

Skagit County Planning Commission
Work Session: Shoreline Master Program (SMP)
Work Session: Bylaws
April 27, 2021

Planning

Commissioners: Kathy Mitchell
Mark Knutzen
Vince Henley
Amy Hughes
Tim Raschko, Chair
Joe Woodmansee
Tammy Candler, Vice Chair
Martha Rose
Joseph Shea (absent)

Staff: Hal Hart, Planning Director
Peter Gill, Long Range Planning Manager
Betsy Stevenson, Senior Planner
Daniel Hasenoehrl, Planning Intern

Others: Dan Nickel, Consultant (The Watershed Company)

Chair Tim Raschko: The April 27, 2021 meeting of the Skagit County Planning Commission is now in session. We'll start with a rollcall. Commissioner Henley, I understand, is still trying to log in, so Commissioner Candler?

Vice Chair Tammy Candler: Present.

Chair Raschko: Commissioner Hughes, I see you're here. Commissioner Knutzen.

Commissioner Mark Knutzen: I'm here.

Chair Raschko: Thank you. Commissioner Mitchell?

Commissioner Kathy Mitchell: Here.

Chair Raschko: And Commissioner Rose?

Commissioner Martha Rose: Here.

Chair Raschko: Commissioner Woodmansee.

Commissioner Joe Woodmansee: Here.

Chair Raschko: Commissioner Shea is not able to attend. So we have everybody except Commissioner Shea, and Commissioner Henley hopefully will be able to get into the meeting

shortly. Is there a motion from anybody to approve the minutes? Okay, is that a motion, Commissioner Mitchell?

Commissioner Mitchell: Yes, it is. I move that we approve the minutes.

Chair Raschko: Okay.

Vice Chair Candler: I'll second. Commissioner Candler – I'll second.

Chair Raschko: All right, is there any discussion of the minutes?

(silence)

Chair Raschko: Hearing none, all in favor of approving the minutes, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Any opposed, say "nay," please.

(silence)

Chair Raschko: Are there any abstentions?

(silence)

Chair Raschko: So the minutes are approved. So we'll move right away into Mr. Gill and the Shoreline Master Program Update Work Session. Mr. Gill?

Peter Gill: Thank you. We have Dan Nickel and Betsy Stevenson to present on the current public draft of the Shoreline Master Program amendments tonight. So I'll turn it over to Dan.

Dan Nickel: Great.

Chair Raschko: Excuse me, Dan. Before you begin, do you want people to raise their hand and ask questions as they develop or would you rather wait and take questions at the end of each session? How would you like to do that?

Mr. Nickel: That's a good question. I'm happy to do either, honestly. This is intended to be a work session so I think the more questions that come up as we present, if you have questions just feel free to stop me and we can pause and answer those if we can.

Chair Raschko: Okay, thank you.

Mr. Nickel: Yeah. Good clarification. So, you know, this evening it's going to be back in front of you all. I have a fairly short presentation to give to you. I also hope to kind of give you a little tutorial as well as any members of the public that are attending tonight, kind of to kind of walk through the public review draft of the Shoreline Master Program. And so with that, let me kind of kick things off. I'm going to be switching between some strings here so forgive me for some clunkiness. So to start with – all right. As I mentioned, I'll spend a little bit of time after this first couple of pages here kind of walking through the review draft so that members here can be familiar with how to navigate it. And I'm also going to bring up some of the shoreline environment

designation maps so you can as well become familiar with how to navigate those. And I'm sure people are interested to see kind of where their properties are and how to find them. But the main goal for tonight is really to provide an update on kind of where the current public review draft is different than the Planning Commission's review draft that you've been looking at for the past couple of months.

So as we've been mentioning, we have met with Department of Ecology through a series of meetings over the past couple of months to really kind of get their preliminary review and feedback of any concerns that they have. They provided great assistance and understanding where we have some inconsistencies with the WAC or where we – more a sense of where we needed to provide clarification with the WAC. That's the Washington Administrative Code. And so I've identified these kind of five areas where we've spent most of the discussion with Ecology. That involves the integration of the critical areas regulations. We talked at length about agricultural uses and how that is integrated as well. We spoke to/about the forest practices as well. And then dock standards and some of the alternative design that goes into that, as well as some of the administrative variance processes.

Bear with me for a second. Betsy, do you want to step in for a second? I've got to take a drink.

Betsy Stevenson: Sure, I can do that. Something that – we got a request to extend the public comment, the written public comment period recently, so we have gone ahead to do that. So on this first slide, it's actually changed from 45 days to 60 days now, so it's from April 22nd until June 22nd. Interesting how that turned out but, yeah. So that's kind of big news and hot off the presses. Those notices are going out today and tomorrow and there will be a new notice in the newspaper as well. So not changing the public hearing date at all. That'll still be on the 11th and the virtual monthly public meeting that we have is also on May 13th.

So let's see. Oh, yeah, that's right. I can't change it, can I?

Mr. Nickel: I'm working on it, Betsy.

Ms. Stevenson: Okay. No worries! That's okay.

Mr. Nickel: Sorry about that.

Mr. Gill: So just a note on that change as well. You all should have gotten an email from me just this afternoon with the new public notice dates on it. So look in your email today.

Ms. Stevenson: So I know you guys have seen this before but it's kind of for everybody's reminder and just in case anybody new is joining us tonight. The public comments – the open house site is open to accept public comments now. We've kind of been leading up to this all along that this is where you'd be able to submit your public comments online. So it's now available and ready for people to do that. If people want to mail comments to us, our address is there: the Planning and Development Services at 1800 Continental Place in Mount Vernon. And anyone with just general questions that they want to ask that aren't really necessarily ready for public comment yet – they're not to that point – at smpdds@co.skagit.wa.us. So those are some of the things that we've done and that are new, I guess, if that makes sense. There's kind of a form there online that people can work on and it looked like we had an update from the person who's minding the open house and they got, like, 250 people visiting the site last Thursday when the notice went live and went out. So we're getting good – a lot of people are checking it out and looking at it and getting information, so that's a good thing.

Mr. Gill: Betsy, do you want to mention the mailer as well?

Ms. Stevenson: Oh, sure. Yeah, as part of the earlier process early on in the development, we did send out a mailer to all shoreline property owners in Skagit County. So we decided it would be a good idea to do that again so a very similar mailer but with just all the links to information and the important dates. So that, I'm guessing, went out. I don't know that for sure but I think it did, so those should be in people's hands. If they haven't already gotten them they should be getting them soon. Thanks, Peter.

Mr. Gill: Yep.

Mr. Nickel: Thanks, Betsy, for covering there.

Ms. Stevenson: Are you okay?

Mr. Nickel: Yeah, fine.

Ms. Stevenson: Did you put a little whiskey and lemon and honey in that?

Mr. Nickel: Yeah, I've heard that! So I apologize. Thanks for stepping in.

Ms. Stevenson: No worries. I'm happy to do a little song and dance!

Mr. Nickel: You might have to again! Who knows?

Ms. Stevenson: Okay, that's fine.

Mr. Nickel: So, yeah, again just to update: The mailers did go out. They should be in people's mailboxes by now. Just kind of announcing this. And the online open house website has been working really well. We've got comments that have been submitted already so we appreciate that. I find it's hopefully a good resource for people to reach out to.

So I'm going to pause there and I want to jump into looking at an example of the Master Program here, so let me just change my screen. And I'm going to share the actual – this is a PDF that folks can download off of the County's website. And, you know, the Planning Commission, you've seen this already before, but this is actually the public review draft so it's a little bit different. And what we've done is on the sidebar there is a – where my cursor is here; hopefully you can see that – there's a bookmark. If you click on the bookmark it'll bring up all the various sections and subsections that you can click on and navigate throughout the document pretty quickly. So if you click on a sidebar, it'll take you to that precise location so you can kind of quickly navigate around here. There's also in the – at each page, at the top, has kind of the main section headings. So if you want to look at the section on critical areas you can click on "Critical Areas" and it'll bring you right to that main section. So it's hopefully a fairly easy to use and navigate document.

The one thing I wanted to touch on specifically here for the Planning Commission was, you know, What are we showing here in terms of track changes? You know, before in the Planning Commission review draft that you had before you, you were looking at changes that had occurred since the 2016 Planning Commission version. And we had shown those in tracks and we provided sidebar comments. In this version, since what this does is this includes all of that but it also included Ecology's feedback. And so as you navigate through here you'll see a couple things. One, we're not showing the track changes, but what we are showing in sidebar comments here –

and I'm just going to move to a couple of these – where we show a sidebar comment, this identifies a location in the document where we actually have a change that has occurred since the 2016 version. We're not showing it as a track change because, frankly, it just would be very, very messy and complicated. And so for ease of use and for ease of understanding, we're providing this as a clean version, but the sidebar comments really will give an understanding of the rationale, where the comment was coming from, why the change happened. And where there's questions about – let's see, like for Ecology's input – let's see if I can move to some of these. Here's an example under dredging we talked about – where it might say "required by Ecology." Sometimes it'd say "recommended by Ecology." That's typically referring to areas in which Ecology has provided us feedback, most often because of consistency with the state law that we really need to have some modified text in here. So as you go through the document you can kind of pinpoint where those comments are coming from.

I'm going to pause there. Any questions on just navigation of the document in general, not necessarily substantive but just in terms of navigation – how to get around?

(silence)

Chair Raschko: Everybody's good?

Mr. Nickel: All right, sounds good. I'm going to switch now to the maps. I'm going to stop sharing that document, and let me move over to our map document. All right so – and these maps are available on the County's website, the main County website. And this is a map set of the entire county, so there's three sheets of the environment designations. We have the western portion; we have the middle portion, which includes the areas contained within Lyman and Hamilton and the Town of Concrete; as well as the eastern portion of the county. I'll focus really the attention here on the western portion of the county. And I'm going to zoom in here so forgive the scale. I want to just – you know, just in terms of navigating this, it's actually a pretty fine resolution so you can zoom in pretty closely to see parcel boundaries. You also see on the left-hand legend you'll see the environment designations in the various colors, and, like I said, you can zoom in. Let's see, on Guemes Island you can zoom at a pretty detailed parcel level and see the various locations. So if you have an interest in a certain parcel you can base it on roads and get down to a pretty fine-tuned detail on there. So I would encourage folks to take a look at the maps. They have not changed much since 2016. We had a few changes, if you recall. We did note that we had some changes based on the Planning Commission's 2016 recorded motion that we made for Guemes Island. We also had some changes where we removed Judy Reservoir. That was based on Ecology's agreement. And then we also included – in the Upper Skagit, we included the Upper Skagit River as a Rural Conservancy Skagit Floodway designation. So those changes are shown.

All right, I think I can move on. I want to try to tackle some other substantive material here, so I'm going to go back to our slide show, unless there's any questions on the maps themselves that anybody has.

(silence)

Mr. Nickel: Okay, back to the presentation. So far, so good, Betsy. You're not on the hook right now. All right, so to begin with this – again, going back to Ecology's input during their preliminary review, one of the things we've really focused on – I know we discussed this with the Planning Commission – but we talked about the integration with the critical area regulations. And one of the main issues was how to do this. You know, the previous 2016 version had the critical areas regulations as an appendix. There's benefits to that and there's nuances to that. And ultimately

because there's so much integration and weaving in of these regulations into shoreline jurisdiction, the County has opted to actually bring in the body of the critical areas ordinance as Part V of the SMP. And so you'll see here on the left side here these bullets identify the sections, so it's Section 14.26.500. That's where it begins and it goes through 14.26.590. That represents the body of the critical areas regulations. This box on the right, which is actually – right now it's actually located in the SMP. At the beginning of Part V of the SMP is this box. What this box is saying is these are the specific areas or sections of the critical areas ordinance out of Skagit County Code 14.24 that are actually *not* included in this version. And the reason we do that is because of inconsistencies with the SMA, what's going to be allowed under Ecology's review. So many of these sections just don't pertain to the – within shoreline jurisdiction or the SMP. So, you know, in terms of the introduction, title and purpose and authority and so on; however, there's also a couple of interesting pieces here, which I'll go into. But we did not include the section on 14.24.110, which is the County regulation of forest practices for the protection of critical areas. Nor did we include 14.24.120, which is the section on ongoing agriculture. And I'll talk about both of those in a second. But, furthermore, we also excluded the sections on variances and reasonable use, as those are not allowed under the SMA, the Shoreline Management Act. Any such issuances of or situations where one might have a reasonable use exception or a variance, those would be processed under a shoreline variance procedure. And so initially these are other areas that were not brought forward into Part V.

So I guess we talked at length about this with Ecology because initially we were bringing in the two sections, one on forest practices and the second on ongoing agriculture, but they're essentially really – they're already covered in the Master Program, specifically the section on forest practices, which I'll speak to in a bit, as well as agriculture. They're already covered and they have specific requirements under the Shoreline Management Act. And so in order to avoid confusion and unintended consequences, we went ahead and excluded those from bringing those into Part V.

The other change that we did make was in terms of wetland impact minimization measures and mitigation ratios. Those are actually – we had it in the 2016 version. Those had just been references to Ecology's guidance. And again, for clarity, we went ahead and brought those tables into the Master Program just so they're front and center so people can see them. They would be in Ecology's guidance. They would be used anyway, so we brought those in.

Those are really the main topic areas that we discussed with Ecology. I'm going to move into the next two sections – which they do relate to this because the next section of discussion was on agriculture, which is located in Part V. That is specifically in code section 14.26.410, for those who are looking on. And then the public review draft that begins on page 86. So there is already an exception under state law for ongoing agriculture. And this table, which is in the Master Program, which we did a minor adjustment to over here on the right-hand side, is pretty clear that if you have an existing agricultural activity on existing agricultural land, that is *not* going to be subject to the Master Program. That's pretty clear under state law. What *does* apply is when you have new agricultural activities that are occurring on previously land that was not used for agriculture, so new agricultural practices. The Master Program is going to be – it's going to be subject to the Master Program in that case. The shoreline areas are not subject to the Voluntary Stewardship Program, and so areas that are outside of shoreline jurisdiction are – you know, existing and ongoing agriculture there is going to be subject to the Voluntary Stewardship Program that the County has in place.

So this was an area, I think, that was – you know, we talked quite a bit about this with Ecology and we kind of came to this conclusion that this was probably the best approach. It's the simplest

approach and I think it is the clearest approach to make it clear about existing and ongoing ag being not subject to the Shoreline Master Program.

The other part that again goes back to the critical areas integration was with forest practices. And this is really a more substantive change that has occurred since the 2016 version. Forest practices – that’s in Section 14.26.445 – begins on page 117 of the public review draft. And in 2017, Ecology – Ecology’s rules changed, based on a legislative update. And specifically this is actually taken from the Shoreline Master Program so this text is in there, but it’s straight out of the state law, where it says a forest practice that only involves timber cutting is not a development under the SMA and the SMP and does not require a shoreline substantial development permit or a shoreline exemption. But what that means is that other activities that are more than just timber cutting *are* going to be considered development and *will* require a shoreline permit or a shoreline exemption. So that was a very important clarification, or substantive clarification that’s been made since the 2016 Planning Commission review.

Furthermore, there’s another clarification here that was added to this draft, the public review draft, that says a clear-cutting of timber that is solely incidental to the preparation of land for other uses is not considered a forest practice and is permitted subject to the use standards applicable to the proposed new use and development. So what that’s saying is if you have a development that’s taking place on your land – you’re clearing the land and you may be cutting timber, but it’s part of an approved use and development – it would not be reviewed under the forest practices. It would be reviewed under that proposed new use and development.

Chair Raschko: I have a question for you at this point.

Mr. Nickel: Sure.

Chair Raschko: Within your quote, it says “Clear-cutting of timber that is solely incidental to the preparation of land for other uses....” Clear-cutting is where you take every tree there is. If you were going to take *some* of the trees how would this apply?

Mr. Nickel: Well, I think it applies to any – you know, if the cutting of the timber – cutting of any timber, really – is as part of a preparation of land for other uses.

Chair Raschko: Yeah.

Mr. Nickel: So clear-cutting – you’re right – may not be the right terminology, but the cutting of timber is what the intent there is.

Chair Raschko: I know. Minor point, but it just – I think that would clean it up. Thank you.

Mr. Nickel: Sure. The next page –

Mr. Gill: Tim, Commissioner Rose has her hand up.

Chair Raschko: Oh, I’m sorry. Commissioner Rose.

Commissioner Rose: Thank you. This is just a minor clarification as well. Clear-cutting of timber is exempt, but what about the building of the roads that are necessary for the clear-cutting of the timber?

Mr. Nickel: So in that – that’s part of the 2017 legislative rule that the road development or anything that is associated with that would be considered development and would be reviewed under the shoreline rules.

Commissioner Rose: Thank you.

Mr. Nickel: Then there’s one other change in the Forest Practices section that I wanted to bring your attention to. This is something that we have in the Natural environment. Again, this is per the WAC – Washington Administrative Code – 173-26-211 – the forest practices in the Natural environment require a conditional use permit. So we have changed that in the use matrix. This is – and we have identified this under Forest Practices, subsection .445. But the use matrix is in Skagit County Code 14.26.405 – is where the use matrix is located and that’s where that change is shown.

So I’ll maybe pause it before I move on to the section on docks because I wanted to – you know, if there’s any questions regarding the critical areas integration or sections on agriculture or forest practices, I’d be happy to answer them.

Mr. Gill: Tim, Commissioner Woodmansee has his hand up.

Chair Raschko: Yeah, I can’t see the hands. It might be useful to use the Chat Box as well. So go ahead, Joe.

Commissioner Woodmansee: Okay, so my question is a follow-up to Martha’s question. So what we’re saying is that you can clear the land but you can’t get access to clear the land without going through this process? In other words, you can’t build a landing or whatever you would need to do to remove the trees that you’re clearing, but you can clear the trees. And so is that – am I understanding that right?

Mr. Nickel: That’s our understanding. It’s not saying you can’t do that, but it’s just saying that that would be reviewed under the Shoreline Master Program.

Commissioner Woodmansee: Well, doesn’t that essentially eliminate the exemption of taking the timber out because, you know, if a necessary activity to take the timber is x and then we’re saying that to take the timber you don’t have to go through the permit. But because you’re going to take the timber you’re going to build yourself access in to do it. Now we’re going to make you go through the permit. It’s kind of like a false ability, the way I see it – you know, something –

Chair Raschko: If I could interject, what it looks like is that forest practices are not exempt.

Commissioner Woodmansee: Right, which is not what – it’s not what you’re trying to say, right?

Mr. Nickel: Well, right. I mean, the clarification here was that what is exempt is a forest practice that *only* involves timber cutting. That’s what they’re trying to say. But if you have any other type of activity – you know, and they specifically would call out roads and culverts and, you know – that type would be considered *development*.

Commissioner Woodmansee: Sorry to interrupt. So you could clear three acres, drag everything up to the existing road, and you don’t have to get a permit.

Mr. Nickel: That is correct.

Commissioner Woodmansee: But if you want to build a – be more environmentally responsible and build a landing or something so that you're not just tearing up the terrain dragging everything out, you *have* to get the permit.

Mr. Nickel: That's correct. And it's not to say that the permit is – you know, that's reviewable under the Shoreline Master Program. Correct. It doesn't mean it's not allowed. Right? So you can apply for the permit, apply for the road, apply for the landing – whatever it might be – but that's going to need to be reviewed under the SMP. But it's not a prohibition on that activity.

Commissioner Woodmansee: So if you're going through the SMP, does the SMP have the ability to restrict the amount of logging that you could have done if you didn't otherwise have to go through the SMP – on that same three acres, say?

Mr. Nickel: There are some – let me see if I can bring that up unless Betsy, do you know that off the top of your head?

Ms. Stevenson: For shorelines of statewide significance?

Mr. Nickel: Yeah.

Ms. Stevenson: It's 30% over a 10-year period, which is what it is now, so I don't think that changed.

Mr. Nickel: Thank you, Betsy.

Ms. Stevenson: Yeah. While I'm talking, I have my hand up, if I could get recognized too, if Joe's done, but I don't want to cut in on Joe because he's got a good thing going there.

Chair Raschko: Well, does it pertain to Joe's subject?

Ms. Stevenson: Yes.

Chair Raschko: Go ahead then, please.

Ms. Stevenson: You're right. You and Martha hit the nail on the head. I would like to point out that under this new Shoreline Program if they do have to get a substantial development permit, we are turning that into an administrative process so it would not go to a public hearing before the hearing examiner. So it'll be a much shortened down version of somebody having to get a shoreline permit to do forest practices. We have required that for bridge building and things in the past where they're doing a stream crossing or something that met the substantial development test. But now at least, yes, there will be a permit required for the road building but we can do it as an administrative process so it will be faster. And we talked to the Forest Advisory Board and they're very familiar with the changes in the laws in 2017. So although they're not happy about it because it's just another layer of, you know, regulation on things that they're already regulated. And, you know, they started the timber, fish and wildlife program a long time ago, so they're not happy but they do understand it and so they're asking us to – okay, if there's not a public hearing required and it's not going to the hearing examiner, can you please lower the fees on these and can you also make sure that you get them done as quickly as possible and turned around to us? And I said yes, we would look into that because the fee shouldn't be near as high because it doesn't take as many staff hours to prepare an administrative decision than it does to do a staff report and take it to public hearing and do all those notices.

Chair Raschko: Go ahead, Commissioner Woodmansee.

Commissioner Woodmansee: I was just going to say thank you for the explanation.

Chair Raschko: I still struggle with the idea that you can harvest timber but you can't access it. I mean, forest practices should be either under this or not under it. It's like allowing farming but no tractors. Anyway, that's all I had.

Mr. Nickel: I'm going to move on. We've got just a couple more slides. The section on docks – this is Part IV of the SMP. It's under Boating Facilities and Related Structures and Uses. It's code section 14.26.420 and begins on page 95 of the public review draft. I believe we mentioned this before, regarding the Development Standards table. That's Table 14.26.420-1. So that table was modified to combine the columns for docks on lakes with and without anadromous fish. So you'll see here in the middle this column here for lakes. In the previous version we had this split into two columns, one for lakes with anadromous fish and one for lakes without anadromous fish. And after receiving feedback from Ecology, and we've heard from the Department of Fish and Wildlife in the past that, really, their recommendations are to use consistent requirements for these – for all freshwater docks, regardless of whether or not there's anadromous fish in the lake. And, therefore, changing the width standard – see here at the bottom here – from six feet to four feet for single-use piers.

And then the other change related to docks was actually in the legally established Pre-Existing Uses and Structures section of the Shoreline Master Program. That's in Part VI. And this is specifically in section 14.26.660, which begins on page 210 of the public review draft. And this issue was with the alternative design. If you recall subsection 3(b) there of section 630, the prior version had included this – what we call an offramp, basically. If you are able to get approval from the Corps of Engineers or the Department of Fish and Wildlife for approval on an alternative dock design that didn't meet the standards under the Boating Facilities section, then the County would allow it. Now that offramp, or having that alternative design offramp, Ecology was not in support of that – are not allowing that in the jurisdictions that I've seen, and they provided very strong feedback there. Really what their emphasis was: They're not opposed to having an alternative pathway, but they didn't want the pathway to be without any standards. And so what they recommended here and what we've included is just some specific requirements that could be met that would allow flexibility but meet the requirements for no net loss. And so some of these examples I've provided here in the bullets is not all-encompassing, but essentially one of the keys was that, you know, the overall square footage of the existing dock would not increase, as long as it's – assuming that it's larger than the standard allowance – that you would not increase the overall square footage; you know, graded decking would be used to allow for light penetration through the surface of the dock. And then specifically the concern was in the near shore area, that the walkway in those areas which are important for juvenile salmon migration – that we don't hinder that migration. So there is an emphasis in the near shore area where we have shallow water to have narrow walkways. And so as long as that area – and it's the first 30 feet, which is emphasized – as long as that is kept within a four-foot width, Ecology was willing to accept, you know, design flexibility in other areas. And so you might be able to keep wider sections of the pier that might exceed the existing standards that are, you know, four feet or potentially six feet wide. So it does allow for this alternative pathway but it does also at the same time provide some specific requirements to be met that are important to ensure no net loss.

So any comments on docks or boating facilities or this section on legally established structures?

(silence)

Mr. Nickel: If not, I will keep moving on. The last section I wanted to bring up was related to administrative variances. So, you know, Betsy mentioned, you know, there's an administrative process. This is actually a really good thing that this substantial development review process has moved to an administrative process. Similarly for variances, where the County has proposed creating an administrative variance for buffer reductions that are up to 50% reductions. Anything over 50% reductions would go through a hearing examiner variance. And the intent that the Department or the County was after was really to, you know, alleviate a lot of process – allow for these administrative reviews where it's more clear. And essentially Ecology's not opposed to the review process going through the administrative official versus the hearing examiner; however, Ecology was very clear that they consider both of these instances to be variances and therefore they have to be – the filing of that review process has to be the same. And so, you know, in this instance anything from a buffer reduction of 25% to 50% would still be considered a variance. It could be approved administratively but it's still going to have to go to Department of Ecology for their approval as well. A hearing examiner variance will be – you know, if it's approved by the hearing examiner it will also go to Ecology in the same fashion. Any buffer reductions of less than 25% obviously could be approved by the administrative official and would not be considered a variance.

Any questions on this administrative variance process?

Chair Raschko: Any questions? Mr. Woodmansee.

Commissioner Woodmansee: I just want to make sure I understand this correctly. So what we're saying is that if the reduction is 25% or less it does *not* go to the DOE for approval?

Mr. Nickel: That, just in and of itself, that process is something that can be approved administratively. Ecology will be – you know, so the County still needs to send Ecology that decision, assuming it's a substantial development permit, for instance. That's a decision that the County can make. They would then send that decision off to Ecology for that review, but Ecology does not have approval authority there. They would have appeal authority if necessary.

Commissioner Woodmansee: Well, does that appeal authority include denial authority?

Mr. Nickel: No.

Commissioner Woodmansee: So they can appeal it to, I guess, the court or – I'm not sure exactly what the appeal process would be.

Mr. Nickel: It's not something that they have to review for approval or denial for a buffer reduction of less than 25%.

Commissioner Woodmansee: So if you do a buffer reduction of 25% or less and the County approves it and the Department of Ecology appeals it, who are they appealing it to?

Mr. Nickel: I think the appeal process for that would go to the hearings examiner or the Shorelines Hearings Board.

Ms. Stevenson: (unintelligible)

Mr. Nickel: Yeah, so the Shorelines Hearings Board would hear that appeal.

Commissioner Woodmansee: Okay. And then if you're over 25% but up to 50%, they can – they have the authority, I'm assuming by law, to file – deny the approval?

Mr. Nickel: Right. They would – any decision, assuming it's an approval decision by the administrative official, that decision gets sent to Ecology but they also have to either approve or deny.

Commissioner Woodmansee: Okay. Thank you.

Chair Raschko: Any other questions?

Ms. Stevenson: I kind of want a clarification too. I don't think they went for that, did they, Dan? I think anything 50% or under they said would be an administrative variance and they would still – it would be filed the same way.

Mr. Nickel: It said administrative – so anything between 25 and 50%, my understanding was that that would be considered a variance. It's approved administratively by the County instead of going to a hearing examiner. Anything more than 50% has to go to a hearing examiner before it's approved. But my understanding was that both of those instances, an administrative variance or a hearing examiner variance, needs to go to Ecology and be reviewed under the Shoreline variance criteria.

Ms. Stevenson: Right. But you were – I understood you to say that if it was less than 25% they wouldn't actually act on that, and I didn't get that from our discussions with them. They will still approve or deny it.

Mr. Nickel: I think –

Ms. Stevenson: We asked for them to do that and I thought they said no.

Mr. Nickel: I will clarify with them, but I'm pretty sure that – because 25% buffer reductions are common in other jurisdictions. I mean, that is something that Ecology has accepted. I mean, obviously we're talking – and anytime you have a buffer reduction proposal you're going to be providing mitigation and you're going to be providing mitigation sequencing and documentation that you're achieving no net loss. Those will *all* be required in *all* circumstances. But I'm pretty sure that they would allow a 25% reduction as long as those conditions are met. I will double-check though, Betsy. I'll do that.

Ms. Stevenson: Yeah. Sorry. Okay, thank you.

Commissioner Woodmansee: This is Woodmansee. That's an important – a really important piece of information for sure, because that 25% in many times can be the difference between being able to do something or not.

Ms. Stevenson: Well, and we were pushing for it because that's the way our critical areas ordinance is written and I thought that they made us change that, just by the idea of No, you have to file those and we will take action on those. And I don't see anything in here as I'm looking – just scanning – that talks about 25% that takes that out. It's just 50% or less. So anyway, we'll have to –

Mr. Nickel: That's a good point, Betsy. I'm looking at that now. I will clarify that with them because we would want to change that, because my understanding is 25% or less is okay.

Ms. Stevenson: Okay. Because I didn't get that from them. I was hoping that's what they'd do and I didn't hear that. So maybe we need to ask again and push a little harder.

Chair Raschko: Okay, Commissioner Mitchell.

Commissioner Mitchell: Yes, thank you. Betsy or Dan, knowing that you have to go back for that information, I realize this is a guess, but do you think we'd know that by the time we have the hearing or not?

Mr. Nickel: I should be able to get clarification of that very soon. Yes.

Commissioner Mitchell: Can you – when you do that, could you please ask Peter and Betsy to issue that to us immediately?

Mr. Nickel: Will do.

Commissioner Mitchell: Thank you so much.

Chair Raschko: Are there any other questions?

Mr. Nickel: I hope I'm right!

Chair Raschko: Questions?

Ms. Stevenson: Me too!

Chair Raschko: All right.

Commissioner Woodmansee: Tim, I have a question that is related to the – I guess questions is next – that's related to the shoreline and the 200-foot measurement. And I guess at this point I'm assuming that that measurement is from the ordinary high water mark, the 200-foot?

Mr. Nickel: That's correct.

Commissioner Woodmansee: Does that ordinary high water mark include an associated wetland that's not a – like a – I mean to me as the lay person thinking the ordinary high water mark is definitely where vegetation stops and starts and the water, you know, ordinarily comes to. I'm just – was wondering if there could be – what the actual – if that is as simple as our definition is, and then that's where the 200-foot starts.

Mr. Nickel: Good question. So 200 feet is the minimum. If you have a wetland that is – that extends beyond 200 feet – so let's say you have a very large wetland and it goes out 500 feet from the edge of ordinary high water, the extent of shoreline jurisdiction actually ends at the wetland boundary. It does not go an additional 200 feet, nor does it actually include the buffer in that case. So that's – you know, that's an area where it commonly comes into play with development occurring *near* shorelines but not in shoreline jurisdiction, not within that first 200 feet. Because you could have an instance where you're an application coming in to develop nearby, and in that instance you're maybe affecting the buffer of that wetland. But you'll be

reviewed under the critical areas ordinance and not the Shoreline Master Program. But if you are within shoreline jurisdiction with – so if you're within 200 feet and you have an adjacent wetland area that's also within 200 feet, but you're affecting the buffer of that wetland, that's a case where you're going to be using the critical areas regulations in the Shoreline Master Program to regulate that buffer ___, and not the critical areas ordinance. It's kind of a confusing nuance.

Commissioner Woodmansee: So what I'm trying to figure out, I guess, is – and either one of you can help me with this – so if your ordinary high water mark, which is what the average person would think is the shoreline, then we know the minimum's 200 feet out from that. But does the wetland extend the shoreline to the point of wetland – where it's not a wetland anymore? So now the shoreline's actually 200 feet farther in if you have a 200-foot wetland adjacent to it? And then if you're within 200 feet of *that*, you're still within the shoreline?

Mr. Nickel: No, it ends at the edge of the wetland.

Commissioner Woodmansee: So the shoreline does?

Mr. Nickel: Yes.

Commissioner Woodmansee: And then – but you still – but within 200 feet of that – so it doesn't? No?

Mr. Nickel: No.

Commissioner Woodmansee: Okay.

Mr. Nickel: As soon as you get past the 200 feet from the ordinary high water mark, then the rules kind of change. Then if it's a wetland, it becomes just the edge of the wetland.

Commissioner Woodmansee: Okay. So just for – I understand what you're saying there. And we're calling the ordinary high water mark the vegetation versus water, not the wetland that's got water underground that most people would think, Okay there's – would *know* that it's considered a shoreline? You understand what I'm asking? I'm – so –

Mr. Nickel: Honestly, the ordinary high water mark isn't a – it's not always clear black and white. There's some variability when it comes to determining what an ordinary high water really is and you have to account for a number of different things – not just vegetation, but it's also where the water typically goes and flows and moves. And so – and in the marine environment when you're dealing with estuary and wetlands, the ordinary high water mark would be inclusive of the estuary and wetlands. So it's different depending upon where you are in the landscape. If you're talking about freshwater or marine waters.

Commissioner Woodmansee: So does ordinary high water mark and shoreline, are they the same thing or are they two different things? I'll take any help I can get ___! Let me say my concern. My concern is that you're on the edge of a river or a lake or whatever and you're thinking, Okay, I'm going to stay 200 feet away from this water body. And you get a critical area report done and there's 100 feet of additional wetlands on top of the shoreline – what I'm calling the shoreline anyways. Is that moving the shoreline to that 100 feet farther out and now you're – if you're within 200 feet of *that* location you're under the permit? No?

Ms. Stevenson: No. That's where you're losing us. If you have – you get to your 200-foot point and then you've got an associated wetland within that area and that wetland extends another, say, let's use 50 feet –

Commissioner Woodmansee: Sure.

Ms. Stevenson: Then the shoreline jurisdiction would end at that 250 feet. It would just include the edge of the wetland. So whoever delineated your wetland for you, whatever the edge of the wetland is, that would be the shoreline jurisdiction. And then I think what Dan is saying is that any wetland buffer beyond that shoreline jurisdiction would then be reviewed under the critical areas ordinance.

Commissioner Woodmansee: Okay.

Ms. Stevenson: So there would still be a buffer but it's not within shoreline jurisdiction, so then the critical areas ordinance would apply and those buffers would be applied to that. Does that make sense?

Commissioner Woodmansee: Yeah. Would it be fair to say then that the 200 feet – within 200 feet is 200 feet plus any adjacent wetland? And then that's where the permit stops and starts. So it could be 300 feet. It could be 400 feet. You could still be within the shoreline jurisdiction because of the associated wetland.

Ms. Stevenson: Yes.

Mr. Nickel: Correct.

Commissioner Woodmansee: That's where I was trying to get. It took me a long time to get there! That's my fault but that's where I was headed.

Ms. Stevenson: No, no, no. You're asking really good questions. This is good.

Mr. Nickel: Depending upon – I'll make one clarification there because there are other areas if you look at the maps, especially along the Skagit River, which has an extensive floodway and floodplain. There's another rule in Ecology's shoreline jurisdiction rule that says the floodway, the entire floodway, is included within shoreline jurisdiction. Okay? And then where a floodplain is also present, it is an additional 200 feet – shoreline jurisdiction is an additional 200 feet beyond the floodway. So that's an area where, you know, it doesn't apply to wetlands but it applies to this floodway and the floodplain designation where you'll see very expansive areas along the Skagit River that have huge shoreline jurisdictional areas. And that's primarily because of that rule.

Chair Raschko: Just to clarify, you said it's 200 feet from the floodway, not the floodplain.

Mr. Nickel: That's correct. If you have a floodway present – if you don't have a floodway present and you have a floodplain, all you're talking about is the 200 feet from the ordinary high water mark. If you have a floodway present and you also – then it's going to be the – the shoreline jurisdiction's going to contain the entire floodway, but you also have an additional floodplain beyond the floodway, then your shoreline jurisdiction expands up to 200 feet beyond that floodway boundary.

Chair Raschko: Okay.

Mr. Nickel: So again, look at the shoreline environment designation maps. You'll see that especially in the lower Skagit and the middle Skagit, you know, really above Highway 9. You'll see a very extensive shoreline – a very extensive shoreline jurisdictional area. That's because of the floodway and floodplain.

Ms. Stevenson: And Dan's point of up to 200 feet, that whole area still has to be within the floodplain. So if the floodplain ends in less distance than that 200 feet, then that would be – it wouldn't go beyond the floodplain. So just to clarify.

Chair Raschko: Commissioner Mitchell, did you have a question?

Commissioner Mitchell: Yes, I did. I got thoroughly confused but I think I've got it now. It depends on how we're speaking. So in essence, when you have the shoreline, the first 200 feet, if at any point it contacts a wetland it gobbles the wetland and that counts too for shoreline. Is that correct?

Mr. Nickel: It's correct.

Commissioner Mitchell: Really semantics. But every time you guys said, you know, where it meets the thing or you say the leading edge, you could pick the first one or the far one, right? And so I guess what I'm looking for is language that was crystal clear on which edge of that wetland you're talking about. So from layman's terms, that's the confusion.

Chair Raschko: Okay, are there any other questions?

(silence)

Chair Raschko: Okay, hearing none, go ahead, Dan.

Mr. Nickel: Well, I think that's it for the presentation that I have. I mean, really at this point I think I suggest opening it up for any other questions or concerns that folks have regarding the document, regarding the process, regarding public comments, or what have you. So I turn it back to you.

Chair Raschko: Okay, Commissioner Mitchell?

Commissioner Mitchell: Yes, I was hesitant to ask this question and if you don't want to answer, don't. But you did open up a process, Dan! I'm just curious to know who has the kind of clout that if they can request an extension for the comment period has that? Is it the state? Is it the County, or something else?

Ms. Stevenson: Anybody can ask for an extension. I mean, it can be anybody who does that. It's up to the local government and our leadership –

Commissioner Mitchell: Okay, so a citizen or groups or anybody can do that?

Ms. Stevenson: Yes, anybody can ask. Yeah. That's part of the process, if they want to ask for an extension. Whether or not we grant it – you know, "we," I say "we": the leadership of the County decides to grant it or not. It's kind of our choice. Because it's a 30-day requirement by the law in terms of the timing. We extended it to 45 and they asked for 60, so, you know, that was something that we considered.

Commissioner Mitchell: Thank you.

Chair Raschko: Okay, we have Commissioner Knutzen, followed by Commissioner Candler, so go ahead, Mark.

Commissioner Knutzen: Yes, I have a question for either Dan or Betsy regarding the terminology of floodplain versus floodway. Do you any maps that designate which is which in any of these documents?

Ms. Stevenson: Yes.

(laughter)

Commissioner Knutzen: Where would we find – my next question is, Where would I find these at? Are they in the Shoreline Master Program somewhere?

Ms. Stevenson: No, they're going to be in the – on the webpage, and, Dan, correct me if I'm wrong. I don't know which – within the map folio information on the work that we did for the background information. And, Mark, I can send you an email if you want me to –

Commissioner Knutzen: Yes, please.

Ms. Stevenson: – with a little arrow of where you can find those.

Commissioner Knutzen: Okay, thank you.

Ms. Stevenson: But they should be in there. Yes.

Commissioner Knutzen: Okay, thank you.

Ms. Stevenson: And those maps are designated by FEMA, just so that you know.

Commissioner Knutzen: Good. Okay, good.

Ms. Stevenson: So it's their data. We didn't make up our own!

Commissioner Knutzen: Okay. Thank you.

Mr. Gill: And just to add on to that, the Shoreline Environment Designation maps were attached to your meeting agenda email, so you should have at least those environment designation maps that Dan showed earlier as well.

Chair Raschko: Okay. Commissioner Candler, please.

Vice Chair Candler: Thank you. Someone brought up to me a concern about – this is going to be on page 75 of the working document under the Shoreline Public Access Plan. There's a comment that the Planning Commission recommended removing the section regarding the UGA Open Space Concept Plan. I want to give everybody a minute to get there if we're – I don't know if we can put it on the screen or not, but.... The staff is recommending retaining that and they're citing to a WAC, which is 173-26-221(4)(c). I'm just looking at that. I'm just wondering, Does anybody – we don't have to necessarily have to talk about it tonight if people need some time to look at this,

but I'm just wondering why the Department thinks it's necessary to have that in, given that WAC or given that the Planning Commission wants to remove it because – or at least at one point we recommended removing that because of the sort of conceptual nature of it, the lack of definitive boundaries, and that sort of thing. Does anyone – has anyone looked at that recently or could talk about it, or if not we can table it for a future meeting if somebody wants to talk about it.

Ms. Stevenson: I can talk about it if you want me to.

Vice Chair Candler: Yes, thank you.

Ms. Stevenson: We *are* required to show some sort of review of and inventory of public access areas in the county, and because that plan was already done and adopted by the County, even though it is conceptual and we know that, it's something that we can use to show and identify the public access areas in the county because there are maps in there that show some of those. The plan itself and some of the recommendations of the plan, it's still conceptual so those don't necessarily become regulatory in any sense. It just shows that we did inventory our public access areas, if that makes sense. So we're just utilizing it as that.

(Voices in the background are disrupting Ms. Stevenson's comments here.)

Ms. Stevenson: – in the same way that we identify the Parks Open Space Plan as something else that we used as guidance, if that makes sense, and that we referred to in terms of looking at public spaces and things like that. That may not be an adequate response but that's kind of the one that we have in terms of what our thought process was. Otherwise we'll have to do a new one.

Vice Chair Candler: And I think the concern was that it might be confused with sort of regulatory when it isn't. You know, I think there's – anyway, I guess at some point we need to just make sure that's noted in our Planning Commissioners' recommendation to remove, but I guess we're not there yet tonight. Thank you, Betsy.

Chair Raschko: Okay, Commissioner Mitchell.

Commissioner Mitchell: Yes, thank you. I had aired the same concerns early on when we went first rounds on this a few meetings ago. And I know, Betsy, you said you guys were going to look to see if you could have something else. Doesn't – maybe I'm wrong on this – doesn't the Parks Plan already have all the access information – public access information – to all the shorelines anyway?

Ms. Stevenson: Does it include more than just what's maintained by the County? I don't know. I haven't looked at it in a long time.

Commissioner Mitchell: Yeah, and that's kind of where I think – I remember there was so much contention on that Open Space Concept Plan. Although it may have had a few decent points it had a lot of lacking points, which is why it's still a concept plan. And I would hate to think because we did choose to put it in here that that's endorsing the Concept Plan when in fact it really isn't. That's my main concern. And we already have inventory – I don't know. If you could please double-check about the access through the Parks things for the public access, because I thought those two already overlapped. And if that's the case, then truly including the Open Space Concept Plan in here is eyewash.

Chair Raschko: Okay. Are there any other questions or comments? Commissioner Henley, was your hand up? And by the way, welcome.

Commissioner Vince Henley: I'm sorry to be late. A little bit of technical difficulty here. I do have a question that has to do with public access. In the document, the statement is made in several places that the owner of the property is responsible for maintaining the public access. Now it seems to me that, you know, if I were a landowner I would wonder about why that wouldn't be an illegal taking since it might involve a pretty hefty financial burden. So can someone tell me how that came about, please?

Ms. Stevenson: We covered those issues in the document as well, as far as trying to write it very carefully, and I can't put my finger on it right at this moment but we do talk about that as far as –

Commissioner Henley: Well, 14.26.370 is around the area. It mentions that but it doesn't say anything about it per se, other than if the owner can persuade some governmental entity to take it over then, you know, that's possible. But there's no requirement to do that and there's no requirement on the part of government to even give that a hearing.

Mr. Nickel: I'm looking for it right now.

Ms. Stevenson: Yeah, me too.

Mr. Nickel: It's under subsection (3)(c) on page 75.

Commissioner Henley: Yeah, that's where I'm looking.

Mr. Gill: It's up on the screen. Yep.

Mr. Nickel: "Maintenance of the public access facility must be the responsibility of the owner or homeowners' association unless otherwise accepted by a public or nonprofit agency through a formal agreement recorded with the Auditor."

Commissioner Henley: Yeah, that doesn't change the nature of my question.

Ms. Stevenson: Yeah. No, I'm still looking for the language that we put in here to address what you're talking about in terms of constitutionality and takings. Because we wrote that pretty carefully.

Mr. Nickel: Do you think that, Betsy, that's under this section .370?

Ms. Stevenson: I was thinking it was earlier on. But I can – instead of wasting your time – I know you guys have other things to do – I can keep looking and maybe get something to Peter to send your attention that direction to, if that works for you, rather than me just keeping you hanging and waiting.

Commissioner Henley: No, I don't need an instant answer but I would like an answer.

Ms. Stevenson: Okay.

Commissioner Henley: I do have another question.

Chair Raschko: Go ahead, please.

Commissioner Henley: In several places in the document it's mentioned that floating residences are prohibited in various places. Now I spent quite a few years living in the Netherlands, and the Dutch are very good at shoreline engineering and management and so on. I mean, they've got to fight for every inch of it. So it seems to me that whether or not you can permit floating residences has to do with infrastructure and management and planning, and so the blanket prohibition sort of disturbs me a little bit. So how did that come about?

Mr. Nickel: Well, part of that is floating homes – floating on what are residences – new ones are prohibited under the Shoreline rules. That's under state law. Liveaboards, there are some allowances for liveaboards in existing marinas, but in this case, you know, they are prohibited.

Commissioner Henley: So what you're telling me is that all of those floating homes down on Lake Union all predated the law?

Mr. Nickel: They did. And that's really what predicated the law itself. Some years ago there was quite a fight, you know, between the floating home community in Seattle and agencies, and essentially what came out of that is that prohibition. On new structures. Now see, though, what's existing can remain, it can be maintained and, you know refurbished and whatnot. So there's allowances for the existing ones for sure.

Commissioner Henley: Okay. Well, then maybe what we need to do at some point is to revisit that law with the legislature because the Dutch seem to manage it just fine. And I've been in some of those homes in the Netherlands and they're very nice. And they do have the proper infrastructure and they do have the proper planning and management, and I think that's where we went wrong here in the states. We didn't do that. So anyway, okay.

Last question, if I may?

Chair Raschko: You may.

Commissioner Henley: Okay. We talk about circulation.

Chair Raschko: Pardon me. Can I just break in for a minute? Commissioner Candler, did you have a comment or a question related to the prior point?

(silence)

Chair Raschko: Where is Commissioner Candler?

Commissioner Henley: I can see her.

Vice Chair Candler: Sorry. Yeah, I did just – if I could, very briefly. In reading the WAC that's cited by the department regarding that former public access issue we were looking at, I am even more concerned because it seems to be saying that the local government should plan this out, and if we just include this concept map that hasn't been fully vetted and isn't the plan, it seems to give people an impression certainly that that's going to be regulatory. So I just wanted to mention that. I'm sorry. I didn't mean to interrupt Commissioner Henley.

Commissioner Henley: No problem.

Vice Chair Candler: Thank you.

Chair Raschko: Thank you, Tammy. So go ahead, Vince.

Commissioner Henley: When we talk about circulation, one of the things that's kind of obvious by its absence is any discussion of the common automobile. They talk about things like ferries and public transport and things like that, but they don't mention the most common way of getting around or making any allowances for that. Is that something we're going to revisit here sometime in the future?

Ms. Stevenson: I guess I would ask in what context that you're –

Commissioner Henley: Well, it seems to me you're making plans for every mode of locomotion except the automobile, and it seems to me that it at least ought to get an honorable mention.

Ms. Stevenson: So that would be under Transportation Facilities, I think?

Commissioner Henley: Yeah, it's under Circulation. It's under 6F-1.1.

Ms. Stevenson: Well, those are the Comprehensive Plan policies and then the regulations would be in the Transportation Facilities which would be –

Mr. Nickel: Section .485.

Ms. Stevenson: Thank you.

Mr. Nickel: Those begin on page 144.

Ms. Stevenson: Thank you.

Mr. Nickel: And those regulations speak, you know, to all sorts of transportation facilities but do speak about roads and bridges.

Ms. Stevenson: Bridges, yeah. So I guess just to give you a little – and maybe you already understand this, but I'm going to say it anyway. The first portion of the document is all the policies and things that will become a part of the Comprehensive Plan, and then the development regulations are the ones that are later that will become part of our Skagit County Code. So it starts out Circulation a little more general, and then the Transportation Facility section that Dan just mentioned would be where the regulations are, and it does talk about roads and bridges and things like that.

Commissioner Henley: Okay. We might want to have a reference or a point or two because it's not easy to find.

Ms. Stevenson: Okay, fair enough. And I did find what I was looking for in the Policies, as far as the public access question, too. So under 6E for Public Access, it talks about private property rights and such and it talks about the Public Trust Doctrine and constitutional limitations, and all of that is 6E-1.1 and 6E-1.2.

Commissioner Henley: Okay, thank you.

Vice Chair Candler: What page is that?

Ms. Stevenson: In mine that I printed out it's page 39.

Vice Chair Candler: Thank you.

Commissioner Henley: That's all the questions I have at the moment.

Chair Raschko: Okay, thank you. Are there any other questions or comments?

(silence)

Chair Raschko: Okay, Dan.

Mr. Nickel: Okay.

Chair Raschko: I do have one question. Pardon me. And I apologize because maybe it was available. But the PowerPoint presentations that you've utilized in these work sessions, do you still have those available in a file format that you can reference?

Mr. Nickel: Sure.

Chair Raschko: Okay. I'd appreciate it.

Mr. Nickel: Are those available, Peter?

Mr. Gill: Yeah, Dan. If you – actually I should have all of them so I will be sure to send them out to the Planning Commission members.

Chair Raschko: Thank you. Anything else?

(silence)

Chair Raschko: I presume that completes the Shoreline Master Program Update, so I want to thank you, Dan, and thank you, Betsy, for your work and help. And we'll move on. Now I'd ask if – go ahead, Betsy. I'm sorry.

Ms. Stevenson: Oh, no. I was just saying goodbye.

Chair Raschko: You don't want to watch the rest? Okay. I wouldn't mind taking a three-minute break if anybody else feels the same desire. Okay, so why don't we come back at 7:30? It's 7:27. Is that enough time? Let's make it 7:32. Okay? Thanks.

Ms. Stevenson: Thank you, guys, very much.

Chair Raschko: Thank you.

(break)

Chair Raschko: Okay, we'll be back in session and we'll turn to our Bylaws Work Session. Everybody should have received submittals from both Commissioner Henley and Commissioner Woodmansee. Commissioner Henley presented a list of definitions to be at the front of the bylaws. And what I propose to do would be to go through that document and maybe make some changes or tweaks and adopt it if everybody feels that that is appropriate, and then go to Commissioner

Woodmansee's submittal, which is more about communication with the Board of Commissioners. And that would fit in on page 5 of the updated – the last draft of the bylaws to go under that section 12. I presume then that would include such things as minority opinions and individual contact with Commissioners.

So is Commissioner Henley back?

Commissioner Henley: I am back.

Chair Raschko: You are. Good. I don't know if you heard the introduction but I thought we would first go through your submittal of the recommended definitions. I appreciate the work you did on that and I presume everybody has read through it. But I think we should go through these just one at a time quickly and see if we want to tweak some of them, if that is conducive to everybody's will.

Mr. Gill: Chair? Chair, this is Peter.

Chair Raschko: Yes?

Mr. Gill: I did not get a copy of the suggested edits from Commissioner Henley. I'm wondering if someone could send that to me, and I apologize because, you know, Commissioner Henley and I have not had much of a chance to talk about normal etiquette. So in the interest of working through this meeting, if someone could email me. I saw the body of the email but I didn't get the actual attachment.

Chair Raschko: Oh, I'm sorry.

Commissioner Henley: Well, I didn't think we were going to talk about it today because of the fact that we didn't have time for notice.

Mr. Gill: This doesn't – yeah, we don't have to provide notice yet at this point. If you all can make sure you copy me on any of your comments so I can make sure to distribute it and be part of the conversation, that would be helpful.

Commissioner Amy Hughes: Peter, I was able to send that and it says that it went. This is Amy Hughes. So did you get an email from me just now?

Mr. Gill: Yes, I did. Thank you.

Commissioner Hughes: Okay, it should have the attachment on it.

Mr. Gill: Yep. And Joe, thank you. All right, now I'm ready!

Chair Raschko: Commissioner Rose?

Commissioner Rose: I didn't see the one from Joe – Commissioner Woodmansee. I didn't see his submission. I don't know why I didn't see it.

Mr. Gill: It went out this afternoon about 3:30.

Commissioner Rose: Oh, maybe that's why. That's why I didn't see it.

Mr. Gill: Yep, that's my fault.

Chair Raschko: Are we unprepared for this discussion tonight?

Commissioner Rose: Well, I might be able to get it.

Chair Raschko: He does not – it does not have proposed verbiage to be adopted. It is more of a conceptual paper on his feelings on the subject.

Commissioner Henley: Are we talking about the definitions?

Chair Raschko: No, we're talking

Commissioner Rose: Oh, I see it now.

Chair Raschko: – about Commissioner Woodmansee's discussion of the Section 12, which is, you know, communicating with the Board of Commissioners. Well, let's do this. First of all, I'll ask you, Peter: Is there a problem with public notice to be discussing the proposed definitions?

Mr. Gill: No, there is not.

Chair Raschko: All right, then I think we should proceed with that part. Everybody now has seen it, I presume. Commissioner Mitchell?

Commissioner Mitchell: Yes, I'd like to – tell me if this is wrong – I'd like to move that we accept the definitions as written.

Chair Raschko: Is there a second? Did I see your hand, Commissioner Candler? No?

Vice Chair Candler: Yes, I had my hand raised. I'm not seeing the email regarding the definitions, unfortunately. I don't know if now that we've sent it to Peter if that can be shared onscreen – there we go. That would be helpful, I think.

Chair Raschko: Okay, we're still looking for a second.

Commissioner Woodmansee: I'll second it so we can get a discussion going on it.

Chair Raschko: Okay. Who is this?

Commissioner Woodmansee: Woodmansee.

Chair Raschko: Okay, thank you. Okay, it's been moved and seconded to accept the definitions as written and we will now open it up for discussion. I have some discussion. The number 18: "Quorum" means the minimum number of members, usually a majority of all the members who must be present." Okay, my question I just answered for myself! Going back to 14, 'Moral Misconduct' means a failure to conform with recognized rules of correct conduct. It seems to me that – recognized by whom? I mean, that just seems to need a little more specificity.

(silence)

Chair Raschko: Okay, there's no comment on that!

Commissioner Woodmansee: Well, I would agree that it needs to have more – be more specific.

Chair Raschko: Right off the top of my head I can't come up with anything, but anybody could have 'recognized rules,' so that just seems to be wide open – of what is correct conduct.

Vice Chair Candler: What question?

Chair Raschko: Go ahead and who is this?

Vice Chair Candler: I don't know if I'm out of order or there's more people in front of me, but I have a question. I was just wondering if we could have a description of where these – maybe for each definition came from. Is this a dictionary definition? Was this pulled from some other bylaws? And then I have some specific comments but I was just kind of wondering if we could have some of the background from Commissioner Henley.

Commissioner Henley: Well, I can go back and dig it out. I did make a list of – if you look on the memo, the cover letter, it does give you the general sources for all of these things.

Vice Chair Candler: I was on your distribution list. I'm not seeing it. I got an email from you on April 15th just showing that you had a new email saying that – I don't see it at all.

Commissioner Henley: This is dated – this is April the 22nd it was dated. But I could read it for you.

Vice Chair Candler: Okay. That'd be helpful, thanks.

Commissioner Henley: Okay.

Vice Chair Candler: It's not too lengthy.

Commissioner Henley: With the permission of the Chair?

Chair Raschko: Please go ahead.

Commissioner Henley: I used several sources for these definitions. Many RCW sections have an article on definitions and it's frequently Article 1. I referred to several sections of the RCW for information. Other sources were the Oxford English Dictionary (the OED), which not only defines terms but provides their etymology as well. Another source used extensively was Black's Law Dictionary, which assisted in ensuring a defensible legal definition. The current edition of Robert's Rules of Order was used when a definition had need or support of parliamentary procedure. The terms I've chosen for this revision are those that can be used in the existing text and those that will be needed as we go further into the revision process. Our goal should be to have one clear term that properly defines a rule or action contained in the bylaws. We should use that defined term and *only* that defined term for reference. Let's avoid creeping complexity.

Now that'll give you a general feeling for where these things came from. For each specific one I could probably go back and dig out a very specific reference.

Vice Chair Candler: No, that's okay. Thank you. I appreciate the work that you put in that. Just from my perspective, you can find in the RCWs definitions for the same term that are defined differently for the purposes of different chapters. And, you know, that's maybe neither here nor

there, but – I was just looking at, like, for example, “censure” means an official reprimand or condemnation. That’s number 3. My concern would be maybe the use of “official.” I don’t know. But I think in general it looks pretty good. Thank you for the work.

Commissioner Henley: Well, one of the things that triggered this is that when I started reading through the bylaws what I discovered was is that we had no fewer than three different terms for the Board of County Commissioners. And it wasn’t always clear what we were talking about. So I think there should be just one. So that was what got me started in the list of definitions. Now there’s nothing sacred about any of these. You know, we can add to the list, subtract from the list, or if you can find a better definition that’s more precise I’d be happy to entertain that as well. This is merely something to get us started with something that I thought was sort of important by its absence in our own bylaws.

Vice Chair Candler: Like for number 9, for example, “delinquent” means failing to perform an obligation. I think that sounds like a contract term for “delinquent” rather than a – you know, lay person’s term for “delinquent.”

Commissioner Henley: I think it’s a Black Law’s definition actually.

Vice Chair Candler: Right, but I think that probably is specific to contracts because “delinquent” can mean a lot of things in layman’s term that – late, for example, I think, or – I don’t know.

Commissioner Henley: It can also be fiduciary.

Vice Chair Candler: Yeah. Yeah. Okay.

Chair Raschko: Do you have a recommended change for that, Commissioner Candler?

Vice Chair Candler: No, I’m just – you know, when you start – it says – when you start defining terms, I guess, where do you start and where do you end? And I’m not sure if this would be an exhaustive list but it certainly is – it’s good, I think.

Commissioner Woodmansee: I have a question on number 10.

Chair Raschko: Go ahead, Joe.

Commissioner Woodmansee: Where would the necessity for number 10 to be brought into our processes?

Commissioner Henley: Well, it seems to me that you had an awful lot of discussion going on with regard to a disciplinary proceeding. So it’s not necessarily something that is currently used in the bylaws, but I think when you expand certain sections of it you’ll find that it will be necessary.

Commissioner Woodmansee: I see.

Chair Raschko: Is it more prudent to complete the bylaws themselves and then tweak these definitions, you know, relative to the verbiage that’s in the approved bylaws?

Vice Chair Candler: I think so, just in case some of them aren’t relating back to anything that we add. Because a lot of them aren’t, I don’t think, in there directly right now. So I guess it depends on what we add.

Chair Raschko: Okay. Commissioner Mitchell?

Commissioner Mitchell: Thank you.

Commissioner Knutzen: Yes, Commissioner Henley. Excuse me. Are all these words that you've picked to give a definition with, are they all part of the body of our bylaws?

Commissioner Henley: No, not all are. I just mentioned that a few minutes ago. But as you expand the bylaws – based on what I could see – you're going to have need for some of these. Now if it turns out that we don't need a particular term we can always drop it. I mean, it's as easy to drop one as it is to add one on these.

Commissioner Knutzen: So this isn't really an exclusive list? It's kind of a list that you decided to – based on the last three or four meetings we've had – to pick 19 different words and put definitions in our bylaws of these words?

Commissioner Henley: It is a starting point for something that was missing in its entirety from your bylaws, and your bylaws frequently use different terms or different words for the same term, and that's what got this started. I think you should have a list of terms that are used in the bylaws and if they're not used you can take them out of the dictionary list, out of the definition list.

Commissioner Knutzen: Do you have any –

Commissioner Henley: Go ahead.

Commissioner Knutzen: Do you know any bylaws of any other groups that you've either been on or been associated with that have this? I've never seen this definition document in bylaws. I'm not saying it doesn't exist.

Commissioner Henley: I have seen it in *many* bylaws, as a matter of fact. And if you look through the RCWs you'll find them all over the place.

Commissioner Knutzen: Okay.

Chair Raschko: Okay, we had Commissioner Mitchell and then Commissioner Rose and followed by Commissioner Candler. So Commissioner Mitchell, please?

Commissioner Mitchell: Yes, thank you. The way I was looking at these when I read them was seeing that they were applying specifically to maybe if we didn't necessarily – bylaws themselves but how the Planning Commission operates with its duties and function. And so from that standpoint it looks like most of these fit. Yes, there's a – you could – there'll be discussion on whether fiduciary actually ends up being in the bylaws or not. At this point, I believe we scratched it so we could probably take that out, unless it goes back in. But I was looking at them from the standpoint of as they apply to the Planning Commission type work – board committee work. So for instance, if you go to number 9 for "delinquent," I wouldn't think of "delinquent" in terms of financial stuff because we don't have anything that applies there. Some other kinds of things but... I was looking at it from that standpoint and maybe we should keep that in mind. And we did ask Commissioner Henley, I believe at the last meeting, to come up with definitions. He had offered and we had asked him as a group to do that.

Chair Raschko: Commissioner Rose?

Commissioner Rose: Oh, I guess I was not muted the whole time. I just had – on number 8, “conspiracy” means an agreement by two or more persons to commit an unlawful act, et cetera, et cetera. And I was just curious about that. Is that a correct definition? Does it have to be an unlawful act or does it have to just simply be some sort of a scheme?

Commissioner Henley: It turns on legality. It *is* the definition in Black’s Law Dictionary. Let me give you an example of something that you probably weren’t aware of. In the bylaws, it specifically states that the chair has the ability to appoint subcommittees. Now the problem with that is is that you can’t have a subcommittee unless you first have a committee. So it was necessary to define both “committee” and “subcommittee” in order to make sense of what the bylaws were trying to express. So that’s how those ended up in this document. It’s that sort of logical process that created the list. And like I said, I’m not married to the list. We can change it in any way that suits us.

Chair Raschko: Anything else, Commissioner Rose?

(silence)

Chair Raschko: Okay. I believe Commissioner Candler was next.

Vice Chair Candler: I think I had just previously failed to lower my hand, but I’ll take the opportunity. I like the idea of having definitions but I’m really stuck on what we need to define at this point until we finish the bylaws, I think.

Chair Raschko: Yeah, I agree. So Commissioner Woodmansee, you had something?

Commissioner Woodmansee: Well, I’m just going to chime in with the same. I agree with Tammy. My second was the purpose – for the purpose of discussion. But I do think that we should probably finish the bylaw process and then we can this as a starting point and then we can add to or subtract from as necessary once we’re done amending the bylaws.

Chair Raschko: Any more discussion? Commissioner Knutzen.

Commissioner Knutzen: Yeah, just one question, and I think this would be for Peter Gill. I think we got an email sent to all of us commissioners with this on it. Now I’m remembering from previous meetings we’re not supposed to send out emails – are we? – to all the other commissioners. We’re supposed to forward it to staff and have staff send that out?

Mr. Gill: Yeah. So typically yes, you all would send it to the Department and then we would send it to the Planning Commission mailing list, which is all of you plus pdscomments, so that we have record of it.

Commissioner Knutzen: So hopefully that’ll be done that way in the future?

Mr. Gill: Yeah. And we’ll sit down with Commissioner Henley and talk about kind of those typical rules here as soon as we get half-a-minute to do so.

Commissioner Knutzen: Okay. Thank you, Peter.

Chair Raschko: So we have a motion on the floor and we can go ahead and vote or that motion can be withdrawn. It seems to be a consensus that we wish to put this off until we finish the rest of the bylaws. So Commissioner Mitchell, you made the motion.

Commissioner Mitchell: Sure, I'm happy to withdraw.

Chair Raschko: Okay, so the motion is withdrawn. I'd like to make a comment and that is that I very much appreciate Commissioner Henley's work that he put into this. His volunteering to do it – I wouldn't blame him if he felt somewhat attacked for his efforts, and I want to assure you, Vince, that I think this was well done and I think it's going to end up after, you know, it comes in its proper line, as a vital part of this. So I thank you.

Having said that –

Commissioner Henley: Point of order.

Chair Raschko: "Point of order," did I hear?

Commissioner Henley: Yes.

Chair Raschko: And who made that?

Commissioner Henley: I think (for) the order to withdraw the motion you need the agreement of the second.

Chair Raschko: Thank you very much. I was thinking that. So the second was made by Commissioner Candler, I believe.

Commissioner Woodmansee: It was made by Woodmansee.

Chair Raschko: Oh, that's right.

Commissioner Woodmansee: And I'll withdraw my second.

Chair Raschko: All right. Thank you, Vince. Okay, it is now the pleasure of the Commission. We can move on to page 5 in the latest draft, number 12 – if I can find it – which is Communication with the Board of County Commissioners. The whole thing's blank. There has been a lot of desire to have a discussion of minority reports and how individuals communicate with the Board of Commissioners. I can make a preamble or we could just open this up to discussion, but perhaps a preamble would help a little bit to get started.

My own feeling is that our job is to meet to discuss an issue, to consider all of the relevant input made from the public and from Commission members, and to use our own knowledge of the subject if we have it, and to come to a vote that is a recommendation to the Commissioners. It's my opinion too that it is a duty then of all the Commissioners to accept that vote and support it. I've done that myself on issues in which I lost. In fact, I don't think most of you even knew that I had a disappointment in the outcome. To me a minority report is an attempt by somebody who's on the losing side of an issue to still influence the Board. There may be very many other opinions. Having said that, I'll open it for discussion. I see Commissioner Mitchell.

Commissioner Mitchell: Thank you. I just want clarification. When you open it up for discussion, is it the topic of the minority reports or Section 12 ___?

Chair Raschko: Section 12, whatever it has.

Commissioner Mitchell: Okay. The first point –

Vice Chair Candler: 10 or 12? Because the screen is showing 10.

Commissioner Mitchell: 12 is blank below the 12 so it looks like there's nothing there.

Chair Raschko: There's nothing there. It says "Communication with the Board of County Commissioners."

Commissioner Mitchell: It's blank there. The first line of communications – see, what I don't know is if this is going to duplicate elsewhere or if it really matters. Our primary communication with the Board of County Commissioners comes in two forms. The first are our recommendations and findings of fact and reasons that go in the transmittals. So that, if you guys agree, would probably be number 1 under Section 12 if we are going to say what really happens. Number 2 would be our – I don't know whether to say "annual" or "semi-annual" or say "occasional" meetings – joint meetings – with the Board of County Commissioners. That would be the second form that's most common as a planning commission.

And the third, which I do not want to list as a third, is some other reports because I don't think that's a valid thing to have happen.

Chair Raschko: Okay, are you finished?

Commissioner Mitchell: Yes, sir.

Chair Raschko: Okay, we have Commissioner Woodmansee followed by Commissioner Candler, so go ahead, Joe.

Commissioner Woodmansee: Actually Commissioner Candler was before me so if she wants to go that would be fine.

Chair Raschko: All right. Commissioner Candler?

Vice Chair Candler: Okay, and if I'm repeating something that you guys already talked about I did miss the last meeting and I apologize for that. But I'm wondering about the naming of this section. I don't want it to be construed that this is limiting our ability as individual people to talk to individual people. So I don't know if we should call it "Communication with the Board of County Commissioners" or is we should call it "Planning Commission's Recorded Motion" or something different, but I'm just throwing that out there for consideration. That's the first thing.

The second thing I wanted to say, if we're talking about minority reports, which I think ultimately we are, I did read the comments by Commissioner Woodmansee. I agree wholeheartedly in terms of the minority reports portion of that. I read – you know, we got some input from at least one of the commissioners that I don't think that minority reports are necessary. I feel pretty strongly about it so I have more than enough to say and so I'll stop for now, but that's my position.

Chair Raschko: Thank you. Commissioner Woodmansee?

Commissioner Woodmansee: Since I had sent something I guess I felt I should speak on it. But I feel like we do need with one voice and that sometimes we will have tough deliberations but in the end it's "a" recommendation, it's not multiple recommendations. And I just think it becomes a confusing issue if we try to allow minority reports. I'm trying to be very careful in my wording here to make sure that everybody understands that yes, you can go talk to a commissioner – and I didn't mention that, but yes, you can go to a public meeting and speak on behalf of your own thoughts and feelings about any particular item. But to produce something that is represented as something coming from the Planning Commission in an opposing view of a recommendation, I just don't think is productive and I think it puts it in a position of undermining our process that we actually do.

I also – I added into this – into my stuff here – that I also feel like it's really important for the Planning Department's designee to do their very best to represent our report thoroughly and with details even if they don't agree with our report. I feel like that the heron thing was just kind of, you know, dropped off as, Well, the Planning Commission just says do nothing. That wasn't really what we were saying. What we said, we said that we felt like that we had different protections already in place and that what we were being asked to do was not necessarily – that we could achieve what we were being asked to do under current code, essentially. And so I feel like that our stuff needs to be – you know, now we're talking about communication with the Board of Commissioners. If a designee of the Planning Department is going to be our communicator than they need to communicate what we're saying – I guess is where I'm going with that – not what they wish we said or not what we didn't say. I know that's kind of harsh but that's, I guess, as simple as I can say it.

So I guess that, you know, sums up my thoughts on that. I just think a minority report is an unnecessary step and I don't think it's a good way to go for – considering the history of the Planning Commission and the ability for an individual to comment further down the road at a public hearing, I just – that's why I wrote what I wrote.

Chair Raschko: Thank you. Since everybody's had an opportunity to speak, I'm going to take my turn and I just want to do it at this point in time also because I want to build on what Commissioner Woodmansee just said. I believe our communication with the Board of Commissioners is via our – I'm having a senior moment – our – the motion we pass, our recorded motion, and the most important part of that is the findings of fact. And that should go to the – and it does – go to the Board of Commissioners in its form that we voted on. And that should be a document that doesn't need to be doctored or changed or anything by staff. Their job is just to convey it to the Board of Commissioners. So I just want to stress the importance I feel on the findings of fact in order to completely convey to the Board of Commissioners what our reasoning was for what we recommended.

So having said that, I think Commissioner Mitchell was next and after her did I see Commissioner Hughes? Did you have your hand up?

Commissioner Mitchell: Commissioner Henley does. How about if we have him go first?

Chair Raschko: Commissioner Henley?

Commissioner Henley: Yes, I'm not sure I've got this document by Commissioner Woodmansee so I'd like to see a copy of that.

Chair Raschko: Can somebody quickly forward it?

Mr. Gill: I will bring it up.

Commissioner Henley: Later you can send me a copy tonight. I need to read it somewhere along the line.

Commissioner Woodmansee: It was sent down in email this afternoon around 3:30-ish.

Commissioner Henley: I didn't get it yet.

Chair Raschko: Okay, did you have anything else, Vince?

Commissioner Henley: No, that was it.

Chair Raschko: All right, thank you. Commissioner Mitchell.

Commissioner Mitchell: Yes, thank you. For the topic at hand, of course I did a little research. While they're looking to get Vince the information. Some are in transcripts. The Planning Commission's been around since 1961 and has operated at the pleasure of the Board of County Commissioners all that time. One of the quotes by one of the Commissioners a few years ago said literally, "We know that minority positions have been heard." It was talking about our findings of fact and reasons when we send them our transmittal. He says – he was talking about four-four, five-four splits kind of things that are not helpful. He said seven-twos were better and laughed. He says, "We know that the minority positions have been heard but it's a clear direction for us." So they've acknowledged, number one, that our deliberations are when all positions are reviewed and heard. And that we know from history, from a long history. When Ryan Walters was our lawyer and also assistant planning director – I might get the year wrong, but I think it was when he was doing both – he was advising us and said, "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, you know, so that reinforces everything that Commissioner Woodmansee and the others have said so far. We've known what our mission is. We serve at the pleasure of the Board of County Commissioners and that's why we do quite a bit of research and such. So I think our communications with the Board of County Commissioners, unless somebody's got something else, are really just those two areas that we listed at the beginning and probably can be short and sweet and stop there. Anything else for communications to the Board of County Commissioners would come under an individual person discussing with them in their own life, because the Planning Commission does not do anything else with the Board of County Commissioners, unless somebody's got something else I can't remember. Thank you.

Chair Raschko: Thank you. Did I see another hand up? Commissioner Candler?

Vice Chair Candler: Thank you. It might be that we want to put an A and a B, A being the recorded motion and B – on Section 12, I mean – and B being the attempted efforts for at least annual or biannual meetings. But I think it might be prudent to put in there somewhere "Nothing in this section shall be construed to prevent an individual person from talking to another individual person," or a reference to the section you mentioned, Kathy – Commissioner Mitchell – I think, as far as structuring it. Because I just don't want it to look like when you have a section called "Communication with the Board of County Commissioners," if it's not in that section, it can't happen kind of a thing. I don't know if that makes sense. But that's my concern, is we need to be

a little bit careful on how we word it and make sure that we cover the topics that we want but not also be too inclusive on trying to limit our communications.

Chair Raschko: I think that goes in hand with your point about putting a different heading under this section. Have we more discussion?

Commissioner Hughes: I'd like to chime in. Amy Hughes.

Chair Raschko: Go ahead, please, Amy.

Commissioner Hughes: I spoke on this, I think, in the January meeting, so I concur that a separate minority report is not necessary in our final vote. But I'd like to add one more thing to that. In the final vote, we all are asked: yes or no? And I respect all votes once that document goes to the Commissioners, and if there are no ___ I think they stand for what they said – no – and I don't think anymore needs to be written on that. So I do feel that the minority *is* represented in the vote. And, you know, what happens with findings of fact is findings of fact. But I do think that the process is respectful of all those who are at the table.

Chair Raschko: Thank you. Commissioner Mitchell and then Commissioner Knutzen.

Commissioner Mitchell: The point I'm going to make now made me think of it because what Commissioner Hughes had just said. I looked back through a number of past findings of fact and reasons for actions today, and realized that something changed in our format and I don't know why. And it pertains to this. In our findings of fact for reason, historically as far back as I can remember until just the last few years what was recorded was the final vote on the whole package. For example, let's say Comprehensive Plan 2016, we went through all the components of it. Yes, we did vote on the individual things. We took our notes and such. And then we did all the findings of fact and reasons at the end and made one big final vote – that was it – which we always have done. Somehow in the last couple years it's popped up where now it's recorded what happens within each of those individual sections. If it's not appropriate for to have it here, if somebody could write it down, Peter, where we could come back and revisit that – why that happened and why. I mean, what was the need for doing that?

Mr. Gill: So I don't know specifically which document you're referring to, but if it has related to the docket items each of those are kind of their own individual legislative action and therefore we wouldn't have you vote on the whole docket as a unit, but the individual legislative actions within that docket. And just to clarify, we transmit exactly the recorded motion that you all vote on, with the record of the vote. So there is no, you know, changing the words or the descriptions of it or anything like that. What we bring and what you vote on is what goes to the Board of County Commissioners and we do so within two weeks, per the County Code.

Commissioner Mitchell: Yes. Bringing back to the one point, what I was saying was not quite the same thing. So back before a couple of years ago, let's say we hit C-1, C-2, C-3 and we went through deliberations. We would vote on that, and then we would add findings of fact and reasons and stuff that would go under the big, main Kahuna that would be at the end and we would go through all those. So it's not that we didn't vote on each of those individual legislative sections. We did, but it wasn't recorded that way. They were recorded in the end as one great big lump for recommendation to the Board. And I was wondering why it had changed to now it shows what each one does. I don't – it's not that I mind, I was just wondering why the change. And it does matter because it does convey to the Board of Commissioners how things happened. I'm not complaining. I'm just asking how it happened.

Mr. Gill: Yeah, another record keeping, perhaps? Transcripts? I'm not sure. I – you know, ever since I've been here, you know, we've done it consistently the same way. I know that's not saying too much since I've only been here just about a year, but that's all I can say.

Chair Raschko: Anybody else have their hand up? I see none.

Commissioner Mitchell: Knutzen's hand's up.

Commissioner Knutzen: Yeah, I do. This is Commissioner Knutzen.

Chair Raschko: Go ahead please.

Commissioner Knutzen: Thank you. When I came on last September in my first meeting, it was a very contentious meeting with a former Commission member that had filed what he considered a minority report. At that point, I felt strongly that we needed a provision in our bylaws for a minority report. Two or three meetings ago, Commissioner Hughes' point – and again tonight she pointed out why she feels we do not need a minority report. The minority position is presented in our meetings. The Board of County Commissioners can review those if they so choose. Plus also the letter that Commissioner Woodmansee sent out does an excellent job of explaining why they feel we do not need a minority provision in our bylaws. I've swung around to where I believe strongly that also, so just my two cents is that we do not need a minority report in our bylaws. Thank you.

Chair Raschko: Commissioner Rose?

Commissioner Rose: I would agree with Mark Knutzen's assessment that as long as it's clear that an individual can, as an individual, go to the Commissioners with their own opinion. So it's not representative of the Planning Commission, which is what (sound goes wonky).

Chair Raschko: I'll take a turn myself now. Thank you, Martha. Somehow going way back I sensed that people on this Planning Commission have had a fear instilled in them that they can't talk to anybody. I mean, this whole thing about sending out a document to everybody is breaking the Open Meetings Act. I mean, I can't send something out just saying, Hey, we delayed the meeting half-an-hour without going through staff so that I'm not having a public meeting, which to me is a little bit ludicrous. I think I represent one of the Commissioners and I feel I should be able to talk to him anytime I want about anything. I think the whole thing about the minority report is that that becomes an official act and now you are not talking out as his representative; you're actually trying to lobby. You're trying to communicate with them in a way to sway them to act against the recommendation of the majority. I don't know if anybody understands what I'm trying to say. But I think there's a distinct difference. And so I'd really like to have people overcome this feeling that communicating with a commissioner is somehow – got to be governed. And so I fully agree that we need to take, you know, that reference out and change number 12. Either that or eliminate number 12. I could see that as one way of doing things – not have a minority report, not have a provision for it, and just do away with number 12 totally.

Are there any other comments? Commissioner Mitchell.

Commissioner Mitchell: I'd like to make a motion that we remove number 12 entirely because – and Peter, correct me if I'm wrong here – I believe that the findings of fact and reasons is discussed elsewhere in the bylaws already. And also having the annual or semi-annual meetings is also addressed elsewhere in the bylaws. I don't think we really need Section 12.

Vice Chair Candler: I'll second the motion. Commissioner Candler.

Chair Raschko: It's been moved and seconded to remove Section 12, Communications (sic) with the Board of County Commissioners, from the draft proposed bylaws. And it's been seconded. Is there any discussion?

Commissioner Henley: I agree.

Chair Raschko: Okay. Commissioner Knutzen?

Commissioner Knutzen: Yeah.

Chair Raschko: Go ahead.

Commissioner Knutzen: Commissioner Mitchell, you said these other – there were three things in Section 12. Did you say those other two are represented in our bylaws somewhere?

Commissioner Mitchell: The first two definitely are. The third technically, I said, Mark, I would not want to put in there, and that was when people were bringing up the idea of a minority report. So the first two, yes, sir, they – and Peter, please tell me if I'm wrong. I'm pretty sure that both of those other things are referenced in this document already.

Commissioner Knutzen: What I see in this document is three paragraphs. The third one deals with the minority report. But you say, Kathy, the other two are in there somewhere.

Commissioner Mitchell: Yes, we discuss in there about having the findings of facts and reasons – and I'm trying to remember what page it's on. If it's not in the Appendix, we do reference how we do transmittals elsewhere, even though it may not be under that term. And we also already have in there having an annual/semi-annual meeting with the Board of County Commissioners.

Commissioner Knutzen: Well, I'm just wondering why we put paragraph 1 and paragraph 2 in there. My thought would be to just not – to make a motion to eliminate paragraph 3 and leave 1 and 2 in there.

Commissioner Mitchell: Mark, I wonder – or Commissioner Knutzen, I wonder if it's possible that you're looking at a different draft?

Commissioner Knutzen: The one I'm look – well, let's see. Can you bring up, Peter, can you bring up on the screen the one that we're discussing? The one I'm looking at I think was printed on – “received January 6th draft update bylaws. January 6th, 2021.”

Commissioner Mitchell: I can help you with that, Commissioner Knutzen. That was a draft that was proposed with staff-suggested edits that as a group we moved away from as our starting point because –

Commissioner Knutzen: Right.

Commissioner Mitchell: Right.

Commissioner Knutzen: So what is 12 right now? All I see on the screen – I assume that's Peter Gill shared his screen and the heading, that's all that's there. There's no body.

Commissioner Mitchell: Exactly. So in essence, where we left off as a group, Section 12 was an idea left blank. And so the motion –

Commissioner Knutzen: Okay. Eliminate the body then, is all you're saying.

Commissioner Mitchell: Yeah – well, I'm actually saying eliminate Section 12 entirely because we don't need it.

Commissioner Knutzen: Yeah, okay.

Commissioner Mitchell: If others agree with that, sir.

Commissioner Knutzen: Okay, I'm good with that. Thank you.

Chair Raschko: Okay, we had somebody else with a hand up. I'm sorry but I don't see people's pictures and hands so –

Commissioner Woodmansee: I had mine up. I would have no issue with – I would agree that we could just eliminate the section.

Chair Raschko: All right, any other discussion?

(silence)

Chair Raschko: Okay, it's been moved and seconded to eliminate Section 12, Communication with the Board of County Commissioners, from the draft bylaws. All those in favor, say "aye."

Multiple commissioners: Aye.

Chair Raschko: Okay, are there any nays?

(silence)

Chair Raschko: Are there any abstentions?

(silence)

Chair Raschko: Okay, that passes unanimously. Thank you very much. My recommendation is to stop here on this bylaws work session, unless somebody has a real strong desire to keep going. I don't think we're prepared for the next section. But I want to thank both Commissioner Henley and Commissioner Woodmansee for the work they did to prepare for this tonight. Are there any other comments on this?

(silence)

Chair Raschko: Great. Okay, we'll move to the Director's Update.

Commissioner Mitchell: Tammy had her hand up.

Chair Raschko: Oh! Tammy, I'm sorry. I didn't see that.

Vice Chair Candler: That's okay. I was just sliding in there at the last second. I just – I hadn't looked at the definitions. I certainly didn't mean to be critical. I actually really appreciate the work as well, and that's all I wanted to say. So if that came off as critical, that was not my intention and I think it was good work.

Chair Raschko: Thank you. So Mr. Hart?

Hal Hart: Yes, sir. I'm going to ask Peter to share the screen. Great work tonight. I haven't seen that much participation from everybody in a long time so it was really fun to watch.

The main part – there's a lot going on, everybody. But the main part of tonight – if we can make that just a little bit bigger that'd be helpful. I apologize for that.

Okay, I'm just going to quickly, very quickly, just give you some updates. We had a super busy legislative session this year. We thought we had – thank you, Peter – we thought we were going to look at some very large planning bills. Most of them passed one house but they didn't get through the other house, so a lot of what I'm going to say is – I'm only focusing on really what passed. But expect those major bills – salmon recovery, climate change – they're coming back. Just about all parties – there're just – there are last-minute details that they couldn't agree on between different groups at this point, so if nothing changed I would assume they would come back next year. But we all know everything changes all the time!

Here's what did pass. House Bill 1220. It impacts cities and counties. It is an unfunded mandate, though, and that part is really important. It has new elements that we will have to address found in our Housing element, so a lot of new pieces in there. I just highlighted two of them. The other thing that it did – it's not a Growth Management issue but it *is* a preemption issue found outside of Growth Management, and it preempts local governments in locating emergency housing or permanently supportive housing. So you can't – if these things are declared and they're going through a process, the local government doesn't have the right to block it entirely. So there's a preemption issue, and so they've taken some more authority away from local governments. And they've been doing that for 30 years but I always worry about that.

So let's go on, Peter. Okay, here are – what they did this year was really interesting. I haven't seen it to this extent yet. So they've got – they're kind of doing new things a little bit more. I mean, they typically – this was an operating budget year. It's a 105-day process. So on the last weekend they put in all these provisos on Sunday – some were on Saturday night but most of them were Sunday and they were going into the late hours. So in the operating budget there's 225,000 for the Department of Commerce to convene a taskforce to make recommendations on needed Growth Management reforms. And what we're talking about here is changes to LAMIRDs is one of the things. Those are places like Clear Lake and Edison and other places like that out in the rural areas. And we were hoping for more definitive direction from the State – you know, loosen it up a little bit, allow for housing in those areas – and it didn't happen. So that's one thing. So they put some money aside. They're going to study it and maybe they'll invite real counties into the room.

Multifamily housing tax credit. This is a big deal for those of us that fund – many counties fund housing, including ours. And so there's a study and specifically they want to go look at how good are – if we're putting money into the tax credit program, are we getting the bang for our buck? And so there's a whole bunch of specifics that they're going to be looking at. And that will happen, so there's another report that will come back to the legislature.

Climate change. You've all heard part of the budget got passed, and about "This is a climate change budget" or something like that. Some pieces of it did, in fact, move forward, but the legislative part that was supposed to impact planning and Growth Management didn't pass. But they did set aside 1.56 million dollars to the State operating budget, and what they're going to do is they're going to ask all of the different state agencies – everybody from the Military Department to Commerce Department, Transportation Department, Department of Ecology, and they're going to go through and look at what an ordinance – or not an ordinance, an *element* of our Comprehensive Plan would have to address to address climate change. So they will be busy meeting with folks from around the state as well as meeting among themselves – I guess the state agencies – to put out a model element for our Comprehensive Plan, probably in '24. So hopefully there would be money to implement something like that if this gets passed in the '22 legislature. So that's something that's moved on.

Here's another one. This is our local representative from Skagit County, Net Ecological Gain/Salmon Recovery. So Net Ecological Gain is a different way of measuring how we're doing with our environment, and so it's something new. And they're giving it 90,000 in '22 and 166,000 in '23 to continue to study just how net ecological gain would work. And instead of giving it to DOE or anybody else they gave it to the OFM, Office of Financial Management. I thought that was kind of interesting. They don't usually do that. So there's probably some serious financial implications on the state economy or something.

Let's go to the next slide, please. Okay, this is just an update from the field. Take a look at the list. New commercial air hangar; expansion of Heritage Flight Center; Legends brand warehouse and offices; Vikima Seed Company, Sakata Seed Company; Farmers' Cooperative Project, Phase I of III. That will be – that's a slaughtering facility, basically. Then the distillery that has been building rack houses. They finished the first two rack houses. Ten more to go between now and – at least 10 more, maybe 12 more or 11 more – between now and '24. So they'll just be doing those. And then they are also moving on the distillery with a bottling plant as well. And so I think what their plan now was – because remember what they were trying to do is they were trying to work with landowners and develop a big corporate center up there, but some of the landowners disagreed on things. And so what they're going to do, I think, is split it up among what are – if there are any available buildings already out there and the different operations will be moving in over time. So there are other really big commercial projects that are still out there, such as – well, less big is probably the Hexcel expansion at some point. They put it off because of the COVID and other issues. And then there's PACCAR with the biggest of all the expansions up there. We won't know until July about that one, but they've already got some of their permits for the first phase of it. So they could start tomorrow with certain phases of it. So we'll stay tuned.

And then the only other thing from the field is an astounding amount of – I just looked tonight – amount of square footage is being created both in Arlington and in Marysville right now. So there's, I think, like, 2 to 4 million in Arlington – square feet of new space coming in for industrial, and a similar amount in Marysville right now. So that is just going to be one big job center of the future, and they're building housing, a lot of housing, at the same time, Commissioners. So it does have a regional impact and it's just something to think about as we think of our Comprehensive Plan, as we think about housing, and as things come up through the docket. Thank you, Commissioners.

Chair Raschko: Thank you. Are there any questions for staff?

Mr. Gill: I did have one final slide that I – it'll be pretty quick but it's follow-up on some things that we've talked about before.

So the Board legislation items – anything – you all have said you wanted to hear about these things. We are currently looking at petitions to add to the 2021 docket. The first of a series of meetings by the petitioners themselves to the Board started this week, so Monday was the first meeting. There's a second meeting tomorrow, Wednesday, and that is for evaluating which petitions will be added to the 2021 docket. The hearing for that item is on May 3rd and that's in front of the Board of County Commissioners. And that's at 10 a.m., for anybody in the public that's out there watching on TV21 or otherwise, that hearing is May 3rd. And you can always also send written comments to pdscomments@co.skagit.wa.us, and just be sure to include your name, address, and which petition you are commenting on and that you want to make sure we know about. We'll get those all compiled for the Board.

As far as Planning Commission – shifting back – the next meeting is May 11th and it's at 6 p.m., as usual. And this one will be on the Shoreline Master Program Update. And so that is our next meeting May 11th.

And then I just wanted to follow up on anything from the Planning Commissioners throughout the week. We've been trying to make training opportunities more available to you all, and Commissioner Mitchell actually brought this up last week about training on Robert's Rules and a newsletter that is put out by Ms. McFarland, who you all had in-person training with in 2019 and maybe in 2014. So it's been something that you all have seen before. She does put out a nice blog with the newsletter monthly, and I sent that out on the 22nd. If you're interested, you can sign up to be part of the newsletter.

So that is all I had. Thank you.

Chair Raschko: Thank you, Peter. So are there questions for staff?

(silence)

Chair Raschko: Hearing none – did I hear none? Okay. I'd like to just step back for a second. In our discussion tonight of the bylaws I did have one omission, and that is Commissioner Rose had submitted a list of questions, and I just have to frankly apologize for overlooking it. So I apologize to you, Commissioner Rose. And next week – or next meeting we have a public hearing so we will not be discussing bylaws, but I would like to do that first in our next session on the bylaws. So once again, I apologize to you.

So we will turn to Planning Commissioner Comments and Announcements. We'll start with Commissioner Woodmansee. Have you anything?

Commissioner Woodmansee: Nope. I'm done for tonight.

Chair Raschko: Okay. Commissioner Rose?

Commissioner Rose: I don't have anything, but to respond to your apology: A lot of the questions will be moot by the time we address them. It'll be a short conversation. But thank you.

Chair Raschko: Well, I should say that I did it on purpose then, foreseeing that! Thank you. Commissioner Mitchell?

Commissioner Mitchell: Nothing, thank you.

Chair Raschko: Okay. Commissioner Knutzen?

Commissioner Knutzen: I have nothing, thank you.

Chair Raschko: Okay, Commissioner Hughes?

(silence)

Chair Raschko: Are you muted? Oh, Commissioner Amy Hughes has nothing. All right. Commissioner Henley?

Commissioner Henley: I have a question. We spent a lot of time last meeting on the protocol of the Commission talking with legal counsel in the absence of staff, in other words. The argument was whether or not our request for legal counsel should be filtered through staff or not. And we spent a lot of time in that meeting talking about that particular subject, and it's sort of like the situation I just found myself ___ definition list ____ (sound goes wonky) _____ staff and the Commission, because it's not very clear to me.

Chair Raschko: I agree, and I apologize to you for the difficulty you had with getting the information. I think your point is very good. Does anybody else have any feelings on that? I presume that, Vince, that you will have Peter contacting you to go over – I'm hesitant to call it protocol, but just the means that we've sort of developed to distribute stuff so that nobody can make a claim that we are making offense of the Public Meetings Act.

Commissioner Henley: The OPMA. No, I'm familiar with the OPMA to a considerable extent. I'm sure Peter and I will have a lot of discussion.

Chair Raschko: Okay! I hope you enjoy it. Okay, that's – Commissioner Candler, do you have anything?

Vice Chair Candler: I have no comments. Thank you.

Chair Raschko: Okay. Once again, I want to thank you both, Vince and Joe, for the work you put in. And both Dan and Betsy and their work on the SMP. So having nothing else, I will call the meeting adjourned. Thank you, everybody, and have a good night.