

**Skagit County Board of County Commissioners
Shoreline Master Program Public Comment Review
April 11, 2022**

Commissioners: **Ron Wesen (District 1)
Peter Browning (District 2) – Chair
Lisa Janicki (District 3)**

PDS Staff: **Hal Hart, Director
Betsy Stevenson, Senior Planner/Natural Resource Manager
Jenn Rogers, Assistant Long Range Planner**

Others: **Dan Nickel, Shoreline Master Program Consultant**

Chair Peter Browning: All right, let's bring the Commissioners back together. We are here to talk to Planning and Development Services about our Shoreline Master Program, and this is an opportunity for the public comment review. And I have not gotten a list so do we have a list of speakers?

Commissioner Lisa Janicki: Well, Hal can –

Commissioner Ron Wesen: Send it to Hal.

Chair Browning: Yeah.

Hal Hart: No, sir. We don't so far.

Chair Browning: Okay. All right, well, I will send it your direction anyway, to Hal and Betsy, who have been shepherding this and making it work for us.

Mr. Hart: Thank you, Commissioners. Dan and Betsy are here to brief today. Also in the room are support staff that have been working diligently on this. So thank you.

Chair Browning: Okay. Do you want me to take it away?

Mr. Hart: Take it away!

Commissioner Janicki: You've got to give the verbal cue, Hal.

Mr. Hart: Okay, I'm sorry. Thank you, Dan.

Betsy Stevenson: I'm here to answer questions if you need them.

Dan Nickel: So it's my pleasure to be here today in person to talk about the Shoreline Master Program and the comments that have been received during the public comment period. That public comment period ended on April 1st and so we have received 30 separate, individual text comments, written comments from the public. And as you recall we had a public hearing back on

March 1st. There were 12 speakers at that point in time. And so we have – today, I guess, we have – what I'd like to do is just run through those comments. I'm not going to run through *all* those comments; I'm going to just try to summarize what we've received. We have prepared a comment matrix – this is up on the screen here – and I'm going to walk through that, because what we've done is we've reviewed all the comments. We have not been able to – just given the time – prepare staff responses to all those comments. What we have been able to do is try to categorize them so we can – based on the type of comment they were and the subject matter, to give us an idea about the body of those comments and what they entail.

Chair Browning: The matrix was really well done. I read it this weekend. It was really well done. I really appreciate it, so thank you.

Mr. Nickel: Thank you. And so I just want to go through those comments. There are also – additionally there's four attachments that are part of this matrix that you should have in your packet. Those actually pertain to some very specific comments that were received. There were four rather lengthy comments that had a lot of substance to them and so we actually do want to prepare specific responses to those comments. I'll detail those out as well.

So I guess as I go through this, I do want to ask you the question about how you would prefer to discuss it, if needed, if there's questions, you know, that come up. In this comment response matrix there's 16 specific topic areas and then kind of a 17th "other" category. I'm happy to walk through these and pause if you have questions after each one of those topics, or, if you'd like, I can just go through this and then you can ask questions at the end.

Chair Browning: I would like to have you pause at the end of each one. That'd be perfect. Thank you.

Mr. Nickels: Okay. So again there were 30 comments received. I'm just going to talk about the text comments – the ones that were written – and then the four at the very end. So these are – an index here of the public comments that were received, numbers 1 through 30, up on your screen. The next page actually details the latter ones here. Comments 27 through 30, those we have actually attachments again at the very end of this that go through very detailed comments. I do want to just touch on some of these.

Number 27 comes from the Swinomish Tribe, along with the Skagit River Systems Cooperative.

Number 28 was submitted by Kyle Loring on behalf of several organizations. That includes Evergreen Islands, Washington Environmental Council, GIPAC, the Sierra Club, RE Sources, the Audubon Society, and the Skagit Land Trust.

Number 29 was submitted by WDFW, by Shannon Brenner, and that one's a bit different because that actually has some specific comments from Ms. Brenner but it also refers to comments that were submitted by Bob Warriner last year during the Planning Commission process. That actually has very specific, detailed comments as well. And so we're taking the opportunity *now* to respond to those comments that were submitted by Mr. Warriner. That is actually in Attachment C.

And then the last attachment, Attachment D, is our comments from Tim Trohimovich from Futurewise, and likewise we're planning to respond to those specifically.

So you'll see in the comment matrix – I'll just start here on the very first page here. Again, we've categorized these by different issues. Issue number 1, related to Lake Cavanaugh. Comments

were received from Dennis Katte, who also submitted comments during the Planning Commission's process. But these were more targeted. We did actually address a lot of the comments from the Lake Cavanaugh concerns during the Planning Commission review. These specific ones relate to, again, dock height on the water at Lake Cavanaugh. Some questions related to the table we have for dock dimensions as well as just trying to understand better how to work with docks on Lake Cavanaugh specifically because of the elevation change throughout the year. There's quite a bit of different surface elevations going on out there.

The second top – I'm going to pause there for Lake Cavanaugh. Were there any specific, I guess, as you went through this review of – or do you need me to go through more detail on the specific comments here?

Are we good?

Commissioner Wesen: I think the Lake Cavanaugh people brought their concerns up along with the process so we appreciate that.

Mr. Nickel: Okay. Item number 2 or issue number 2 relates to climate change and sea level rise, and there were quite a few comments that came in, you know, specifically speaking to this issue, many of which were asking for the County to address this in the Shoreline Master Program, essentially pointing out that for the most part the current draft is somewhat silent on specifics related to sea level rise and climate change, although there are elements in the Master Program that do speak to the ability of the County to review existing conditions that would relate also to sea level rise and climate change down the road. But there are very specific comments here, some of which are focused on addressing development impacts over time and acknowledging the impacts from future sea level rise. They address areas of, you know, concerns related to tidal surge, storm surges, looking at shoreline stabilization and the future stabilization with development down the road, and, you know, looking at analyzing the impacts of that development given the considerations for sea level rise. So there were quite a few comments in that arena.

Chair Browning: And I know this one's really important and I know that the Planning and Development plans on observing this. Because this is going to be a moving target constantly for the next many, many years. It's not going to stop today. So they've made a real commitment to staying committed and watching the impact of sea level. So, yeah, it's not being ignored. It's just part of the plan.

Mr. Nickel: Yes.

Commissioner Janicki: But we have the opportunity to strengthen the language and put some of that intention more clearly into the document now.

Chair Browning: Yes.

Commissioner Wesen: And I think one thing the citizens need to realize, the property owner when they purchase their property or they build on a property, they have some responsibility to make sure they are doing what they can. The County doesn't have enough funds to raise all the dikes or – if that's possible. You know, we're talking about South Skagit Highway and the river's eaten away into it. You know, it's going to be 3 million bucks if the river gets there. And we had three houses up in Lyman a few years ago that went into the river. And so there's a limit to what the County and the rest of the taxpayers can fund, so you as a property owner need to make sure

you're aware where you're purchasing, where you're living. And we're not going to stop Mother Nature, so there's not unlimited funds to help make that happen.

Mr. Nickel: Yeah, there are some – a lot of examples of other jurisdictions, what has been going on around specifically Puget Sound, you know, in terms of potential policy and regulatory updates. And so there are some examples of what jurisdictions are trying to do and accomplish, some of which are from a, you know, language that focuses on consideration – consideration of sea level rise impacts, and others are more targeted on specific allowances that may come out of that from a development regulation. So it's definitely something that we can look at.

The next topic area is related to shoreline environment designations, and these are somewhat broad. I'm going to actually dive in a little bit deeper here for these specific comments because the first one relates to mapping. There were a lot of comments that came in with questions regarding differences between two specific slough areas, one being McElroy Slough and the other being Edison. And the question became – on the shoreline environment designation mapping that we have there's – on McElroy Slough there's an extended area upstream of the tidegate there that's included in shoreline designation and on Edison that is not present on our mapping. And there's actually a specific reason for that and that is related to the inventory that was accomplished or that was developed back in the 2010, 2011 timeframe, using a lot of existing data. So the County has a wetland inventory that corresponds very closely to the national wetland inventory, and the Shoreline Master Program characteristics were based on those inventories. It wasn't on-the-ground research of existing conditions. It was more gathering existing data. And so the key difference here is in McElroy Slough area there is an inventoried wetland there that is part of our mapping and on Edison it's not present in the mapping – the data, okay? That's not to say it's not there. And so we don't have that information on-the-ground right now, or at least our knowledge based on the data set. And I just want to point it out that the mapping that we have – the shoreline environment designation mapping – are indicators of where shoreline jurisdiction may be. It's not 100% perfect. And so it's important to recognize that what is on the ground at a time of a development application is what's going to identify shoreline jurisdiction, potentially your shoreline environment designation, and the like. And so I just want to point that out because it's important to recognize that our mapping is not perfect. We try to make it as best as we can.

Commissioner Wesen: So just to be clear, on-the-ground is you'll do – there'll be a site assessment done at the time when that permit comes through.

Mr. Nickel: That's correct. And that would be the case on any application.

Commissioner Wesen: And the other thing on McElroy, there is some private dikes in that general area too and I don't believe the Edison Slough has any dikes on it at all.

Mr. Nickel: Right. There were some additional comments related to environment designations specifically related to the Rural Conservancy designation, really focusing on the desire to have only really water-dependent uses in this designation to really try to limit development impacts. And then also looking at, you know, the mapping of that environment designation as well.

Issue number 4, related to hard shoreline stabilization – some of these comments actually relate back to the sea level rise and climate change comments, but they also had some very specific targeted areas, specifically making sure that we are not impacting our natural resources through the allowance of hard stabilization. As well, the definition of "hard stabilization" in our current draft under soft armoring as a mechanism to try to reduce the impact of hard armoring, we are allowing boulders as part of a soft shoreline stabilization. There's been some discussion at the Planning

Commission level too about the definition of “boulders” and the use of soft armoring and how they might be incorporated. The intent here is really to make sure that we don’t armor a shoreline with a continuous line of boulders. That would be a form of a bulkhead. That’s not the intent of that language.

And then lastly was the focus on, again, upland development: making sure that we aren’t putting upland development in an area where future stabilization would be necessary. And again, some of that relates to potential sea level rise and future impacts.

Commissioner Wesen: The one thing on the hard shoreline armoring: Because we have so many sea dikes, most of them do have boulders in them just because the constant push from the high waters and so forth will eat away those dikes. And so on our maps we look really bad because Skagit County has all this dike area that protects the agricultural land. So you take that away, the agricultural land goes away and so that’s – you’ve got to balance the natural resources, you said.

Mr. Nickel: Any other questions on that section?

(silence)

Mr. Nickel: Okay. The next section is related to timber cutting. This is actually one that we did talk about at one of our last work sessions. In the current draft, timber cutting is part of the definition that is allowed as a forest practice if it’s just timber cutting. That was addressed by the legislature in recent decisions there. What was not incorporated there was other forms of development, so culverts, roads – you know, other forest practices. That was something that was not part of that timber cutting allowance.

In the current draft, as we discussed last time, what was included, though, was temporary access roads as part of that allowed forest practice as a part of timber cutting. So we have that in. So comments have been – have come in related to that provision as well as concerns about just timber practices or forest practices in general in shoreline jurisdiction and the impacts they have on our steep slopes and other natural resources.

The next topic area – actually, the next *two* topic areas relate to shoreline buffers and shoreline variances. So as you recall, under the shoreline variance provisions we made a clarification last year during the Planning Commission process that a shoreline buffer can be reduced administratively up to 25% without a variance. So that’s a normal administrative process. An applicant would need to go through, you know, mitigation sequencing, develop a mitigation plan, implement that plan. We’ve also incorporated a variance process, a two-stage variance process, the first being a buffer reduction that’s between 25 and 50%. That variance would go through an administrative review at the local level, but it would have to go to the state for approval at the state level for the shoreline variance criteria. And anything above 50% reduction would be reviewed through a hearing examiner locally as a shoreline variance, as well as go through the state process of a shoreline variance as well. The purpose of that, obviously, was to try to cover administratively some of the more simpler processes. But it’s really important to recognize that any variance would have to go through the variance criteria that’s specified in the Shoreline Master Program and would have to achieve the variance criteria at the state level as well. In Ecology’s mind it doesn’t matter if something’s 25 or 50% or more. It would all have to achieve that same shoreline variance criteria. At the local level, we’re just trying to cover some of those things administratively.

So there were comments specifically concerned about that process related to essentially not having a public process, a *more* public process, for those variances, as well as the administrative buffer reductions that are less than 25%.

So moving on to topic area number –

Commissioner Wesen: On that one, just to be clear, like you said, if you did the 25% or up to 50% it still goes to Ecology and they're still going to still look at that? Or they're going to make sure we're following the criteria that was set up by them?

Mr. Nickel: That's correct. Any variance, any shoreline variance of any type will be sent to Ecology for their review and approval. And the variance criteria is the same, whether it's an administrative variance per our code or a standard shoreline variance for our code. It still has the same, exact criteria to meet. The main difference here is whether something is reviewed administratively or via hearing examiner.

Commissioner Wesen: So it's a project by project review by Ecology if it's –

Mr. Nickel: Correct.

Commissioner Wesen: Thank you.

Mr. Nickel: And Ecology was part of our – early on before we entered into the Planning Commission's formal review process last year, we met extensively with the Department of Ecology on these provisions and we discussed with them this process. And that's one of the things that they actually pointed out to us, acknowledging the fact that the County wanted to move towards some form of an administrative process for some variances. Ecology was very distinct on their comment. This is going to be a shoreline variance in their mind no matter which process is entertained.

All right, the next topic area is also related to shoreline buffers, specifically riparian buffers, and several comments came in related to the desire to integrate the Washington Department of Fish and Wildlife's latest management recommendations. So in 2020 the Department of Fish and Wildlife started to come out with their – essentially their science related to buffer management, and in the latter part of 2020 came out with their management recommendations. And those recommendations really emphasized the implementation of buffers based on site-specific information, specifically what's called the site potential tree height. That *can* vary, depending upon your location on the landscape on essentially how high a tree – a mature tree – can get.

So there's – these are acknowledged to be recommendations from the Department of Fish and Wildlife. We have looked at those recommendations and we have evaluated them based on what we have in our code specific to buffer protections. So several comments would like the County to take a – you know, to integrate those management recommendations from the Department of Fish and Wildlife. It is important to recognize that in most of our shoreline areas here, specifically the riverine environments, there are 200-foot buffers in place that we have taken from our critical areas ordinance and moved into the Shoreline Master Program. So those 200-foot buffers are going to be in all the riverine systems that are shorelines. The marine environment and lake environments have what's called "environment designation specific buffers," so those are a bit different. But in the riverine environments, it's all 200 feet for shorelines of the state.

Any questions?

(silence)

Mr. Nickel: Issue number 8: There were, again, quite a few comments related to a couple of these items here related to aquaculture. One specifically was concerned about how upland structures that were associated with aquaculture uses might be encumbered by upland buffers. And then probably the one that got more attention from comments was the specificity about the prohibition on commercial net pens. In our current document we have a prohibition on net pens for the propagation of non-native fish. That had been prohibited. Many of the comments that came in specifically to try and – suggesting to prohibit *all* commercial net pens, native and non-native.

Number 9: This was related to eelgrass and kelp beds concerned about, you know, in-water structures covering areas of existing eelgrass and kelp beds that might come from, you know, new canopies, docks, and other overwater structures.

Number 10 is related to public access. There's a couple of areas here, the first one being the Open Space Plan, which we discussed already. We have incorporated some of that language into the current draft, based on the Board's direction. There is just, you know, comments about – that were very similar to comments received during the Planning Commission process that would like to not have reference to the existing Open Space Concept Plan – as well as just comments related to, you know, public access on existing flood structures or existing dikes and levees.

And I'll keep moving on if there's no questions. Number 11, related to well-drilling on Guemes Island. This was actually – we received a lot of comments focused on concerns with saltwater intrusion and the allowance of wells on Guemes Island. So that's the – the first topic area, 11(a), there's a lot of comments there with those concerns. There is language in the Shoreline Master Program that incorporates the critical areas regulations that speaks to saltwater intrusion. Many areas on the island are going to be outside of shoreline jurisdiction so it wouldn't necessarily pertain to the shoreline rules unless you're within 200 feet of the shoreline.

Chair Browning: So do they still have to go through *our* Health Department or *our* Planning Department, or do they go straight to Ecology and Ecology can approve a well without local approval?

Mr. Nickel: I believe they go through the Health Department. That's correct, Betsy?

Ms. Stevenson: Yeah, they still go through both of us because it's part of our critical areas ordinance in terms of the aquifer recharge. So the seawater intrusion language that was a policy through the Health Department for forever is now codified in our code. So we work together closely with the Health Department to make sure that we're on the same page and getting where we need to go.

Chair Browning: It seems like there's some misinformation on Guemes that we've got to correct that.

Ms. Stevenson: Yeah, we're finding that to be the case. Because we don't actually issue any kind of permit or have an authority to issue a permit to drill a well at this time. We're working with them and trying to get them to talk to us ahead of time or at least make sure that they know what they're needing to collect out there to meet our requirements so that they aren't going back out again – that's what we've been have happening – to try to do that.

Chair Browning: Okay, thank you.

Ms. Stevenson: Yeah.

Mr. Nickel: Great. Moving on, number 12, related to impervious surface limits. Again, there's a – essentially what we have in our draft is an allowance for impervious surfaces up to 30%. That relates to existing development. And in the code specific to the Rural Conservancy environment – this is actually per the WAC – it actually has a restriction on new development to be no more than 10%. And so we have brought that into the code. Some of the comments there were very concerned about allowances of greater than 10%. Obviously impervious surfaces relate to all kinds of things with future impacts or potential impacts related to surface runoff. So it impacts to local hydrology, water quality, water quantity, and the like.

Chair Browning: But you can still use some of the bricks that can allow water through and things like that. So impervious is just absolutely concrete and things like that, but there's still solutions that people can use for, like, driveways and patios and things.

Mr. Nickel: Yeah, there are, you know, alternative ways to allow for infiltration and new developments are coming, or new, you know, technologies are coming out on a regular basis in that arena. So there's definitely opportunities for those types of improvements.

Chair Browning: I had to put all that in and it looks just great. You wouldn't know the difference. You just know that it is letting water through and it works great. So good. I'm glad to know we're kind of 10% still reasonable.

Commissioner Wesen: But the other thing on that is the 200-foot is the shoreline area and most lots probably have more foot on their lots, and so it's only the 200 feet you're talking about the 10%.

Mr. Nickel: That is correct.

Commissioner Wesen: So if your lot is bigger, you don't include that 10%.

Mr. Nickel: Correct. And we discussed this at the Planning Commission and at the Planning Commission we did present some of those comparisons and evaluation of potential lot development that looks specifically at what does 10% look like. And, you know, given many of those circumstances where you have larger lots that extend beyond 200 feet, it was pretty clear that in those circumstances there was certainly development potential that would ___ that.

All right, number 13 – a few of these are fairly concise – comments regarding nonconforming structures. We have, based on state law, an allowance to call a legally existing structure – a structure that was legally developed based on the code at the time – to be calling those conforming structures, as opposed to a nonconforming structure, because it was legally established. So there were comments related to, you know, our definition of a nonconforming structure.

I'm just going to keep moving on. Number 14, related to the monitoring of shoreline impacts. And this was specifically a concern of the County's ability to monitor future development and the future potential impacts from that development. And the focus here was really on being able to show no net loss over time. We are required – all jurisdictions are required to achieve no net loss of the ecological functions. One way to do that over time is to track your development, to track the impacts, and essentially monitor the performance. That is ultimately, I think, the goal at the state level to be able to do that. And having a mechanism in place to be able to track that is a good

idea. And so the comments here specifically are asking what mechanisms does the County have or plan to have to track that information. And there's been reference in some of the documents that we've developed in the cumulative impacts analysis that we have drafted that speak to that, and the County does plan to certainly track those development impacts over time.

There were quite a few comments, as you see here in number 15, related to exemptions. Some of these are very targeted requests for additional exemptions. You know, things from some of the federal level exemptions, from dikes and levees. Our response to that – we haven't crafted this yet, but a lot of the exemptions that are in here are based on state law and we cannot change that exemption language. But we certainly will be taking a closer look at all of these comments and, you know, seeing if there's differences there that we can bring forward.

Chair Browning: And again, this is another great opportunity to remind people at the local level that we can't undercut state rules. We can make ours more stringent but we can't make ours less so. And that's just an ongoing message to the community that we cannot do *less* than the state requirement.

Mr. Nickel: That's correct. And the exemption language that is there at the state level, I think, is actually fairly broad. That can cover a lot of things, even some of the targeted things that are being commented on.

Chair Browning: Yeah.

Mr. Nickel: The last specific comment, before I get into some of the other requests, is related to dredging. There were quite a few comments related to dredge material disposal and where that may be allowed, as well (as) some of the impacts from dredging on our existing conditions.

I'm going to go ahead and jump into some of these – I won't actually jump into a lot of the other categories. Number 17 – these are more specific, targeted things that didn't necessarily fit in with some of the other categories. There's a lot of – some of this relates to the replacement of existing development, as well as just some clarifications on terminology within the code that we have written in there.

I think those are the ones I wanted to cover. And then also in this – I'm not going to go through these in detail, but I do want to point out there's four attachments again. Here's the start of Attachment 1 – is response specifically to those last four comments. Some of them are very long. We've tried to at least set up the documents. And you'll see here this is the response document to the first one, which is from the Swinomish Tribe and the Skagit River Systems Cooperative. They've done a very good job at, you know, identifying their topic areas and what their comments are focused on. We need time to still develop our responses to these, some of which we'll tie back to that comment matrix because some of those topics do overlap. But we do plan to produce written responses here for your review.

So I think that's about all I was going to cover today. I'm happy to answer questions that you might have at this time.

Commissioner Wesen: Dan, I thank you very much for all the time you've put into this over the years. I know you've done this for other counties. How do we compare to them with our data, our input, or how do we compare to other counties with shoreline master plans that you've worked on?

Mr. Nickel: Oh, that's a very broad question. I'd say that a lot of counties are ahead just in terms that they have a comprehensive update already completed. Again, this is – we've combined a comprehensive update with a periodic update so we're covering both of these at this time. So there's many counties that have already completed that comprehensive update. There are still some that have not, so you're not last. But I will say this. Because of the time involved, this document, you know, is very, very well written, very well detailed to address things that are very important to this county, things that are very important at the state level, and it's done a very good job at addressing that. So that's a benefit that has, you know, come with delays that this process has taken on.

So I'd say that the County certainly is very well positioned to get through an adoption process and an approval process with Department of Ecology. That's always a struggle and one I know having Ecology at the table early on has certainly helped with that process. So we are very close to having a document here that can be adopted and can be approved at the state level as well.

Commissioner Wesen: Are there particular areas – we haven't got that far yet – that know we'll have some discussion back and forth with Ecology?

Mr. Nickel: I'd say that the addressing the sea level rise and climate change comments is certainly one that at the state level would be encouraged to incorporate at some capacity – right? There's been a lot of examples from other jurisdictions that have incorporated policy recommendations, considerations of things to be aware of, things to look at. That is certainly going to be encouraged at the state level, and I think many in the community have also voiced their concerns in comments here that if that can be incorporated and as a starting point to really get the County to start engaging more and more in that conversation about, How do we improve our policies and regulations? How do we improve the implementation of this over time and address those concerns? I think would be a good idea.

Commissioner Wesen: Thank you.

Chair Browning: Is there much variability from county to county?

Mr. Nickel: There *is* variability. That's one of the interesting things about shoreline master programs is that at the state level you've got all of these rules and regulations that are defined in the Washington Administrative Code, but it does allow a lot of variability from jurisdiction to jurisdiction, and that's even at the county level. So there is – you know, no one SMP is the same and so there *is* that variability. I'd say there's less variability at the county level than there is at the city level or town level just because of the size and what you need to address. Because many things – what comes down from the state and their rules pertain to so much of the landscape that it doesn't allow as much flexibility at the county level. So I'd say that we are certainly making sure that we are adhering to the state guidelines, adhering to state law, and where we have or can, you know, have flexibility we are adding that. One example is the variance language related to buffer reduction. That is something that not all counties are doing. Some are doing more. Some are doing less. But it is something that allows us the flexibility to incorporate that administrative process into our rules here.

Chair Browning: Which brings up another. Is there the hope that we would work cooperatively with the cities in our community to have some similarity, or when you're looking across the board county-to-county, do the cities stand alone and the county stands alone?

Mr. Nickel: Yeah, good question. Oftentimes we do want to make sure that we are working in concert with our local cities, because we don't want to have inconsistencies at our boundaries and certainly in our Urban Growth Areas. We don't want to have those inconsistencies, so we definitely want to be looking at what the local jurisdictions – the cities – are doing on their landscape.

Chair Browning: Okay. Thank you.

Anything else?

Commissioner Janicki: I think so. I do know – or just to mention on the record that Chair Browning sent out a letter to the Swinomish Tribal Senate requesting that consultation and as we move in that direction, has formalized that ask. So I think that's a – I think it's the respectful way to interact with local tribes, even though they've already put in comments. But being able to formalize our response and not just through a written document that gets published on a website, but actually be able to sit down and have that conversation is good.

Mr. Hart: We did receive a response this morning from the staff and I passed that on to Kayla for her to help coordinate, if that was appropriate.

Commissioner Janicki: Great. Yeah, so Commissioner Browning, I appreciate you reaching out chair to chair on that. That's great. And then I think Betsy, and with the help of Dan, provided the language about the climate change and sea level rise, the documents that the Department of Ecology had put together, and then some of what other jurisdictions are using and language, so that we will be able to construct something a little more robust that will be incorporated into our plan too. So this is both Betsy and Dan: thank you.

Ms. Stevenson: I would just say that I think in our response to the comments that we've received we're planning on putting together some recommendations for you of where we think that we can put language in the document to try to address those. And then you can tell us whether we're close or not so close and you want more or less or whatever you think, but we'll come up with something for you to at least have something. We've heard from you that you're interested in addressing that in some fashion.

Commissioner Janicki: Yes. Thank you.

Chair Browning: I would really love to make sure that we at least look at it every year just to make sure that we aren't missing something. And if it doesn't come too much because it's moving slowly that's great, but if it does I want to be on top of it. So good.

Commissioner Janicki: You know, Hal, along that thinking, I know quantifying the no net loss, you know, and making sure that we have a methodology for measuring that is important, but it comes up again and again: the enforcement part of, you know, of people understanding that when they buy that lakefront or waterfront home have responsibilities for critical areas that they may or may not realize, you know, once the second or third owner has the place, or even the first owner doesn't remember once the plat was approved and move on. So how do we educate those homeowners and hold them to protecting those critical areas that have been identified?

Mr. Hart: Well, you did just hit the nail on the head. The first, I think, most important thing is to have the dialog for education. And so I will work with Betsy and Peter and the rest of our staff.

You also did provide us additional compliance staff and we have made a hire and they have accepted so that's another plus this morning. So it's a range of responses – right? – to let people know that something they have done – Hey, there's a – you need to get a permit for that, is part of the compliance strategy. But way ahead of that is just understanding what your role is if you own property on Puget Sound or on a key lake that's under that, or river or stream. And so I think we'll do more going ahead and we'll have opportunities to reach out, I'm hoping. So thank you.

Ms. Stevenson: We will make those opportunities for sure. This is a big deal getting this adopted. And I know the landowners – shoreline landowners – will be interested so we'll be reaching to them and, you know, proposing to go to homeowners association meetings or community meetings and all that sort of thing and explain what it means to them and what the new regulations are and why and how they can help and what they need to do and not do and all that sort of thing – just best practices for their property. And that having wetlands or, you know, fish and wildlife habitat conservation areas – because if they're on shorelines, they all have those – how that can actually benefit them, and it's not something that they have to try to get rid of and make go away. So just meet with them and talk to them and help them on their property.

Commissioner Janicki: Mm-hmm.

Mr. Hart: Previously Betsy has had some successes, and I think to bring those successes back out again and talk about what soft armoring is and talk about good design. There were articles in the newspaper this weekend that – I borrow your newspapers every weekend and read them, and in the engineering awards there were examples of different cities that have kept their footprint to a minimum. And it was innovative in how they did that in their public works facilities. So there are things that cities and counties and individuals can do to help. It's incremental but it is helpful that way.

The other thing I wanted to just take a moment and perhaps while we have the brain matter in the room is to talk – the Everett *Herald* had a large article on seagrass and kelp forests. Do you see that as a big emerging issue for the next update?

Mr. Nickel: In terms of?

Mr. Hart: Just shoreline protections that we can do.

Mr. Nickel: I think we are going to be continuing to look at that from a habitat perspective and how important it is to preserve our eelgrass and kelp beds and do what we can to enhance their ability to thrive. And I think that's going to – again, related to climate change, it's going to keep coming around and keep coming up that we need to recognize the importance of tracking these things. I do think it's going to be something we're going to *continue* to need to address.

Chair Browning: You think about where those kind of critical points of contact is, and this is the kind of information that should be delivered at the time – like a title company, have information there that would go to people buying. And so that's like one of those times when we really have people's attention and it might be good.

Ms. Stevenson: We're really lucky here too because we have the Padilla Bay Reserve and they have a huge eelgrass bed there and they have the scientists and they've been doing the work and the study, and we know a lot more about, you know, where the different types of eelgrass like to live and that there *are* elevation differences that they prefer, depending on which variety you're looking at. So we have a lot of that information. We see some increase in the beds that are up in

the Samish Bay, too, which is a good thing. And some of it actually is related to some of the structure there that they can attach to. So our Marine Resources Committee, which thanks to you guys, I was appointed to and still serve – I'm the chair right now actually – but we are doing kelp monitoring with volunteers in kayaks, and surveys, and you've probably heard some of the reports on those. So I'll take a minute to plug that as well. We're gathering the information. Everybody's interested in knowing. They are amazing resources – growing up in California and seeing the kelp beds down there and, you know, just everything that is there. We need to take care of them. They do provide great food and nutrient opportunities for all of us. So the more that we can do to keep them growing and building as well and not getting depleted is really important to the greater good. But the County through the Marine Resources Committee and some of the other organizations that come from the Northwest Straits Initiative and Foundation is very involved in that. So we're working on it.

Commissioner Wesen: Another question. I'm assuming all this is going to be on our website so people can look at it? This information will be on the website or –

Ms. Stevenson: It is now. That's actually where we pulled that document down this morning

(several people speaking at the same time)

Ms. Stevenson: Jenn got it to Brian and he got it up this morning so it's there.

Commissioner Janicki: Good job.

Ms. Stevenson: But thank you for asking that question.

Commissioner Wesen: And the other: As shoreline property values keep going up, we have maybe different people with different financial resources who come in the community and sometimes they're used to getting what they want, and so that's why it's really critical to have enforcement and have the permitting process in place so people realize what you're allowed to do and what you're not allowed to do. People who live here growing up and understand the sea – you know, the king tides come through every so often and we do get saltwater coming over top of the dikes and we live with it. And so at some point people are going to have to live with it or adapt, and we're not going to be able to build the dikes higher and higher and higher. That's just not an option for us.

Commissioner Janicki: Back to – because I see that legal counsel is present on the Zoom call, I'm going to reiterate what Commissioner Browning said in this public session, which is: I am highly supportive of putting property requirements onto a title report that show up as a separate item and aren't just the small, block lettering on some plat that's been shrunk down from blueprint size to 8½ by 11 and is on a poor quality attachment, you know, on Exhibit B of a title report. And I say that because the critical areas people step on them immediately. They clear all the way to the waterfront and plant green grass, you know, and then throw all that nitrogen down and you've got – anyway. But understanding the critical areas and their responsibility – legal responsibility – to protect them is really important. I also would extend and love to get legal counsel on how to put stormwater retention ponds that are part of an approved plat that are another one of those things that say, Hey, the nine lots on this plat have to maintain the stormwater; and then 15 years later it doesn't work and people downhill get flooded. Because homeowners – and once there's a property change, for sure they don't know. The first landowner might know. The second one doesn't know and retention ponds are not being maintained. They're not doing the job they're supposed to, and so we get – you know, we don't get the water cleaned and going back into the

stream system when we're getting overflow that causes catastrophe with structures. So if there's a way – you know, if we can – if it takes a legislative fix to make that happen, it's something that I think is good for the community looking forward. And most homeowners want to know what they're supposed to do. They're not trying to dodge. They just simply – I go with Hal: They don't know. So let's address that part of it first. Sorry, counselor who's on the Zoom call! But anyway, there you go. That's my – I'll stop now.

Ms. Stevenson: I kind of think part of what came out of the pandemic for all of us is there are a whole lot of other ways to communicate than having to come in person to a meeting. We can develop some videos and some different things and go out to some sites with people and tour them, and we do landowner workshops through the MRC and get out on people's sites to look at what they can do to improve their own site so they don't have those erosion difficulties, because most of it isn't coming from down here. It's coming from what's happening up above and how they're dealing with their runoff water. But we can start doing a lot of that. So I'm hoping to meet our new public information person and get going on that and it'll be somebody besides me, because I don't want to be the one to do it. But I think we can get a lot of this so people can look at it at their leisure at home and, Wow, I didn't know that! I think they've been really useful, the ones that the clean water folks are doing in Public Works.

Commissioner Janicki: That's true. That's a good ___.

Commissioner Wesen: One of the issues I have is all Puget Sound are dealing with these same issues. We've got 13 counties on Puget Sound, or something like that, so we ought to be able to partner with those videos and so forth to be able to work together on those things.

Ms. Stevenson: Thank you very much for all your time. Thanks, Dan.

Mr. Nickel: Thank you very much.

Chair Browning: It seems we've got nothing more. We've got another meeting coming up here in about five minutes, and so thank you very much. It's been a busy day. Sorry to move people on so quickly but this is really an important one. And again, I read it this weekend (and) it was just great. It was really really clear, it was real usable, it was really well defined, so thank you. Thank you for that level of clarity and the ability to ___. It answers the questions. So fantastic.

Mr. Nickel: Thank you.

Chair Browning: All right. Thank you, Betsy. Thank you, Hal. All right, hearing nothing else, we are adjourned...