

Skagit County Planning Commission
Deliberations: Wetland Mitigation Banks;
NPDES and Wildfire Protection Plan Presentations
May 19, 2009

Planning Commission: Bill Stiles, Chairman (absent)
Jason Easton, Acting Chair
Dave Hughes
Carol Ehlers
Mary McGoffin
Jerry Jewett
Annie Lohman
Matthew Mahaffie
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Staff: Gary Christensen, Planning Director
Michael See, Public Works
Lori Wight, Public Works
Kendra Smith, Natural Resource Coordinator
Jennifer Hinderman, Skagit Conservation Dist.
Ryan Walters, Deputy Prosecuting Attorney

Acting Chairman Jason Easton: Good evening and welcome to the Skagit County Planning Commission. My name's Jason Easton. I serve as the Vice Chair. Our Chair tonight couldn't be here. So I'll call it to order (gavel) and at this time we're going to turn it over to staff for the National Pollution Discharge Elimination System presentation. Mr. Christensen?

Gary Christensen: Okay, thank you – I guess this evening – Chairman Easton and fellow Planning Commission members. Gary Christensen, Director, Skagit County Planning and Development Services.

So we do have a number of agenda items this evening, two of which – or the first two, I should say – are kind of informational agenda items. And then when we dispose of those two items we will then turn to deliberations on the code amendments related to the wetland mitigation bank proposed code amendment for which you held a public hearing on – I think a couple weeks ago. So that's the nature of this evening's business.

And with that, I'm going to not do much more than just introduce Michael See and Lori Wight with Skagit County Public Works Department, who are going to make the presentation on the NPDES agenda item. And I will ask them to

explain what that acronym means, because I always get about half-way through and then forget the tail end of it. So, with that, Michael? Lori?

Michael See: Good evening. Again, my name's Mike See. I work for Skagit County Public Works. My main project that I'm tasked with right now is the County's National Pollution Discharge Elimination System permit, and I'll give you – I plan to give you some background on that.

Chairman Easton: Some of our –

Mr. Christensen: Dave, do you want to just come down and sit in the front row, and that way you won't get a stiff neck?

Dave Hughes: Well, I'm not worried about that so much as going over the cord!

Mr. See: But, as Gary stated, our goal with this presentation is to provide the Planning Commission with an overview of what we're doing currently with this permit, what it is, and some of the tasks ahead of us in the near future.

The National Pollution Discharge Elimination System permit gets its roots from the Clean Water Act, which was enacted in 1972 with the goal of more fishable, swimmable waters. EPA was authorized to require water quality controls and to set standards, and the EPA then delegated that authority to the states' level of department of ecologies. It took a while for Washington state's Department of Ecology to prepare a permit, but we did recently – as of 1995 – initiate it.

Again, NPDES – what it is essentially is a federal way to mandate and regulate what pollution enters. It was originally established envisioning big, known, point-source pollution: sewage treatment plants, big industries, known pipes. The emphasis shifted in 1987 with the Water Quality Act, which designated stormwater as a non-point source of pollution. And since jurisdictions maintain stormwater conveyance systems, that's how Skagit County gets into this needing an NPDES permit.

One other important point, as far as the 1987 amendment to the Clean Water Act, is that it allows for third-party lawsuits through the Clean Water Act if a permit holder is found to be in non-compliance.

So what is the problem with runoff? Well, runoff is rain that – you know, when it comes down it hits our roofs, our roads, our parking lots and with it can carry quite a few nasty things. Everything and anything not limited to fecal coliforms, fertilizers, pesticides, heavy metals, oil, gas and sediment all get transported with the water to the stormwater systems. And for the majority in Skagit County those stormwater systems flow directly to waters of the state: our creeks, streams, the Skagit River ultimately, and ultimately the Puget Sound. And as we're all hearing

more often the health of Puget Sound is in real jeopardy and a number one source of those problems has been determined to be stormwater pollution.

This is a local example where construction, stormwater, best management practices failed and resulted in a sediment plume entering the Puget Sound. And these are the kind of things that our permit requirements require that we address.

A little history: The NPDES Phase I permit was issued in 1995. We're a Phase II community. The Phase I permits were issued to the larger jurisdictions – City of Seattle, Snohomish County, King County – and they've been dealing with this for a while. We at a Phase II level were issued our permit in 2007, and that included medium-sized cities and counties in only our urbanized areas, and that's the UGAs and also the census-defined urbanized areas. Phase I communities, like Snohomish County, it was the entire county that was under the permit – or still is.

Within Skagit County there are other jurisdictions that are permittees of the NPDES permit including Anacortes, Burlington, Mount Vernon, Sedro-Woolley. There's also what's called "secondary permittees." They hold a permit with slightly different timelines and requirements, and those include Dike and Drainage District 19, Port of Skagit County, Skagit Valley College and the Port of Anacortes.

This illustration shows the County's NPDES coverage area, the yellow being the cities' jurisdiction. Both shades of gray are areas where Skagit County falls under the NPDES permit and we have permit responsibilities.

Some of the elements of the NPDES permit include public education/outreach; illicit discharge detection and elimination, which is, in a sense, a way of including many different types of pollution – anything from someone's sewer system being directly connected to a ditch to pouring oil down a storm drain; construction site runoff control pollution prevention; operation maintenance. And there's a significant responsibility for the County to increase our record keeping with all these components.

Some of the progress made to this point: Skagit County has developed an interlocal with the Skagit Conservation District and they're helping us out considerably with our education and outreach. We've also recently initiated a contract with a consulting firm by the name of Otak, and they have some significant experience in helping jurisdictions develop codes that are compliant with the permit. So they are onboard and working with us currently.

We've also established a group of impacted County departments. This is truly a *County* permit so the other – there's other departments that are very much impacted and involved, including Planning Department, Public Works, Health Department, Parks Department. There's a lot of fingers that go out from this permit.

We've also just last week initiated our first stakeholder meeting with primarily development- and farming-based stakeholders. And we held that last Friday, and we have more of those to come.

We're also holding a quarterly meeting with the other jurisdictions – their staff people that are working on this – to try to find common areas that we can work together and potentially maybe save money as far as costs – things that we can cooperate on.

We've also established a stormwater pollution hotline and procedures and a way to document calls that come in as far – that relate to water quality and illicit discharge. And we're continuing to develop and improve our website, which has got some real valuable information on it regarding stormwater.

As for our permit, we have some significant requirements coming up in August, 2009. We realized that the timeline is extremely tight. We do anticipate moving forward with an interim ordinance before August 16th where our 2009 deadlines are – when our NPDES deadlines are due. The adoption of illicit discharge codes and regulations to prohibit non-stormwater discharge will include enforcement strategy, staff training and significant record keeping on the County's part. We will also be required to adopt and/or implement the 2005 Stormwater Manual for the NPDES coverage area.

Some of the – as far as the runoff control codes and regulations – some of the requirements of the permit include site plan review for all sites larger than 1 acre; inspection before, during and after a project; as well as we need to look at our existing codes and try to remove any roadblocks to allowing low impact development.

We will also need to adopt and implement operation and maintenance regulations, as well as provide significant staff training for our runoff control program, as well as identification of illicit discharge.

With that, I will have Lori come up and talk to you, or continue the presentation.

Lori Wight: Good evening. I'm Lori Wight. So why are we doing this update? So basically it's kind of the tenets of the Planning Enactments, and that is to protect health and human safety; to prevent and minimize degradation of water quality and slope stabilization; to preserve water quality for aquatic habitats, recreation and drinking water; and ultimately to comply with the Clean Water Act and the Department of Ecology's NPDES permit.

Some of the things that Mike already touched on on some of the permit requirements that we will be required to do is to adopt and implement the 2005 Stormwater Manual for the census-defined urban areas for Skagit County. We

will also need to be able to handle illicit discharge detection and elimination. That pops up a lot, that IDDE acronym. That's kind of one of our buzz words and it's one of those things that we have to make sure that we have a handle on. A lot of record keeping will be involved.

We need to control runoff from development, redevelopment and construction sites. And, again, compliance with those water quality standards.

And how is stormwater managed? There are construction stormwater pollution prevention plans, which will be necessary for those sites that Mike talked about the thresholds. We also want to control water flow by installing sediment controls; stabilizing the soils; protecting the slopes, wetlands, drain inlets, channels and outlets.

And we also will need to control pollutants with best management practices such as source control, runoff treatment and treatment facility sizing.

What's new? This applies to development *and* redevelopment. It also is going to require larger detention and retention ponds. And there will be pre-, during and post-land disturbing activity site inspection.

So our general project schedule is to draft codes, which we're going to have an interim ordinance to adopt to meet that August deadline that Department of Ecology has put on us. We will draft the documents and we will do public outreach, which we've already started with our stakeholder group. We'll review those drafts. Then, of course, we will come to you, the Planning Commission, and the Board of County Commissioners for public hearings. And then ultimately adoption by the Board of County Commissioners.

So, with that, we thank you, and if you have any further questions –

Unidentified male voice: Do you know the stakeholder group?

Ms. Wight: The stakeholder group? Let me think. Steve Sakuma, DD19 –

Carol Ehlers: Please speak up.

Ms. Wight: Oh, I'm sorry. Steve Sakuma, DD19 – was it DD14?

Mr. See: Yeah.

Ms. Wight: DD12. I'm trying to think of some of the other individuals. Bouslog, Lloyd Frazier, SICBA.

Chairman Easton: Let's go to – Mary has a question. And can I just remind the Commission members we're on a big – we have a lot to fit on the agenda tonight so let's keep our questions really brief.

Mary McGoffin: I just want to know who issues the permit? Is it state or federal? And what are the repercussions if you fail to meet the standards?

Ms. Wight: Well, basically, at the beginning Mike talked about the federal government requiring this through the Clean Water Act, and then it got handed down to the state Department of Ecology, who issues the permits. If we fail to not – if we don't meet our deadlines it can result in those third-party lawsuits from outside groups and also jail time and fines to the County.

Ms. McGoffin: Okay.

Chairman Easton: Carol?

Ms. Ehlers: You showed a map of the – of what amounted to – the metropolitan area, which is Burlington, Sedro-Woolley, Mount Vernon and Bayview Ridge. There was something in the newspaper which said that the Skagit *metropolitan* area was 119,000 people and included Anacortes, and the implication was that it was everything between all those. Is this map *the* definitive map as to what it is you're supposed to deal with?

Ms. Wight: I believe so. This is the information that the census urban areas have been defined as, as well as our UGA information.

Ms. Ehlers: Okay.

Chairman Ehlers: But this map – excuse me, Carol – this map doesn't show a couple of the places that Michael mentioned that – it doesn't show some of the other places that you mentioned before.

Ms. Wight: Anacortes?

Chairman Easton: Right.

Mr. See: They have ___ their own permit – the City of Anacortes.

Chairman Easton: Can you come to the mic?

Mr. See: The City of Anacortes has their own NPDES permit so they have – they're responding to that and meeting those requirements individually, as are the other Cities. But the County's area of – Skagit County's area of responsibility is what you see on this map – those shades of gray.

Chairman Easton: Okay. Thank you.

Ms. Ehlers: As far as this August is concerned?

Mr. See: As far as the whole permit. The permit expires 2012 – February, 2012. We can anticipate another version of it; it's not going to go away. But it's a five – it was initiated in 2007; it's a five-year permit; and the requirements phase in, and they're now starting to phase in a lot faster.

Ms. Ehlers: So geography eliminates most of my other questions.

Chairman Easton: Any other questions from the Commission? Jerry?

Mr. See: We do have some handouts we didn't have available prior to, but that we have enough for everybody that we could leave them with you if you so want to take them.

Chairman Easton: Thank you, Mike. Jerry has a question for you.

Mr. See: Yes?

Jerry Jewett: What's the state do with the freeways? That's one of the biggest –

Mr. See: They have to have an NPDES permit so they are having to do many of the same things, if not all of them, that we are on a big level.

Chairman Easton: Thank you.

Mr. See: You're welcome. Thank you for your time.

Chairman Easton: So at this time we'll go ahead and move on to the next point on our agenda, which is the Community Wildfire Protection Plan, presented by Kendra Smith.

Kendra Smith: Good evening, Planning Commissioners. Boy, it's been a long time and a lot of familiar faces and some new ones! And some new ones – or old ones – in new places and that kind of thing.

Gary, Ryan, good evening. What I'm here tonight to do is I'm actually pleased to present to you the Community Wildfire Protection Plan that has been put together in efforts from the Forest Service, the DNR, Skagit County's Natural Resource Department, the local landowners, fire districts, Emergency Management. And this is all coordinated by the Skagit County Conservation District led by Jenny Hinderman and her right-arm man, Al Craney, in putting this together. And what I want to do real quickly is give you a little bit of background about what this plan is and where it came from.

This plan is done – plans like this are done throughout the whole nation and they're done by cities and counties. And we actually were fortunate enough to have had a Commissioner on board several years ago – or several terms ago – that had understood the importance of working with wildfire and making communities wildfire-safe. And so we actually had several communities that were – that were worked with and gained their own little plan. Well, after doing that our Commissioners, in their infinite wisdom, said, you know, we would like to do something on a comprehensive level and we would like to have a plan that would expand throughout the whole county and incorporate all those partners in doing it.

So we pulled together and there's a program that's out there that's called the "Secure Rural Schools Initiative." And that is – it's basically where counties that have a lot of forest land get paid for land that's not being harvested, and that's a real simple version to say that. So we're offset by some monies, and this money comes in and we hear it is a Title 2, Title 1, Title 3 monies.

The money that was used to do this was specifically earmarked to put this plan together and it was out of Title 3 monies. And so we took that money and basically contracted with the Conservation District to perform this. And I guess I'm probably more than excited in the fact that not only did we have a contract with them but the contract came in on time. We have a document that has been signed from all these parties and we have communities besides the two or three that were done previously – two more that have already participated. And we have some funding to give to them to do some more work.

We feel that this is a tool that you as a planning commission need to have in your pocket to know about to understand how much partnership and cooperation/collaboration – went in on doing this. And hopefully you'll find it very beneficial.

So, with that, I'm going to have Jenny lead in and tell you what she's done. Jenny?

Chair Easton: Thank you, Kendra.

Jenny Hinderman: Thanks, Kendra. Hi, my name is Jenny Hinderman. I'm with the Skagit Conservation District. Thank you for giving me time on the agenda this evening.

Besides myself, Al Craney, my co-worker sitting back there, we worked really hard together to put this plan forward and so I'm just – I'm just here basically to tell you what it is and what kind of information is in there. I did bring one copy with me, which I'll hand to Gary when I'm done. But if you'd like to take a look at it and review it, it is available on our website, which is the Skagit Conservation District website.

Like Kendra said, about a year-and-a-half ago we received some funding to put this plan together. And as we see more and more of the population move out into the forested areas, we also see the wildfire risk go up because of that. In fact, at the beginning of this month we saw a 60-acre fire up in Kendall up in Whatcom County at the beginning of May, so – which the fire was right next to a community up there. And then I think the same week-end we had three other fires in Skagit County. So it's definitely fresh in our minds right now, which is a good thing.

But the Community Wildfire Protection Plan is basically a community-based plan that identifies where the hazardous fuels are and then prioritizes how to address those with projects. It also addresses forest health issues, as well as recommends ways to reduce ignitability of structures within the county.

So really the process of how this plan was put together is really of importance here because it wasn't something that, you know, one agency just threw together. We actually worked really hard to develop partnerships with the Department of Natural Resources, this northwest region we have here. The local fire districts, Skagit County Department of Emergency Management, and the Fire Marshall's office, Kendra Smith, and the U.S. Forest Service, as well as the communities that we've been working in.

So we have spent a lot of time getting their input and their data. We did a survey with the local fire districts, getting information from them on the communities that they see are a concern in the areas and the reasons why they might be a concern. We got information on the type of resources that are available to them. So we worked hard to bring this to our partners and get their input on this plan.

And then what we started from, which was really – we were lucky to have this – was the DNR put together in 2004 they did a risk assessment of the county where they identified where the risks to communities are for wildfire in the county. And they rated that from a low to an extreme risk. So we had that assessment already to work from. So we expanded on that and we looked at – we kind of re-looked at what they did and looked at maybe some missed areas or re-evaluated some areas that had changed, or things like that.

So once we had our assessment in place, we were able to identify strategies on how to reduce the wildfire risk to those communities and to other areas in the county. And the way we did this – because the plan is such a broad-based plan for the entire county, it's hard to, you know, get really detailed on that information – so what we did is we broke it out by land ownership, the management, and then we addressed mitigation strategies for each land ownership type.

One of the tools that we really promote heavily in this plan, and just in general with wildfire mitigation, is the Firewise program. And I don't – it's kind of a buzz

word – I don't know if you guys have heard of it. But basically the Firewise program is a national interagency program that provides tools and resources to communities so that they can take that information and do things to improve their wildfire safety around their communities and their homes. And it's been a very successful program in Washington state. I think we're ranked third in the nation for number of Firewise communities. I think at this point there's twenty-seven or twenty-eight and we have some other ones coming down the line. So it's been a really successful program.

And besides being able to write this plan, this funding also allowed us to actually implement some of this stuff that we talk about in the plan. And one of the communities we identified to work with was Jenkins Lane, which is located off of Highway 530 between Rockport and Darrington. And it was an area that hadn't been identified previously but they had some major forest health issues and fire hazard concerns there.

So we were able to work with them and do a hazardous fuels reduction project. I think the total acreage was 14 acres or something like that. And we identified three different residences that really needed assistance and we worked with Department of Natural Resources and their inmate crews to do the work, and it turned out to be a really successful project. The community was really excited about it and the before and after pictures are just incredible to see where the hazard has been reduced just by reducing the fields around their homes and creating that defensible space. So that's one of our great things we've been able to implement with this funding as well.

And, with that, I'd like to show just a little, just under three minute-clip on Firewise practices just so you have a better idea of what I'm talking about when I say "Firewise" and "defensible space." And this is a clip that was put together by the Spokane Fire-Safe Council – I think that's what they were called. So you're going to see more east side-type of homes, but it really applies to over here as well. And we'll get that going. And if you have any questions, we can go over that after I show this.

(Firewise video)

Ms. Hinderman: Actually, if you want more information on that, you should come see me instead of them! Do you guys have any questions about any of this stuff? One thing I – sorry, I'm interrupting myself – one thing I did fail to mention was this plan is really trying to promote personal responsibility and a safer Skagit County, and it also allows the County to leverage funding for FEMA grants and FPA – National Fire Protection Association – and hazard mitigation recovery-type grants. So it is, you know, more than just a tool that's going to sit on a shelf somewhere.

Chairman Easton: Great. With that, we'll take some questions for Jenny. Mary?

Ms. McGoffin: I changed my mind.

Chairman Easton: She changed her mind. Carol?

Ms. Ehlers: I have several.

Ms. Hinderman: Okay, I'll do my best.

Ms. Ehlers: This started as a forestry issue. The grant funding was for that initially. Is it now available for places like the west coast islands, like Fidalgo and Guemes?

Ms. Hinderman: The funding is – you mean for projects? To do projects out there?

Ms. Ehlers: Well, for community education.

Ms. Hinderman: Yes. It is for the entire county. And part of this plan, what it does is identify where the priority areas are. And that part of the county is a very high concern for us, so we will be – assuming we get the funding – we will be doing some work out there. We've been wanting to do work out there.

Ms. Ehlers: Can you do it before the 4th of July week-end?

Ms. Hinderman: Well, I'd love to!

Chairman Easton: No pressure...

Ms. Ehlers: Second question: I have a neighbor who violates all of these rules and I have made sure that I honor all of them. Her spruce tree that's over the juniper is right next to my house and hangs over it. Have you guys a recommendation yet as to how high above a house trees – conifers – should be trimmed to reduce – you can't eliminate – but to reduce the conductivity?

Ms. Hinderman: That's a good question. What is – that really depends on a lot of site-specific things, so it's probably something I'd have to go out there and look at, like, what is her roof made out of? What is your roof constructed out of?

Ms. Ehlers: Oh, I bought the most fire-safe roof I could find.

Chairman Easton: I think it'd be probably better if you and Carol talked about that later. Are there any other general questions?

Ms. Ehlers: It *is* but, you see, these are the kinds of practical things that will eventually have to be dealt with so that individuals can take the responsibility that you have set them out for.

Ms. Hinderman: Yes. Well, one of our main goals is to get this information out to the people that need it the most, and this is kind of our constant challenge, is to get to people that maybe don't recognize the fire danger and get them to do something. So that's our goal.

Chairman Easton: From this Commissioner, congratulations to you and your team for getting this done and getting it done on time. We appreciate that and we appreciate your presentation. With that, we're going to –

Ms. McGoffin: Jason? One thing.

Chairman Easton: Okay, Mary has one thing.

Ms. McGoffin: I suggest you contact the Master Gardeners.

Ms. Hinderman: Okay.

Ms. McGoffin: They should be one of your partners because they reach a lot of the public.

Ms. Hinderman: Okay. Thank you.

Chairman Easton: Annie?

Annie Lohman: How many Firewise communities are there? I know there's one up on Chuckanut that works with District 5.

Ms. Hinderman: In Skagit County?

Ms. Lohman: Mm-hmm.

Ms. Hinderman: In Skagit County, I believe, right now there are five. And Al is going to – is handing out some general information on the Firewise program and Firewise practices. And, Carol, you can hand that to your neighbor.

Chairman Easton: Thank you, Al. Okay, thank you, Jenny. And at this time we're going to go ahead and move into –

Mr. Christensen: If I –

Chairman Easton: Go ahead.

Mr. Christensen: I just have one comment –

Chairman Easton: Mr. Christensen.

Mr. Christensen: -- to tag along on this. This is a good example of your work over time through the development of a comprehensive plan in which, as many of you know that were involved with our 2005 Update, there was some discussion on wildfire planning programs and Firewise and so forth. And you actually developed a policy which was supportive of the County developing a countywide wildfire planning program to increase public safety regarding forest fire dangers and establishing the means of managing, reducing and suppressing catastrophic wildfires.

So this is an example of a plan with a policy that then becomes implemented. So I think it's – when we deal with kind of policy analysis and wonder how those things might come to be, this is a classic example then of implementation and seeing something happen.

Ms. Ehlers: It's also a wonderful example of coordinating the Hazard Mitigation Plan with the Comprehensive Plan.

Chairman Easton: Okay, and with all that wonderfulness we'll now move on to the deliberations. Thank you all for coming.

Mr. Hughes: Mr. Chair?

Chairman Easton: Yes? Mr. Chair, yes, that would be – I was looking for Stiles but he's not here! So, yes, Mr. Hughes?

Mr. Hughes: After listening to the public testimony and reviewing the comments, there's potential for there to be some conflict of interest so I think I have to excuse myself from these deliberations – the first time in twenty-something years.

Chairman Easton: All right, Mr. Hughes, then, as the Chair I'll accept your desire to recuse yourself.

Mr. Hughes: Okay.

Chairman Easton: So have a good evening. Are you going to stick around or are you going to go have a good evening?

Mr. Hughes: No, I've –

Chairman Easton: Go have a good evening, then.

Mr. Hughes: I'll do something like that. Anyway, I know you all will do the right thing.

Chairman Easton: Thanks! I appreciate that! I'm not sure what that meant, but we'll go ahead and take that comment and move forward. We have a couple of issues, Commissioners, before we move forward in deliberations that have come to my attention that I need to address with the Department and legal staff. So we're going to do that all out in the open here in front of everyone.

Number one: Mr. Rozema's letter and Mr. Good's letter and other comments that were made in writing have not been received by this Commissioner nor the Chair nor at least one other Commissioner in Carol. Have any of you received anything since the public hearing concerning tonight's deliberations?

Ms. Ehlers: Other than the transcript, which we did get.

Chairman Easton: Yes, I'm sorry – other than the transcript.

Ms. Lohman: Are you referring to the letters that were posted on the website?

Chairman Easton: I'm referring to the letters that were presented here in person, yes, and they could have been posted on the website. I'm just – I'm doing a quick check to see if any of you received any of that information, because one of the things that we were told both in the transcript and in an e-mail from Betsy – I'm just trying to make sure that everybody's got the documents they need for us to move forward. So does anyone – did anyone – get the letters that were presented on that night sent to them either by e-mail or by mail?

Ms. Ehlers and some others: No.

Chairman Easton: Okay. So that's one thing I wanted to clarify. Also we have an e-mail from Bill that had some questions about that and Bill asked me to address these since he's not able to be here. I'll come right back to that, Carol. It appears that on the transcript that only myself and Bill were receiving the transcript from Debra, so we need to make sure that all members – Bill wanted us to make sure that all members are receiving the transcript; if so, how would they like to receive those transcripts. So is there anyone who didn't receive the transcript of this? Sorry to deal with this sort of right up front. Did anyone *not* receive the transcript?

Ms. Lohman: On the mitigation thing?

Chairman Easton: On the mitigation – just on the mitigation bank.

Ms. Lohman: No, I didn't.

Chairman Easton: Okay.

Ms. McGoffin: Yeah, I got it.

Chairman Easton: You did?

Ms. Lohman: Wait a minute, wait a minute. Let me – yes, I did. I did.

Chairman Easton: Jerry, did you get one?

Mr. Jewett: I got a hard copy.

Chairman Easton: You got a hard copy. Okay. So I guess that by itself is already cleared up. Then the last thing is – and then I want to open this up to some conversation before we move forward with deliberations – and that is an e-mail dated the 12th from Betsy Stevenson indicated that “we’re working on the response to the comments and information now,” – this is just reading in part to her e-mail. This is where, I think – was it Annie or Mary had asked the question? I think it was Annie – who asked the question about whether or not one of the WACs that was referred to was an error.

Ms. Lohman: It was an error.

Chairman Easton: “We are working on a response to the comments information now. We will be getting that out to you prior to your deliberations on Tuesday.” And I don’t believe any of us, since we indicated earlier, have seen that. So with that, before we make a decision about them before, Mr. Christensen, can you tell us what you can clarify about these situations here?

Mr. Christensen: Yes. The written correspondence which was received on the proposed wetland mitigation code amendment was posted on the Skagit County website. I do have copies of that correspondence. I believe some of you may have received your own copies, I think, at the public hearing. They may have been distributed to you by those who were offering the written correspondence. But we do have them all collated with an index here for your review this evening. We also have a response to the public comments that can be made available to you this evening as well.

Chairman Easton: So you have a copy of the response from the staff tonight?

Mr. Christensen: Yes, we do. And we are prepared to walk you through that, and, of course, it is your decision as to whether you are ready to make any recommendations this evening or if you desire and need more time to do so.

Chairman Easton: Okay.

Ryan Walters: Also –

Chairman Easton: Let Ryan go and then Annie.

Mr. Walters: I'm not certain that a written copy of a letter from Mr. Good exists. I don't know that we have such a document.

Chairman Easton: That was a reference to – I thought a letter had been turned in. I know that –

Mr. Walters: Yeah, there's a reference in the transcript to will you provide a letter, and I think he said "yes," but we don't have it.

Chairman Easton: He didn't actually provide one?

Mr. Christensen: He didn't provide one. I think he said –

Chairman Easton: That would explain –

Mr. Christensen: It was, I think, just a head movement that he indicated that we would *not* be submitting any written correspondence.

Chairman Easton: At this time I'll take a comment from Annie and then the Chair's going to – go ahead and pass those out, Gary – we're going to consider our plan for the rest of the evening, based on the information we just got here, in just a second. Annie?

Ms. Lohman: So, Gary, just to clarify what you're passing out: That is the Department's response?

Mr. Christensen: This – what I've just provided you now is the written correspondence that was provided either at the public hearing or through the comment period.

Ms. Lohman: But do you have the Department's response that was referenced in the e-mail?

Mr. Christensen: Yes, I can provide that to you now as well.

Ms. Lohman: And what is the procedure if there is an error by somebody? You know, maybe the person was nervous or maybe they got their wires crossed and they quoted a wrong number, but the gist of what they were trying to quote is there; it's just the title number is wrong?

Mr. Christensen: Yeah, we address that in our response to you.

Ms. Lohman: So we are allowed to see the real thing?

Mr. Christensen: Yes.

Ms. Lohman: Okay.

Chairman Easton: At this time I'd like to have some discussion amongst the Commission about whether to proceed or not into deliberations. My concern is that we were – I was – under the impression that we'd have had staff's response prior to tonight and I feel like – I recognize that we're in this transition where we're posting – we're starting to post communications to the website and I think that's great these letters are getting posted. I think we're in this kind of transition, but more than that – it's not as much as it is the public letters that we're provided. I'm also concerned that we're being now set here to – on our schedule – and we realize it's a time-sensitive issue – but we're being set here now to hear the staff's response and then be – then moving right into deliberations. So I'm going to open a brief – like five-minute – conversation here amongst us as a commission to whether or not you want to proceed with deliberations tonight. And this is something that the Chairman and I – before Bill decided he was unable to come – had discussed, so I wanted to make sure we had this discussion – all of us. Mary, did you want to start?

Ms. McGoffin: I would – I'm open to discussing this, but I'm not willing to make a recommendation tonight.

Chairman Easton: Okay. Annie?

Ms. Lohman: I guess my frustration is is that certain sites are fairly well organized but this one is not. So I didn't – I go to your website a lot, and I didn't *know* there was stuff posted for me to go get there, whereas on the Open Space we were – it's almost got its own –

Chairman Easton: -- domain.

Ms. Lohman: Domain – yeah. I don't know what you call it. And so it was very simple. But I didn't think it was simple and I didn't even *know* to go check.

Chairman Easton: Okay. And, Matthew, are you prepared to – I'm just trying to get where we're at.

Matthew Mahaffie: I'm working on it, but I'm prepared to discuss it.

Chairman Easton: Okay. Are you in a position where you feel comfortable making a decision tonight?

Mr. Mahaffie: Yeah.

Chairman Easton: Okay. And, Annie, are you?

Ms. Lohman: I'm as up to speed as I can, short of what is – the letters posted.

Chairman Easton: Okay. Well, and the staff's responses.

Ms. Lohman: Yes, and the staff responses.

Chairman Easton: Carol?

Ms. Ehlers: I'm up to dealing with the narrow decision we made as long as staff is willing to agree to modifying it.

Chairman Easton: I don't want to get ahead of ourselves. I just want to know if you want to talk about it tonight.

Ms. Ehlers: That's all right. That's all right. But you guys need a cookbook as to what has to be done for a hearing. And I'll talk to you with suggestions later. I don't like to make decisions without having everything in front of me because I think it might lead to a less explicit decision than could be made, because I think there are findings which need to be added in addition to the issue we were asked to look at. And as long as I am able to add those findings, I can consider making a narrow decision on the one word that we were asked to look at.

Chairman Easton: Kristen?

Kristen Ohlson-Kiehn: I'm willing to deliberate. I'm – I guess I'm – I'm – I guess I'm prepared to make a decision. I got the letters off the website. I don't have the, you know, Department's response, though.

Chairman Easton: Okay.

Ms. Ehlers: Well, another comment.

Chairman Easton: Brief.

Ms. Ehlers: If you want things in writing, you want *all* of it in writing.

Chairman Easton: Jerry.

Mr. Jewett: I don't have any objection to deliberation. I know how I'm going to vote, regardless of –

Chairman Easton: -- staff's response?

Mr. Jewett: Yes.

Chairman Easton: Okay. I think I have a couple concerns. Number one, I want to respect Mary's position. I haven't spoke to where mine is and then Bill's obviously not here, and now Dave has recused himself. This is an important issue, obviously; it was important enough for the Commissioners to put in an emergency ordinance. So I don't – I'm also uncomfortable as a Planning Commissioner and Vice Chair that we're in a position where it becomes a – I don't want it to become a habit that we're notified that we're going to see staff reports before deliberations and then we don't get them.

So although this is obviously the brief – one of the briefest staff reports I've ever seen because of the size of the changes we're dealing with. But with Mary's concerns and Bill not being here, I would – I'd like you all to consider the fact that I would – I'm going to speak against deliberating tonight – as the Chair. Now I'm not going to make the final decision. I'm going to ask that we put this to a vote. But I don't feel comfortable deliberating. It does – it feels like the cart before the horse. It doesn't matter to me how small this actual code change is. It's about the procedure and it's about making sure that I feel confident that the public's work and comments get communicated to us clearly. I'm glad Kristen pulled them off the website and I think it's important that we have a chance to sit with the Department's written response prior and then an explanation when we're here in person. So unless it dies for the lack of a motion or a second, I would like to see the conversation move in that direction. So I'd like, as the Chair, to call for a vote on whether or not to deliberate tonight, given the objections.

Mr. Christensen: If I could address the Commission prior to your vote –

Chairman Easton: Sure.

Mr. Christensen: I think it might be beneficial to all, including and maybe more specifically the Commission, if you were to receive and hear County staff's proposal and suspend any decision on whether you're going to deliberate until such time as you've heard the presentation. You might be persuaded by the presentation and the very narrow focus of what matter is before you, and you might find that the County's position is also supportive of the testimony which was before you. So there may be very little to disagree about and it could be that consensus or agreement could be reached tonight, but wouldn't want you to foreclose your opportunity to deliberate by taking action now.

Chairman Easton: Well, I appreciate your comments and for me it is not about agreeing or disagreeing with County staff's report, which I haven't read, or the testimony. This is about – this is about making sure the process, in my opinion, stays consistent and stays consistent on such an important issue.

So did you have any further comments, Ryan or Gary, before we call for the – we move forward?

Mr. Walters: Well, to address some earlier comments: The Department is transitioning from a new staff member assigned to the Planning Commission to a different, older staff member assigned to the Planning Commission just this week. So, I mean, there are some issues there. There's also the fact that I think the Department was under the impression that the people who testified provided written copies of their comments at the hearing, except for Mr. Good, who didn't have a written copy.

Ms. Ehlers: We didn't get Mr. Rozema's.

Mr. Walters: Yeah, apparently Mr. Rozema did not provide a written copy.

Chairman Easton: To us. He did provide one to staff at the hearing.

Mr. Walters: Right. So we were not aware that you did not have a copy of those comments. We provided them on the website mainly for the public.

Chairman Easton: Right. Because I thought if it was intended for us to have them, you would have sent us a note that they had now been posted.

Mr. Walters: Right.

Chairman Easton: Okay. Well, what's the pleasure of the Commission? Do you want to take a vote on whether to deliberate?

Ms. McGoffin: One more comment: So really all we're getting to discuss is the amendment that was presented to us. We're not getting to discuss the merits of wetland banks per se.

Ms. Lohman: Correct.

Chairman Easton: That's my understanding.

Mr. Christensen: Yes. The proposal before the Planning Commission, for which you took public testimony on, is in reference to the Board of County Commissioners' adopted interim ordinance which, generally speaking, would preclude wetland mitigation banks on those lands that are designated Agricultural-Natural Resource Lands. Now what was proposed was to have the prohibition for private wetland mitigation banks. You've received testimony that it should not just apply to private but public as well. So, in essence, what that would mean is a prohibition for wetland mitigation banks on lands zoned Ag-NRL.

You will see in the staff's response to you that we concur with that position and we believe that whether it be private or public that both types of ownerships should be precluded on lands that are zoned Agricultural-Natural Resources. So I think that that is consistent with the testimony that you received from the various groups which were before you and the written correspondence which is now in your possession.

Ms. Ehlers: Well, there's –

Chairman Easton: I don't want to get into – I don't want us to get into discussing what we haven't decided whether we're discussing or not. I recognize that you – if we decide to move forward either today or at another time, you need to have a chance to give us the staff report and we will make sure that there's time for that, whether it's a meeting I'm chairing or a meeting that Bill's chairing. That won't be a problem.

Mr. Christensen: Okay.

Chairman Easton: So at this time, given the fact that two Commissioners who are present have expressed their concerns – and by e-mail Bill has expressed his concern, too – that we didn't receive the documents – or, I should say, by phone – so what is the pleasure of the Commission? Do you want the staff report and to deliberate, or do you want to postpone this to another meeting?

Ms. McGoffin: I would like to deliberate briefly. I missed the last meeting, even though I read the transcript, and I would like to just hear from my fellow Commissioners.

Chairman Easton: Okay.

Ms. McGoffin: My concern is that it's limited to the Ag-NRL land. Is that correct?

Mr. Christensen: Yes.

Ms. McGoffin: Is there – I'm just wondering – is there any other land that should be –

Chairman Easton: Let's hold that question and let's finish the discussion about whether we're moving forward.

Ms. McGoffin: Yeah, okay.

Chairman Easton: So, Annie, do you want to comment on that or do you want to move forward?

Ms. Lohman: I quickly looked at the letters in this packet. I took lots of notes when the people came and talked. I guess I feel like I did my homework as much as I could, short of I didn't realize things were posted on the website that I need to go get. But I believe that I'm ready to have a discussion.

Chairman Easton: Okay. All right. Well, then, I think that probably sums us all up. Then we will go ahead and go into a short staff report concerning these and then we'll move into deliberations. So, Mr. Christensen, your staff report.

Mr. Christensen: Thank you. Ryan?

Chairman Easton: Or Ryan.

Mr. Walters: Well, I guess that's me. The Planning Department finds that we have fewer and fewer staff. So if you'll turn your attention to the Responses to Public Comments document that we just passed out.

We did receive several letters, we received testimony from several people, and in most cases, the testimony followed their letters. I don't think we received any letters from anybody who didn't testify and I'm not sure if we got any testimony from anybody who didn't write a letter. And, in some cases, it was verbatim. So you should probably already be familiar with the public comments that were in writing.

The first letter that we dealt with in this report is the one from Skagitonians to Preserve Farmland, and their first comment is that they believe that wetland mitigation banks – which I'll abbreviate as WMBs throughout this document – should be prohibited whether they are public or private on Ag-NRL.

And the Department doesn't have a problem with you proposing to just strike the word "private" from the proposed text. You can then eliminate the associated definition. And you would, as a result, have something like a five-word modification to Skagit County Code that would prohibit all wetland mitigation banks in the Ag-NRL zone.

The other comments from Skagitonians are pretty much in that vein. They propose some example text for a code amendment but, for various reasons, we prefer just the very simple exclusion – the short text that is in the code amendment that was part of the original proposal.

And Skagitonians' letter is the letter that is most relevant to the actual proposal. The other letters talk about wetland mitigation banks in general and, in some cases, go beyond wetland mitigation banks and it's not – it's not particularly useful, I think, to this discussion. But we responded to some of the points. And I don't know if you would like me to go through all of the comments and our

responses or whether you would like to highlight questions and I can respond and provide you –

Chairman Easton: What's the Commission's pleasure? And before we get to that point, let me remind you that both the Chair and the Vice Chair want you to understand this one statement, and this is in an e-mail that Bill sent me today and I want to reiterate it. "I want to remind everyone that tonight's deliberations are on the wetland mitigation bank (and) should be limited to just the proposed code amendments." And I will, as the Chair tonight, stop conversations that get us into the basics – any of the kinds of stuff that gets us wandering off of that. So in relationship to questions to Ryan or what you want him to highlight on the report or our deliberations, I want to make sure – and so does Bill – that we're limited to just the code change, okay? And, with that, if there's questions for Ryan – go ahead, Ryan.

Mr. Walters: And maybe one initial distinction is that we have two applications already for wetland mitigation banks. One we have approved; another one is pending. Those are vested under the old version of the code that was in place before the interim moratorium, so –

Chairman Easton: It's outside of our scope, though – both of those two – and the general conversation or debate about wetland banks and their viability or their lack of viability. So I just want to make sure that we're – like you commented, too – that we stay within that sort of **sidewalls**.

And, with that, I don't think it's necessary – from my point of view – for you to go through each comment. So unless a Commissioner wants that – seeing none – Carol?

Ms. Ehlers: I've skimmed them, but I think you have not put in the main legal backing for why the thing should be written as Skagitonians is recommending it be done. There's a lot of evidence in the RCW, in the code, in the Countywide Policies, and the rest of it which I found today which backs this recommendation. And I think you ought to add that to your – if we agree – I think you ought to add those things to your findings because that's what provides the evidence that we are not just rubberstamping something that was given to us or just responding to what people said in testimony, but that there is a legal basis for these – for our recommendation.

Mr. Christensen: Yeah, I think you could – and as part of your deliberations – draw upon the interim ordinance, which has a number of recitals and findings for the Board's action. I think the matter as kind of simply before you now is a several-word code amendment to the code. As Ryan indicated earlier, by striking the word "private" in the proposed code language it renders the definitions that had been suggested as not necessary. So it really is just a matter of modifying

the proposed code which is before you and striking the word “private,” and we’re good to go.

Chairman Easton: Jerry?

Mr. Jewett: If you can strike the word “private” and you wanted it to affect all lands, could you strike “Ag-NRL” and you wouldn’t be able to have mitigation banks anywhere?

Mr. Christensen: You can do anything you want. That would probably be a significant change for which the public hasn’t – that would require a new SEPA Threshold Determination and likely a new public hearing, either by you or the Board. If – I might suggest that if you feel as though at this particular time this doesn’t go far enough and you have some issues associated with wetland mitigation banks and their practices in other zones, that you simply make a recommendation to the Board that there be additional study given to that particular matter. But given the need to take action and, certainly, the Commissioner interest in having a recommendation from you so that they then can act on a permanent code, that you consider taking action on the matter which would pertain only to the Ag-NRL lands, and if you so desire to have a broader study or analysis that you recommend that there be further work done on that.

Mr. Walters: Also it wouldn’t be a simple matter of striking a word because of the way the code is written. We would have to go through and identify the uses under which wetland mitigation banks would qualify and strike those or add the exception language. So it would not be as simple as striking a word.

Ms. Ehlers: And besides, we wouldn’t win.

Chairman Easton: Okay. Any other comments or questions for staff? All right, then the Chair would entertain a motion, and I think I’d like to take it in two pieces: one, the actual – an actual motion up or down on the proposed changes, and then an amendment to make the additional change that’s been discussed, if that’s the ___ of the Board – the will of the Commission – where that would be the place where we’d strike the word “private.” So, any –

Ms. Lohman: You mean “public.”

Chairman Easton: Excuse me – “public.” Annie?

Ms. Lohman: In the existing code, it says “private projects or public projects.” Why don’t we just strike both of that and just say “mitigation banks”?

Mr. Walters: What section of existing code?

Ms. Lohman: It's in the handout that you gave us. It says "habitat enhancement and /or restoration projects."

Chairman Easton: That would have been, then – that would be from Betsy.

Ms. Lohman: It's on the bottom of the very first page in italics letters.

Chairman Easton: That would be from Betsy.

Mr. Christensen: Is that the memorandum? Is it –

Ms. Lohman: Yes, from Betsy, dated April 28th.

Ms. Ehlers: That's in the Definitions section.

Mr. Walters: Right. So the reason that we might not want to strike a piece of the definition is because this definition applies to other code sections. So –

Ms. Ehlers: Yeah, I can see that.

Ms. Lohman: And then I guess that does – Mr. Chair, if I may?

Chairman Easton: Yes.

Ms. Lohman: -- that does lead me to a question. When you're talking about a public bank then, that means that somebody like DOT then would actually own the bank and they would be the only one utilizing the bank? They or another government agency? It would not be privately owned and just the credits sold to a government agency?

Mr. Walters: Under the original proposal the definition of "private mitigation bank" would be a mitigation bank not owned and operated by a government agency, so it would allow banks owned and operated by a government agency and it would make no judgment on how they doled out credits. So it could go to – the credits – could go to public agencies or private enterprises; however, under the proposed *revision* to the *proposal*, that would be – the definition – you would strike the definition as well as the word "private" so it would encompass all mitigation banks. And there's precedent for public mitigation banks. The Department of Transportation does own at least one – maybe two – in the state.

Chairman Easton: Okay. Carol.

Ms. Ehlers: As I understand it, the federal government has determined that these things will exist, and in many cases it's the public agencies that do it. But there is no reason for us to permit these in the agricultural prime alluvial soils as

they are defined in the Land Use Profile of the Comp Plan – a far lesser amount of acreage than apparently the state thinks we have in agriculture.

Chairman Easton: Okay. So do we have a motion? Which would basically be to accept staff's recommendation and then we would – with the amending of it to strike the word "private," and definitions as related.

(inaudible voice)

Chairman Easton: Did I say it probably again? "Public."

Ms. Ehlers: Do we have to have the two motions?

Chairman Easton: Well, if you want to do them separately it's fine with me either way.

Ms. Ehlers: Why don't we just say that we accept the recommendation and strike the word "private"?

Chairman Easton: That's fine.

Mr. Walters: And the definition, I would recommend.

Chairman Easton: Hold on a second, Kristen.

Ms. Ohlson-Kiehn: I just want to – let's just – could we just clarify that really quick?

Chairman Easton: Sure.

Ms. Ohlson-Kiehn: Because in the report it says strike the word "private" and I'm hearing we're striking the word "public." I'm just –

Ms. Ehlers: No, we're striking the word "private."

Ms. Ohlson-Kiehn: Okay, from what?

Ms. Ehlers: From the proposal.

Ms. Ohlson-Kiehn: Which?

Ms. Ehlers: Which –

Chairman Easton: Ryan, if this is a really brief change in code, why don't you read it to us?

Mr. Walters: Why don't I put it on the board?

Ms. Ohlson-Kiehn: Yeah, that would be helpful.

Chairman Easton: Yeah, put it on the board with – and then show us where we're striking the word "private."

Mr. Walters: All right, so this is the proposed code change and here we're talking about habitat enhancement and/or restoration projects. These are currently allowed as special – Hearing Examiner special uses – in the Ag-NRL zone. And we're talking about adding the words "except mitigation banks." So not "private" anymore, but just "except mitigation banks."

Chairman Easton: So we take this out of the Hearing Examiner's purview and we eliminate the word "private"?

Mr. Walters: It's not just removing it from the Hearing Examiner's purview. Uses that are not listed are not allowed. So if it's not a listed use it's not an allowed use under any regulatory scheme, and then you don't need this definition –

Ms. Ehlers: Mm-hmm.

Chairman Easton: Right.

Mr. Walters: -- because there's already a definition of "mitigation bank" so you don't need the "private" anymore. So this was the original proposal and the suggestion is to remove the word "private" and the definition. So then you would be allowing habitat enhancement projects except for mitigation banks.

Chairman Easton: Annie.

Ms. Lohman: Do we need to clarify and insert "wetlands" or is "mitigation _____"?

Mr. Walters: No, the definition of "mitigation banks" specifically says "wetlands."

Ms. Lohman: Okay.

Ms. Ehlers: Okay, that's what I want to move.

Chairman Easton: So – good. Can we – why don't you restate it in a way that might be a little easier for those who are reading this on transcript?

Ms. Ehlers: I'm almost afraid to!

Chairman Easton: We wish you well.

Ms. Ehlers: To strike “private mitigation banks.”

Chairman Easton: I think it was to strike the word “private.”

Ms. Ehlers: Strike the word “private.”

Chairman Easton: Strike the word “private” and strike –

Ms. Ehlers: Strike the word “private.” I had it right in the first place, didn’t I?

Chairman Easton: Okay, strike the word “private” and strike the definitions. Why don’t you try it again?

Ms. Ehlers: No! You’ve already said what it is.

Chairman Easton: So moved – someone said “so moved”?

Mr. Jewett: I’ll so move.

Chairman Easton: So moved. Is there a second to that?

Ms. Lohman: Second.

Chairman Easton: All right, and so hearing a second, any discussion or further discussion? Kristen?

Ms. Ohlson-Kiehn: No.

Chairman Easton: All right, hearing none, I’ll call for the question. All those in favor?

Mr. Jewett, Ms. McGoffin, Ms. Ehlers, Ms. Ohlson-Kiehn, Mr. Mahaffie, Chairman Easton and Ms. Lohman: Aye.

Chairman Easton: All those opposed?

(silence)

Chairman Easton: All right, it passes.

Mr. Christensen: Okay, for the record, Jerry moved and who seconded?

Chairman Easton: Jerry moved and –

Mr. Christensen: Anne – Annie?

Chairman Easton: Annie seconded. Any abstentions? So the motion passes then.

Mr. Christensen: Yes. What we will now do is we will draft a recorded motion with appropriate findings for all of your review and for Jason – I guess you as the Chair – then to sign off on since you presided during these deliberations.

Chairman Easton: Okay. And the way in which we're going to provide those, as we discussed previously, is that they'll now be distributed to all of us?

Mr. Christensen: We're going to mail them to you and we're going to e-mail them to you. You're going to get them twice.

Chairman Easton: Okay. Great. So then that way everybody can review it before I sign it, and if there's any – if there's anybody who has a problem with what's in that – which I don't think, in this case; it should be pretty easy – then let us know – let Gary and I know – and we'll adjust it as we see – as it seems appropriate. With that on this issue, are there any more – I don't think there's anything more that needs to come before us, or is there, Ryan?

Mr. Walters: The only other thing on this that I'd say is that we're trying to move relatively quickly on this – as quickly as the code allows, which is not very fast.

Chairman Easton: I don't anticipate turning this – turning it around from my end or from our end – to take long.

Mr. Walters: Okay.

Chairman Easton: We'll work with you on that.

Ms. McGoffin: So, Chair, is this the time to recommend to the –

Chairman Easton: That would be the next thing that I'm going to take –

Ms. McGoffin: Okay.

Chairman Easton: -- take action on, but I wanted to see if we were finished with this first. Are we finished with that? All right. So Jerry made a suggestion or a comment earlier that then staff suggested if we wanted to make a recommendation about wetland banking in general and across all zones. So we can do an additional finding, as Gary mentioned. Is that – Jerry, do you want to share your thought on that a little bit more or do you – what do you want to do?

Mr. Jewett: Well, one of the problems I have is it took me years and years and years to believe that wetlands did what they started telling us they did twenty

years ago. I finally start believing in that and now they tell me, for instance, there's about 40 acres just east of where I live that is all wetlands. That guy could buy credits in a bank down on the Stillaguamish – or on the Nookachamps – and develop that land. What's going to happen to the water that's held on that land? That's going to come right through my property. There's no way it's ever going to get down into the Nookachamps. He wouldn't be liable, the guy that got the money for the credits wouldn't be liable. I'd be sitting there with a flooded house.

Chairman Easton: So that's inspiring –

Mr. Jewett: That's what's wrong with the banking.

Chairman Easton: So is that inspiring you to ask the rest of us to join you in a finding to recommend to the Commissioners?

Mr. Jewett: Yes.

Chairman Easton: What would you like to recommend to the Commissioners, Mr. Commissioner?

Mr. Jewett: Well, I think any credits should be at least in the same watershed.

Chairman Easton: Okay.

Mr. Walters: Could I inform this discussion a little bit?

Chairman Easton: Sure. Please.

Mr. Walters: The two wetland mitigation banks in Skagit County – the one that's been approved and the one that's pending approval – are allowed to issue credits for development only within the Water Resource Inventory Area – WRIA – what is it, 4? 3?

Mr. Christensen: 3.

Mr. Walters: WRIA 3. So it's that section of Skagit County that's in the Skagit River watershed, not the Upper Skagit and not the islands. So it's limited in that geographic scope.

Also the presence of a wetland mitigation bank within that WRIA doesn't allow you to do anything more with your property than you had the ability to do before, because that is controlled by our critical areas ordinance. So if you have a piece of property and you want to develop it and it has a wetland on it, you have to go through the mitigation sequencing that's contained in our critical areas ordinance. And the first thing that we want to do under that mitigation sequencing scheme is

avoid the impact to the wetland. And under certain circumstances you can't avoid that impact, and you can get to a place where you can do mitigation onsite, where you have a parcel, you have a wetland here, you mitigate your damage to the wetland here by recreating the wetland over here. And if that doesn't work or if that's not available you can do offsite mitigation. And only if you get to offsite mitigation, which is the last step in the sequence – and I mention this in the responses to the comments and provide the code citation – then you can do wetland mitigation banking or another form of offsite mitigation.

Ms. Ehlers: I'd like to follow on Jerry's comments.

Chairman Easton: Okay.

Ms. Ehlers: The – there's a long history in many places of pretending that if you don't find a spot is a wetland, or if you do, that you just put a house in it anyway. And while we're thinking of Jerry's additions, I want to be sure that whatever banking is permitted that the houses or living buildings at least that are put in what was the wetland are not going to become wet the next time there's a ten-year storm or a twenty-year storm.

Chairman Easton: Would any other Commissioner like to comment?

Ms. McGoffin: On Carol's comment or just in general?

Chairman Easton: Or in general?

Ms. McGoffin: I have a general comment.

Chairman Easton: Go ahead.

Ms. McGoffin: So my general comment is that I would recommend that the Board of County Commissioners consider that these benefits apply to Skagit County and that we don't sell these to outside the county. It's our watershed and we should be trying to deal with it locally and not be selling these credits outside the county where I think that would be detrimental.

Chairman Easton: Okay.

Ms. Ohlson-Kiehn: I just have one comment. I agree with Jerry's encouragement of the Board of County Commissioners and the County to look at wetland mitigation banks and their compatibility on different – in different zones, in particular natural resource zones: Ag, we just talked about, but also Secondary Forest and Industrial Forest. Because I think the idea that the wetland mitigation banks are mining the soils out so that those areas are no longer – in a sense, they're sort of no longer resource lands; they're not really producing anything any

longer – would be incompatible with the County’s reason for setting these resource lands aside.

Chairman Easton: Okay. Annie?

Ms. Lohman: I guess I have a concern of – our resource lands are kind of vulnerable because they’re less expensive, particularly the ag land. It’s relatively flat so it’s easy to do things on. You don’t want to create an environment where it’s opportunistic to place something like a wetland mitigation bank in these resource lands just because it’s cheaper. Whereas it’s – you know, anything could happen then in a more urban area because you’re off-siting the problem. And so then the benefit area – the urban area gets all of the benefits and the rural resource is stuck with the mitigation or having to provide the mitigation space. And I think that – particularly the Ag zone – we only have a very finite, limited number of acres and when you talk about doing things like that you’re not really investigating what the impacts are to our drainage infrastructure and other vital components that are key to that resource land because you’re only focusing on you’ve replaced a wetland. But there’s a dynamic out in the resource lands that you can’t mess around with; otherwise, you impede the ability of that resource land to do its task.

Chairman Easton: I’m going to take, like, two more minutes of comments and then we’re going to move on, because I want to make sure that we restate – and you may not be the one to do this, Matt, but someone else. We need to give staff a clear understanding of what we want our finding or findings to be and then we need to kind of honor the fact that we’re not here to re – to revisit all of wetland banking, so we probably need to move on. So with that, Matt, go ahead and then Carol briefly.

Mr. Mahaffie: I could go on for about an hour, but –

Chairman Easton: Go ahead.

Mr. Mahaffie: Banning wetland mitigation banks in Ag zoning has – in my opinion – completely killed mitigation banks. You don’t really have to worry about other zonings; they won’t work.

Chairman Easton: Tell us why.

Mr. Mahaffie: It takes hydrology, it takes water, it takes a *lot* of water. There’s a reason people wanted to put it in Ag-zoned land: You dig down, you got water. Secondary Forest on a hill? It’s just not going to work on a large scale. You’re going to have to get water from somewhere. You can’t just divert water to do it, permitting-wise.

Chairman Easton: Carol?

Mr. Mahaffie: So I think some of the concerns folks are having are a little unfounded.

Chairman Easton: We may have just taken care of it, in your opinion?

Mr. Mahaffie: Yeah.

Chairman Easton: All right. Carol?

Ms. Ehlers: I doubt that, because there's thousands of acres of rural land that has plenty of water on it, plenty of potential, and cheap to buy. What I think we ought to have – the County ought to have – are some criteria, because the ability to deny is only based if you have prior criteria that are based on science. And as far as the wetland's concerned, the definitions seem to think that a mitigation bank is essentially habitat mitigation. And the crucial thing for wetlands is hydrology. And so whatever criteria you're going to put and whatever you're going to permit, an improvement of the flood situation and the hydrology for people around it and below it, I think, is crucial.

Chairman Easton: Okay. I'm going to ask that one of you put an attempt on – make an attempt to summarize this conversation into one finding. I'm not interested in creating seven findings for the Commissioners, so if one of you can kind of – you know, it probably wouldn't be appropriate for me – but if one of you could do that for us, then we leave staff in a better position to make sure that this gets communicated to them clearly.

Mary volunteered – excellent!

Ms. McGoffin: All right. From what I am hearing from my fellow Commissioners is that they agree to the recommendation that the Department has given, as stated by our Chair tonight. The ensuing discussion really is trying to emphasize our ongoing concern that this may not be enough and may not have gone deep enough and far enough and thorough enough, but we understand the limits of tonight. And so we support what you've brought to us thus far.

Chairman Easton: So and I would like to pull that basically from the transcript to make that the basis of the finding. You can obviously clean it up, you know, as you guys see fit. And then add to that that's a further recommendation from the Planning Commission that further study concerning wetland bankings across all of Skagit County are considered. And with that, if that's an agreeable finding to the Commission by consensus –

Ms. Ehlers: It is.

Chairman Easton: All right, it is by consensus then, so that would then be that the two actions that we take tonight in relationship to wetland banking, all right? Unless Ryan has something he – or Gary – has something they want to add. Yeah?

Mr. Walters: I didn't hit "record."

Mr. Christensen: We have it. Rich has it.

Chairman Easton: And through the lovely addition of television tonight, Debbie will get to watch us when she transcribes as opposed to just listening to us.

Mr. Christensen: She'll get an MP3 she can listen to.

Chairman Easton: All right, with that, then, I'm going to move on on the agenda – there's nothing further on this stuff? Then, with that, we move to the next agenda item which was the beautiful category of "Miscellaneous."

Mr. Christensen: Yes, I just have one Miscellaneous item. It has to do with our schedule. And let me just start with – the month of August is proposed a vacation month, okay? So we are not proposing to have any business for you in the month of August, so if you are planning family travels or trips or just need some down time, then it's going to be the month of August.

So we wanted to try to at least let you know in advance so that you could start planning accordingly so and get that on your calendars.

Our next scheduled meeting is June 2nd and we had hoped to come back before you in a kind of workshop/work session format to talk about open space. I have been able to meet and discuss it with Tom Beckwith, who was the consultant under contract with the County to help with that effort, and he was available on that date, but we are also trying to get representatives from the City of Mount Vernon to attend. That was going to be the area that we felt we could come back before you and kind of just have a hands-on kind of mapping exercise and go through that. But, unfortunately, it appears as though that night Mount Vernon also has a planning commission meeting so they are unavailable that night, both their Planning and Parks staff.

So we are looking at trying to schedule time later in June. I don't have any dates, but I guess what I would like to ask of you are there dates that just would not work for you which would be a Tuesday or Thursday? And we'll be in touch, but is there any Tuesdays or Thursdays in June that are problematic for any of you individually?

Chairman Easton: Annie.

Ms. Lohman: 25th.

Chairman Easton: I would say the week of the 22nd through the 26th I'm on vacation.

Mr. Christensen: June and what's that? The 25th through – is it the week of the 25th?

Chairman Easton: It's the 22nd through the 26th. So Annie's not available on the 25th and I'm not available on the 23rd or the 25th.

Mr. Christensen: Okay, what's the Monday of that week?

Chairman Easton: The 22nd.

Mr. Christensen: Okay, so the week of January 22nd would be a bad time to get together.

Chairman Easton: Yeah, the week of the 22nd _____.

Mr. Christensen: Yeah, okay.

Chairman Easton: Anybody else? Okay.

Mr. Christensen: So we will try to arrange for that. We'll be in contact with you. We'll let you know how that comes together. The –

Ms. Ehlers: But we're not going to meet on the 2nd then?

Mr. Christensen: We will not meet on the 2nd.

Chairman Easton: Okay.

Mr. Christensen: Okay?

Chairman Easton: All right, so at this time, if there's no other business –

Mr. Christensen: I do have –

Chairman Easton: Sorry.

Mr. Christensen: -- some other business, kind of in a similar fashion then, and that is work program and trailing issues and things that are of interest to you. As you may have read in the newspaper, kind of the economic challenges that the County is facing and that there are some what we call "RIF" in process, which is a reduction in force. Department heads and elected officials had recommended

that potentially as many as twenty-nine staff positions may be laid off between now and the first of June, six of which would be coming from Planning and Development Services. What that means is that we will have gone from – about this time last year – from thirty-six employees to 1st of June what could be twenty-four. So that is about a third of the department.

As a result of our trying to meet the Board's objectives in reducing our budget expenses through the rest of the year, our professional services from start to finish will have been reduced by about two-thirds and our overall budget by about a third. So we have some challenges ahead in terms of our work program and our priorities. And we'll be having a conversation with the Board of County Commissioners, if not in June, possibly July.

I would like to, if not sometime in June perhaps in July, have a conversation with you about those things that are important to the Planning Commission, whether they are on a list or not on a list. It's information that I would like to be able to share with the Commissioners about things that you feel are important and where, should resources be available, that we can commit some time and effort to that.

So it is back to the drawing board for us to try to assess what it is that we'll be able to do, and certainly would be welcoming your thoughts and ideas and suggestions as to those things that are important for us to be working on through not only the rest of this year but into next year.

So I wanted to just share some of that information with you and look forward to having that dialogue and that discussion either in June or July.

Chairman Easton: Okay. Commissioners?

Ms. Lohman: So when is the June meeting?

Chairman Easton: We have no meeting scheduled for June at this time and we will be contacted by County staff when a meeting is scheduled.

Mr. Christensen: Yes.

Ms. Lohman: I have a question, being a novice on this Commission. Is it customary that you deliberate on something and then it's not finished and it continues and then you pick it up again and then it skips along? Is that normal? Like on the UGA.

Chairman Easton: I could take that one. No.

Ms. Ehlers: No.

Ms. Lohman: No. Okay.

Chairman Easton: The answer to that one's no. I mean, if you're talking about – you're talking about the Open Space Plan?

Ms. Lohman: Yes.

Chairman Easton: I would say No, that's not been customary in my experience or any of the – and Carol agrees and she's got the most tenure.

Mr. Christensen: That's probably not typical, yeah.

Ms. Ehlers: No, it isn't.

Chairman Easton: So with that, we will –

Ms. Lohman: So we don't have any plan on when we're going to go back to that yet?

Mr. Christensen: On open space?

Chairman Easton: Not yet.

Mr. Christensen: We're going to try to find some time in the month of June that is convenient for all of you, with the exception of the week of June 22nd. And the format is going to be kind of a workshop/work study. We're going to bring back the consultant. We want to bring back staff from Mount Vernon. We want to focus on just one part of the Open Space Plan, talk about some of your concerns and issues, talk about what we can do to make some changes and revisions. And we'll also be bringing SCOG, or Kelly Moldstad – trying to arrange for his participation as well so that all of the stakeholders and local governments who participated in this and, in particular, then Mount Vernon we'll use as kind of a case study and kind of work through those issues. And then if we can find something that you believe works, then we can apply that to the other jurisdictions and bring that back for your review at some later date.

Chairman Easton: Well, one of the biggest things that we requested was insight into and how maps could be changed –

Mr. Christensen: Yes.

Chairman Easton: -- to reflect what we believed is more what the Plan was actually written – as the way the Plan was written.

Mr. Christensen: Yes.

Chairman Easton: So I would assume that that would be addressed at that time, too.

Mr. Christensen: Yes, we've had that conversation with Tom Beckwith and we look at that as being a very interactive – you know, here's the maps and we've got some marking pens and we'll go through that exercise of what do you want to see and what don't you want to see.

Chairman Easton: Right. And, with that, Carol will make one more comment.

Ms. Ehlers: Carol wishes at that time that we have the map of where the approved wetland mitigation bank is that's along the shores of the Skagit River, because that seems like open space.

Chairman Easton: So if there are any other comments about wetland banking, please direct those to the Department. And, with that, we stand adjourned (gavel).