

Skagit County Planning Commission
Public Hearing: Flood Damage Prevention Ordinance
Deliberations: Pipeline Safety Program
July 19, 2011

Commissioners: Jason Easton, Chair
Mary McGoffin, Vice-Chair
Annie Lohman
Carol Ehlers
Elinor Nakis
Matt Mahaffie
Dave Hughes
Josh Axthelm

Staff: Tim DeVries, Building Official/Floodplain Manager
Gary Christensen, Planning Director
Ryan Walters, Deputy Civil Prosecuting Attorney
Kirk Johnson, Senior Planner/Team Leader
Carly Ruacho, Senior Planner/Project Manager

Public Commenters: John Shultz, Attorney for Diking Districts
Brian Lipscomb
Randy Good
Marianne Manville-Ailles
Pat Macken
Ed Stauffer

Others: Bill Wallace, Burlington-Edison School Board

Chairman Jason Easton: Good evening and welcome to the Skagit County Planning Commission meeting. My name is Jason Easton. I'm the Chair. I call this meeting to order (gavel).

Tonight's first agenda item is to review the floodplain – or, excuse me – to have a public hearing concerning the Flood Damage Prevention Ordinance. Following that we'll take a short recess, approximately – well, whenever we're done with that portion of the meeting – approximately around seven. At that time we will deliberate on our Pipeline Safety issues – although the Commissioners do have the right to recall some witnesses – and then there'll be some general business at the end of our agenda.

At this time I'd like to turn it over to our – a man with more titles than any man should legitimately have. I don't even know where to start, Tim. You're the flood guy, the building official guy. You kind of have them all nailed down. So I'll turn this over to Tim – is that right? – to Tim DeVries. Thank you, Tim.

Tim DeVries: Thank you, Mr. Chair. Good evening, Commissioners. My name is Tim DeVries. I'm with the Planning and Development Services, Building Official and Floodplain Manager, and the Project Manager for what has become the Biological Opinion Compliance Project involving the flood damage prevention regulations and the critical areas regulations.

So for the benefit of Commissioners who haven't attended yet and for the viewing public, I'd like to give a little – brief history before we get further into the public hearing.

Why are we here tonight talking about this? Why are we going through these steps at all? The reason is that a few years ago the National Wildlife Federation brought a lawsuit against FEMA for failing to comply with federal mandates that they would – through their permitting and operations – that they would seek to ensure compliance with other federal regulations. Specifically the National Wildlife Federation charged that FEMA was not complying with or requiring anybody to comply with the Endangered Species Act. And what lead them to that conclusion was that the National Flood Insurance Program provides discounted insurance, insurance that's available – flood insurance – that's available at greatly reduced rates from what it would be available through the commercial market.

As a result of that, there was a feeling that the Flood Insurance Program was actually encouraging development in the floodplain and thereby causing harm to the – to salmon and the endangered species, including salmon and their habitat. The court agreed and ruled in favor of the National Wildlife Federation and issued an order that FEMA needed to consult with the National Marine Fisheries – NOAA Fisheries – to determine if there was jeopardy occurring respectful of the salmon and their habitat.

So a couple of years ago National Marine Fisheries issued an opinion that came to the conclusion that there was, indeed, jeopardy being caused. And what FEMA needed to do through their National Flood Insurance Program was devise a way to ensure that if they were going to continue to issue discounted insurance that encouraged construction in the floodplain that they had to do it in a way that protected the salmon and their habitat.

That opinion was called the "Biological Opinion," which we have since begun to refer to as the "BiOp," in case you hear the term "BiOp" being used. So this Biological Opinion provides a path for FEMA, through their Flood Insurance Program, to honor the requirement that they protect the endangered species. And that path included several reasonable and prudent alternatives – in their vernacular, "RPAs" – that, if completed, provided that protection. RPA 3 was directed mostly at the jurisdictions. There are 122

communities in the Puget Sound area affected by this. The other RPAs had to do with FEMA's mapping and other procedures. RPA 3 was directed at the communities.

And so over the course of some time, FEMA came together with a group of jurisdictional representatives and developed a model ordinance. They developed a couple of other options that the local jurisdictions could follow that would lead them to compliance in this RPA 3.

So what are these options that we now have available to choose? The first option we called "door number 1." It's kind of like "Let's Make a Deal" in choosing which door you want to go through. Door number 1 is a model ordinance that was developed by FEMA that if the community adopted this model ordinance, it would provide all of the protections that were necessary and you would be considered to be in compliance with that adoption, assuming that you regulated and administered it properly.

Option – or door – number 2 had more to do with taking your local regulations, whether they were floodplain regulations or critical area regulations, shorelines regulations, and combining them and perhaps revising where necessary, and produce a packet that you felt would provide the necessary protection, and FEMA would review that and work with you to achieve it that way.

The third option was just to require a habitat assessment on every project in the floodplain, and if there was – if it was shown to be – if it was shown that there was likely to be an adverse effect, then that person, that property owner, business owner or whatever the case may be would need to consult with NOAA Fisheries on how they might mitigate to a point where there wasn't an adverse effect. That can be an expensive and lengthy process.

So those were the options.

Chairman Easton: Tim, I'm going to interrupt you. A couple of things – just housekeeping. There is an overflow seating available – I mean, I'm not saying you can't stand if you'd like; you can stand if you'd like – there is overflow seating available in the back. If you could let people know as they come in in the lobby. And if you didn't sign up to speak – if that sheet moved up here ahead of time – you will be given a chance later to sign up or to get a chance to address everybody.

The other housekeeping thing is it's really important that we keep the window for the television folks open so they can keep directing the show.

So go ahead, Tim.

Mr. DeVries: Okay. So those are the options available to us. There is a deadline that by which we have to have one of those in place, the deadline by which FEMA will begin to monitor which option we have selected and how we are doing in administering that option. And that deadline is September 22nd. Originally it was September 22nd of last

year but because of the confusion and the need for more knowledge and more counsel from NMFS and FEMA, it was extended one year. All 122 floodplain communities in the Puget Sound area have until that date to submit to FEMA for review, receive approval and go through the legislative process. So that's what we're looking for. And if we don't meet it with one option, the default will be door number 3. That's how FEMA will regulate that.

Our approach at Skagit County is to take our existing floodplain ordinance, with some revisions; critical areas ordinance, with some additional revisions; and a couple of other documents, and bundle those together and indicate that with our current regulations and some additional changes that we will be meeting that requirement.

Why not door number 1 or 2 (sic)? The model ordinance is very onerous. It's very restrictive and generally is not being utilized as an option by most of the floodplain communities. The permit-by-permit review similarly is not a very good option unless you have almost no floodplain.

So an example of what this might look like is that you can see in this area here – this is a purple cross-hatched area – that's floodplain. That would be subjected to a little bit closer review than what it may have on an environmental and endangered species basis. The area up here in this other shade – more beige – is out of the floodway but it's in the floodplain. Another example of a map is this area where, again, you can see the cross-hatched purple area. That's the floodway. This is a stream type. The red with the extended purple area is a review area that is part of our proposal under door number 2. And last, this is an area that does not have floodways but it has stream types from the DNR stream type map. And so the purple area, again, is an area of expanded review, similar to the critical areas review. And –

Annie Lohman: Mr. Chair, are we allowed to ask him anything?

Chairman Easton: Let's let him finish and then we'll come back.

Ms. Lohman: Sorry.

Mr. DeVries: So in bringing this through to completion, what does that mean? It means a heightened habitat review for development throughout the floodplain, some areas receiving a higher level of review than others. It means that there are some regulatory requirements that – on development – so that we can ensure that in – especially in close to water sources – that the habitat's being protected. It's important to note that agricultural practices and activities, including livestock management and some other activities, are exempt from the floodplain requirements.

And so that is the completion of my slide show.

Chairman Easton: Thank you, Tim. Stay there for a second, please. Commissioners, I just want to remind you we will deliberate on this issue at another time, so if your

questions are just for clarification for the public, let's have a few – we can take a few brief ones, but we want to get to the public testimony. A question, Commissioner Ehlers?

Carol Ehlers: Tim, you made a strong case when we had the study session that this is for building – that this ordinance restricts *building*, not just living on your property.

Unidentified male voice: Can you use the microphone, please?

Chairman Easton: You need to pull your mic closer.

Mr. DeVries: Okay.

Ms. Ehlers: You stressed that this – because this was an insurance issue on *buildings* that this was a *building* issue. Am I correct?

Mr. DeVries: I don't recall that I made that assertion, but I may have, yes.

Ms. Ehlers: That the activities that are being restricted are those which are building activities, construction activities. Is that correct?

Mr. DeVries: Well, building activities certainly fall within the purview of the floodplain development permit, just like they always have. Grading activities have always fallen under the purview of the floodplain development regulations.

Ms. Ehlers: Because I think it's useful for people to understand precisely what *is* covered. You've said what isn't.

Chairman Easton: Thank you, Commissioner. Commissioner Lohman?

Ms. Lohman: No, not at this time.

Chairman Easton: Any other Commissioners with questions? Thank you, Tim.

At this time I will read the opening statement.

The purpose of this public hearing is to receive testimony and written correspondence regarding the County's proposed changes to the flood damage prevention regulations and the critical areas regulations in order to comply with Federal Emergency Management Agency's – or FEMA's – requirements to protect endangered species and habitat.

There is a sign-up sheet that was in the back of the room for those who would like to testify. An opportunity will be given at the end of the hearing for those that wish to testify but did not sign up. We're asking that you limit your comments to three minutes so that everyone will have a chance

to speak. Special interest groups, associations, or those representing others are encouraged to designate one spokesperson for your group to allow greater participation and cross-representation.

Before you testify – and this is extremely important – clearly state your name, spelling your last name, and give us your address. Your comments are being recorded and televised. Written comments are also being accepted and can be placed in the box located at the staff table near the front of the room, over there by Michele.

Before we begin taking public comments – we’ve already heard from the staff – I thank you for your time and your participation. I’m going to be a little generous with time tonight because we have only a few people who’ve signed up. But we won’t be using the light system; we’ll just be using my sharp eye on the clock.

So at this point we’re going to take testimony from Mr. Schultz. You can go ahead and go first, John.

John Schultz: Here?

Chairman Easton: Yeah. Thank you.

Mr. Schultz: Thank you, members of the Planning Commission. My name is John Schultz. I’m an attorney for Skagit County Dike District 1, Dike District 12, and the Skagit County Dike District Partnership, which is five other dike districts – the majority of the dike districts in the county. My address is 160 Cascade Place in Burlington. I’ve been an attorney for almost thirty years. I’ve represented dike districts for about twenty-four years.

Chairman Easton: And now I get to interrupt you. Can you spell your last name for the record, please?

Mr. Schultz: Yes, I was getting to that later.

Chairman Easton: Thank you.

Mr. Schultz: Schultz, S-h-u-l-t-z, but I’m sure somebody will put a “c” in there.

Chairman Easton: Okay, no “c.” All right, sir, go ahead.

Mr. Schultz: Okay. I’ll try to keep my comments short. Our comments actually are quite detailed and quite complicated, so what I’ve done is I’ve submitted written comments because we’ve gone through several of the revised code provisions and not only discussed some of those but made suggestions for changes.

The County's very fortunate because you've got some leaders in flood control here, one of which is Ken Dahlstedt. And we've gone back to Washington, D.C. several times with Ken Dahlstedt, speaking about some issues they're spinning off from the Biological Opinion.

Now I have my comments and I'll submit those and I hope the individuals look at those. But I wanted to speak to some policy considerations first. The Bi-Op is a big deal. In fact, it's a high water mark for – you know, during the last probably ten, fifteen years of the environmental movement. This is the Biological Opinion and it's over – almost 300 pages. It's extremely complicated. And the state of Washington has the unfortunate position of being at the tip of the spear in this because the FEMA lawsuit – the National Wildlife Federation against FEMA – was a Washington case, and so they went to federal court in Washington. So we're bearing all the impacts of this.

And I don't envy you your task because, if you jump into this Biological Opinion, you've got the tiger by the tail. It's extremely difficult.

We've gone back to Washington, D.C. several times on the vegetation issues and what the Biological Opinion is doing is sending shock waves throughout the United States. These are the new environmental standards, whether you agree with them or disagree with them. They cover – the ripples have spread out and they touch almost everything. They touch FEMA, they touch flood mapping, they touch what we're doing today, they touch counties. They modify tribal issues, they modify stormwater management issues, EPA is involved in it. And from our standpoint, they're critical to dike district and flood control issues, and vegetation issues. And the reason for that is FEMA – the decision in FEMA is pretty simple. The FEMA Flood Insurance Program, since it modifies water, since it deals with water and flooding and floodplain management – because it does that and because it designates certain areas that are available for development, certain areas that are not; certain areas that are covered by flood insurance, certain areas that are not. Because of the impact on the environment, it affects salmon, or at least this is what the biological and environmental groups have determined. The Biological Opinion is the first volley in that. It's an extensive opinion that has determined that flood water and actually the Flood Insurance Program and floodplain management, everything we do – the County does, the dike district does – involving stormwater management, things of that nature, violates the Endangered Species Act because it potentially threatens various species and various fish.

Chairman Easton: I need you to wind up your comments, John.

Mr. Shultz: Okay. Unfortunately, in the Skagit we have five of them – five endangered species. And so what does this do for the dike districts? You can see the repairs that are being done here now. We have been dealing – because we had to consult with the environmental agencies – we've been dealing for four-and-a-half years to get those repairs done. There were damages in 2006. We weren't able to complete those. Actually the Army Corps of Engineers came in and put in – they installed 14,000 trees when there were 384 lost.

So after we had to consult – this was about two years later – in 2008, we consulted with the environmental agencies, so we went through four years of negotiation with the Army Corps and with the agencies. And what you see out here is the result of that. When we started the process in 2006, our repairs would have cost a million dollars. Now they cost almost nine million. And you'll see the development of fish benches and all the environmental habitat enhancements. They will be putting trees in the river, which will be, you know, chained to various rocks in the river.

So there's a lot of environmental enhancement that's going on. It's taken since about four years. And I'm sure you've read some of the articles in the paper about we were worried that the levees couldn't get finished or repaired. Well, that was because we went through the consultation. And I'm telling you, there are many Commissioners who had many sleepless nights knowing that those repairs had to be done, but we couldn't because of the environmental negotiations.

Chairman Easton: We appreciate your testimony, but you've definitely exceeded or even – even the lawyer grace that I gave you!

Mr. Shultz: Can I have thirty seconds?

Chairman Easton: You can have *my* version of thirty seconds. Go ahead.

Mr. Shultz: I have two – I have, no, five dike districts.

Chairman Easton: I understand. Go ahead.

Mr. Shultz: So I guess the message here would be that we felt the brunt of this. You, as a community, are going to feel the brunt of it. You're entitled to know what's going on and some of the problems associated with this. And I hope that the Planning Commission works extra hard on this to review some of these issues. These are really important issues that we're going to live with for the next probably hundred years. Things are going to get harder, not easier, when it comes – in terms of development, flood control, things of that nature.

So we have our comments. I hope you look at this.

Chairman Easton: Thank you. We will. We appreciate that. The person that signed up to speak is – is it Mr. Lipscomb?

Brian Lipscomb: Yes.

Mr. Lipscomb: I'm Brian Lipscomb, 27 – L-i-p-s-c-o-m-b – 27765 West Gilligan Creek, Sedro-Woolley. I have probably 3,000 feet of riverfront on the Skagit River on the West Gilligan Creek area, and I'm also in an area that's considered a floodway. The disturbing part about this floodway is Mr. Dahlstedt I think at one time asked Mr.

DeVries, How do we determine the floodway in Skagit County? And he said, We don't just draw a line, do we? Well, in fact, that's exactly what we did.

If you look at the flood insurance study that was done in 1981, page 31, it says in June of 1981 Skagit County officials requested widening the floodway boundaries in some regions – I'll cut to it: Therefore, the floodway was not generated using HEC-2 methodology. It was – I'm sorry. Data is shown until the – before it pertained only to the political floodway boundaries.

So we have a property that is above base flood elevation, has a Skagit County-built levee, and yet we are considered a floodway. We cannot change the pitch of a roof, we can't – I mean, it is amazing the stuff we've been through. We've spent over \$10,000 – legal fees, engineering – for basically trying to rebuild, you know, a property that's never been flooded. It is so disturbing to see all the flood – all the efforts in Skagit County in people actually stopping water, yet they can build. Yet we sit in an area that is completely dry and always is. And, you know, we cannot get a permit and it's just – it's amazing.

So I'm actually am very concerned that we don't look at the existing site conditions. This was a dairy farm built in the early 1900s. There is no native things on there whatsoever. There's some stuff like that. Yet when I go to do a protective critical area for this property, you know, I have to plant things now. I cannot have a hobby farm. Our daughters can't have their pony because that would be considered livestock. I mean, it's just – the burdens of something so – what you'd think would be simple are amazing to me.

And so when we expand our buffers – we have a 200-foot buffer now. We're going to expand that to 250 feet, right? Well, when we expand these buffers the returns are diminishing. The 350 feet means a lot, but when you get to 200 feet the extra 50 feet is not nearly as important as the first 50 feet. So to increase this is – it's making somebody happy.

In addition to that, it's not a 200-foot buffer. It's a 400-foot buffer because if you have a critical habitat area there you now have to have a protected critical area if you're within 200 feet of that, so you really already have a 400-foot buffer in your areas.

Another very disturbing thing is if there's a public road the critical area is not on the other side of that road, as if the birds and the species and all that know not to cross the road. A very similar case to this is if there's a dike. If it's a Corps of Engineers dike on the landward side of that, there are no critical areas. I mean, yet if you're upriver – and most of this is a burden on people upriver, not down in the valleys where they've already been, you know, I mean – I guess diked up already. But it seems to me *that's* where you would get the return. There's certainly more bugs and insects floating upriver than in Mount Vernon. But if maybe you were to put more trees along the dike in Mount Vernon you would have the more insects and stuff that all feed things.

One thing that's really concerning is we have a model ordinance that Tim kind of reviewed, kind of see, you know, how things will fit. What do we have for the citizens? Where's our – let's give things to the fish and wildlife habitat conservation area. Where's the model of that that we could use and say for a single-family residence, here is what would work? For an accessory building, here is what would work. So I just don't see it, and it would be so beneficial. I mean, the burden that you're actually putting on Planning and Development Services – or that they're putting upon themselves – to have to review all these different areas is going to be tremendous.

And there are so many nuances. I mean, everybody's an expert. In fact – and lawyers are experts, right? But look how well they argue amongst each other. Look how well these, you know, other experts are going to argue. I mean, we all have doctors: They're all experts, right? But when we don't like one opinion, we go to another. I mean, so I'm not so sure where the experts are. And we talk best available science and we say, But if it's behind the Corps of Engineers, you know, that it doesn't do that. I'd like to see the biological science behind that.

Chairman Easton: I need you to wrap up your comments, sir.

Mr. Lipscomb: So the bottom line is I've learned some new words here. "Frequently": That's once every hundred years, right? They are frequently flooded – that's 1%. If I were to use that same analogy, I went to church once every two years I would frequently attend church.

Somebody wants a "*substantia*" – substantial development. To me, that's Bayview Ridge is a substantial development. To the Building Department, that's 200 square foot or more.

So I think, Carol, you mentioned, you know, would this have anything to do with agriculture. What about an accessory building on an agricultural area? You would not be able to build it. So, I mean, if you really get into some of these definitions it's a – so, thank you for your time.

Chairman Easton: Thank you, sir.

(applause)

Chairman Easton: Mr. Sorensen signed in but he chooses – decided not to speak. Is that right?

Carl Sorensen: Correct.

Chairman Easton: Okay. Great. Mr. Good?

Randy Good: Randy Good, 25 – G-o-o-d – 25512 Minkler Road, Sedro-Woolley. In my letter I addressed concerns on the public process dealing with this notification – lack of.

I addressed concerns on the private property takings. The *Dolan v. Tigard* 1994 United States Supreme Court case needs to be considered here. The nexus has not been established.

This proposal prohibits expansion of my barn facilities beyond 10% of the existing footprint. To add 15 feet will require a full-scale, professional biological habitat and floodway analysis that assesses the project impacts and making a defensible determination regarding risk to salmon and whales. This will have to be approved by the United States Fish and Wildlife. (It) will require me to get a consultant, attorney, and two- to three-year wait to get permits approved. Cost: \$20 to 30,000 or more, making new agricultural buildings and additions cost-prohibitive.

National Marines Fisheries Service failed to use true field science in forming this BiOp. The BiOp relied on political junk science from the Swinomish Tribe and others. Field-tested science shows this proposal will *not* protect floodplain habitat, as intended goals claim. It's hard to believe language in this proposal allows recreational facilities that can remove native vegetation next to the creeks.

It will be up to Skagit County to submit rules and regulations and to provide true, sound science to satisfy the floodplain habitat requirements. Skagit County already has a Washington State Supreme Court-ruled, peer-reviewed best available science protecting critical habitat areas, showing what Skagit County already has is adequately protecting our critical areas. Skagit County can demonstrate the CAO science record is more applicable to the site-specific problems in the floodplain, and use the CAO record as a checklist for the entire floodplain area. No need for more new regulations.

I will submit an eleven-page legal opinion from Gordon and Derr, attorneys, on the BiOp model, which addresses regulatory takings with no benefit to species, with the County held responsible for the takings. This also explains how these regulations and restrictions are going to have an adverse effect on the intended habitat and how property owners will face huge financial burdens.

Skagit County Planning needs to slow down and notify affected property owners, like staff did on the pipeline safety deal, and completely analyze and understand the consequences of this far-reaching proposed ordinance, questions such as: How can properties completely disconnected from habitat areas have impact on fish? And is Skagit County going to be reliable and willing to compensate for this private property takings?

I actually encourage consideration to drop the FEMA coverage and consider private insurance companies for flood insurance. It would prevent another layer of bureaucracy, Skagit County takings, ridiculous regulations and restrictions, and a financial disaster to landowners and to Skagit County government itself.

Thank you.

Chairman Easton: Thank you, Mr. Good.

(applause)

Chairman Easton: Thank you, Randy. Is there anyone else who would wish to testify on *this* – I just want to remind you we’re just talking about *this* issue – at this time? Raise your hand, please. Marianne?

Marianne Manville-Ailles: I’m Marianne Manville-Ailles, M-a-n-v-i-l-l-e, hyphen, A-i-l-l-e-s. My address is 826 East Orange Avenue, in Burlington. And tonight I would like to just talk a little bit about – in the last couple weeks since I – since you guys had your last meeting, which I watched on the Internet and I thought was real interesting, I have become much more of an expert on this subject than I ever would have liked to have been.

The first time I had heard about this was at – this subject, the Biological Opinion – that FEMA and NMFS came to one of the planning forums – the quarterly planning forums that are held in our area – and spoke to us on this subject. And at that time – it was shortly – it was in early 2009, shortly after the opinion had come out. And when they presented the information to the planning group the planners were amazed and – shocked and amazed – at what they were hearing was going to come out. And one of the planners I was sitting next to leaned over to me and said, “You *know* when the hippie planners from Bellingham are upset about it this is gonna be bad.”

In the time since then FEMA has – and they went – they did travel – FEMA and NMFS – did travel around the state to the different planning forums, and I do think that they did take the input that they got from the public agencies into account, and there has been considerable movement from where they first started on this subject. And, in fact, that’s what my biggest concern is right now. This is a moving target right now. The – I’m going to submit a letter from Gordon and Derr – and it may be the same one that Randy submitted, but it may be a different one; I’m not sure – and it was sent to the jurisdictions in Skagit County to say, “The sky is not falling. There still is movement that is happening on this, this subject. Door number 3 is not as horrible and awful as we have all been led to believe, that, in fact, when we first heard about it we were told” – and I saw on the slide that Tim had put up that the door number 3 would result in consultation on all projects. And we were first told at the planners forum that that meant that every fence that was built, every unregulated shed that we have in every jurisdiction was going to have to go through a consultation.

Well, that is not the case now. And I mean I spoke with John Graves, who is the FEMA person for this area, on Monday – or last – no, Monday; I spoke to him yesterday – about this subject and he was very emphatic that door number 3 does not automatically mean a consultation on every single development activity. In fact, if it doesn’t trigger a consultation for some other reason – and there are a whole litany of reasons why you might have a consultation; for example, if you’re getting federal funds or any number of those things, and there’re some permits that require it – that the local jurisdictions would

be allowed to be able to review the habitat assessments and determine that there is no adverse – likely adverse – effect to the species, and that they would make that determination based on the checklist that FEMA has come up with and that that would go into the file. Then when John comes to do his little – his visits, he would look at those and, if there were questions, he would look at the habitat assessment and that that would be adequate.

So door number 3 is not as – as not viable as we have been hearing.

Chairman Easton: I need you to go ahead and finish.

Ms. Manville-Ailles: Yeah, my primary concern about this, about the ordinance that we've got, is there is a huge, a huge, huge lack of understanding about exactly what this is going to look like. And it is very confusing and there is – this discussion about this review area? The review area in one place it's talked about – in the critical areas, it's they – you know, they extended it an extra 50 feet for the habitat assessment, but if you look in the siting criteria the siting criteria says, You can't build in that area. So you – I mean, I don't understand how you could be required to do a habitat assessment, and if you came up to – if you came to the conclusion that there was no adverse impacts that you still couldn't build there because the siting criteria says you can't build there. And not only can't you not build there you can't build within another 15 feet of it.

So I think that we need to take a giant step backward and take a deep breath. We need to – we need to talk to the people who are talking with FEMA. We need to spend the time. Mount Vernon, when they adopted their – when they got their stuff approved, they – contrary to what the *Skagit Valley Herald* said – they did not change any of their regulations. And they were successful in doing that. I've heard that they were – people have said that Mount Vernon would not have been able to have gotten their stuff approved today because it flew in under the radar. Well, when I was speaking to Jana –

Chairman Easton: I need you to finish.

Ms. Manville-Ailles: – last week – this is the last thing I'm going to say. When I was speaking to Jana last week, she spoke with John Graves and John Graves said, That is absolutely not true; Mount Vernon met the test.

So I would really encourage you guys to be – an abundance of caution in stepping forward and adopting something that is going to have tremendously dramatic effects for us that likely, once we adopt, cannot be undone.

Chairman Easton: Okay. Thank you.

Ms. Manville-Ailles: So – thanks.

Chairman Easton: Question for clarification? Commissioner Ehlers?

Ms. Ehlers: Would John Graves put all that in writing?

Ms. Manville-Ailles: I don't know. You would have to ask him to with that. I can tell you Mount Vernon said, You have to get him in a room and just keep him there until you get all of your questions answered and –

(laughter)

Chairman Easton: That's interesting. All right, thanks for the clarification.

Ms. Ehlers: Well, that's a good technique!

(applause)

Chairman Easton: Is there anyone else who wishes to speak? Mr. Cracken? I think I said that right. I didn't. I'm letting it go.

Pat Macken: Pat Macken.

Chairman Easton: Thanks, Pat.

Mr. Macken: M-a-c-k-e-n, 23678 Post Street. I –

Chairman Easton: Sedro?

Mr. Macken: Clear Lake.

Chairman Easton: Clear Lake. Okay.

Mr. Macken: I only really got a chance to read this thing tonight, but there's a couple things I see that actually look like they could be counterproductive to this – to the end goal – is among the things you have to go through all the regulations for are septic systems. Well, that would be fine if we were talking about *new* septic systems. It doesn't give any exemption for repairs and replacements of failed systems. That's already an issue we're dealing with.

It also goes a little excessive on, you know, improving an existing building for the number of regulations you have to deal with – sheds and, you know, if you're trying to put another room on your house or anything like that, because that counts as new construction that actually impacts our tax base. So – and yet you're talking about something that effectively is going to have little to no impact on protecting any species.

So you need to look at that because if you're wanting to get people to fix failed septic systems or septic systems in need of repair to repair them, if we add another pile of regulations or permitting processes or extra expense on that you're not going to get people to do it when you raise the cost of doing it and make it harder to do it.

That's pretty much the concern I had with what I saw tonight.

Chairman Easton: Thank you, sir. I believe there's another gentleman there.

(applause)

Ed Stauffer: Ed Stauffer, S-t-a-u-f-f-e-r, Box 114, Bow. Is it appropriate for me to address a question to Mr. DeVries?

Chairman Easton: The purpose of the public hearing is to testify. If you have a question that you want to ask in your testimony I'll allow it, yeah.

Mr. Stauffer: I'll just make a general comment then, not wanting to be inappropriate.

Chairman Easton: I said you could ask.

Mr. Stauffer: I'm not conversant with this issue, but I am concerned about the statements about lack of public participation in the process once again. But, specifically, if I heard Mr. DeVries correctly, the payoff for going through any of these three doors is a reduction in insurance rates for some people for flood insurance. I think we need to balance that against the cost of making a bigger barn.

Chairman Easton: Thank you, Mr. Stauffer.

(applause)

Chairman Easton: Tim, you don't need to clarify anything there, do you?

Mr. DeVries: No.

Chairman Easton: Okay. Is there anyone else who wants to testify during the public hearing?

Ms. Ehlers: Can we extend the comment period?

Chairman Easton: You're already ahead of me _____. It's come to my attention and my concern that the Planning – currently the written comment period expired at 3 p.m. earlier today, except for those who hand in comments tonight. As it's been our practice in the past, if by consensus we feel comfortable with extending the period, I would suggest that the Commission consider a one week extension till 4:30 on Tuesday, the 26th.

Ms. Ehlers: So moved.

Chairman Easton: Any objections?

(silence)

Chairman Easton: Okay. By consensus, then, the written comment period has been extended. That means you can comment additionally or revise your comments. You can go home and watch this on tape. It'll be available on Skagit 21 and on the website, so if you want to review what was said. There's also an additional session that might be helpful for you to watch. It was on June 28th. That's available online. It was June 28th, right?

Ms. Lohman: Mm-hmm.

Chairman Easton: Yeah. So you can watch that on June 28th to understand the topic some more. You'll hear some presentations from staff. And this is currently scheduled for deliberations on what date? Anyone?

Gary Christensen: I think August 2nd.

Chairman Easton: Okay, so we're currently scheduled at our regular – that'd be our regular meeting on August 2nd to deliberate on this issue. We'll have a – your comments will be supplied to us prior to our deliberations. And we thank you for your time.

I'm going to go ahead – I guess I'm not. Yes?

Ms. Ehlers: I have something I'd like to bring to people's attention. There was a legal notice in the paper on July 15th, in the *Skagit Valley Herald*. FERC is announcing that there is a pilot project – title project – for two turbines to produce electric power to be installed in Admiralty Inlet. These are prototypes for the ones which the Snohomish County PUD intended as of 2009 –

Chairman Easton: Commissioner, I believe that this is out of order. As Chairman, I rule these comments out of order for the public hearing. You can readdress these during general comments at the end of the meeting. Thank you.

Ms. Ehlers: Okay. Just look at the paper.

Chairman Easton: At this time the public hearing is now closed (gavel). We will stay in recess for five minutes. We will re-adjourn at ten minutes to seven to begin the deliberations on Pipeline Safety and the potential recall of witnesses. Thank you.

(recess)

Chairman Easton: Good evening and welcome back to the Skagit County Planning Commission meeting. I'm Jason Easton. I'm the Chair. I call this meeting to order (gavel). The remainder of our agenda is to deal with Pipeline Safety deliberations,

which may include recalling of witnesses. And in addition to that, we may have some general business for the good of the Commission following that.

At this time both of the lead staff members for the Department are not with me, so I'll improvise. We had a public hearing on June 7th, a well-attended public hearing. This sort of is a review for those that are watching at home. About thirty people testified. We have received over 131 pages of public comment before the public comment period expired, which we extended actually twice at that meeting, so it actually ran until the 26th of June – or 24th of June. We have had those materials for quite a while and reviewed them. The Department has responded to the public's concerns and they will address us here shortly about that.

At this point I was supposed to hand this off to someone who's not in the room, so we're going to go standby, Brian, until Gary and Kirk come back because I can't move forward until then. Oh, you *are* here. I'm sorry, Kirk. So you're ready – are we ready to start without Gary?

Kirk Johnson: Sure.

Chairman Easton: Okay.

Mr. Johnson: I don't know –

Chairman Easton: You need to go to a mic, but – so at this time the Department would wish to address the public and the Commission concerning their process to date and the revised version that was supplied to the public and to you all. Mr. Johnson.

Mr. Johnson: Okay. My name is Kirk Johnson. I'm a Senior Planner with Planning and Development Services, and it's good to be back before you.

So the proposal that's before you tonight that you're scheduled to deliberate on is the original Pipeline Safety proposal that was released for public comment on May 20th. And as you mentioned, Mr. Chairman, that proposal has been the subject of a public comment period that ran from May 20th to June 24th, which included the extension that the Planning Commission called for.

On July 6th the Planning and Development Services Department announced it was developing a revised draft for the Planning Commission's consideration that would respond to a number of the public comments that came in, including addressing some of the more controversial provisions of the original proposal. And that revised draft was provided to you by e-mail and mail on July 13th.

The revised draft is intended to *help* you with your deliberations. It doesn't *replace* the original proposal. It illustrates how the public comments *could* be potentially addressed and incorporated into the original proposal, so it's there for your consideration. It's not a new proposal before you.

There have been some questions why we're not holding an additional public hearing on the revised draft, and that's, again, because it doesn't replace the original proposal; it's actually a scaled down version of what was originally put out for public review and comment. So it falls within the range of options. The original proposal had this many provisions. It's narrower and more focused, so it falls within the range of options that the public has already commented on. Again, it scales back the number of the original proposals and, therefore, a new public comment period is not required. So in the original proposal, for instance, there were foot ranges put in and other things and so this is a scaling back of that original.

So the Planning Commission has several options tonight. You can recommend to the Board of County Commissioners that the Board adopt the original proposal, with or without modifications. You can recommend that the Board modify the original proposal to make it more consistent with the revised draft or otherwise, as you see fit. You can recommend that the Board not adopt any proposal at this time. And, additionally, if you think there should be additional public comment on the matter before anything is adopted, you can also make that recommendation to the County Commissioners.

And Ryan is here to talk about what your options are in greater detail when I'm done with the introduction.

So as you all know, there has been a great deal of public comment on the original proposal. Particular concerns were expressed about the proposed setbacks and limitations on new land divisions within certain distances of pipelines. The public comments range from support to opposition for setbacks for what are called "high consequence land uses," such as schools, hospitals and multifamily housing. And generally there was support for the creation of a consultation zone and procedures to encourage increased interaction between landowners who are seeking to do something with their property and pipeline companies when development is first proposed.

Also there were a number of comments about the planning process itself and the federal grant that's been supporting that.

So I'm going to talk just briefly about the revised draft which, again, is a scaled back version of what was originally put out. It proposes removing or reducing several of the most controversial provisions from the original proposal. It would align more closely with Whatcom County's adopted Pipeline Safety Code, as several of the public comments suggested and recommended.

Some of the significantly proposed changes in the revised draft:

- It would reduce the sensitive utility corridor from 660 feet to 500 feet, which is consistent with Whatcom County's code.

- It would delete the proposed setbacks from the sensitive utility corridor for new structures, land disturbances and land divisions that create new building envelopes.
- It would reduce the setback for new high consequence land uses from 660 feet to 500 feet, which would be consistent with Whatcom County's ordinance.
- It would replace the requirement to implement certain risk mitigation techniques for high consequence land uses and land divisions with the requirement that the applicant submit a statement that they have considered risk mitigation techniques.
- And it would revise and clarify the language regarding the review of development applications by pipeline companies.

So just a few more comments. Over the past several weeks you've been provided with a wide range of materials including:

- All public correspondence submitted to the Department on the original proposal during the advertised public comment period, including the extension that you called for;
- Adopted ordinances from Whatcom County and Redmond, Washington, and the initial ordinance that was considered by Whatcom County before they adopted what's currently on the books;
- Model ordinances from the Municipal Research Services Corporation;
- Excerpts from the Pipelines and Informed Planning Alliance Report; and also
- Relevant state and federal regulations.

So, again, to review your options:

- You can recommend to the Board of County Commissioners that they adopt the original proposal;
- That they modify the original proposal;
- You could recommend that it be more consistent with the revised draft that the Department issued;
- Not adopt any proposal at this time;
- And, again, if you think there should be additional public comment before anything is adopted, you can recommend that to the Board of County Commissioners.

As I said, Gary Christensen is here, and Ryan Walters and Carly Ruacho for specific questions you have about the original proposal or the revised draft. And Ryan can respond to questions about the Planning Commission's procedural options. And I just want to thank you for your attention on this matter.

Chairman Easton: Thank you, Kirk. There's a number of issues that, as the Chair, I'm going to address for the next few minutes and then we will kind of then start to fall into a regular pattern of dealing with deliberations. Do you need another one?

Ms. Ehlers: Is this different from the copies we've already got?

Chairman Easton: I don't know. It was sent – I don't know. I'll address it. I will address it.

Ms. Ehlers: I've gotten five copies of a number of these things.

Chairman Easton: I understand. We're trying to be thorough. All right. Let me address a couple of questions off the top. One, it has been our practice in the past that we can recall folks to testify – and I've mentioned that a few times tonight – for those that had spoken – who had spoken at the public hearing previously, but those were for only those who spoke orally.

I want to address this question to Mr. Walters: I've been asked whether people who wrote – who addressed their comments only in writing if they can be recalled as witnesses.

Ryan Walters: I don't really see any reason why not.

Chairman Easton: Okay. Seeing that there's no reason not, if you choose to during and as we move through deliberations to do that you can.

I have a – about that particular issue, or do you want to recall someone?

Mary McGoffin: Go ahead.

Chairman Easton: We're a ways away from that.

Ms. McGoffin: Okay.

Chairman Easton: This situation has not occurred since I've been Chair, and so it put me in a situation where I had to make some difficult decisions. One of those decisions that I'm now explaining to the public is that on or about the 26th or 27th of June I started receiving e-mails from members of the public accusing the Department of misusing funds – the grant funds; accusing the Department of not following through on the intent of the grant; and accusing the Department of not responding to public disclosure requests.

After a great deal of thought and – those were only being sent to me, to my knowledge, and not to the rest of the Commission. We had not – as far as I know – had ever experienced that sort of situation where those kinds of charges were brought while on our – what I would consider our watch, because we were after the point when the Commissioners had handed this responsibility over to us.

After consulting with the County's legal counsel, particularly Civil Deputy Honea, I was informed that I had the right to distribute those to the rest of the Commission. There had been some confusion about whether I could do that so I waited. About a week-and-a-half-ago I sent all of those related e-mails to the rest of my Commissioners so that I wasn't the only one aware of this situation. By distributing these and now mentioning them is by no means a judgment in my opinion or from me about whether they're valid or not. That's not my responsibility and it's never been in my job description or any of the rest of our job descriptions to do that, but it is a unique situation and I felt compelled that the right thing to do was to let the rest of the Commission be aware of that.

So you have either in writing or in person received a number of documents, and one of those documents is a document that you may have received – I didn't e-mail the – I realized today that I forgot to e-mail what was sent to me called a "summary document," which is what I just passed to you. It is in the same nature as the documents that you have received before and some of it may be repeated information. I apologize. I don't have anything out for trees. I'm just trying to make sure we're being very fair and complete.

We have a number of concerns that have been brought to our attention that we've never dealt with before. I have been told by legal counsel that it's not responsible for us to discuss or for us to investigate whether the Department has actually spent the grant funds appropriately or whether they actually followed through on the intent of the grant. I disagree with the Department. I disagree with the Legal Department, and I'm publicly making that statement right now. The public deserves to understand these charges have been made. We have asked, I have asked multiple times for a response from the Commissioners concerning what they intend to do to investigate what was being – what's been accused. I believe that that issue clouds or confuses my judgment about whether we should move forward. It brings up an interesting –

(applause)

Chairman Easton: It brings us to an interesting situation where we now have the responsibility to consider a number of options. But it's part of what's weighing on me about whether we take – what steps we take next.

So, with that being said, you've all been aware of this now for at least a week-and-a-half. You've had a chance to consider those concerns. I want to limit our conversation right now to just this topic. We will break – I promise you we will move into other parts about what we can do tonight and whether we want to start deliberating in a regular fashion, but I also feel, as the Chair, it's important that I give you all an opportunity – not just my comments – about this issue. But if you want to – you don't have to, but if you choose to comment right now about the actual issues of the charges that have been laid, please go ahead and make your comments now.

Anyone?

Ms. Ehlers: There are a number of different charges, some of which are not in our purview. How the money is spent, what the financial arrangements are between the Budget Director and the departments is not at all in our purview. We have no knowledge of how things actually are done.

Unidentified male voice in the audience: Would you use your microphone, please?
Thank you.

Ms. Ehlers: Sure. The second thing is I wish more people in this world had watched the Iran-Contra – the hearings during Reagan when Oliver North got caught with e-mails. It's – there are things that you discuss in the e-mails and there are things you do not, and that's another issue which is really none of our business except to comment. You all know I'm not on the e-mail and that's part of it.

Chairman Easton: For clarification, Carol received everything the rest of the Commissioners received. She has received hers in print.

Ms. Ehlers: That's so I can put my finger in one hunk and my other finger in another hunk and see the difference.

Ms. McGoffin: All right.

Ms. Ehlers: The grant itself is very clear. It says in nine different places – I've marked them the way I usually mark things, with post-its and highlighted and the rest of it – that the purpose of the grant is to develop land use regulations regarding pipelines. Let me quote it specifically. "Development of regulations pertaining to transmission pipeline safety." When in a grant application with the two approving letters, it says nine times what the purpose of the grant is, I think that's the purpose of the grant. The desire of people to have an education program, which is another thing that's raised, is very sensible. It's something you can all do on your own, the way the Guemes Islanders did. It's something you could add later to the Alger Subarea Plan, because it's that group that's interested. So there is a positive way for you to get out of that.

Chairman Easton: Okay.

Ms. Ehlers: And those are the things which I thought I had a responsibility to look at and address.

Chairman Easton: Okay. Commissioner McGoffin, and then we'll go to Commissioner Lohman.

Ms. McGoffin: Chair, my concern is that this is a voluntary thing that we're doing. You asked for the grant money and we are trying to improve our regulations on it. So it's not like the thing we just had before – the FEMA issue – which is mandated: We have to do something. So in my view, we should take all the time we need to get this ordinance right.

(applause)

Ms. McGoffin: If it means that we have to ask for an extension, then I would prefer to do that and flesh out the rest of these ideas. There's a lot of things about that ordinance that I don't like.

Chairman Easton: Okay, we'll _____.

Ms. McGoffin: So I don't want to deliberate the ordinance per se. I'm just saying we should take the time to get it right. I don't feel like we're going to get it right without doing more deliberation and hearing a little bit more here. So we have time, even if it means we forfeit the grant. I'd rather give up the 50 grand and get it right.

(applause)

Chairman Easton: I'm going to ask you to refrain from applause. We have a lot to cover tonight. So I'm sure that that may be disregarded, but at least I'm on the record asking you not to. Does any – Commissioners, please – trust me. We *will* go into the details about discussing what our options are and how we want to proceed with deliberations. Does anybody want to speak to the issues of the e-mails and the charges and challenges? Does anyone have – that feels like they need to go on the – I mean, I feel I had to go on the record. That was my personal call. I'm not requiring anybody else to. I just want to give that opportunity. Annie?

Ms. Lohman: I guess I'm concerned about public perception of Skagit County government. It gives us a very big black eye. And we're up here as a citizens volunteer commission. It gives *us* a black eye because the public doesn't understand necessarily all the nuances of our relationship with the Planning Department or our relationship with the County Commissioners. And that really disturbs me, because part of the reason that a lot of us volunteered to serve up here is because we care about this county. And when we betray the public trust I think that's very – that's a very big sin, and I take it pretty strongly. And I consider myself an honorable person.

That being said, I think that – I did read the grant application and multiple times in it it talks about going out of our way to have public involvement. And yet actual public involvement was a postcard that got mailed to a small percentage of the county. Isn't there over 110,000 people in the county collectively? And it says it was mailed to 3200. That's a very small percentage when you want to, you know, put a percentage on it. And that invited people to a meeting that the postcard in two different places said – if you give me a moment to pull it up; I'm nervous about talking in public – it mentioned, We want to hear from you, and this is your opportunity to speak, and it's on both sides of that postcard. That, to me, suggests public interaction and yet I'm told that that didn't happen at the meeting. And that was – other than our so-called work session – that was *it* for a public process. And yet the grant mentions a public process multiple times.

I feel that the train is off the tracks on this process for this, and it puts a pall on every bit of the whole process.

(applause)

Chairman Easton: All right, any other Commissioners want to comment about – under this context? All right, seeing none we'll move on. So here's a couple of things that I think, in trying to evaluate how to proceed with this. I've decided that I think it's best to consider some of our options before we go into detailed deliberations. If the majority of the Commission – which, in this case, to actually have a recommendation we have to have five of us vote in favor. For us to deliberate first and then at the end we could end up with five votes that say we should have another public hearing, then we would have just spent our time doing that before that's sort of been settled. So if it's all right with you, unless there's some objection, I'd like to open the floor for conversation about what kind of action do you want to take as a Commissioner. I'd like to hear from each Commissioner. And basically our options are: Do you want to discuss and actually deliberate? Do you want to recommend some sort of additional public – or some additional public comment period and/or public hearing? Elinor?

Elinor Nakis: I would like to scrap the current proposal altogether and start again with a community-type forum and have community be more of a part of the process.

Chairman Easton: So you would prefer that we not move forward on deliberating on this particular – these – particular proposal and modified proposal in front of us?

Ms. Nakis: That's right.

Chairman Easton: Okay. Annie?

Ms. Lohman: Well, I concur with what Elinor says. I second that.

Chairman Easton: Matt.

Matt Mahaffie: I understand the public input part of it; however –

Unidentified female voice: Could you use the mic, please?

Mr. Mahaffie: Sorry. The modified proposal seems to have taken a lot of – if not all – of the public comment kind of to heart.

(murmuring from the audience)

Chairman Easton: Please, please come on. Let's (gavel) – we need a little decorum, please. Matt, go ahead.

Mr. Mahaffie: I'm sorry. I'm not necessarily agreeing with 100% of it, but to me it's a place to start on deliberations.

Chairman Easton: Okay, so your preference would then (be) for us to go ahead and move into deliberations tonight?

Mr. Mahaffie: Whether – yeah – whether anything comes of it, it might help us down the road – if it does go nowhere – at least have a few more ideas.

Chairman Easton: Carol?

Ms. Ehlers: Well, I did a lot of homework in addition, as I do, and I think we need more homework on this. I suggest you all get your hands either on this atlas, the Utilities and Transportation Commission Atlas produced in 2005. It's detailed. It's for Skagit County only. You can find it in your fire department; that's where I bumped into it. I'd never heard of it. And that, I think, is a lack in our education.

Chairman Easton: Is it your preference to continue to deliberate in our normal fashion tonight or to, as two Commissioners now suggested, drastically modify the schedule, you know, and –

Ms. Ehlers: I'd like to drastically modify the schedule because I found it crucial to look at the Utility Commission maps, which you can find online at utc.wa.gov, and then you look up "safety" and then you look up "pipeline" and then you look up "Skagit." And you'll see things that are eye openers in terms of some pipelines make a huge effort to be safe and be isolate and have no development at all near them, and others – well, the others are other. And you'll see what I mean when you look at it. It's an eye opener. It's been an education. I am more pro-pipeline than I've ever been in my life for those who want to protect the integrity of the pipeline. But you don't find it in any of this stuff.

The second thing I did was to go online and find the WACs that govern things like proximity and the regulations for pipelines. And once you see – particularly for the high density – once you see that a pipeline *cannot* do a number of things – and this was in the *Herald* in 2000, so I'm not telling anything – a pipeline cannot do what Olympic did and put the pipeline next to the Conway School. That's no longer permitted. So it should not – the obverse should also not be permitted.

Chairman Easton: So if I understand you correctly –

Ms. Ehlers: And so I want more information.

Chairman Easton: I'm just taking a poll right now. I'm just taking a poll. Okay, and I understand you want more information and you want a delay.

Ms. Ehlers: Yeah.

Chairman Easton: You want us to just go into a discussion about delay. Mr. Hughes?

Ms. Ehlers: I want us to know what we're doing.

Chairman Easton: On to Mr. Hughes.

Dave Hughes: Well, I guess I was – in my deliberations tonight, I was – if I was going to vote for anything on this it would have been some sort of dialogue as far as a consultation zone, and then the rest of it I would have scrapped just because I – I think that's what I heard a couple weeks ago. I think that, you know, if the County's interested – if someone wants to develop within so many feet of the pipeline then, yeah, let the County notify the pipeline company and if they want to comment then that's fine; otherwise, move on. But, you know, we've been living by these things for quite a while now and I – it's just too much – I mean, I'm more – I can walk across the street and get hurt more than what's happened along pipelines.

(applause)

Mr. Hughes: And I could vote for –

Chairman Easton: Okay.

Mr. Hughes: – vote for it tonight under that and get rid of the rest. Otherwise, if that deems another public hearing then – I've been doing this for twenty-six years. What's another –

Chairman Easton: What's another meeting?

Mr. Hughes: What's another meeting?

Chairman Easton: Mary.

Ms. McGoffin: Since there isn't an urgency, I feel the public has not been served well. They've kind of been – they have more to say, obviously. So I would say we should have another public hearing. To me the problem with a workshop or a community forum is there's no order. And I want to hear people individually, so I would say I think we should have one more public hearing and flesh out all the details, concerns and then we'll deliberate.

Chairman Easton: Josh?

Josh Axthelm: The pipeline is a private – is a private line, and I believe that the County has taken – you've taken too much consideration of a private – of the private party and not enough of the landowner and of the taxpayer.

(applause)

Mr. Axthelm: And I think the most important thing that you need to protect is the taxpayer and the landowner. Those are the ones that own the land. Those are the ones that pay taxes, and not the special interest group. And I believe that the public needs to be considered more. And so I vote for –

Chairman Easton: All right, so we're hearing that a majority –

Mr. Axthelm: ___.

Chairman Easton: – a majority of you in some fashion want to extend or hold another public hearing. Anticipating that that might be the choice of some of you on the Commission, I sought legal counsel yesterday with Ryan Walters and the Director about whether we have the authority to call –

Ms. Lohman: Point of order.

Chairman Easton: Yes?

Ms. Lohman: I don't believe that's what –

Chairman Easton: I'm sorry. Go ahead and help me then.

Ms. Nakis: No, I did not suggest another public hearing – more of just scrap the current proposal and start with an advisory committee and go from there.

Chairman Easton: Okay, we had – okay, thanks for clarifying that. So then that's where you're at also, Annie? Josh and Mary and Carol used the phrase “public hearing” – “additional public hearing” – right? I'm not going to make it – we're not going to do this by consensus. Let me clarify that. I've got to figure out what it is we're allowed to do and there're some things that are up in the air right now, so once I figure that out between me and the attorney and the Director then we'll have a better idea what our options are.

Hearing the conversation as far as it's gone, Ryan, and in addition to the question I asked you yesterday about whether we have the right to call our own additional public hearing so that – one potential idea is that we – that would be considered – would be that we not deliberate on these tonight, that we not take action on that – what's in front of us – we extend our deliberations and we call for an additional public hearing. Is that something we have the ability to do?

Mr. Walters: So I looked at the code and I would say that the code is very not clear on this point.

Chairman Easton: Did you say “very not clear”?

Mr. Walters: Yeah.

Chairman Easton: Okay.

Mr. Walters: There are several sections of code that are very not clear on a variety of things. I put them on a list. So in this instance what it *is* clear about is that you need to decide at the *end* of your deliberations on a recommendation. But we're not at the end of your deliberations. So the code clearly says that at the completion of your deliberations the Commission *shall* vote to recommend adopting, not adopting, or amending the proposed plan, plan amendments or development regulations.

Chairman Easton: All right.

Mr. Walters: So if you end your deliberations, you need to make a recommendation in one of those three ways. Deliberations, though, begin when you receive the proposal and you have your public hearing and you have received public comments. There isn't a provision that says you can't have a public hearing after the first public hearing. There is a provision that says you must have at least one public hearing, which contemplates – I guess – the fact that there could be more than one public hearing. But it doesn't say that *you* get to call the public hearing and it doesn't prohibit you from calling the public hearing. So that's why I say it is very unclear.

Now typically the process is you have a public hearing, you receive public comments either before (or) during. You have in the past extended the public comment period, and it's not clear to me from the code that you are specifically authorized to extend the public comment period either. But you've done it.

The public comment period and the public hearing is for the receipt of comment, but you've received comments after the close of the public comment period. I mean, the public has felt, apparently, as if they can send you comments because they have, and they've sent the Commissioners comments and the Department comments. So there have been a number of comments received outside of the public comment period.

One of the purposes of a very defined public comment period is to first of all channel public comment in a form that the Planning Commission and the Board of County Commissioners and the Department can use. If comments come in in a random fashion, if they go to the custodian or something, you know, we don't necessarily know that it gets into the packet that gets sent to the people who are making these decisions. So that's one of the, you know, theoretical purposes for having a defined period.

That said, there isn't really any kind of theoretical reason that you couldn't have another public comment period. What I do know is that you can't have a public hearing tonight because public hearings have to be noticed – and the code is pretty clear on that – and it would need to be at least fourteen days out. As a practical matter, it'd have to be quite farther out in order to get the notices in the paper and that kind of thing to schedule it. If you want to have another public hearing, I think logically you would have

another public comment period as well. But typically what happens is you make a decision after your first public comment period and public hearing, because you have had that defined process already. You forward a recommendation to the Board. The Board, if it varies from your recommendation in a substantial way, *it* needs to have a public hearing and public comment period. And the reason for that is because if it's going to do something that is outside the scope of what you've already contemplated, then the public hasn't had the chance to comment on it.

In this case, the public has had the chance to comment on the original proposal, and the revised proposal is something that you could reach simply by taking the original proposal and deleting probably – I think it adds up to five of the eight pages of the original proposal – and then adding that calculation via the CFR provision.

So, in summary –

Chairman Easton: This should be interesting.

Mr. Walters: Yeah, I would advise you that the standard process is just to make a determination at this point of what your recommendation is and forward it to the Board. That is clearly the standard process. That's the process that the code envisions. But if you want to call for another public hearing, I mean –

Chairman Easton: You don't believe we're prohibited from doing that?

Mr. Walters: I don't believe that you are prohibited from doing that. I think that some – your bosses, the Board and/or the County Administrator, will need to make some decision about whether we actually *have* a public hearing if you call for it. But, you know, you should feel free to take that as you may and figure something out based on that.

Chairman Easton: Mary, then Josh.

Ms. McGoffin: Well, would it work if we opened the public comment period and gave the public a chance to send written comments about the clean copy, the revised ordinance, which we haven't heard them comment on yet, right?

Mr. Walters: The Department released the revised ordinance after the close of the public comment period, so there were no comments particularly, specifically on that revised draft.

Ms. McGoffin: And that's where I think we need – you're presuming to know what they wanted, so I would like to know if you nailed all the things that they were concerned about by letting them have another comment period on this revised one. Then we can deliberate again, and I'd like to know if those who write would be able to be questioned regarding their letter at our deliberations next time around. Instead of a public hearing,

just do another public comment, extend our deliberations to another date, get to call them up here if we have a question about their letter. Would that work?

Mr. Walters: So I think that your question is: Can you extend the public comment period without having a public hearing?

Chairman Easton: And, actually, was it *extend* or would we be reopening it?

Ms. McGoffin: Reopen.

Chairman Easton: Probably reopen.

Mr. Walters: So I don't think there's a reason you – if you can reopen the public comment period, I don't think there's a reason you can reopen it without having a public hearing. I would think that you could do that if you could reopen it in the first place.

Chairman Easton: So it's okay. Sorry! I was looking for the summary in that statement.

Mr. Walters: Right. So, again, you're not specifically authorized to do so.

Chairman Easton: Right.

Mr. Walters: You're also not specifically prohibited from doing so.

Chairman Easton: I guess this has been an amazing experience in finding out what it is we're not specifically authorized to do, some of the things which we've been doing on a regular basis for a long time.

Mr. Walters: Well, and that is a good point. In the past you have extended the public comment period and there hasn't been an objection to that.

Chairman Easton: Right.

Mr. Walters: It is a little bit odd for you to reopen it after it was closed, but there have been a number of odd things ____.

Chairman Easton: Yes, we all recognize the significant amount of oddness that is happening. Yeah, Josh. I'm sorry.

Mr. Axthelm: So I guess my question to you, Ryan, is can we suggest that not enough public comment has been received? Or that the public hasn't been – isn't aware of the situation as much as they need to be, and say that we can't effectively deliberate at this point. If we're going to talk about it tonight –

Mr. Walters: Yeah, I wouldn't close your deliberations in that instance, because the code is clear that at the end of your deliberations you need to make a recommendation. So if you close your deliberations, you need to make a recommendation.

Chairman Easton: So the question is – in my opinion then, if I understand you correct and the way I'm going to chair the rest of this meeting, is under the idea that if five of us decide we want to hold another public hearing and reopen a – and open a public written comment period that we have – we're going to go ahead and do that without asking the Commissioners.

Mr. Walters: Um, yeah, I mean –

Chairman Easton: I realize I'm the one who will get in trouble for that more than you will, because I know you're not on the record saying we have the authority to do it. But you're telling me I don't – I'm not prohibited from doing it, so if five of us decide to vote in that way, we're going to go ahead and do that.

Mr. Walters: I am not aware of any prohibition for doing it. It is just kind of non-standard. I mean, it is definitely non-standard because there was a public comment period. But it's also non-standard for the Department to issue a new draft –

Chairman Easton: Right.

Mr. Walters: – or regulation; however, I do think that it makes sense that that draft is, you know, almost entirely deletes from the first draft. So all of the things that are in there are less than what was proposed initially. So supposedly there was opportunity to comment on each of the regulations that was proposed.

Chairman Easton: Now context is important. I'm going to break my own rule and sort of deliberate right now. Three pages out of eight is not commenting – it's not the same as commenting on the three pages when they were a part of the eight. Context is – context is relative, especially in planning issues. I think it's a – I think it's disappointing that the Commissioners chose to take this route in asking the Department – I mean, I've been told by the Department that they were asked by the Commissioners to do this – to put a revised version. I'm disappointed that's the decision that they made, but it's the one that they left us with. As I told them each individually, you're going to leave this in the hands of me to chair eight of us trying to write code live on television? I mean, it's awkward. I disagree with the Department that it is those three pages that are left, regardless of what was added language. Those three pages that are left are not the same when they are part of an eight-page document. That just doesn't fly with me.

Mr. Walters: The one –

Ms. McGoffin: Let's deliberate.

Chairman Easton: Okay. I'm willing to go into a delib – I'm willing to consider motions, but before I do that I want to make sure that Elinor and Annie had a chance to talk to the issue of a different approach, which basically, if I understood your guys' approach, it would be to deliberate tonight and your deliberations would be reject of the whole thing and call for –

(applause)

Chairman Easton: If I understood what you were talking about before, reject the whole proposal and make a finding, basically, that says we're – we've found that we would like a community-based approach. Am I synopsisizing this –

Ms. Lohman: Mr. Chair?

Chairman Easton: Go ahead.

Ms. Lohman: You started out polling the Commissioners –

Chairman Easton: Yes.

Ms. Lohman: And the path got a little bit like this.

Chairman Easton: Yeah, I apologize.

Ms. Lohman: And so we deviated from the question you started with Elinor on.

Chairman Easton: Okay.

Ms. Lohman: So I think you ought to ask us a question and we will give a very specific answer.

Chairman Easton: Excellent. Well, I have so many pieces of paper in front of me, I'm sure there's a question here somewhere.

(laughter)

Ms. Lohman: You asked us about the procedural.

Chairman Easton: Right. Your preference procedurally speaking was that – was along those lines.

Ms. Lohman: And that's what I believe this end of the table –

Chairman Easton: I understand. Elinor, do want to add anything?

Ms. Nakis: I just want to say that it seemed like the essence of what this grant was about was to get public – to increase public awareness and get public input. And I don't think we can do that if we just pass this new ordinance tonight.

Chairman Easton: You're talking about the revised version?

Ms. Nakis: Right.

Chairman Easton: Unh-huh.

Ms. Nakis: I mean, that's not – that doesn't change what didn't get done, right? Then this is – this goes away. Everybody goes back to their regular life. There is no more interest in pipeline safety. No one's going to print cards out and place signs up and let people know where the pipelines are, and, you know, all the suggestions that the public had made already. All that'll be just like water under the bridge. So I think that we need to keep – throw out – this isn't adequate. Get the public input and do something *real* that is going to improve safety and educate our community.

Chairman Easton: Okay. Annie?

(applause)

Chairman Easton: Sometimes I'm good at ___; sometimes I'm not. I'm clearly not tracking with you about what question you think I should ask, so could you help me?

Ms. Lohman: I'm troubled by how this was created and the path that led to tonight.

Chairman Easton: I understand.

Ms. Lohman: That bothers me hugely. I'm also troubled by the words on the page. And the new version there's a ton of deletions, and some of those deletions make what's left worse, in my opinion.

(applause)

Ms. Lohman: So when you try to take something that's been done without public input and then guess what the public thinks, and you think, Well, they didn't like this so let's take that out, you end up with a piece of junk. And this is a piece of junk. There's pearls of ideas in here that are not junk, such as a consultation zone, which I think is a great idea. And serendipitously, within the last week, I got – and a lot of people did – a flyer about pipeline safety and awareness from the Pipeline Coalition. And in the ag world, they talked to us. And I confirmed that myself by calling up – rather than take the word of my farmer colleagues, I called the Pipeline and they said yes, and they know all the aggies. So I know that besides my own mailbox and some – there is some processes, but maybe the general public isn't aware of it. So the idea of about a consultation I think is a great idea, but it's lost in how this was created.

Chairman Easton: Okay.

Ms. Lohman: And that's where I'm troubled.

Chairman Easton: Okay. So you sound like you're both on the same page, which would potentially could be one making a motion and the other making a second – that we could maybe move – anybody – okay – we could maybe move this forward to that point of consideration. If your motion – if you make one, we'll deal with it, and then if somebody else wants to make another motion, we'll deal with that. Is everyone com – I apologize. This is probably the most ineffective way to run a meeting possible, but I'm trying – I didn't want to end up in a spot where we spent two hours deliberating and then deciding we didn't want the proposal.

Ms. Ehlers: What's the "it"?

Chairman Easton: What's what "it"?

Ms. Ehlers: You're referring to – you refer to "it" and I'm not sure what the "it" refers to.

Chairman Easton: I'm sorry. Give me some context.

Ms. Ehlers: I can't.

(laughter)

Chairman Easton: How did I end up being the Chair when you're an English teacher? This is crazy.

Ms. Ehlers: Well, it's that aspect of it that bothers me.

Chairman Easton: The "it"?

Ms. Ehlers: No. The fact that the document that is left leaves some ideas out that were not very well expressed in the first place.

Chairman Easton: Uh-huh.

Ms. Ehlers: And the language that I see here is not the comfortable language that I have read in other ordinances that fit with what I read in the Utilities Commission and the laws and the other things. So it's not – you know that I want to protect not only the pipeline company, but the second owners next to the pipeline company, but I'm not sure that this is the way – this is the language to do it with.

Chairman Easton: Okay.

Ms. Ehlers: And I do agree that there needs to be more input.

Chairman Easton: Okay. So this'll be the last comment and then I'll be entertaining motions. Do you want to make a comment?

Ms. McGoffin: It's just my last comment.

Chairman Easton: Okay. But we will have discussion on the motions.

Ms. McGoffin: So to our County attorney: This constitutes deliberation. We're not comfortable with it, we want to change some things, we want to hear more from the public. I think that qualifies that we have conducted our deliberation on it and are free to move on to a motion. Okay?

Chairman Easton: We could make that choice right now. If it passes five – with five votes – it's on a – in this case, it has to be five votes because that's the way the rules read – that would be the end of our deliberations and our recommendations would then – and then we can do findings upon that, but our recommendations would be for the County Commissioners to – well, I'm not going to speculate on what the motion's going to be because it hasn't been made yet.

Ms. Ehlers: Well –

Chairman Easton: But yes, you're right. It would end the process for us. It's different than what we had discussed earlier, which may still happen, which has to do with us calling our own additional public meeting – public hearing – and comment period. Did someone want to make a motion?

Ms. Nakis: Yes. I would like to make a motion that we scrap the current proposal for the Pipeline Safety regulations and start over again with a citizens advisory committee.

Chairman Easton: It's been moved that we scrap the current proposal in front of us – which is the eight-page version – that we scrap that proposal and that we form a – that we recommend to the Commissioners that it's scraped and that a community – citizens advisory group is formed. Is there a second to that motion?

(silence)

Chairman Easton: Does anybody want to amend the motion?

Ms. McGoffin: I'd like to amend the motion.

Chairman Easton: Okay, there's a potential amendment. Actually, you'd be making a motion because it hasn't been seconded. So it's died for a lack of a second. Mary?

Ms. McGoffin: So I move that we do not pursue the revised ordinance as put forth by the County.

Ms. Lohman: Second.

Chairman Easton: We can't actually deliberate on that, from what I've been told. Is that right, Ryan?

Mr. Walters: So I think you need to make a distinction on – I mean, I would just prefer that you be very clear about what you're doing. So –

Ms. McGoffin: Well, what was our third option – was to not approve –

Mr. Walters: If you are ending your deliberations, then you have three options. And those options are to recommend to the Board that they adopt, that they not adopt, or that they amend the proposed regulation and adopt that amendment. So there are three options: adopt, not adopt, or adopt an amended version.

Ms. Lohman: But it's not the strikethrough. That's just a suggestion that could be the result at the end of our deliberations.

Chairman Easton: Correct. We are not – I will be very clear – we are not and have never deliberated on the strikethrough version. As far as I'm concerned, we treat it like public – like a staff report, like any staff report that we have gotten except for that they went a little further in detail under the responsibilities the Commissioners gave them to send us potential language that we could consider modifying. So the only thing we can take deliberations on is the actual original proposal.

Ms. Lohman: So, Mary, would you accept a friendly amendment of your motion that would be that we reject the original language that was brought and that's generated this?

Ms. McGoffin: Yes.

Chairman Easton: All right, so it's been –

Ms. Lohman: Second.

Chairman Easton: So it – and it's been moved and seconded, so I'll clarify – I'll see if I can clarify the motion. It's been moved to reject the proposal as it's been presented to us.

Ms. Ehlers: Which one?

Chairman Easton: And we'll get into findings in a minute.

Mr. Walters: So if I could phrase the language the code says?

Chairman Easton: Okay, give me the phrase you want.

Mr. Walters: You are recommending to the Board to not adopt the proposal.

Ms. Lohman: Correct.

Chairman Easton: So our motion is to recommend that we not adopt the proposal.

Ms. Ehlers: Point of order.

Mr. Walters: The Board. The Board adopts. You make a recommendation. So you recommend to adopt, to not adopt –

Chairman Easton: We recommend to the Board that they not adopt the ordinance.

Mr. Walters: That's ___.

Ms. Ehlers: What I got in the memo on the 13th –

Chairman Easton: From the staff?

Ms. Ehlers: From the staff – implied to me that we were going to discuss this revised ordinance. I have heard at least twice that the ordinance that we were going to discuss is this colored one that has all the strikethroughs and adds. I don't know how we could sensibly make a motion like this without specifying which one of these two we're actually talking about. Since it's been brought up throughout the meeting, I'm confused as to which one of these two documents we're looking at.

Mr. Walters: There is only the one –

Chairman Easton: Let's do this, Ryan. Go to the computer. Turn the computer on and type up this motion. I want everybody to see what it is we're going to adopt. And make sure you put clarifying language in it that it's the version that Carol's concerned about. While he's doing that –

Mr. Axthelm: I –

Chairman Easton: – before I call the question – just a second, Josh – that we will deal with findings, which would address/could address what you were discussing earlier in a minute. I'm not derailing that conversation. I'll come back to it. Josh.

Mr. Axthelm: If we recommend that they not adopt it –

Chairman Easton: Yes.

Mr. Axthelm: – can the County Commissioners then take that without additional public comment, amend it, and put it out?

Chairman Easton: Yes. They can – they can, right?

Mr. Walters: Yes. The Board will have the following options if you recommend that they not adopt – and I don't have the code in front of me because I have to configure Office every single time.

Chairman Easton: That's okay.

Mr. Walters: Okay, so the Board will be able to adopt the proposal – the original proposal – the one that I'm going to reference when I write this up here in a moment. The Board will be able to accept your recommendation and adopt nothing. Or the Board will be able to hold another public hearing and consider something else.

Ms. Lohman: Mr. Chair?

Chairman Easton: Yes? We're under discussion about this motion while it's being drafted. Go ahead.

Ms. Lohman: But part of our findings could be a task which would be to consider a consultation zone. It could be to reach out to the public and have public awareness. That could be findings.

Chairman Easton: Correct, as long as everyone understands that they are just findings from a group that has no –

Ms. Lohman: Correct. We are advisory.

Chairman Easton: They're advisory – correct. As long as people understand that's the case. That's what we clarified.

Ms. Lohman: But the motion on the table is to reject this pathway.

Chairman Easton: Uh-huh.

Ms. Lohman: But in our findings we could offer up –

Chairman Easton: Suggestions. Of course.

Ms. Lohman: – suggestions.

Chairman Easton: Of course. Now at this point I'm not sure if I'm – I haven't decided if I'm speaking for the proposal or not. There's a point of information. If we chose to take

the route of continuing to hold it here, we can actually after – if we decide to do an additional public hearing, additional public comment period – we could actually send more detailed changes for the Commission – Board of County Commissioners – to consider. But, again, even if we took that time to do that, they don't have to approve those. So, I mean, that kind of addresses your question. Because of the fact that we're advisory, that is – you know, one way or the other we can get our opinion out there. We can either do it in the form of modifying the proposal or we could do it in the form of a finding. It's important to know.

Mr. Axthelm: It's important to – in that case, I would think we would need to deliberate on it because what we're doing is making a decision before we've deliberated on it.

Chairman Easton: No, we would have to – I would say we would have to have some sort of – we would actually *actually* have real deliberations – I mean, not real, but we would have detailed deliberations about what it is we wanted to change or recommend or whatever and we would flesh that out. I want to deal with the motion that's on the table before we consider others. You almost there? We're almost there. It'll be on your screens, Commissioners, so you don't have to look over your shoulder.

Mr. Walters: Some people have trouble with public speaking.

Ms. Nakis: Public typing!

(laughter)

Mr. Walters: So what I'm looking for here is just to reference the version of the proposal by date that was released initially.

Mr. Axthelm: That's without the current changes?

Chairman Easton: Right, the first one. It was in May.

Ms. Ehlers: The May. "As written."

Mr. Axthelm: So is this the assumption that we've deliberated on it?

Chairman Easton: Yes. This would be our motion which would end our deliberations.

Mr. Axthelm: Okay, the motion is to end deliberations.

Chairman Easton: With the exception of adding findings, which we have the ability to do following a motion.

Ms. Ehlers: Well, I have a question.

Chairman Easton: Yes? Carol?

Ms. Ehlers: “Not adopt the proposal” – a whole concept of it or adopt the proposal as written?

Ms. Lohman: As written.

Ms. Ehlers: Because “as written” means that we’re not against the idea of having some regulation like consultation and notice and things of that sort.

Chairman Easton: I think “released May 17th” addresses what you’re saying. You’re talking about the specific –

Mr. Walters: Yes. So we’re talking about that specific proposal. You are charged with having a recommendation at the conclusion of your deliberations on a specific proposal. Now the code and GMA contemplates that you will provide findings of fact and reasons for action. So you can specify that your reasons for action in this instance are the following.

Chairman Easton: We’ll get to those. Trust me, that’ll _____.

Ms. Ehlers: So that concern of mine can be addressed there.

Ms. Lohman: Um-hmm.

Chairman Easton: Yes.

Mr. Walters: Yes.

Chairman Easton: So this – which version, then, are we doing? Did you give us two to choose from?

Mr. Walters: I made a second one just because I thought it was a little cleaner.

Chairman Easton: Do the maker of the motion and the seconder of the motion – are they comfortable with the more clarified version, which would be the second one down?

Ms. Lohman: I like number two.

Chairman Easton: Okay, so number two. Go ahead and strike number one, please.

Ms. Lohman: Sorry to put you on the spot.

Mr. Walters: Strike number one: Is that what you said?

Chairman Easton: Strike number one. So it’s been moved and seconded that the Planning Commission recommends that the Board of County Commissioners not adopt

the Department's proposed pipeline safety regulations released May 17, 2011. Any further discussion?

(silence)

Chairman Easton: Hearing none –

Ms. Lohman: Um –

Chairman Easton: Yes? Hearing some...

Ms. Lohman: Usually the maker of the motion is first. Go ahead.

Chairman Easton: I mean if she doesn't want –

Ms. McGoffin: I have no other comment.

Chairman Easton: She has no more comments, so go ahead.

Ms. Lohman: I think that all of the discussion that we had leading up to this motion follows our recommendation.

Chairman Easton: We will get to the point where we start dealing with the findings.

Ms. Lohman: No, I mean the recommendation to accept this motion.

Chairman Easton: Oh, okay. Great. So does anyone else have anything *new* they'd like to add to the comments?

(silence)

Chairman Easton: Okay. So at this point I will call for a show of hands. Those in favor of the motion, please raise your hand.

(applause)

Chairman Easton: Those opposed?

(silence)

Chairman Easton: Any abstentions? Let the record show that by a vote of eight to zero the proposed – the proposal has been rejected by this group as a recommendation to the Board of County Commissioners. Ryan?

Mr. Walters: Okay, that's good. I just – I didn't have a chance to count hands but it's on video.

Chairman Easton: No, it's eight. We got them all. All right, so unanimous. And now to the work of findings, which is going to seem strangely like deliberations.

Mr. Walters: Two pieces: findings of fact.

Chairman Easton: Yes.

Mr. Walters: And reasons for action.

Chairman Easton: All right. Findings of fact which, obviously, it's whose definition of "fact." I believe a finding of fact is that certain charges have been levied by members of the public that things have not been done appropriately in relationship to this issue. And I believe the Commissioners, as a finding, should see that in writing that we are concerned about that. But that's – we have to vote on findings or we have to come to consensus on findings.

So my first proposed finding is that we address the issue of the fact that we would like the Commissioners to respond to us and to the public about the accusations made about the handling of the grant.

Is there anyone who's willing to stand with me for that as a finding?

Ms. McGoffin: I am.

Chairman Easton: Mary is.

Ms. Nakis: Yes.

Chairman Easton: Elinor is.

Mr. Axthelm: Yes.

Chairman Easton: Josh is. That's four. And Annie. Anyone else?

(silence)

Chairman Easton: Okay, let the record show –

Mr. Hughes: I guess – a comment.

Chairman Easton: Go ahead.

Mr. Hughes: I guess – yeah – to – for me to – it *appears* that way, but –

Chairman Easton: I'm not making a judgment.

Ms. Ehlers: Yes, we are.

Mr. Hughes: I'm –

Chairman Easton: We'll get to you, Carol.

Mr. Hughes: You know, whether they – whether it was or wasn't, I mean, what does that have to do with the motion that, or a finding to the motion that we just don't like the proposal?

Ms. Ehlers: Mm-hmm.

Chairman Easton: Let me – it would be – I'll answer that. I would have not voted – I could not have voted for the recommendations I just voted for if I didn't have the infor – it impacted my decision about how I voted, and that's what a finding of fact is, in my opinion. It was impactful to me about why I voted. Part of the reason why I'm not comfortable with moving forward with this proposal is that we have unsub – we have accusations that have not been substantiated that hang out there over the Department, and for the Department's *benefit* they need to be proven that they didn't do anything wrong or they need to be proven that they *did* and somebody needs to pay for it – in my opinion. Something – there just needs to be some sort of resolution.

If it's not – it's already fallen on some deaf ears, in my opinion, and it needs to be addressed. And I have five folks that are willing to agree with me that it should be addressed. And that should be addressed to us and the public. There should be a resolution to the accusations against the Planning Department regarding grant compliance and – you know, and – compliance and –

Ms. McGoffin: Process.

Chairman Easton: Process. Carol, did you want to say something? Or, Dave, did you want to say something else.

Mr. Hughes: Oh, I'm just still thinking. Go ahead, Carol.

Chairman Easton: Carol.

Ms. Ehlers: I was Dean in a very large eastern college responsible for grants and the effective use of grants – writing them, approving them, getting them done. And what I said: When there are nine references to creating development regulations, that is what this grant clearly was for. Whether the statement was made that this is a podunk county that has no history of dealing with emergency situations. But it's not.

In 2002 Congress ordered all the counties in the country to develop –

Chairman Easton: Commissioner, I'm going to ask you –

Ms. Ehlers: Wait a minute.

Chairman Easton: – to stay on the –

Ms. Ehlers: You asked me. I am.

Chairman Easton: (gavel, gavel) You're out of order.

Ms. Ehlers: I'm not.

Chairman Easton: I'm going to ask you to stay to – limit your comments to just this finding of fact.

Ms. Ehlers: Okay. It was said that this county is podunk and, therefore, it wouldn't have been given the grant for the subject that is in the grant.

Chairman Easton: You're out of order. There is nothing in the finding of fact that says that the County is podunk. I've never even used that word tonight.

Ms. Ehlers: It's in the evidence that you're taking.

Chairman Easton: I'm not taking –

Ms. Ehlers: It's in the evidence for the accusation.

Chairman Easton: Five of us have recommended this finding of fact.

Ms. Ehlers: Well, then I'm disagreeing.

Chairman Easton: And you have every right to disagree and that will be noted in the record. Matthew?

Mr. Mahaffie: Mr. Chair, I share your concerns. I just don't know if I'm sure that, as a Commission, it's really our place to put it in a finding of fact.

Ms. Ehlers: Thank you.

Chairman Easton: I understand your concern and I wrestled with that for weeks. I couldn't find anybody else who was willing to take up the issue.

Ms. McGoffin: Chair?

Chairman Easton: Yeah?

Ms. McGoffin: The reason I think it *is* our issue as a Planning Commission is our job is to provide public access. This is their venue to get to talk to their government, so the process is really important. And if we feel that there's been – if it's been inadequate in any way, that is a finding of fact. To me the process could have better. There might have been some glitches in it. And I think it deserves a review to see if the process could be improved. Were there omissions or mistakes? My reason for action is that the Planning Commission's job is to facilitate the public process. You speak; we listen; we make recommendations. And that needs to happen. If it's not – and the public is telling us it didn't – I want a review. That was my reason for action, is to improve our process.

Ms. Ehlers: That's a different subject.

Mr. Axthelm: As –

Chairman Easton: Hang on, Carol. You've spoken to this. Let Josh speak.

Mr. Axthelm: As the Planning Commission, we're not making those accusations. The public is speaking and saying, This is what we're seeing. So my understanding is we're not accusing anybody of anything. We're just saying the public is saying this. Let's – that's a fact.

Mr. Walters: I'd like you to be very clear about what it is you're doing here. I have characterized, I think, *Jason's* finding, as you see it on the screen. But you haven't actually voted on *my* characterization of it there.

Chairman Easton: There are five votes for the – I mean, let me call the question then. Any further discussion?

Ms. Ehlers: Is it the question on fraud or the question on process?

Mr. Walters: It is –

Chairman Easton: The question is on the actual wording of the finding I suggested. It is on the screen. All those in favor of the finding as it is spelled out here in front of us on the screen, signify by raising your hand, please.

Mr. Axthelm: I have one thing.

Chairman Easton: Oh, hang on.

Mr. Axthelm: I would suggest – is – could we put "public" accusations in there?

Chairman Easton: Yes, so it clarifies it wasn't from us.

Mr. Axthelm: Yeah, it's not from us.

Chairman Easton: Put “from members of the public,” or something like that.

Mr. Axthelm: Yeah.

Ms. Ehlers: That’s better.

Mr. Axthelm: Thank you.

Chairman Easton: You like that?

Ms. Ehlers: That’s better.

Chairman Easton: Okay. All those in favor of the version as it sits in front of you now for the first finding of fact, please raise your hands.

Ms. McGoffin: Just one second.

(laughter)

Ms. McGoffin: It’s not *overall*. It’s just this item – just the pipeline thing.

Chairman Easton: Right. It’s not against the whole Planning Department.

Ms. McGoffin: So it’s not all the other things you guys do. It’s just this particular thing. So that’s why I don’t want –

Chairman Easton: I think we have a clear – I think we’re clear that it’s just about –

Ms. McGoffin: The pipeline.

Ms. Ehlers: Well, if you replaced “any” with “this” it would be clearer.

Mr. Walters: So I think there will be problems if we try to wordsmith all of these.

Ms. Ehlers: Okay.

Mr. Walters: But –

Ms. Lohman: Well –

Chairman Easton: Well, this one’s kind of key so go ahead and change “any” to “this.”

Ms. Lohman: That’s right.

Chairman Easton: Changing it for somebody who's not voting for it – that's funny. And this is the last time I'm calling the question. Any – all those in favor of the finding of fact number 1, please raise your hand. Okay. So you have six votes. And those against? And you have 2 against. Do you need me to read into the record for – I mean, I know. For the transcript, do you –

Mr. Walters: I'm comfortable.

Chairman Easton: You're fine?

Ms. Ehlers: I think we've done it.

Mr. Walters: We'll have the video. Well, actually, I don't think we can really rely on having the video. Who knows where the camera's pointed at any given time?

Chairman Easton: All right. So those in favor of the motion were Elinor, Annie, Dave, Jason, Mary and Josh. Those opposed were Carol and Matt. Okay?

Mr. Walters: Okay. Typically what happens is that they call it the "roll."

Chairman Easton: That's probably not in code either, is it?

Mr. Walters: No.

(laughter)

Ms. Ehlers: No, but it's in Robert's.

Chairman Easton: Is there someone who would like to give an additional finding? Yeah, I'm sure it's in Robert's.

Mr. Walters: Mary has proposed the one that you see on the screen.

Chairman Easton: This is a proposed action: "The Planning Commission's job is to facilitate the public process." That's your action?

Mr. Walters: *Reasons* for action.

Chairman Easton: Oh. As it relates to the finding of fact.

Ms. McGoffin: No.

Chairman Easton: Or just in general?

Ms. Ehlers: Separate issue.

Chairman Easton: Okay. Well, is there any – does that pass by consensus? All right, seeing no objection we'll move forward. Other findings of fact?

Ms. Ehlers: Well, Elinor, doesn't your idea fit in here?

Chairman Easton: This is where Elinor's idea about a – how it should – this is where you would propose things that you think should be done the next time we try this, if the Commissioners so choose.

Ms. McGoffin: Like the advisory committee.

Chairman Easton: Like the advisory committee.

Ms. Nakis: Yeah, I think as often as not we should be having citizen advisory committees and getting input from the public. I mean, this has been really, really good education for me over the last two months and that's why I was really engaged in it. But also even tonight, with the flood zone legislation and what not, and the FEMA rules – I mean, public input's really important. Nobody knows their property more than the people that live on it.

Chairman Easton: Okay, so in addition to the reason for action being "Public input is very important," did you want to propose as a finding of fact that – would you like to propose that to all of us as a finding of fact, a finding of fact like –

Ms. Nakis: I think we should encourage citizen advisory committees whenever we can. Is that something that we can –

Chairman Easton: We recommend to the Commissioners that they form a citizens advisory committee on this issue?

Ms. Ehlers: I think –

Ms. Lohman: That's not a finding of fact. It's a recommendation.

Chairman Easton: That's a recommendation.

Ms. Ehlers: It's a recommendation. I think that –

Chairman Easton: This would be the third section, too.

Ms. Ehlers: We have a tradition that started back twenty years ago of having citizens advisory committees of a broad base of people on multi-sides of an issue so that the various principles and details and evidence for it is debated at *that* level and something that arrives at the Planning Department is usually better so long as the public has been allowed to observe and take part in that CAC process.

Chairman Easton: Okay.

Ms. Ehlers: If the CAC is in isolate, it becomes just as odd as any other isolated group.

Chairman Easton: Does anyone want to speak in disagreement of this recommendation? Then seeing that no one does, we'll go ahead and move on. Mary has a finding of fact. I'll come back to you, Annie, in just a second.

Ms. McGoffin: Okay, so –

Ms. Ehlers: This doesn't say we should encourage it. I'm saying we should – "Public input is important; therefore, we think there should be a citizens advisory committee dealing with this issue." If that's what we think.

Chairman Easton: Works for me. Does it work for you, Elinor?

Ms. Nakis: Yes.

Chairman Easton: Excellent. Look at us making progress. Filled up half a page already!

Ms. Lohman: Can you be a – can you call it "The Citizen Advisory Committee for Pipeline Safety Issues"?

Ms. Ehlers: Yeah.

Chairman Easton: Instead of having it implied? Okay, that sounds good. Okay, another finding of fact from Mary.

Ms. McGoffin: Finding of fact –

Mr. Hughes: God, I wish I could type like that!

Ms. McGoffin: So finding of fact: PIPA – Planning and Informed Planning Alliance –

Mr. Walters: Is that one –

Ms. McGoffin: One. It's an acronym.

Chairman Easton: How many Ps are in it?

Ms. McGoffin: It's just P-I-P-A.

Chairman Easton: Okay.

Ms. McGoffin: Recommends consultation zones for both urban and rural areas. Skagit County Code – Skagit County Planning only addressed rural areas. That’s the fact. The action that I’m proposing is that it be more inclusive with our cities so there’s –

Chairman Easton: We don’t have jurisdiction over the cities, though.

Ms. McGoffin: I know, but there’s got to be some kind of continuity. The pipeline doesn’t care; it goes everywhere. And it’s not my recommendation. It’s this Alliance that’s recommending there be an urban-rural oversight together.

Ms. Ehlers: There is some evidence for that, if you look in the Pipeline Atlas and elsewhere. Because frequently what is originally a totally rural pipeline as the cities expand becomes no longer that, and there is no clear question about urban growth areas.

Chairman Easton: Are there any other additional findings of – any disagreement on that finding of fact? Okay, Annie? For a new one.

Ms. Lohman: The public process was marginalized and then so the reason we’re saying that –

Chairman Easton: I like that ____.

Ms. Lohman: – is it seems like there was a lot more consultation with Whatcom County. I mean, there was quite a bit of extensive reference to their ordinances and their experts and it didn’t seem like there was much conversation with *our* refineries, *our* pipeline safety people. And we – amazingly – we have folks with that kind of expertise here that weren’t heard from.

Chairman Easton: Mm-hmm.

Ms. Lohman: I think that, man, you know, maybe we ought to be taking care of Skagit County and getting their input before we go outsourcing input.

(applause)

Chairman Easton: Is there any disagreement with Annie’s recommendation there for a finding of fact?

(silence)

Chairman Easton: Okay. I need to recall a witness to clarify my finding of fact, so –

Mr. Walters: So there was consensus on both finding of fact two and three? Is that right?

Chairman Easton: Yes. Yes, there was. Bill Wallace, from the Burlington-Edison School District, would you please come to the microphone? Under our ability under deliberations to recall a witness, I'm asking Mr. Wallace to come because I need a point of clarification before I make my finding of fact.

For the record, will you state your name and spell your last name, and give us your address, please?

Bill Wallace: Okay. It's Bill Wallace, last name spelled W-a-l-l-a-c-e. Home address is 16273 Par Four Lane in Burlington.

Chairman Easton: And you are the –

Mr. Wallace: I am the President of the Burlington-Edison School Board.

Chairman Easton: The issue – this issue in your testimony both in writing and before us, I believe you indicated that you had asked for additional public hearing time, and part of the reason – public input time – part of the reason was the District didn't feel like it was ready to respond on that short of notice. Is that right?

Mr. Wallace: That's correct.

Chairman Easton: Did the District – was the District ever reached out to by Planning and Development Services on this issue, and do you know when that was?

Mr. Wallace: The answer (is) yes. Let me qualify that. My recollection – the School District was notified by Gary Christensen with an e-mail after the presentation to the County Commissioners. He brought it to our attention that there was a presentation on pipeline safety and provided us with a link to the recording, which we appreciated. And we viewed that. I reviewed it. And very informative, and one of the things that I gathered from it was the issue of consultation, which seemed to make some sense – with the pipeline companies when you have issues – land use issues – in the vicinity of the pipelines.

Chairman Easton: Let me help you finish your testimony.

Mr. Wallace: I'm going to go to the next step, which I –

Chairman Easton: Okay – briefly.

Mr. Wallace: – the meeting that was in May.

Chairman Easton: The public – the public forum?

Mr. Wallace: The public meeting. I understand subsequent that the School District was sent a letter – card – to notify the School District of that public meeting.

Chairman Easton: Okay.

Mr. Wallace: I personally wasn't aware of it.

Chairman Easton: Okay.

Mr. Wallace: Didn't know the context to it. But I did find out after the meeting – talked to somebody who had attended – that there was the public meeting. Not much information exchanged; it was an opportunity for folks to make some comments. So really I didn't have a context about what that meeting was about. Then the draft rules came out the end of May.

Chairman Easton: Right.

Mr. Wallace: That's when we understood the significance of what this meant for –

Chairman Easton: You.

Mr. Wallace: – potential future – for the School District –

Chairman Easton: Right.

Mr. Wallace: – for future sites for School District, or school sites, and for the existing site that we had at Allen School. That's the one we had the most concern about. Then we understood *then* that those rules applied to existing sites and what we may or may not be able to do with our existing facility. So that's when we engaged and I made the testimony in early June.

Chairman Easton: Well, I appreciate that because it helps me understand that – that – what type of involvement you had. And this is what goes to – unless someone else has another question for him – okay, thank you, sir – this goes to my finding of fact, which is that the School District – both Burlington-Edison School District and the Conway School District need to be – need to have – need to be consulted with on any – on the drafting of any future plan, pipeline safety plan.

Unidentified female voice in the audience: Sedro-Woolley.

Chairman Easton: Does Sedro have – yeah, let's – all the – some of the districts – say "all affected school districts should be consulted by PDS prior to the drafting of a future proposal." Anyone disagree with that conceptually? I know he's still typing it. "All affected school districts need to be consulted on the drafting of any future safety plan." Is that strong enough? Does that make sense?

Ms. Ehlers: The hospitals are safe so that doesn't need to be worried.

Chairman Easton: Yeah, I can't think of any other high intensity use that would be.

Ms. Ehlers: Well, there's quite a list in here that's important that needs to be included in language.

Chairman Easton: In an actual proposal, but I mean in an actual consultation. I can't think of any. All right. That's a finding of fact.

Ms. Ehlers: Not according to this.

Chairman Easton: That's a finding of fact, then. Any additional findings of fact, anyone? Mary? Or Josh? Josh?

Mr. Axthelm: Yeah. Yeah, I think the proposal places restrictions on private property without compensation, that those are – even though it's just a review area, it does place a restriction on the lands around it. And I think that's – is it called a taking? If I'm correct? That's what I feel.

Chairman Easton: Do you want that drafted as a –

Mr. Axthelm: So it's "The proposal places restrictions and controls on private property without compensation, constituting a taking," I think is what it's called.

Chairman Easton: Constituting a taking. All right. Well, – this is – I'm going to open this one up for discussion.

Mr. Walters: Do you want –

Chairman Easton: Let him get it written first, Carol. Hang on.

Mr. Walters: Do you want "without compensation" comma "constituting a taking"?

Mr. Axthelm: Yes.

Unidentified male voice in the audience: Excuse me, __ –

Chairman Easton: It's okay. Sir, you can't speak from the crowd. Thank you, though. It reads, "The proposal places restrictions and controls on private property without compensation, constituting a taking."

(applause)

Chairman Easton: Carol, did you want to speak for or against this? Briefly.

Ms. Ehlers: I have a – I found a plat in this book that shows a pipeline going through the plat, crossing over the roads in the plat, going under the roads in the plat, going

under the intersection of the roads of the plat, going at the intersection of the roads of the plat where there is only one exit for this very large plat to get out for access.

Chairman Easton: So after that discovery, does that make you for or against the proposed finding of fact?

Ms. Ehlers: I think that if a proposal puts the people who are going to be occupying that land with that property rights, if that proposal puts them at risk, that that is not necessarily the same kind of taking as it is if it says to someone, You can't – I don't want you to farm on the land, or I don't want you to put your barn there.

Chairman Easton: So you're speaking against it?

Ms. Ehlers: Speaking against it because I have seen on these detailed maps real horrors that I don't think any of you would think was a good idea.

Chairman Easton: Is there some way you could modify this and maybe with Josh's blessing, to try and address what you're concerned about, or should we just assume you're going to vote no?

Mr. Axthelm: Can I say something to that?

Chairman Easton: Yeah – Josh.

Mr. Axthelm: I think that life safety is one of the most important things here. That is a consideration. But I think it needs to go about by the right route. The oil companies make enough money. They can pay for the land if they need the land. I don't see why they have to put those restrictions on us without purchasing that land.

Chairman Easton: Okay.

(applause)

Mr. Walters: Mr. Chairman?

Chairman Easton: Yeah?

Mr. Walters: I have a point to add to this one. This one is written currently as "The proposal places restrictions and controls on private property," and it constitutes a taking. Well, it says comma "constituting a taking." What I want you to understand is that *any* restriction on private property clearly is *not* a taking.

Mr. Axthelm: Okay.

Mr. Walters: It's – I think what you mean is you believe this proposal constitutes a taking. Is that –

Mr. Axthelm: Yeah.

Chairman Easton: Well, then change it to “This proposal.”

Mr. Axthelm: That’s fine. I mean, at this point –

Chairman Easton: I’m going to call the question on this finding of fact. All those in favor, signify by raising your hand, please.

Mr. Walters: Could I have just a second to –

Chairman Easton: Oh, sorry. Hang on.

Mr. Walters: So what I would say: “This proposal places restrictions and controls on private property and constitutes a taking.”

Chairman Easton: Comfortable with that?

Ms. McGoffin: Well, I’m not.

Chairman Easton: Okay, Mary’s not.

Ms. McGoffin: I would say that this proposal could be *interpreted* that way. I mean, you’re not going to read where it says, These are your restrictions. These are the controls. It’s going to be interpretive, you know? You know what I mean? It’s not –

Chairman Easton: It seems like it loses its power if you take that out.

Ms. McGoffin: Well, okay, then I can’t vote for it like that.

Mr. Axthelm: No, I know what you’re getting out because it can be. That’s correct.

Chairman Easton: So can you handle language like that, Josh? It changes it to the “could be interpreted as”?

Mr. Axthelm: Yes. I mean that’s – it’s –

Chairman Easton: “This proposal could place restrictions and controls”?

Mr. Axthelm: Yes. I mean, it’s – it could.

Chairman Easton: If interpreted to. Are you comfortable with that?

Ms. McGoffin: Yeah.

Chairman Easton: Josh?

Mr. Axthelm: Yes.

Ms. Ehlers: That's –

Chairman Easton: All those in favor of this proposed change – or this proposal – number five findings of fact?

Mr. Axthelm: Because I don't think that's what the intention is. I mean, I *know* that's not what the intention is. It's not to take the land.

Ms. Ehlers: Wait a minute.

Chairman Easton: That would be expensive.

Mr. Axthelm: It's to give life safety to people.

Ms. Ehlers: Wait a minute.

Ms. Lohman: It can't go out written like that.

Ms. Ehlers: It can't go out written like that.

Chairman Easton: Okay, fix it for me. Or suggestions. "As placing"?

Ms. Ehlers: "...which could constitute a taking."

Ms. Lohman: There. You've got it.

Chairman Easton: "This proposal could be interpreted to place restrictions" – "to place" is awkward.

Ms. Ehlers: "...as placing"?

Mr. Walters: I suggest you not worry about awkwardness or we're going to be here a while.

Chairman Easton: Hey! Funny. Yeah, I probably never would have been Chair if that was it.

Ms. Ehlers: You could say, "...as placing," if you like it better.

Chairman Easton: Yeah, I like "...as placing," please. All those in favor, say aye.

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

Chairman Easton: All those opposed?

(silence)

Chairman Easton: No abstentions. All right. That one goes eight-oh. I'd like to propose the first finding of fact. The life safety of the people of Skagit County is important – extremely important – to the Planning Commission.

Ms. Ehlers: Thank you.

Ms. Lohman: Thank you.

Chairman Easton: God forbid that anything was to happen to someone around one of these pipelines. It's not our – it is definitely not our intention to stop any notification or education at all by the choices that we've made tonight. I think it's important that our first finding of fact clarifies that. Life and – it's the life and safety of the people of Skagit County is extremely to the Planning Commission, as it relates to pipeline safety.

Mr. Axthelm: Correct.

Ms. Ehlers: Yes, you better add that to that sentence.

Chairman Easton: "...as it relates to pipeline safety."

Ms. Ehlers: Mm-hmm. No comma.

Ms. Lohman: Or we don't care otherwise?

(laughter)

Chairman Easton: I –

Ms. Lohman: I mean – sorry.

Chairman Easton: I know – no, it's only because of the topic. I know. I thought about not doing it, too. You don't have to vote for it. You can vote against it. I'd like to see you do that!

Ms. Lohman : All we need is some ____.

Chairman Easton: You want me to call the question!

Mr. Walters: You could move to amend it.

Chairman Easton: What do you want to amend? How do you want to amend it?

Ms. Lohman: I would like you to go back with your original language, because it's overarching, over-sweeping, and it does overflow onto other deliberations we may have.

Chairman Easton: Yeah, but it's – I've just got to – well, you're right. I care about the life and safety of people walking down the street tonight, but I'm not doing findings of fact about that.

Ms. McGoffin: But it's up here.

Chairman Easton: Okay. You guys, that's fine. If you feel like that's clearer, that's fine.

Ms. Lohman: Well, then otherwise we'll have to start – we'll have to categorize it every time.

Chairman Easton: Okay, it's redundant. I won't make you vote on it. I won't create a voting opportunity. All right. Any disagreement on number 1?

(silence)

Chairman Easton: All right. Well, it passes by consensus. Any other findings of fact?

Ms. McGoffin: I've got one more.

Chairman Easton: One more – Mary.

Ms. McGoffin: It's little but important. In the County staff's letter, they mentioned that pipelines have been found to be as shallow as 20 inches from the surface. So that's a fact because I got it from you. I'm concerned that we're not asking any more higher standards from – it's not our job. I realize that the pipelines are overseen by other people, but it'd be nice to at least ask these pipelines for a higher standard of maintenance so that we don't have 20 inches of coverage. I mean, could we ask?

Unidentified male voice in the audience: Good point.

Chairman Easton: (inaudible)

Ms. Ehlers: I called the Utility Commission this morning and talked to the lead engineer who said that their sole responsibility was managing these pipelines and making sure that they were managed properly, and that there was a big emphasis in safety, and that every pipeline company had to have a safety program for the people that were within its territory or within reach of its territory.

Chairman Easton: So, Carol, you're speaking in favor of this?

Ms. Ehlers: I would like to give Sarah Spence's testimony to that committee back east to the County Commissioners. I'd like to highlight it because it talks about vetting and cover and the kinds of things which –

Ms. McGoffin: Do you want to do that as an attachment?

Chairman Easton: That'd be an action. Wouldn't that be an action? We could ask the staff to transmit it.

Ms. McGoffin: Yes.

Chairman Easton: We could request that the staff transmit Sarah Spence's testimony to the federal government concerning pipeline safety that was distributed to us after – recently.

Ms. Ehlers: Because my water system is now a pipeline company and, by George, she's right.

Chairman Easton: Okay.

Ms. Ehlers: On that issue.

Chairman Easton: Staff should transmit to the BOCC Sarah Spence's testimony to the federal government. I'm sorry I didn't handle _____, Annie. _____. Is everyone in favor of 7?

Ms. Ehlers: Well, there's something – there's a way you could do this. The Utility Commission should be asked to review Skagit County conditions.

Chairman Easton: Yeah, are you all right with that?

Ms. McGoffin: Yeah.

Chairman Easton: Okay, let's add that.

Ms. Ehlers: You might as well get something useful out of it.

Chairman Easton: At least there's somebody there with some authority.

Mr. Axthelm: Yeah. If the pipelines are unsafe, we want to know.

Chairman Easton: Yeah.

Ms. Ehlers: Yeah, and they're the ones responsible and we have had evidence that there are problems, so let's do something. I've got the phone number.

Chairman Easton: Any other findings of fact? Any other reasons for action? Any other recommendations? Seeing that we voted –

Mr. Walters: Do you see that change there? We just put them all ____.

Chairman Easton: Plannings of action, reasons for actions.

Mr. Walters: I would suggest that if you are nearing completion here, you need to take a final vote on the whole thing.

Chairman Easton: I was just going to ask you if you wanted me to do that. I just assume that we are clear about it.

Mr. Walters: Yeah.

Ms. Lohman: Point of clarification.

Chairman Easton: Clarify away.

Ms. Ehlers: Oh, number 2.

Ms. Lohman: Sarah Spence's testimony to the federal government.

Chairman Easton: Kind of vague, huh?

Ms. Lohman: I think it needs a little more context.

Ms. McGoffin: Is she here?

Chairman Easton: You know what? The staff can add that. We can give the staff the ability to add that context. I mean, they'll – they can reference the date and the time or reg.

Mr. Walters: As long as we know what we're talking about.

Ms. Lohman: Because I believe she's made multiple testimonies to the federal government.

Ms. Ehlers: No, it's the testimony to the federal government about vetting, coverage. Because she went back east to give it. It's about –

Chairman Easton: Okay, hang on just a second. I believe that someone from the crowd said June 15th. Is that June 15, 2011? Just nod your head, Mrs. Spence. Yes. June 15, 2000 – I don't want to bring her to the mic; there's no need to – June 15, 2011. Okay? I'm sure Ms. Spence will make sure the staff has a copy of that.

(laughter)

Chairman Easton: I'm confident of this. Is there any other discussion on – anyone want to bring any other additional findings?

Mr. Axthelm: I'd like to make a general statement – again, according to the number 1 here – is that I appreciate the Planning Commission – or not the Planning Commission. I appreciate the Planning Department of Skagit County for your concern here. I appreciate what you're trying to do and take care of life and safety of the public. You know, I live right on the Skagit River, and a couple years ago when somebody – when the salmon were running they had people that were anchoring right where the pipeline is right before it forks. And I called in on it and I got the comment, Oh, don't worry about it from the County, from the police, and I also called the pipeline. And I just – I had a hard time with that, because if it *is* 20 inches below or if somebody *had* caught it then we could have a major issue.

Chairman Easton: Sure.

Ms. Ehlers: Mm-hmm.

Mr. Axthelm: And, you know, that's a concern to me. I'm close enough that if something did happen it would affect my home.

Chairman Easton: So, "The Planning Commission appreciates PDS's efforts to protect life and safety"?

Ms. McGoffin: Yes.

Mr. Axthelm: Thank you.

Chairman Easton: All right. Anything else?

(silence)

Chairman Easton: As recommended, we're going to take a vote on the whole – this whole page in front of you – the recommendation – Elinor, were you stretching or do you have a question?

Ms. Nakis: No, I'd like to make a finding then.

Chairman Easton: Okay.

Ms. Nakis: And this is from my heart. I appreciate all of the information that the public has brought to us.

Chairman Easton: Yeah, we wouldn't have done what we did tonight if that wouldn't have been the case.

Ms. Nakis: And we want to thank you for taking your time and energy and doing all the research and hanging out there in the mud, you know, and coming here and talking to us.

Chairman Easton: No, I agree and I –

Ms. Nakis: It's very important. We've learned a *lot* from this process.

Chairman Easton: Yeah. I don't think we would be where we are tonight if it wasn't for the way the public got involved.

Mr. Axthelm: Thank you.

Ms. Ehlers: There's something else I learned in this process, and that is that planning for one of those statistical events that you don't like –

Chairman Easton: Yeah.

Ms. Ehlers: – which was illustrated in the British Petroleum event, which statistically wouldn't happen. And it only took eight minutes. That whole fiasco out there in New Orleans only took eight minutes.

Chairman Easton: I know you're coming back to –

Ms. Ehlers: I'm coming back. I don't find an effective plan in the county to deal with that kind of an event. I know the fire departments have this document and the fire departments are contacted, but I don't see any coordination. I'm not sure, for example, that 911 has either this map or the County's map so that they could quickly identify where a problem might be.

Chairman Easton: Isn't – I'm sorry. I'm going to disagree slightly with this going in as a finding.

Ms. Ehlers: I'm not putting –

Chairman Easton: I believe what you're describing – you don't want it as a finding?

Ms. Ehlers: I don't want it as a finding. I want it as an example of the kind of thing that needs to be done that the Planning Department doesn't do, but I don't want it ignored because there's no _____.

Chairman Easton: Didn't you just – didn't you just describe what the Office of Emergency Management does for the Skagit County Office of Emergency Management?

Mr. Ehlers: Mm-hmm.

Chairman Easton: Okay. I'm not sure we need that as a finding, then.

Ms. Ehlers: But it needs encouragement because –

Mr. Axthelm: Then perhaps it's a recommendation.

Chairman Easton: How about let's go down to a recommendation?

Ms. Ehlers: Oh, that'd be – okay.

Chairman Easton: What would you like to recommend in relationship to that? More publicity? _____? I'm working on getting us to adjourn – I promise. That is my goal.

Ms. Ehlers: And the development of a – more public safety in cooperation with the companies and other departments of the County so that should a problem arise the County is better prepared to – for 911 to recognize it and the County to deal with it.

Chairman Easton: Okay, you want to propose some language to that effect?

Ms. Lohman: It's on there.

Chairman Easton: Does that language work for you?

Ms. Ehlers: Oh, Ryan, you're good!

Chairman Easton: All right – perfect. Discussion? Any further discussion? Any further discussion on the motion – on the proposal as it's presented in front of you?

(silence)

Chairman Easton: I need a motion. Excuse me – I need a motion to approve what's in front of you.

Ms. Lohman: I think semi-colon after "important." I think that's why it's green underlined.

Chairman Easton: Nice catch.

Ms. Lohman: Sorry.

Chairman Easton: No problem. We got the semi-colon before we voted. That's good!
Can I get a motion to approve this, please?

Ms. Lohman: I make a motion that we approve the recommendations, finding of facts and for action – findings of facts and reasons for action, additional recommendations proposed by the Planning Commission.

Chairman Easton: Is there a second?

Mr. Axthelm: I second.

Chairman Easton: It's been moved by Annie and seconded by Josh that we approve the recommendations and the findings of fact and reasons for action and additional recommendations. Any further discussion?

(silence)

Chairman Easton: Seeing and hearing none, all those in favor, signify by saying aye.

Mr. Walters: Shall I call the roll?

Chairman Easton: Shall I call the roll – Elinor?

Ms. Nakis: Aye.

Chairman Easton: Annie?

Ms. Lohman: Aye.

Chairman Easton: Josh?

Ms. Ehlers: No, it's Matt.

Mr. Mahaffie: Matt.

Chairman Easton: Sorry, ____.

Mr. Mahaffie: Aye.

Chairman Easton: You can vote for Josh – I don't care. Carol?

Ms. Ehlers: Yes.

Chairman Easton: Dave?

Mr. Hughes: Yep.

Chairman Easton: Josh?

Mr. Axthelm: Yes.

Chairman Easton: Mary?

Ms. McGoffin: Yes.

Chairman Easton: And the Chair votes aye. The ayes have it. The motion passes eight-zero. That would be the end of your deliberations on this issue. Please bear with us. If you're going to leave now, do it really quickly because we're going to go into some general business now which would probably be boring, but you're welcome to stay.

Unidentified male voice in the audience: Thank you.

(applause)

Chairman Easton: And, as always, the Planning Commission – I'll speak on behalf of the Planning Commission – we thank the public for your participation. Thank you for coming tonight.

Mr. Axthelm: Thank you.

Chairman Easton: You can always watch us on – on – at home, but it's nice to have you here in person. We thank you for that.

Unidentified male voice in the audience: Thank you for restraining the County.

(laughter)

Chairman Easton: Oh, yeah. All right, we're going to move into General Issues, and the first general issue I need to deal with is one that didn't get completely dealt with last time and Ryan will help me with, and that's the issue of e-mail. We need to address the fact that we are now being asked by the – please take your conversations to the lobby. Thank you. The County's requiring that we all have e-mail addresses – well, they're *kind* of requiring it. And the reasons why are not as important as the fact that we kind of have to deal with this. Four of us – exactly half of our current membership – have already signed up for the e-mails in question. Four of you haven't. At least one of you of those four have come to me and told me why you don't want to have it. And so the Department and I discussed this yesterday, in trying to prepare for tonight's meeting, and one of the solutions that we came up with was that if you don't want a box – because as of right now, it's not being required by the County Commissioners, although that may change, I'm told – if you don't want a box, you don't have to get one but you will not be getting communication from the Department via e-mail. Did I get that right?

Mr. Walters: I thought that we indicated –

Chairman Easton: Am I wrong?

Mr. Walters: – you could receive communication from the Department. You need to not have communication with the public, each other, et cetera, via e-mail.

Chairman Easton: Here's the situation that I ran into, especially the guy who got the most e-mail outside of the Planning people. I happen to be somebody who has an e-mail address that's easy to find. You Google my name, you find my website, you find my e-mail address. That's just how it works. It's just because of my job. Because of that, it was easier for the public to send me e-mails.

The County Planning Department has discussed that if we do get e-mails that those e-mail accounts would then potentially be posted on the website. So the potential for the public to communicate – I don't want to do anything to slow down the public with communicating with us. The reason I've opted to – and I would really strongly encourage the rest of you to do this, please, even if you're not – even if you're going to have the County – have the County print them out, Carol, and then come read them. If there's a way for the public to get hold of you, I think we're continuing to do what our task is, which is to – we shouldn't be doing anything, I think, to isolate ourselves from the public.

The reason I ended up having to be the one to distribute a bunch of e-mail to you guys instead of it going to everybody is because they didn't have everybody else's e-mail addresses. That's probably why it happened, which it did – it put me in a really awkward spot. But I'd like to see that avoided in the future. So, as it related to Carol, Dave, Annie and Elinor – and I'm not trying to single you out, but you just happen to be the ones that were – ones that didn't say yes.

Ms. Nakis: I don't think that I even – it never clicked that that's what you were asking.

Chairman Easton: I've got a form right here for you if you want to change your mind.

Ms. Nakis: Oh, sure. _____.

Chairman Easton: All right, well, there we go.

Mr. Axthelm: Here's a concern I have with that.

Chairman Easton: All right. Josh has a concern.

Mr. Axthelm: And it is that you got a communication from the public.

Chairman Easton: Yeah.

Mr. Axthelm: I think that the public has an opportunity, has a right place that they're supposed to respond to that. So when we have hearings that they – or not hearings – whatever – before deliberations they're able to public comment. I think that they have the chance to put letters in then and they have the chance to stand before us. The problem with e-mail is you could get e-mail after e-mail after e-mail at a time when it's already closed. It's no longer a time when they should be commenting. Well, they missed their opportunity.

Chairman Easton: How are you going to educate the whole public if they can't – if they can't do that? I mean, I hear your concern, Josh, I just don't _____.

Ms. Lohman: Can I –

Mr. Axthelm: I just don't want to have a box with a hundred e-mails in it.

Chairman Easton: Do I just send rejects to all of them? I mean _____. What am I supposed to do?

Mr. Walters: There is an important consideration here because if the public is commenting outside of the defined public participation process, they will lose the ability to gain standing which they might be interested in. They will be sending a communication that might not reach all of the decision makers, it might not be included in the record, it might not be included in the comments that are available on the website, it might be included in what gets forwarded to the Board. So there's a lot of incentive for the public to be communicating to the Planning Commission through the *defined* public participation process, and that is laid out in the legal notice that is always published before one of these things comes forward.

Ms. Ehlers: Mm-hmm.

Chairman Easton: That's awesome in theory. The problem is it's not very practical in practice.

Mr. Walters: Well, the point is they have a lot of incentive to do that. Now the next question is whether they're going to contact you outside – and we want you to talk to them. I mean, we want you to be the voice of the public. That is the purpose of the Planning Commission. So we don't want to artificially constrain you in some way. On the other hand, we have to deal with the fact that you represent the County, you are talking about County business, and we have obligations under the Public Records Act to disclose these kinds of things when people ask.

Chairman Easton: Right.

Mr. Walters: So what we've suggested is that you get County e-mail addresses if you're going to be communicating via e-mail with the public so that they – so that those things will be on file in case we get a public records request.

Chairman Easton: Sure.

Ms. Ehlers: Mm-hmm, mm-hmm.

Mr. Walters: Now if you don't communicate with the public via e-mail, then you don't need a public – a County e-mail address.

Chairman Easton: The problem is that what qualifies as not communicating is if – if they find Dave at hughesfarms.com and they send that to Dave –

Mr. Walters: Well, *now* they will since you've told everybody his address!

Chairman Easton: That's not really his address!

Mr. Walters: Okay.

(laughter)

Chairman Easton: If they find his e-mail address and they send him an e-mail, that's considered communicating, even if Dave doesn't do anything with it.

Ms. Lohman: Yeah.

Chairman Easton: And it'd be subject to the same public records request that required me to turn in information from my jason@jasoneaston.com address – that is an actual address – that I had to send. So what I did that I have is that if you gave us all address – if you gave us all of them – if we all took one – and we don't have to check them but here's what you do: you put a vacation-like e-mail in the system; anytime you get an – I get an e-mail to that – what is it? jeaston at skagit.wa –

Mr. Walters: I have no idea.

Chairman Easton: Yeah. You get a response immediately sent. I don't have to send it. It's immediately tagged to send back to them that says exactly what you just said: "By sending Jason this –

Mr. Walters: That is easy to do.

Chairman Easton: "By sending the Planning Commission this e-mail, you may subject yourself to not actually having it part of the written record. It might not be part of the – what gets forwarded, and here's how you respond in writing. Here's the link to the spot on the website where you can go and put your public comment in" – assuming the

comment period's open. If you draft an e-mail like that and the rest of them would agree to sign it, then we would at least be educating the public when they try to e-mail us.

Mr. Axthelm: And to that ___.

Ms. Nakis: Well, that's the other thing that you could do. When the comment period's over, you could do the same thing. Use your, you know –

Chairman Easton: But we wouldn't know what topic it is. I mean, if it – it varies.

Ms. Nakis: No, no, I mean individually, like – oh, I see. If you – but usually there's only one comment period open at a time.

Ms. Lohman: He's just making a global statement.

Chairman Easton: I'm just talking about a global statement so that each time somebody – if our addresses were advertised, the public knew this was one way they could try to get hold of us – look, whether we – again, regardless of what was in the content – now I'm not talking about the content of the e-mails that I got that we ended up distributing. There are times where both the Board of County Commissioners and the Planning Commission, people don't want their communication to go through staff. They would prefer that it come direct to you. That's why they stop you in the hallway.

Ms. Nakis: Right.

Chairman Easton: You know, and they don't do that – and they may not stop you when you're standing next to Gary. That's their own – that's their own prerogative. I don't want to do anything to make it harder for people to get hold of us. That's why I'm strongly recommending that you all take an account. But if you don't want to, it's up to the Department. I will say this: Eventually it may not be up to us. It may – the Commissioners may decide, for their own legal reasons, that we *have* to do it.

Mr. Axthelm: I like that proposal. I just want – it's – I will listen to the public no matter what – you know, in any situation. But – or in their communications – but I would like to have the information during the public period so that I can review it all at once or go through those comments.

Chairman Easton: Well, we can do a better job of – I try – and you guys can remind me – we try to do that in the way that we reach out to the public when they're here and on TV. We try to remind them that there's a certain time period. We – Carly and I have tried to work on making sure we point out that you can't send e-mail – lately it's been something we've tried to focus on lately – that you've got to go to the website to actually electronically submit a document or submit a letter. So we can keep trying to do a better job of educating.

You're not requiring it of us, so basically the only one who so far has spoken up that she wants one, in addition to the four that already have them, is Carol. If you have one, you got an envelope tonight –

Ms. Ehlers: No – Elinor.

Chairman Easton: Or Elinor – I'm sorry. Ooh, that was a Freudian slip!

(laughter)

Chairman Easton: The only – they'll send you more information. But the rest of us who already signed up for ours have our logins and all that stuff in an envelope that was given to us – and our passwords. Any other work we need to do on this issue?

Ms. Lohman: Yeah.

Chairman Easton: Yeah. What do you think?

Ms. Lohman: I think we need to do more work on the Planning Commission website and put all of our materials on the Planning Commission website. Because there was an instance on the FEMA thing where the County sent me a very large bundle. And I had no idea – I had *no* idea that it was in the pipeline coming, and it couldn't come. And then I had called Mr. DeVries because he had sent an e-mail that referenced going on a government website, and it had a whole ton of stuff, and I was questioning, What is he bringing to the meeting? And he says, Oh, well, didn't you get...And if it hadn't been for that conversation, I would have come to this meeting without having done my homework. And there were actually two e-mails related that were sent one, two. And Jason tried to forward it to me, Carly tried to forward it to me, and the server would not take it. And that is a problem because that's a breakdown. Carol gets it in writing, but I'm suggesting you have the website. Let's use that tool. And if we are disciplined –

Chairman Easton: So as an example, like the public comment letters could be posted. That 120, 31-page – can that be done, Carly? Ryan?

Carly Ruacho: Yep.

Mr. Walters: The comments are there now, are they not?

Ms. Lohman: No.

Chairman Easton: I mean at the time that we're notified.

Mr. Walters: The Department is currently engaged in a revamp of their entire website.

Ms. Lohman: To me, if you could put all of the Planning Commission's materials on the Planning Commission website, the staff doesn't have to send it to each and every one of us. It's a one-place. The public has one place, we have one place.

Mr. Walters: Where the public could obtain it, too.

Ms. Lohman: Because we don't get stuff the public doesn't get, correct?

Mr. Axthelm: Could we link it to that issue or a particular –

Ms. Lohman: Yes, you could –

Chairman Easton: That could be under a topic or something?

Mr. Axthelm: – particular agenda or topic?

Ms. Lohman: Yes. And then I would also like to suggest, if I could be the queen for the day –

Chairman Easton: Go ahead.

Ms. Lohman: – when the topic is put to rest that it goes into – all those collected materials goes into an archive. Because right now what's happening is it rolls off and – where'd it go? It's not – not all of the materials stay bundled, and I think they need to because they're a record.

Mr. Walters: So we also do maintain a record, which currently is maintained on paper, but we have just begun transitioning to maintaining that record electronically and, just like the Board of County Commissioner documents are all maintained electronically in the same process and then they're easily searchable on the web, it's possible that record may soon be available on the web.

Chairman Easton: Carol has a question.

Ms. Ehlers: Carol has an issue that has come up at meeting after meeting that is not just Planning, but it's other issues also. You spend a lot of money mailing, but it doesn't get to people. And I finally think I have part of the key of what happens. You get the address from the Assessor's office, but if somebody has a post office box, the post office will only allow them to forward mail from that street address to the post office box for a year. They may only renew that for a year.

Chairman Easton: Hmm.

Ms. Ehlers: So after the second year of having a post office box, anything that comes – now I'm not sure what the Treasurer's office does – but anything that comes from Planning or Public Works or the Conservation District or other things goes off

somewhere. It certainly doesn't come to us. And it's part of the public unhappiness that we've heard at numerous different meetings on the notification.

Now as far as I can tell, this is a problem not with the local post office, because the local post office has lost all authority. It's a problem with the Seattle post office. And the public is not powerful enough to deal with it. I think this is something that the County – some element of the County administration – should deal with to allow you to actually communicate with the people that you intend to.

Chairman Easton: Let me make two suggestions.

Mr. Hughes: I would think that –

Chairman Easton: Go ahead, Dave.

Mr. Hughes: – use the Treasurer's addresses because when they send tax statements they always find where they're going.

Chairman Easton: And that is – we discussed this – I'll just take it, Kirk – we discussed this yesterday in our "pre-op" meeting and – for lack of a better word – and that *is* what the Department is doing with their mail provider. If you have suggestions about how to improve the website, I would recommend that you e-mail those from your personal or your County e-mail account to the Department.

Ms. Lohman: But I think that we don't want to make the Planning Department's job worse. We want to streamline.

Chairman Easton: Agreed. No, I agree. If you have suggestions on how to improve on that or other questions, let's take them offline. Is there anything that *has* to happen for the good of the order before we end?

Mr. Mahaffie: Can I –

Chairman Easton: Jo –

Mr. Mahaffie: Matt.

Chairman Easton: Sorry, that's twice. Sorry, Josh. Sorry, Matt.

Mr. Mahaffie: Could I just make a general comment?

Chairman Easton: Of course you can.

Mr. Mahaffie: I was kind of noticing at our last meeting – the study session, the work session with the BiOp stuff – when you say "work session," it doesn't seem to really be a work session anymore. It's more presentation.

Chairman Easton: A lecture session?

Mr. Mahaffie: Yeah. I think a lot of what we have seen might have been avoided if we had, you know, a roundtable meeting, you know, with your proposed code. We are all members of the public. I think –

Chairman Easton: You mean before it was –

Mr. Mahaffie: Before –

Chairman Easton: – before it was sent out to the public?

Mr. Mahaffie: Before our public hearing. It might not – you know, in the revised piece, I mean, there're some good pieces in there that kind of got thrown away. And, you know, I think that might have been able to be prevented, you know, if more of a roundtable – you know, flesh it out a little more instead of just handing it to us?

Chairman Easton: That's good. Let me address that. The Director and I – that was about a month ago – met with Commissioner Wesen, who's the Chair, and the County Administrator, Tim Holloran, and a couple of others, and one of the topics we discussed was changing our schedule so that work sessions actually were moved up further in the process. So they happen sooner then. So I think that addresses that. And that's something you're going to see coming.

By the way, as much as that is going to come, it's going to be difficult for us to make that change going into the fall with how much is on our schedule. It may not, because of the things that are required by time-wise, but it's definitely the goal of the Department and I said that I felt like, as a commission, that we would support that kind of change. Did I paraphrase that right?

Mr. Christensen: Yes, that's true, so expect more meetings.

Chairman Easton: Well, and expect them at different – expect different timings on how we handle our work sessions so that they're actually more like work.

And, with that, can this be – oh, already.

Ms. Ehlers: Let me back that because when we did the critical areas, we actually modified the language. We thought through what we did, we found a better way of saying a number of things.

Chairman Easton: Yeah.

Ms. Ehlers: And so what the Department did was to use our minds and our knowledge in addition to the CAC's.

Chairman Easton: Right.

Ms. Ehlers: And I think that produced a much better document.

Chairman Easton: You're exactly on to what we're trying to do. Do you have something on a different topic?

Ms. Lohman: Totally different.

Chairman Easton: Okay, give me a totally different topic.

Ms. Lohman: I'm wanting to kind of touch back onto the timeline, the work schedule timeline.

Chairman Easton: Oh, our work plan?

Ms. Lohman: And we've got the Shorelines Act – or the Shorelines Management Plan update going on; we've got the Ag-CAO/Ruckelshaus process going on; then the NMFS; and then the trailing issues from the – that list of trailing issues from the – what was it? – the 2005 whatever.

Chairman Easton: Comp Plan.

Ms. Lohman: Where are we there? What's our progress look like?

Mr. Christensen: There is an established work program which we have discussed with you. We provide quarterly reports to the Board of County Commissioners and we send those to you for your review. I think –

(Chairman Easton and Ms. Lohman talking at the same time = inaudible)

Mr. Christensen: I provide updates – yes, I sent one recently.

Chairman Easton: You did one this quarter?

Mr. Christensen: Yes, I'll send the e-mail to you again.

Chairman Easton: I'm sorry. I don't know if I missed it –

Mr. Christensen: It was –

Ms. Lohman: I'm concerned about a couple things that have some date-certain, like there's a December date for the Ruckelshaus.

Chairman Easton: Right.

Ms. Lohman: And I can't remember –

Mr. Christensen: Yeah, there's – the Ruckelshaus, by the way, is not on our work program. When we adopted the work program we didn't know what Ruckelshaus legislation might require. So we have to take that issue up with the Board of County Commissioners. What you're scheduled to hear, I think in August, is a study session on round 2 of proposed code amendments, principally and primarily to address school siting criteria at the Bayview Ridge in the Residential zone. That was unfinished business, as well as perhaps allowing more than a one-year extension to plats.

Chairman Easton: They're going to make it on the August 2nd agenda?

Mr. Christensen: That's a study session. You'll have a hearing in September on it.

Chairman Easton: So we're only planned right now to meet once in August, and the two things we would be handling at our next meeting then would be –

Mr. Christensen: As of tonight, yes.

Chairman Easton: As of right now. We have a deliberation scheduled. We have a deliberation scheduled on the NMFS issue; we have these two issues that you just brought up in a work session.

Mr. Christensen: Yes. And then we also have a Capital Facility Plan update before the end of the year to coincide with the Commissioners' budget for next year. That's an annual program.

Chairman Easton: Okay.

Mr. Christensen: So more coming, yes.

Mr. Walters: And you'll be hearing about Ruckelshaus very soon.

Ms. Lohman: Because don't we have a December –

Mr. Walters: There're a number of deadlines.

Mr. Christensen: You'll – we'll provide you with a briefing on that. We're currently engaged with various departments – County Commissioners, County Administrator, legal counsel and the Department.

Chairman Easton: All right, seeing –

Ms. Ruacho: Jason, just one –

Chairman Easton: Yeah, Carly?

Ms. Ruacho: Just so there's no, you know, misunderstanding – because I feel like Matt's comment about the work session – so the work session that you had on the BiOp was under the new order of coming to you the month before you have your public hearing. So when we come with the topic, like Tim did with that, we're going to present the topic to you so – in August – just like I said, just so that there's no misunderstanding of what our plan is – and please say if there's a different plan –

Chairman Easton: We need to figure out between you and I in how we set up the next one.

Ms. Ruacho: Yeah.

Chairman Easton: Because what I'm hearing from Matt is there wasn't enough interaction.

Ms. Ruacho: Right, so we're going to –

Chairman Easton: More lecture.

Ms. Ruacho: So we're going to – we'll present – we're going to lecture – and then the work part needs to come from that side. So, you know –

Chairman Easton: I think there're some better ways for us to – we'll play with how to facilitate it so it's a little smoother. Yes, Matt?

Mr. Mahaffie: I just remember the Open Space concept where we sat down and we went through it piece by piece and it seemed to work really well.

Ms. Ruacho: Yeah, and that's what we're doing with those topics. When I come to you with the codes, which will be, you know, a lot smaller, you know, so it'll be easier to kind of talk about it – you know, I'll present them to you and then that's the opportunity if there's, like Carol was saying, to take advantage of your ___ and your talents that we want to hear back. And then we still have time before we release to the public and have the public hearing. That's the new process, so...

Chairman Easton: Okay.

Ms. Ehlers: That's much better.

Chairman Easton: All right. And it will get better, I think, too. All right. Anything else to come before us before we are adjourned?

Ms. Lohman: I move we adjourn.

Chairman Easton: All right. All right, we're adjourned (gavel).