard I see most, other than flood, is fire, and it's that wild land interface. Remember when we did the Guemes Plan and I brought up that the highest fire hazard place in the entire county was Holiday Hideaway in that corner of Guemes? And nobody had thought about it, but if you don't coordinate the fire protection where it's really high hazard and and and and, then you've set people up for loss of property and loss of tax money.

Mr. Greenwood: Can I ask a question pertaining to this bullet item? Do you have an example of a legislative proposal that has *not* been Board-initiated – I mean in the recent past – that has triggered this?

Ms. Ehlers: Good question.

Mr. Walters: I think everything is Board-initiated in one way or another. What we wanted to do was formalize the process to make sure that *the Board* – two of the three or all three County Commissioners are on board with a proposal rather than just a single Commissioner initiating a proposal. We don't want – especially in the time of limited resources – a single Commissioner saying, We want the Department to work on this.

We want the Board to act together in a public meeting to make that decision and to make that decision in light of the other obligations of the Department.

So I'm not sure that I can highlight a particular example where the Board hasn't, in one way or another, initiated a proposal. On the other hand, you wouldn't necessarily know if it weren't already on the work plan.

Mr. Greenwood: Right.

Mr. Walters: It's sort of hard to say.

Mr. Greenwood: Okay.

Mr. Walters: The thing that I think is important about this chapter is that this chapter doesn't affect all actions of the County or all legislative enactments of the County Commissioners. It affects legislative actions that are Comprehensive Plan amendments, subarea plans, you know, some other form of Comprehensive Plan amendments, and development regulations. So it's only those types of actions – the Title 14 development code and Comprehensive Plan-type actions – that this would affect.

Ms. Ehlers: Does it do anything with the process?

Mr. Walters: Yes.

Ms. Ehlers: The amount of time you have from being noticed?

Mr. Walters: Yes. So with respect to your comments from last meeting or a couple meetings ago about the Shoreline Plan, the standard requirement is that you have a 14-day public comment period. But what we did is we inserted a line that says for more substantive projects the Department should make available a longer comment period. Now that isn't highly prescriptive but it's still an instruction. And for the Shoreline Plan we're not going to have a 14-day comment period. In fact, we've already had a lengthy comment period and we will have more.

Ms. Ehlers: They have not been allowed to make comments on the record.

Mr. Walters: There was a written comment period – was there not? – for the Shoreline Plan?

Ms. Ehlers: There was but there's a large section of the plan – I think Boating was one of them – that we were given after that comment period was over.

Mr. Walters: Yes. Yeah.

Ms. Ehlers: So those sections of the text have had no opportunity at all for public comment, and I know of – in some cases – they're substantial.

Mr. Walters: And they will. One of the reforms that we sort of started playing with last year, I think it was, was the idea of getting this stuff out to you really early before it's even developed so that you have the ability to comment on even the approach. And that is something that's built into this reform, which I think is on a later bullet here.

Chair Lohman: Well, I have a question for you then. Does that mean there isn't going to be any more Department-initiated proposals?

Mr. Walters: The Department can initiate a proposal, but in order to move it forward they need to get the Board to approve it. I mean, the Department has a long list of things that people have asked for and the Department has thought they were good ideas, but the Board has to make that initial decision about what it is they're going to go work on and what it is they're going to move forward with.

So one of the changes here is we've updated our public notice procedures. In the existing code the code says you can pick one or more of these eight or nine different items, including publishing in a trade magazine a notice that you have begun work on a development regulation. We have, instead of that eight- or nine-item menu, included a provision that says you must send it out via e-mail to the listserve, post it on the webpage, post it on a page designed specifically for the project, none of which was required or even in that menu before. None of this electronic stuff was required or even in the list.

Now we still also release a carrier pigeon that goes to the *Skagit Valley Herald* with a legal notice in its beak, and that gets published in the paper. But legal notices get published in advance of comment periods and public hearings. This would also require posting on the website and sending out via the e-mail list when the project is initiated, when it gets put on the work plan, when the page goes up on the website, and all of those legal notices would also go out via e-mail so people who don't take the paper or don't read through the legal notice section – I am one of them – would be able to get notice. They sign up, they get noticed; they visit the webpage, they get noticed. So those types of things have been formalized in this.

This bullet here refers to what I was talking about before: the required first contact with the Planning Commission – the *early* notice about something that the Department is working on. I think with our enrollment in the Voluntary Stewardship Program we came to you very early on and asked for your feedback on the approach early on, and there may have been another proposal that we tried that with. And so that is formalized in this ordinance so it's become a requirement. So we would approach – the Department would need to approach the Planning Commission early on in the process; get their feedback before they have a draft that goes out to the public; and then if the Planning Commission identifies alternatives or options that ought to be part of the draft, the draft can include those options. So the draft need not be a single version of what the

ordinance can be. It can, you know, have a couple different options. And it's up to the Department to determine how fleshed out those get to be, but it provides more flexibility for the Planning Commission when it comes back to you after the public hearing for you to make a decision on how it is you want to move forward.

There is significant streamlining of the language throughout. There were a lot of passive sentences and that kind of thing, and there're a lot of blocky paragraphs in 14.08, and what we've tried to do is break those out into lists. So if it says – if there's a long paragraph and it says you do eight different things in the paragraph, that's broken out so that there are eight different list items, which makes it just easier to follow and easier to use as a checklist. So you'll be able to see all that.

The schedule for adoption is: We have published a legal notice today – or sent a legal notice today to the paper, which will get published on Thursday, and the draft will come out on Friday. We're still tweaking it. And then the Board of County Commissioners will have a public hearing on this on Thursday, January 22nd.

Ms. Ehlers: One of the really basic problems that I have seen across the board is that the decision will be made – let's say October 6th – the decision in a department – and then it's transmitted to the paper sometimes fourteen days later, with two days – with the text in it that says you may have the response time from the date of decision. And I've seen that used as a game.

Mr. Walters: What types of projects are you talking about?

Ms. Ehlers: A number of applications that are required for notice. The first thing I notice is that the application number is not always included so you can't compare this with that to see if it's the same thing. But, more important, often you must respond – this is in 14.08 – by the date of the decision, not the date of the notice. So sometimes the decision has been made two weeks before the notice – for valid reasons. I'm not questioning that. What I am questioning is that you need a real – you need a real two weeks. And to say you have two weeks from the date of decision and you've already lost twelve days because it wasn't in the paper – do you follow me, all of you?

Mr. Walters: I don't think "date of decision" appears in 14.08.

Ms. Ehlers: It appears several places.

Mr. Walters: In 14.08?

Ms. Ehlers: I think so because when we were reviewing it last spring remember I wrote you a letter that didn't get to the Planning Commission on the subject of 14.08?

Mr. Walters: Maybe.

Ms. Ehlers: I don't remember that I talked about date of decision, but I might have.

Mr. Walters: 14.06 probably references date of decision because –

Ms. Ehlers: Okay.

Mr. Walters: – because 14.06 is Permit Procedures. But in 14.08 you're not going to have a decision until well after the public hearing/public comment period.

Ms. Ehlers: Okay.

Mr. Walters: But what we have constructed is the required fourteen-day period. That starts from the date of *advertisement*.

Ms. Ehlers: Good.

Mr. Walters: And it's frequently longer than that because it's – at least by a couple days – because it's difficult to construct a fourteen-day period with when the newspaper publishes the legal notices and that kind of thing. But the notice could also conceivably go out earlier to people with e-mail because those people are going to get it instantly rather than waiting for the paper to publish it in the couple days after we send them the notice.

Ms. Ehlers: That's right, but it's still necessary to give the general public an honest period of time. In that same regard, there was a problem last year but not this past – two years ago, but not this past year when – which arises because you folks have furlough days. And sometimes the fourteen days ended on a day in which there was nobody here in the County to accept the document which meant, of course, it then arrived on Monday. But if it arrives on Monday it is then date-stamped on Monday and if you get into a court case and someone says, This was due on this date and it's date-stamped this other date – ah, you have failed instantly. Now I noticed that this Thanksgiving John Cooper and the others in the Planning Department avoided that very nicely by saying that it was due – whatever the date was – the Monday after Thanksgiving, and they put in parentheses, "Because of Thanksgiving holiday." So it was a very fair notice, in contrast to the year before. And since you have the furlough days it's something for you to look at here and see if you've taken care of that – please.

Mr. Walters: Well, and some of that, I think, is addressed by modifying the templates that people use, which we are going to have to go back and make sure that they're consistent with revisions to the code.

And one of the other things that Commissioner Wesen asked us to do is identify when a public comment period ends so that we could figure it out on a consistent basis. Because frequently what we have is a comment period of, say, fourteen days and you have a notice about the public hearing that goes out at the same time. And there's some debate about, Well, when do you have the public comment period end? Do you have the public comment period end before the public hearing and then also enable

people to submit comments *at* the public hearing? If so, why did you close the public comment period for that span of whatever days? Well, one reason might be so that you could stop people – get people to submit comments a little bit earlier so that you can then photocopy them or otherwise distribute them to the Planning Commission. But maybe the procedure ought to be instead: No, we won't provide any comments to the Planning Commission in advance. We will just get them all through the written comment period, go through the public hearing, then stop (and) collect all the comments, and then pass them on to the Planning Commission. Which means you can't deliberate on the same night but maybe that's fine.

Ms. Ehlers: It is.

Mr. Walters: You just get – that'll get pushed back to the next meeting. Now if you only meet once a month we don't want these processes to all take months between each step, but that's the reason we haven't figured out really how to address that yet either.

Ms. Ehlers: Well, in practice the comments come in. The staff has to have time to think and respond sensibly, because it's not fair to them to expect them to respond instantly. They also might have to look at a law, they might have to look at a record, they might have to look at a previous hearing in order to be entirely precise as to what it is the response needs to be for it to be consistent with previous responses. Then the Planning Commission – in my experience, I certainly need time to think because people's comments have caused me to look at the language, perhaps, quite differently than I looked at it initially. And then someone else's comment causes me to say well, no, no, I don't think it's quite that way. But there is a rumination time that I have found very useful, and I have noticed – the best example is in 2000 when the County gave the whole public two whole weeks to read a thousand pages before the hearing, and the hearing was a disaster. They allowed two more weeks but it didn't make much sense. And then they made us meet Tuesday, Thursday and Saturday in January, February and March. And nobody could respond to anybody's comments in that ____. That was my lesson in having enough time to think, discuss, change your mind – and staff.

Mr. Greenwood: Can I make a suggestion?

Chair Lohman: Keith.

Mr. Greenwood: That if there's a perception that the public has not been getting adequate notice, then I'd like that to be noted so that Carol can look into it when she sees the actual language to see if they've actually made it harder or easier. Because I think that the intent is probably here to streamline it and make it –

Ms. Ehlers: Mm-hmm.

Mr. Greenwood: – more usable. So I wouldn't get too worried about what *has* happened as much as be – recognize what has happened and, if you're concerned about it, let's make sure that it's better and not worse. Because I tend to think that they

go over the board on – well, go to great lengths to make sure people have time to comment.

Ms. Ehlers: It has improved enormously.

Mr. Greenwood: Okay, so I would expect that this change would be helpful, and if we don't see it to be helpful I think we should give feedback to that effect.

Mr. Walters: And so the default, like number of days for comment, under the Planning Enabling Act and GMA is basically fourteen days, and that is what our current standard is. Now other jurisdictions may have adopted longer periods – probably not shorter, but longer periods of time for comment. What I've tried to do is insert a line saying the Department should create a longer period if the proposal is more substantive. I mean, we've had proposals that have gone all the way through the legislative process with each of all those steps that are one line long. We don't feel that you need two months to comment on those. So there's some balance between those two different – or maybe the whole spectrum of length and complexity of proposals. So we try to give some discretion to the Department to figure that out.

We also include – one of the questions that came up last year is, Can the Planning Commission extend the public hearing or call for another public hearing? And so we include a line in the ordinance that says, Yeah, if you have people that show up and can't be accommodated because there's too many of them, there's not enough time, the room isn't big enough – you know – et cetera, then you can extend the public hearing. It says that if you have a really in-depth discussion of the proposal and you come up with entirely new ideas that you want to be incorporated into it, then you can request to have another public hearing. It doesn't give you the right to automatically hold another public hearing – there's lots of process associated with that and timelines – but you can ask for that so that you can get additional feedback on a whole new set of proposals if you have that.

Mr. Axthelm: Who do we ask?

Mr. Walters: The Department.

Mr. Axthelm: Okay.

Mr. Walters: So we've tried to answer some of those questions. We also explain right there in the text of the code: What is a finding of fact? What is a reason for action? Because those have been questions all along, and we lay out the format of what the recorded motion is, because the recorded motion is really your transmission of your opinion. It's supposed to reflect the opinion of the Planning Commission as a body and so the – you know – the format is findings of fact, reasons for action, your recommendation, your vote. And then we added another section because frequently there are other things the Planning Commission wants to say that are not really related to the proposal or not –

Ms. Ehlers: Mm-hmm.

Chair Lohman: Right.

Mr. Walters: – directly related to the proposal. You need to have some way to get that out, so there's an additional comment section where you can put in additional comments. I think legal counsel would prefer those not be in the findings or reasons for action unless they actually are findings of fact or reasons for action, but they can be in the document someplace. So we provide that structure and that opportunity.

Ms. Ehlers: Yes, that is what many of us have wanted if we disagreed with the vote – our reasons for saying no.

Mr. Walters: And we don't specifically call out like –

Chair Lohman: Dissenting?

Mr. Walters: – the opportunity for a minority report or something like that. But you could always transmit that separately as well.

Ms. Ehlers: Well, and that could go in that third section you're talking about.

Mr. Walters: It could, except that the Planning Commission as a body needs to approve the recorded motion so – or it needs to reflect the Planning Commission as a body, its will. So it'd be up to the majority –

Chair Lohman: So you're basically segregating the deliberations and the result from some other maybe connected message –

Mr. Walters: Right.

Chair Lohman: – that the Planning Commission – you're making it two projects then, in a way.

Mr. Walters: Two different sections –

Chair Lohman: Right.

Mr. Walters: – of the document. And then we also eliminate the requirement to have five votes. It's just a simple majority.

Ms. Ehlers: Isn't that in state law?

Mr. Walters: It is in the Planning Enabling Act, but we're not relying on the Planning Enabling Act.

Chair Lohman: Ryan, does this mean you're also going to – on your public noticing, are you going to increase the language in there so the public knows how – what they are allowed to do? When they come up and orally testify they're going to be limited, whereas they can send in written form however much they want to send. But they're limited when they testify orally at public hearings. Is there going to be something to explain that procedure a little more? Because I think there's a big misunderstanding. People think that they ought to be able to tell their whole story, regardless of time.

Mr. Walters: Well, that would be very non-standard.

Chair Lohman: Right.

Mr. Walters: The text in the public hearing section says that everybody needs to be given the same amount of time. It doesn't prescribe the amount of time. It doesn't say it's ten, one, three minutes. But it says everybody needs to be afforded the same opportunity to speak. The public hearing notices that go out usually don't get into that level of detail either. It's sort of up to you to prescribe, but I think the standard is probably three minutes. Some jurisdictions give less, some more. Some jurisdictions will give less time if a whole bunch of people show up. You know, if a hundred people show up they get one minute to speak. If ten people show up they get three or five minutes to speak. They vary it that way, depending on how much time is available in the agenda and a variety of factors, I suppose.

Anyway, that isn't spelled out in the ordinance. The ordinance says that everybody has to get the same amount of time and it says the Planning Commissioners cannot interrupt the speaker when they're testifying at a public hearing.

It also explicitly says that the Planning Commission can ask questions after a public hearing. So occasionally you have wanted to ask follow-up questions of people. You can't do that during the public hearing. You can't interrupt a speaker who's testifying at a public hearing, but you can ask follow-up questions later.

Chair Lohman: At the end?

Mr. Walters: Yeah. It's not like it's a closed record proceeding like on a permit. This is a legislative proceeding so you can ask questions, get more information, ask staff to bring you back more information – that kind of thing.

Ms. Ehlers: When we were doing the kennel ordinance, which eventually we failed to be able to do, the crux of the ordinance had to do with puppy mills but no one explained to us what a puppy mill was. And since someone thought his grandfather's six dogs made a puppy mill and someone else thought something else, I asked if the Humane Society could give us information about that. The information came in after the hearing was closed and we were not allowed to read it. So eventually we just aborted the whole subject, which wasn't productive, because the County legal staff wouldn't allow us to

have information that was requested before the hearing closed. So I don't know how you want to handle that but it may well happen again.

Mr. Walters: Well, this revised ordinance proposal explicitly says that you have the ability to ask for more information and continue your deliberations to another meeting if you are asking for more information and don't have it yet.

Ms. Ehlers: And if it comes in after the hearing's closed.

Mr. Walters: So that – there's an issue there, and I don't know exactly what happened during the kennel ordinance, but we ask for public comment on proposals in a defined period of time. So there's a public notice that goes out and it says your comments are requested on this proposal and you have until x date to get them in to us. And, inevitably, most of the comments come in on that date, whenever the date is. But the comments come in and then we may or may not continue to receive comments after that date. Those comments, they come in but they may or may not make it to the Planning Commission because they may have come in after the Planning Commission has had its public hearing or had its deliberations even, but they do make it into some folder some place. What they don't make it into is the formal part of the record, because they didn't conform to the deadline. And the reason that's important is because we need people to get their comments in by a deadline so that we can package them up and send them to the Planning Commission and then also put together a response to comments document.

The other reason that that's important is because commenting gives you standing, and if you could comment whenever then we would – and to whomever and in whatever format – we wouldn't know what it is you've commented on or when it has occurred, who you gave it to. There needs to be structure in order to make the process work. We have had comments come in – I guess the Department has had comments come in that are in weird comments, you know, that are difficult to print or make copies of, or giant maps of – those kinds of things. We ask that everything be 8 ½ by 11 so that we can make copies of it. Because if we have to start making copies of giant things or books – because people have submitted entire books as comments – that's a problem. We don't want to make copies of that kind of stuff. It is very infrequently useful to make a whole book a copy of something, although staff can obviously evaluate and figure it out if it is useful. But what we want is people to make comments in a succinct fashion that actually focus on the text of the proposal so that they are useful.

I'm a City Councilmember for Anacortes and when I get a comment letter that tracks exactly what the proposal is – that says, In this section I have a problem with this word – that makes sense to me. I can find that, I can understand that and figure out what it is I'm supposed to do about it. If it's a lengthy tome that talks about Thoreau I have a harder time, you know, figuring out what to do with the proposal. You can do that kind of thing and you can write – in your comment letter – you can write about your first principles. You don't have to understand the details of the ordinance or the statutes that are involved. You can just talk about what your first principles are and how you want

your Planning Commission members to address that in the ordinance or in the proposed plan. But what we want is some structure to that so it can be managed, so we can get it back out to you and so we can respond to it.

Chair Lohman: Well, I have a lot of problems with when the comments are held for such a long time and then we get them a couple of days or on the Friday before the Tuesday of our deliberations or our next meeting. That's not a long enough period sometimes on a real complex issue with a lot of comments coming in. Because the staff has had the comments long enough that they have been able to do their report and their response to the comments, but we haven't seen any of it at all. All of it's hitting us all at once. So there needs to be a little bit of balance between when the comments get given to the Planning Commission, and maybe it *could* arrive before the staff comments.

Mr. Walters: Well, and it could be published to the webpage as it comes in, or that kind of thing. That's one of the things that Commissioner Wesen had highlighted as a problem that needed to be solved that we haven't really figured out an answer to yet. But, I mean, clearly you need to have time to resolve or to read and review comments that come in. And in some instances there may be a very long process where there're lots of comments that come in over a long period of time. We may want to, you know, dump those on to the website as they come in. And then we also, of course, have issues where, Well, what if the content is not quite appropriate for putting on the web where thirteen-year-olds can find it and that kind of thing. So we have to be able to address those within the text of the ordinance.

Mr. Greenwood: Plus sometimes you want to summarize them because you could have a lot of repeat comments.

Mr. Walters: Well, that may very well occur. But even if there are repeats I think those would probably go up on the web individually.

Mr. Greenwood: But for someone reviewing them, you might not want to read thirty letters that say the same thing if, in fact, they do help you make a decision.

Chair Lohman: Well, but maybe you do. Maybe that would affect somebody's decision because if you have quite a few people sending similar comments it means that they're all reading something in a similar way.

Mr. Greenwood: Well, and sometimes it's a form letter thing and that's what I see –

Chair Lohman: Oh, I see what you're saying.

Mr. Greenwood: – as much as anything, where I see the same excerpt over and over repeated. Somebody got an idea and passed it around. So it's nice to have someone gone through it and combed through it a little bit.

Mr. Walters: Well, and I think that's the idea of the responses to comments document. It doesn't – that staff-prepared document doesn't have to be a letter by letter, line by line response – Yeah, we think that makes sense; no, we don't think that – it can generalize. It can, you know, summarize and respond in summary.

Chair Lohman: Because I don't think we want staff to have to be in the role of deciding which gets published unless it's, you know, vulgar.

Mr. Walters: No. Right.

Ms. Ehlers: Yes, you can't be censor.

Chair Lohman: Right.

Mr. Walters: No, I don't think so.

Ms. Ehlers: I agree with both previous comments but I'd like to go back to the item you said before they changed it. In terms of what gets turned in, you say it has to be 11 by – 8½ by 11. There are a lot of projects that come where they need the full legal size paper or larger to adequately present all the aspects of that topic. One came as a Comp Plan amendment and it didn't seem to manage to make it into the official record because it was larger, but it was necessary to read that whole document if you really wanted to understand what was proposed, why it was proposed, what the context of the proposal was and the rest of it. We were forbidden last year to turn anything in in color, even though the only way you can look at a Comprehensive Plan map is in color. And when decision after decision is made on the basis of a map that is only available in color then there has to be a way somehow for the Planning Commission and anyone in the public reviewing it to see that in color.

Now in terms of the book, I turned in a book on a project because the County had turned that book into us on a similar project about twenty years ago. The book was equally good and it provided a context for what needed to be said – which context was essentially ignored for a long time. Sometimes – I was told by an attorney many years ago that if there were a hearing and it was crucial and I was going to turn in a page, I couldn't turn in the page because it might be that that page misrepresented what the book was. I had to turn in the entire document, and the document is often longer than what you want. But at the initial review of the legal situation on x topic you – traditionally in this state – you have to turn in the whole thing. Then somebody can take that page out of it and say, These two pages do indeed represent what the rest of the book says. That's a reasonable technique – I've seen that in County hearings here – because it means you haven't misrepresented. But it's crucial that people be allowed to give – to be able to follow the law, as the lawyers teach us and require us to do, in hearings of this sort because – well, whatever sort that the Planning Commission might have. It's simply a tradition. So please rethink that as to – because what I did was to turn in the book and then I turned in a couple of pages that raised the issue I wanted the Planning Commission to be able to see so that you could see how those two pages – or

three – fit within the book – that I didn't misrepresent anything. Now it didn't come to the Planning Commission because of Evergreen Islands, but I turned it in as part of the legal record should it become necessary later. And I think the public has to have that right to do that, so please rethink that.

Mr. Walters: So those details on 8 ½ by 11, black and white, which are sort of based on a little bit on technological capability and another on, you know, length and other details that I mentioned before. I mean you can copy like a thousand pages in black and white for eight bucks, but if they're all in color you're going to be spending – what? – 800 bucks or something like that. So, I mean, it gets – color is much larger file-sized to transmit and it's much more expensive to photocopy. So there are those constraints, but I think the important thing is that that 8 ½ by 11, black and white thing isn't in code. That constraint isn't part of the code. It's part of a notice that goes out when the comment period is established, so it could be evolved as we figure out how to manage these things a little bit better.

Ms. Ehlers: Until you figure out how to present the zoning code, the aquifer map, and some of the other maps in other than just color, you're going to have to accept them as evidence in color.

Chair Lohman: Any more?

Mr. Walters: So the adoption schedule here is: There's a public hearing before the Board on Tuesday, January 22nd, at 11. The Board of County Commissioners – I don't know; they may deliberate after that or the following week. But we do hope that they adopt by January 31 so that this can all go into effect on February 1, which is the effective date that we've written into the ordinance and also the day after four Planning Commissioners' terms expire. So we would then have the Board reappoint the Planning Commissioners for the new length terms at the same time as they adopt the ordinance – at the same time or thereafter. And you can submit written comments as well through the end of the public hearing. You would submit those to the Board of County Commissioners, not the Planning Department, because the Board of County Commissioners is taking this action, and it's not a legislative action itself, like those contained in chapter 14.08. It's a different kind of legislative action to establish our public participation program.

So the notice will go out, it will be available on the front page of the Skagit County's website so you can read it right there on Friday, and also go out on all the mailing lists and that kind of thing. We're hoping to get you an advance copy sooner. It may not be the final version but it'll be something that you can take a look through and go through and tear apart. I'm looking at you, Carol. And you can provide comments to the Clerk of the Board through the normal process, but you can also provide comments to me and you can provide comments whenever you want and I can try to work them in before we finalize the draft that goes out on Friday. It probably will go out Thursday afternoon so that it's published on Friday morning on the website. And, Commissioner Ehlers, will you be able to receive this document via e-mail?

Ms. Ehlers: No.

Mr. Walters: No. Okay. Well, we will get you a paper copy –

Ms. Ehlers: Okay.

Mr. Walters: – if we have to and deliver it.

Ms. Ehlers: I was just – I was grinning because I was hoping that maybe Debbie'll make a transcript of this and what Keith has said and Annie has said and I have said will have been said.

Mr. Walters: She will probably make a transcript.

Ms. Ehlers: And then, you see, we can think and see if there's anything in addition.

Mr. Walters: Yeah, especially with a couple of Planning Commissioners not here it'll probably be useful to have you pore over the written document and see what you think. So I'll plan to get that out via e-mail to you really soon so that you can take a look and get me any comments before the public draft goes out. We can make changes after that draft, too.

So, anything else? Any other concerns you want to make sure that we address?

(silence)

Chair Lohman: Okay.

Mr. Walters: Okay.

Chair Lohman: Thank you, Ryan.

Mr. Walters: Thank you.

Chair Lohman: Okay, moving on to item number 3. This is the 2013 Work Program Discussion. Dale?

Mr. Pernula: Okay. I sent you each a copy of twenty potential work projects. We can't do all twenty of these items. We have begun work, at least to some extent, on the first nine projects on the list, and I'll go over – I'll just briefly explain what the projects are and the status of each as I go through them. Many of these will be coming back to the Planning Commission because they're legislative. Some of them are not.

And I'd kind of like to make a brief comment about interdepartmental coordination. Some of these items require a lot of coordination. For example, item number 6. It says

“NPDES/Low Impact Development.” The NPDES is a discharge permit that’s administered by the Public Works Department; however, as a part of it we’re required to adopt some low impact development regulations which will be coming to the Planning Commission at some point in time, and a part of that is administered by the Planning Department. So it’s kind of a complex array of requirements and coordination that has to occur, so Carol’s comments were pretty important that she made.

Okay, I’ll go over some of these projects and then I’d really like some feedback from you on some of the more discretionary projects and what you might think are the most important so I can relay that information to the Board of County Commissioners.

First of all, Comprehensive Plan Amendments. These are things that have been applied for and we will be taking some action on it, hopefully this calendar year. The first one is the application by Anacortes to amend the urban growth area. They submitted an application on October 10th. We sent them a letter requesting supplemental information so that we can process that application. We expect that information this month and we do expect to take some action this year on that.

The second one is the adoption of a Recreation Plan as an element of the Comprehensive Plan. The Board of County Commissioners has already adopted the Recreation Plan, but now we’re taking a look at it as adopting it as part of the Comprehensive Plan for grant reasons and some other reasons to adopt it, and under the Growth Management Act.

Shoreline Master Program Update: I was hoping that Betsy would be here tonight but she’s got the flu, along with Kirk. All parts of the Update have been reviewed by the Planning Commission with the exception of the aquaculture, which has to go back to the Committee. And you’ll be getting that real soon.

Bayview Ridge Subarea Plan Implementation: A lot of work has been done on this. A draft PUD ordinance and design standards have been worked on. When they’re ready to go to the public we will also go forward on a couple of other items, including doing a fiscal impact analysis and having the developer work with both the School District and the Parks and Recreation Department and getting back to the public process.

TDR Program: The Committee is still undergoing some study sessions. Legislative consideration probably will not occur this year. If it does go forward, it’s likely to happen in 2014, but probably not this year – *if* it goes forward.

The Industrial Lands Survey: This is something that the Port of Skagit is taking the lead on but we’re going to be heavily involved in it. It’s a very important project because once we have a good idea of the inventory of the industrial and commercial lands, we’ll have a good idea – it’ll be a good basis for the 2016 Comprehensive Plan update. When we have the allocations for industrial and commercial lands, it’ll be a good basis for where those allocations will occur and how much land will be allocated for those uses.

As I mentioned, this NPDES/Low Impact Development ordinance: The Public Works Department and the Planning Department worked with a consultant to develop an ordinance. We're waiting to find out the results of some litigation to make some final tweaks to it, but for the most part it's in pretty good shape. We're not required to adopt it until 2016 so there's no real rush in adopting it at this time. It's fresh in our minds at the staff level, but there's no rush to adopt it right now.

Stormwater Manual: We are working with the Prosecuting Attorney's office right now to correct the ordinance to comply with the state statutes, and I believe something will be coming soon on that issue.

Number 8, Capital Facilities Plan Update: We are required to have a capital facilities plan current. We had one that was adopted a year ago. There was no work done on it this last year. We're expecting it to be done this year. We have a person who's been assigned to update it. The current one that we're working under now is a capital improvement plan for – or a capital facilities plan for 2012 to 2017. The update would be likely adopted with the budget cycle this next fall and would be 2014 to 2019.

Ms. Ehlers: Question.

Mr. Pernula: Wind Energy Code Language –

Ms. Ehlers: Wait. Question. The newspaper has had clear evidence, I think, that we need a jail and it's had a discussion of how you fund the jail. That subject came up – Gary will remember – a couple years ago when there was a woefully low ball estimate as to what the jail might cost, and so it was taken out. But the paper seems – has made it clear, and then it confused issues. Apparently the County, not the Cities, has to pay 82% of some part of that jail. And I can't tell from what Mark Leander used to publish, in terms of taxation, whether this means "county" as the whole of Skagit County paying for it or whether this means the non-city part of the county is supposed to pay for it. And considering that the population, the acreage that's taxed outside the cities, is as small as it is I was going to ask you to have somebody do a really sensible discussion, not only of what this thing might cost but who is expected to pay for it. Because I don't see how the 40,000 of us just in the county with the small acreage there is could possibly pay 82%.

Chair Lohman: Dale.

Mr. Pernula: That's one capital facility among many, many others.

Ms. Ehlers: Mm-hmm.

Mr. Pernula: And you can see that doing a capital facilities plan where you've got many, many jurisdictions within – in – the county is complicated. I don't know that we will get

into that kind of depth on this particular project, but I think that we have people who have been working on it who could provide the information that you're talking about.

Ms. Ehlers: Well, I thought if I raised the question that sooner or later it would get answered.

Mr. Pernula: Okay. Now I'll go through the list so that we'll get a sense of what each of these projects are, and then if there's particular items on the list that you want to flag I can take that to the Board.

The Wind Energy Code Language: We got a grant. We hired a consultant, Graham-Bunting and Associates, to conduct a literature review of ordinance requirements for small- and medium-sized wind generation facilities. It's not the big wind farms. It's for smaller people, small farms or small parcels of land; what kinds of limitations should you have on it; or should you approve them at all; and the development of a model ordinance for possible adoption. There's no requirement that we adopt anything. But we are working on this right now – our consultant is.

FEMA BiOp Compliance Work: I don't know how much – this is a very complicated issue. There's three different ways that you can implement the FEMA BiOp requirements. There's three different doors. Door three is where you have to assess each development project in a floodplain or near a floodplain individually. Door two is where you have some more prescriptive standards, and we've actually submitted an application to FEMA for door two which is – makes it a little bit easier for developers; however, we're working on a portion of what would be required and the hang-up is in mapping channel migration zones. Streams like the Skagit River migrate and there's a requirement that we have some regulations, not just within a certain distance of the stream but also within and adjacent to that migration zone. So we're working on that right now.

Rural Forestry Initiative: This is requested by the Forestry Advisory Board, and what it is right now if you're going to subdivide a parcel of land, the entire parcel of land would have to come under the critical areas review. The proposal here is if you have a very large piece of land and you're subdividing some small lots off of it, that the critical area review would not apply to the large area that's going to remain under Forest Practices, but just the lots that are being developed for residential purposes. There's still a lot of work to be done, in terms of reviewing statute redrafting of the ordinance and getting it through a process. But it is one of the items that's been on the list.

Wireless Facilities: These are cell towers. The issue is that there has been some changes in the Federal Communications Act, which limits what we can have in our regulations, and we need to make some connections to it. They're not hard but it's something that needs to be done at some time.

Medical Marijuana: We're currently under an interim ordinance prohibiting medical marijuana facilities. It expires in April.

Annual Code Amendments: Annual code amendments is kind of a catch-all of all the little glitches that we catch in the code that make difficult interpretations. Sometimes we find out that it's unfair to a property owner or it's just a hole or whatever that needs to be corrected. We didn't do any this last year, and if you avoid those every year eventually they accumulate and you end up with some problems.

Guemes Island Subarea Plan Implementation: I have a meeting with people from there, the Guemes Island Planning Advisory Committee, in about two weeks and I'll know more exactly what they would like to see. As you can see by all of the other projects that we already have underway and with our limited staff, doing a very detailed plan for Guemes Island at this time might be difficult; however, if there's some individual issues that they would like to see addressed, we'll identify those and bring them back to you.

Same with South Fidalgo Island Subarea Plan: I know the Planning Commission in dealing with one of the proposed Comprehensive Plan amendments recently also forwarded a recommendation that we go forward with that subarea plan.

Hazard Mitigation Projects: Carol mentioned a little bit about it. We have a portion of that in our department's functioning – maybe more than what I'm just going to talk about. But one of the items is a FEMA buyout. We have some money. We got some grants – or a grant – to buy out some of the repetitive loss properties. So they're compensated for the property that they own and we end up with not having further repeated losses due to flooding.

Review of CaRD Standards: Now this is actually one that I really like personally, I should let you know. We've had about ten years of experience dealing with CaRD development and we have some fairly general standards, and we'd like to do an assessment of what's worked, what's gone wrong, what kind of standards, what are we trying to accomplish with those developments. I can see two different directions. Some people would like to see all those lots right along some of the existing County roads; others would like to see them clustered in small communities. I don't see a strong direction one way or the other, and it'd be a very good discussion with some real good, long-term implications for Skagit County.

Review of Accessory Uses in the Agricultural Lands: We've got a couple situations where people want to do some non-agricultural uses on ag lands, and there seems to be two minds of residents of Skagit County. Some say if it doesn't affect agriculture at all, if it's not taking it out of production, why not allow them to do it? Others say any development, any non-agricultural use by – just by their nature are going to affect agriculture uses and it's not the right area for them. And so it's something that we will have to address at some time, I think.

And then item 20 is the beginning of the 2000 Comprehensive Plan Update, and – 2016 Update. We'll probably initiate some things this year – like I mentioned, the Industrial Lands Survey, I think, can be used as a basis of a lot of what we're going to have in the

Comprehensive Plan. Perhaps some of the stuff that was discussed in the Envision process could be used in the Comprehensive Plan Update. But the main part of the Comprehensive Plan Update probably won't begin until 2014, but it does have to be done by 2016.

And that's a list of those items. So I'd just like a general discussion by the Commission so I can bring some information back to the Commissioners to establish a work program. As you can see, we've got an awful lot that we're already working on right now, but if some of these items that are more discretionary are important to you I'd like to know.

Chair Lohman: Matt?

Mr. Mahaffie: (unintelligible)

Chair Lohman: Carol, do you want to start and just go down the line?

Ms. Ehlers: Well –

Chair Lohman: Maybe just do one item and then when we get to the end –

Ms. Ehlers: I think if each of us does one item that would be a good thing to do, and I will, of course, start with the South Fidalgo Plan since I have wanted that ever since we gave up the Islands Comp Plan that existed before GMA. You don't have the staff. You don't have the time. I would start with these complex things with a small segment of what *has* to be done, and I've thought about it. Anacortes had a hearing some years ago as to what needed to be done on South Fidalgo and I came and said that the most important is having an accurate map of the roads; having an accurate assessment of the difficulties these roads have – where there are canyons that threaten their existence; making sure that a private road that was public in 1959 is no longer identified as a public road – inaccuracies like that. I would particularly want before any planning is done of any other sort for the Campbell Lake-State Route 20 intersection to be actually thought through, because the state plans to put a roundabout at 20 – 20 and 20 at Sharpe's Corner. The state has been finally convinced that Miller-Gibraltar Road is highly hazardous, which it is, so they want to put a roundabout there. That means that there will be a constant flow of traffic of 17,000 cars a day now, which will increase, coming 60 miles an hour down the hill toward Campbell Lake intersection, and we're supposed to cut across in front of those. I don't like playing chicken. I don't like the transportation rule that we don't think about something until two people have died, and I don't want to be one of those two people. So those are the basic reasons – that is, the issue of hazard with canyons. Fire access. If Dodson Canyon goes into Rosario Road there is no fire protection for much of South Fidalgo Island and the road is very difficult to move except into Wooding's property. So it's this kind of thing that needs to be thought through, largely by the Public Works Department. And that's its virtue, because they have more money.

Chair Lohman: Josh?

Mr. Axthelm: The NPDES. Now that – why would the County be doing extra stuff with that? Isn't this that standard permit that's issued by a separate agency?

Mr. Pernula: Yes, it's issued by EPA, and as part of it they're requiring us to adopt some low impact development regulations.

Mr. Axthelm: Okay. So does that enable us to handle some of that stuff on a local level versus going to the EPA?

Mr. Pernula: It would require – yeah, it would all be done in our office. It would be done – if somebody comes in for a development permit, we would look at it. It requires certain kinds of buffers. It requires a number of things.

Mr. Axthelm: Okay. Thank you.

Mr. Greenwood: So that low impact, you're talking about like a – basically a no impact type of situation where it qualifies under a certain set of criteria, thereby there's not a required NPDES – kind of an exemption process, if you will. Is that correct, or no?

Mr. Pernula: Well, we have an overall permit, you know, for the County.

Mr. Greenwood: Mm-hmm.

Mr. Axthelm: Yeah.

Mr. Pernula: And as part of that permit, we are required as we review development to ensure that it meets these low impact development standards, including certain kinds of buffers –

Chair Lohman: Like rain gardens and roof –

Mr. Pernula: Rain gardens – right.

Chair Lohman: Roof – I can't think of what they call it.

Mr. Pernula: Might require pervious surfaces of a certain amount, or if you have hard surfaces they – in certain instances – they have to be pervious. There's a whole list of things in there. It's not required to be adopted until the end of 2016. But before it is, it'll have a very thorough vetting before the Planning Commission.

Mr. Axthelm: Okay. The subarea plans, is that different zoning codes, basically, for each of those? I'm not familiar with subarea plans.

Chair Lohman: Maybe Dale can explain – a definition of subarea plan.

Mr. Pernula: Well, there's a few right now. There's one for Alger, there's one for Guemes Island, and so on. Gary might be able to expand a little bit more. There's one for Bay View Ridge. And I think, as a follow-up, it may require either adoption of new zones or new regulations like a planned unit development regulation so that the development would conform with whatever is in the plan for that subarea.

Mr. Axthelm: Okay. It just seems like there's a lot of subarea – we've got a lot of subareas that are here and adding additional work. My concern is that here you have the County – you already have enough work on your plate. Is this going to add more work or is this going to reduce?

Mr. Pernula: Oh, I think working on subarea plans will take a lot of time, but if it's very, very important, you know, maybe it'll rise to the top. I think Carol came up with a good idea. Rather than doing an entire update, focus on some elements of the plan that are most important to South Fidalgo: the local road system, from what I can tell, and how it ties into the highway system.

Mr. Axthelm: Okay. Thank you.

Ms. Ehlers: May I address part of that?

Chair Lohman: (unintelligible)

Ms. Ehlers: I mean, I was going to address what Josh said. Before we had a Comp Plan, each area had a local plan. And areas are vastly different. Islands are different from floodplains. So when we went to a one plan for the county we asked for local plans so that the areas would be protected, like Guemes with its water. And it *should* reduce the controversy and the difficulties, because you have the principles laid out as to what should be followed when a permit comes in. And that should make it upfront, which I think is something important for the development community.

Chair Lohman: Well, the things that I saw on the list were the CaRD review and the accessory uses on the ag lands, and you mentioned the rural forestry initiative. I just wanted to touch back that we have advisory committees – the Forest Advisory Committee and the Ag Advisory Committee – and I would hope that those things are being worked on in those committees and their opinion or their work product come to us so that we can see what they have to say on those because that's kind of their area of expertise.

Mr. Mahaffie: Can we come back around again?

Chair Lohman: Yeah. Matt?

Mr. Mahaffie: I'm really, really happy to see the focus on the forest practices in larger development areas. It's been a real pet peeve of mine to see a relatively small

development of lots have several hundred acres be taken out of forestry production and be put into OSPA just because it's the easy thing to do. And it's – 100% of the time people chose the easy way to do it. And it's actually many projects now that good timberland has been taken out for no real apparent reason. And it ties directly to the CaRD standards the way it's applied in those areas. That's why I was saying I was really happy to see that/hear that.

Mr. Greenwood: Okay, I'd like to third it, then, on the rural forestry initiative, and I think that the Forest Advisory Board actually initiated that initiative, so they've already been pushing and encouraging that process. So I would support that one as well – try and get that done. I think a lot of the work's already been done.

And then 19, review of accessory uses in ag lands. I think that that's pretty key, to me. As compatible uses, make sure we stick with keeping compatible uses a focus.

Ms. Ehlers: Well, I only gave one so I'd like to give the other. The CaRD. If you look – when we did the CaRD we were shown pictures of Buck's County, Pennsylvania, which is full of very large deciduous forests. And what we created with – the way the CaRD is written is a fire nightmare. There's no distance between – the most extreme part of the fire was to be an urban creation with not even separation of one house from another, and it ignored fire hazard completely. So I'm glad you're dealing, perhaps, with that.

What I would also like to deal with is in the Sauk River Valley Seattle City Light is buying up old homesteads which are essentially not available for use by the owners who inherited them from grandpa because of channel migration. I remember one person – a farmer – and we tried desperately to protect that farm and some others up there, and then the river took the farm out and the buildings out and just wrecked the whole thing. But what Seattle City Light has been trying to do these years is enable the old homestead acres – sometimes it's 2 acres because you didn't put a barn right next to a house because of a wellhead. And they've had problems all these years with the County because the CaRD ordinance only allows 1 acre. And that means that you can't allow the barn, so what do you do with the barn? And since – we listened to awful stories way back when on trying to survive on that acreage. No, people didn't want to buy it because they knew what it was. So you couldn't get your money out of granddaddy's farm. And I've wanted to bring it up ever since. Thank you for the opportunity.

Chair Lohman: Josh, you're up.

(silence)

Chair Lohman: I don't have anything. Matt?

Mr. Mahaffie: Sure. I'll bullet-point them.

- Comp Plan amendments: Just a reminder that if they're citizen-initiated I really think they should be done the year that people pay for them.
- FEMA BiOp: Needs to be put to bed. That's a pretty important project to leave hanging out there.
- Annual code amendments: Surely hate having a giant pile. And one comment I've had from people is a public process for that. Some different consultants and surveyors and engineers around the county have had ideas that they've tried to submit to the Planning Department. Basically the only way they've really had a mechanism is public comment period from the year before. And I just kind of thought that maybe it would be neat and useful for people to be able to submit a code amendment and actually know it goes somewhere, that it actually gets considered (and) if it's not considered, why.

Ms. Ehlers: That's a good idea.

Mr. Mahaffie: And CaRD standards – another pet peeve. Good things, bad things.

Mr. Greenwood: And then for me, I guess, in my concluding thoughts is that I'm sure you've compared your work list for 2012 and seen – I'm sure you'll be reporting on your accomplishments to the Board of Commissioners, and I'm sure some of these things were already on that list for 2012 – to make sure we prioritize those things. So if we're adding new things, it seemed like you had a pretty long list to start with.

Ms. Ehlers: Apropos of that, on the 2012 list it says "Periodic Review of Special Purpose District Utility Plans." You're doing that all the time anyway. I'm on the board of a water system and each time each six years you have to turn in a plan, and each six years your department has to review it to see if it's in conformity with the Comp Plan, and each year there's a letter written saying "yes" or "no" – in our case, "yes." So something like that that's ongoing should be recognized by the Commissioners as part of your load.

Mr. Greenwood: Good point.

Mr. Pernula: Well, I think I got a lot of good feedback so I can assemble it and get it to the Board. Thank you.

Chair Lohman: Okay. Was that the end of your remarks that you have?

Mr. Pernula: That's the end of my remarks.

Chair Lohman: Okay. We are going to be skipping the Shoreline Master Program Update because Betsy is ill, and now we are on Miscellaneous items, item number 6. Does anybody have any Miscellaneous items? I have one but we probably want to just – and that would be we'd have to update our bylaws to match with the Commissioners' new legislative. I would maybe want to put that on the next appropriate agenda – that

we maybe select a couple people on the Planning Commission to form a committee to do the bylaws and bring back their proposed changes to the full committee.

Ms. Ehlers: Could we *please* have information *before* we come here? Always so that you can actually read it, think about it – please?

Chair Lohman: That was all I had for Miscellaneous. Anybody else?

(silence)

Chair Lohman: Okay, moving on, the next item would be Public Comment. Is there anybody from the public that would like to speak? Okay, we are going to limit public comment to three minutes and Keith will be your timer, and we're advised that we need to strictly enforce that. And I would like to remind you that during public comment this is not a public hearing so that this is not a collection for a record. So your remarks, while they're going to be recorded, aren't going to become part of the public record.

If you could state your name and your address at the beginning of your remarks and if you could come up to this desk.

Roger Mitchell: I'm Roger Mitchell, 1155 Chuckanut Ridge Drive in Bow. My comment is my opinion, which is that I'm very thankful that the Planning Commission, in my opinion, tends to try to represent the public, and I particularly appreciated Commissioner Ehlers this evening continuing to push back that the public needs more opportunity for input, better avenues of input, et cetera, et cetera, in all these kinds of things.

Again in my opinion, most of the elected and particularly non-elected County officials tend to forget who they work for. The Planning Commission, in my opinion, always seems to understand who they work for and I thank you very much for that.

Tom Stowe: Tom Stowe, 15780 Quiet Cove Drive, Anacortes. I think Howard and I would not have been here tonight had we known Betsy were ill. If somehow – if you are going to discuss something – and you probably didn't know about it before we did – but it's a wet night out there – anyway – for old people.

I have one comment concerning the Shoreline thing, which resulted from a letter from Ms. Stevenson to me on December 6th, and I responded to that with a letter to her which I delivered to Mr. Pernula tonight. One item in that list needs to – must continue to think about. The proposed shoreline designation in the map is a line. I don't believe you can have a rezone with a line. It's got to have depth. If not, you've got an interesting thing in that those properties are widely varying depths – shoreline properties are – and therefore you're going to have a huge problem in trying to administer anything with a line as widely varying. So something to consider.

I won't go into any of the rest of the things because I had hoped we'd had more Shoreline. Thank you.

Howard Gulley: Good evening. Howard Gulley, 15815 Yokeko Drive, Anacortes. And first I'd like to ask the Chairman a question: Is this a public meeting or a private meeting?

Chair Lohman: It's a public meeting.

Mr. Gulley: Okay. If you're going to have a public meeting the public should be able to hear. You have all this wonderful stuff here and the only thing I can say is that you should take lessons from Mr. Pernula because he does an excellent job. ____, speaks right up to the microphone (and) everybody can hear him. Of the board members here, only Mr. Greenwood can be heard all over the building. Everybody else draws back from the microphone as though it's a private meeting. Not good. Thank you.

Mr. Pernula: Annie? Can we address that?

Chair Lohman: Dale.

Mr. Pernula: I guess if you're having a difficult time hearing, let us know or let me know and I'll talk to them – try to make sure that everybody's speaking so that you can hear them. We don't want anything to get by people.

Mr. Gulley: It's technique. You speak up to the microphone. They're not.

Mr. Stowe: Unless they fix your microphone so it works better. I brought this issue up some time ago.

Ms. Ehlers: Does this help?

Mr. Stowe: Yes, it helps. But I don't think those mics are having the same volume that his is, for some reason here.

Unidentified female voice in the audience: They're not. That we can almost never hear. I can't believe it's just her voice level. I think it's something with that microphone, too.

Mr. Stowe: I think it's mics.

Mr. Gulley: You need to do something to fix them.

Mr. Axthelm: I'd like to address that, at least from my standpoint. I think the rest of you guys would probably say the same thing. A public meeting is very important to us. What's that?

Mr. Stowe: For your information, it's – sitting here it's difficult to hear you speaking right as you just did. This is for your information. This is just to help.

Mr. Axthelm: Yeah, I understand. I'm not that far from the microphone.

Mr. Stowe: I think it's the mic.

Mr. Axthelm: Okay.

Chair Lohman: And he's booming to me.

Mr. Axthelm: And personally it's very important for this to be a public meeting.

Mr. Stowe: I can hear you now, but when you were sitting back in your chair not at all. I'd miss every other word.

Mr. Axthelm: Okay.

Ms. Ehlers: If it's any help –

Mr. Axthelm: It's not my intention!

Ms. Ehlers: – I'm sitting next to him and I have trouble hearing.

Mr. Axthelm: Okay. Thank you. I'll do it.

Mr. Stowe: Good.

Chair Lohman: You're next.

John Bouslog: Thank you. John Bouslog, 11190 Bay View-Edison Road, Mount Vernon. A couple quick comments: I go to the County Commissioner meetings. You can't hear them either, so you're not alone. You people aren't alone. They get up there and kind of mumble and you can't understand them either.

Two months ago I showed you or gave you an example of a real life example of what the Shoreline Master Plan was going to do to some vacant property that I had in Bay View. I've gone back, told you I had it surveyed, so I have prepared some maps for you to look at. I'd like to share those with you. They're pretty self-explanatory and I will be submitting this into the public record when that time comes, but if you would like to have them I'd be happy to share them with you. And I will apologize that they are in color and they are on larger paper than 8½ by 11. So I sincerely agree with Carol that you cannot represent what's going on in land use with black and white maps. So I'll hand these out if you want an explanation on them.

Chair Lohman: The overhead there is on so you can set them right on there and then you can turn them in to Mr. Pernula. Are you wanting to leave them here with us?

Mr. Bouslog: Yeah.

Chair Lohman: Okay.

Mr. Bouslog: I made copies for everyone.

Chair Lohman: If you could pass them out to us when you're done.

Mr. Bouslog: Okay.

Ms. Ehlers: Well – suggestion.

Mr. Pernula: You can see they show pretty well right now.

Mr. Bouslog: Oh, they do.

Ms. Ehlers: John?

Mr. Bouslog: Yes?

Ms. Ehlers: Pass them out while you're here because if they're put there there's a tendency for people to walk by them.

Mr. Bouslog: Okay. You want them now or when I leave?

Ms. Ehlers: Yes. Then we can see it.

Mr. Bouslog: Okay.

Chair Lohman: Because he's putting it on the overhead.

Mr. Bouslog: Okay, just quickly: The black line that's the furthest one down on the map is the 50-foot current setback that we have now. The other black line that has the pink border is the 100-foot setback that's being proposed – or buffer, as you refer to. So my vacant property is parcel 35097, which will be totally unbuildable with the new proposed buffer. The only buildable property would be in the 35-foot road setback, so that won't work. And my house is on parcel 35098. The existing house and garage is outlined in orange and it now sits between the 50-foot and the 100-foot proposed setback lines, and if that house and garage weren't there the only property that would be buildable is the blue hash line, which is about 1400 square feet. The total property of these two lots is 27,892 square feet, which is a little over 6/10s of an acre, and I would have 1400 square feet of usable property with this new buffer that's proposed.

So the legend pretty much explains it. So I urge you to give a lot of thought on making a recommendation on these buffers. Yes?

Ms. Ehlers: What's the zone?

Mr. Bouslog: What's the zoning? It's Residential.

Ms. Ehlers: So under the Shoreline Act it's Residential. Is it Rural Intermediate under the Growth Management?

Mr. Bouslog: I don't think so. I mean, these are certified lots. They're – one is about 10,000 square feet and the other one's about 14. Gary, do you know?

Gary Christensen: I don't know where it's located, John.

Mr. Bouslog: It's on the Bay View-Edison Road in Bay View itself.

Mr. Christensen: In the village of Bay View?

Mr. Bouslog: Yeah.

Mr. Christensen: It's probably Rural Village. That would be the zone.

Mr. Bouslog: Okay.

Mr. Christensen: Which is the highest zoning district density that you can have in rural Skagit County residential.

Mr. Bouslog: Okay. They are certified lots, buildable lots.

Mr. Christensen: Yeah, in their zoning they're buildable lots.

Mr. Bouslog: Right.

Ms. Ehlers: But, Gary? We haven't – in that discussion about what was legal in the rebuilding issue, we didn't talk about Rural Village. When I said something about Rural Intermediate being a residential zone, Betsy shook her head. But if you remember, when we put the 2 ½-acre overlay, which is what Rural Intermediate is, we put it over the lots that were built and subdivided as of 1990. So the Rural Intermediate zone, which is what's going to be crucial on our maps eventually, is what has always protected people, enabling them to build. But we did not in the Shoreline that I know of ever address Rural Village.

Chairman Lohman: But I believe that we did because – we're mixing apples and oranges in a way when you're talking about the Shoreline Plan. Is that correct, Dale? Because it's not a designation where you can build, like the underlying zoning – right? – where – Rural Reserve or Rural Intermediate or the Ag zone, it has underlying development requirements for those particular zones. What the Shoreline Act does is it says that at a line 200 feet to the shoreline there is this additional layer of requirement.

It is not giving you a building right or not a building right. It's imposing another layer of requirement. Correct?

Mr. Pernula: I believe you're correct, but at the same time there may be some other standards that get carried forward as well. But I think basically you're right.

Ms. Ehlers: You are right, but there is in both the RCW – especially after Senator Rankin did what he did – and in the WAC a specific shoreline Residential zone.

Chair Lohman: Right.

Ms. Ehlers: And I'm talking about that pre-1990 – and they use the term “pre-1990” in there – I'm talking about preserving the property rights and value of the pre-1990 – am I close enough?

Unidentified female voice in the audience: No.

Ms. Ehlers: I'm going to agree with Josh – I'm practically on top of it! I'm talking about – it *is* better, isn't it?

Same unidentified female: Two inches makes a big difference.

Ms. Ehlers: I'm talking about preserving the pre-1990 building rights and subdivisions which the Shoreline Management Act does recognize, but in the language we have used up till now we have talked about LAMIRDs and Rural Intermediate and Rural Village, and I don't see that cross-terminology between the GMA designations and the Shoreline designations. And it's one of the things I think is most crucial and that's what a part of what I think John's bringing up.

Mr. Bouslog: Well, I know that without a variance to do anything on this property is – you just can't, if these rules are adopted as proposed.

Ms. Ehlers: Well, and the other problem is that part of the text we were given last time or the time before on this rebuilding issue every single permit issued by the County on every single thing in the shoreline has to go to the Department of Ecology for approval. How many staff are they going to have? For that matter, how many are you going to have? There's no answer to this. I'm just – I'm trying to bring up problems before it's harder to deal with them. So thanks for illustrating that.

Chair Lohman: Thank you, John. Next.

Ed Stauffer: Good evening. Ed Stauffer, 114, Bow, which is actually – I live near Alger but it's delivered from Bow.

Ms. Ehlers: Ed, we can't hear you.

Mr. Stauffer: I know. I was going to say I was sitting in the back of the room, and I usually do, and I heard every word each one of you said, and I must be the only one here that's not getting old.

(laughter)

Mr. Stauffer: No? Just kidding. Don't you look awful serious! This has been a most encouraging evening. I really appreciate again the broad skills and background that the members of this Planning Commission need to have. We've heard you address, with no preparation to speak of, some very deep and important issues and I concur with Mr. Mitchell that we feel a very direct connection with you in representing the interest of the general public. And so good job on bringing different points of view and historical perspective, all in the context of somebody here dealing with these issues has to know the law that we're starting with, because that's what I expect to be upheld by you. And if somebody strays from that, I look to you to let them know that they're going astray.

Quick example: We were told tonight the BCC is going to approve inclusions of items on the work agenda. I didn't realize until October that that hadn't been done in the past. I think it should go further. You should *always* be notified of considering the source of where the grant proposal is coming from. Many things we get these days, when I ask the question, are because we got a grant we're doing this, or because we're required to by the state, or we were required to by the federal government. Many of these issues come to us not as legislative actions but as executive orders. I don't think we have really an understanding of what that means for our policy. We need to. So consider the source of these proposals.

Now, January 22nd, public hearing. It's going to be announced and materials made available this Friday. That's less than fourteen days. This is something that I was here when the Commissioners sent you a letter last January and said, Please respond to this questionnaire. We need to know *your* needs. This is important to me. You weren't able to finish that list of questions that night. You postponed it till the next meeting. The next meeting was cancelled. I don't know if you ever finished or completed responding to the Commissioners. I don't know what action the Commissioners took. I don't know what information, but I do know there was no public input on that. Now this is coming to public hearing. We don't know the content of it. We don't know what's going to be proposed. We have less than fourteen days to review it and get ready for a public hearing. Okay, it is what it is and we're working on it. But while we're working on it let's fix it so that it works. I personally miss a chance to dialogue with the committee members. Being limited, I'm over my time now of course. I'm always over my time. Good night.

Chair Lohman: Anybody else?

Ms. Ehlers: May I raise an issue? Allen Bush was here from Guemes but he's had to leave. Now the Guemes people have to be able to have some chance to take part in these meetings. In the old days we used to ask if there was anyone from Guemes and

give them a chance to participate, but our structure was slightly different from this. So I'm asking Annie and Dale to think about how you can work it in, because Guemes is as integral a part of the county – it's a large part of the – 11% of the acres pay 89% of the property taxes and Guemes is a huge part of that 11%. I'd like to see them have a chance. And Allen has – Allen is the head of that committee over there, of their follow-up committee to the group that did the plan. It's a matter of principle. But the ferry ends at nine, if not earlier.

Chair Lohman: I have no idea. I have no idea what the ferry schedule is, but that's a very good point.

Ms. Ehlers: Especially when we deal with that Shoreline thing and the study sections.

Mr. Pernula: What was his name?

Ms. Ehlers: Allen Bush. He's the Chair of the Guemes – whatever the latest name is for the Guemes committee. A man who's taken part for years in the processes – sharp, knowledgeable, knows – not only from a standpoint of theory being on the committee but as an applicant knowing how applications actually work, which is part of what Matt's strength is for us.

Mr. Mahaffie: We've done that in the past – asked Guemes residents – you know, especially in public hearings – to testify first.

Chair Lohman: Okay, do I have a – anything else for the good of the order?

(silence)

Chair Lohman: None. Does somebody have a motion to adjourn?

Ms. Ehlers: Okay, I'll move it.

Mr. Greenwood: Chair, I would be happy to.

Ms. Ehlers: We'll wager.

Mr. Greenwood: Sure.

Chair Lohman: Okay (gavel), we're adjourned.