

Skagit County Planning Commission
Public Hearing and Deliberations:
2011 Code Amendments V.2
September 13, 2011

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

Staff: Carly Ruacho, Senior Planner
Ryan Walters, Deputy Civil Prosecuting Attorney
Kirk Johnson, Senior Planner/Team Leader

Public Commenters: Laurel Browning, Superintendent, Burlington-Edison School District
John Ravnik, Civil Engineer, Ravnik and Associates
June Kite, Friends of Skagit County
Marianne Manville-Ailles, Skagit Surveyors & Engineers

Chairman Jason Easton: Good evening and welcome to this edition of the Skagit County Planning Commission. I'm Jason Easton, the Chair, and I call the meeting to order (gavel). Tonight's business before us is a public hearing. Commissioners, your agenda is in front of you. Is there any additions to the agenda that you would like to see made, or adjustments?

Carol Ehlers: I have an item under "Other."

Chairman Easton: We will make a note that Carol has an "Other" item. Anything else?

Annie Lohman: Me too.

Chairman Easton: And so does Annie. All right. With that, I will read our opening statement because we are in a public hearing.

The purpose of this public hearing is to receive testimony and written correspondence regarding proposals to amend Skagit County Code Title 14 relating to school sitings within the Bayview Ridge UGA, as well as possible extension provisions for preliminary subdivision approvals.

There is a sign-up sheet at 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 who wish to testify but did not sign up to speak.

Please limit your comments to five minutes so that everyone will have a chance to speak. As always, we ask that special interest groups, associations or those representing others are encouraged to designate one person from your group to allow for greater participation and cross-representation.

Before you testify, clearly state your name, spell your last name and please give us your address. A recording system will record your comments. Written comments are also being accepted and can be placed in the box located on the staff table near the front of the room. And thank you for taking the time to participate.

At this time we'll take a brief – get a brief explanation of what we're here to do tonight from Ms. Ruacho.

Carly Ruacho: Thanks, Jason. Tonight is kind of – it's kind of an extension of your process earlier this year where we did the majority of the 2011 annual code amendments. There was a couple of issues that you were interested in having brought back before you to have a – for some further work, both prior to tonight and then through this process. So those issues were pertaining, as you said earlier, to the Bayview Ridge Urban Growth Area and the school siting, and we have received communication from the School District and have been working with them over the past several months to draft the code changes that have gone out for public comment and are before you tonight.

The other major component that's before you tonight does have to do with the opportunities for extensions for preliminarily approved subdivisions. So you'll remember that earlier this year you took action and the Board of County Commissioners took action to adopt a one-year extension provision, whereas previously there were no extension opportunities. And then just a reminder of how that works: The state also provided an extension. So the standard statutory allowance for a preliminary subdivision, once you get your preliminary approval, is you have five years to complete the infrastructure requirements – build your roads, install your water, things like that – that are necessary for you to achieve final approval.

The state extended that on a sunsetted time period to seven years, and then we took action earlier this year to give an additional year. So that totals eight years now from preliminary approval; you then have eight years to complete the infrastructure requirements to obtain final approval.

But what we're here tonight is several options, so this is a little bit unique. Probably more options than you're used to working with – four options before you tonight to take comment on. So hopefully it wasn't too complicated for the public to review and put their comments together as to which option they might want to see move forward. And there're some blanks in a couple of them that would need to be kind of decided tonight, if you want to move forward with those.

And then we just have the one minor provision that has to do with correcting the reference to the International Building Code and our sign code. It referred to the 2003; we're using the 2009. So it's just a minor correction there to get the correct year. We're obligated by the state to use the current International Building Code so we are using the 2009, so that gets us consistent with what we're actually doing.

So those are kind of the three subjects. There's multiple code changes in the school siting component, but those are the three areas.

So we have received two comment letters. You've been forwarded those electronically and then some of you have been handed a paper copy that don't – those of you that don't receive electronic communication. And then we've also – as we said we would last time we were together on this issue at your work session, we indicated that we would communicate with the Port for some clarification, and we have done that. So we can talk about that later during your deliberations, but just so you know that communication has occurred.

Maybe one point of clarification that I might make, just in case it comes up: The School District's interest in addressing four concerns – I think you'll remember during your work session you received a letter from them indicating four subject areas. And we did take all four of those concerns to the Board of County Commissioners to get their guidance on which ones they wanted actual code provisions written and then released for public comment. And so the Board did elect to put three of the four issues out for public comment, but not one of them. So one of them is not included in what's before you tonight, based on the Board's direction.

But we do have a good package in front of you tonight and it looks like we've got some folks here to testify regarding the public comments. So that's about all I have on that.

Chairman Easton: Okay. Any questions of staff before we start?

(silence)

Chairman Easton: All right, at this time I don't have the sign-in sheet –

Ms. Ruacho: Oh, that's me!

Chairman Easton: – so I wouldn't know who to call on first. Thank you. Superintendent Browning?

Laurel Browning: Good evening.

Chairman Easton: Good evening.

Ms. Browning: It's nice to see you. This is a continuation, like Carly said, from our – from your work session, and I believe you have our correspondence in front of you. We formally are responding to the ad that was recently placed in the paper. I also wanted to note that we've worked closely with the County, and many of the issues we're in agreement with and they've been very helpful, with the exception of the four items that we spoke about last time. Some of those we're still not comfortable with, and as you discuss those tonight, it would be really nice for you to keep in mind that when we go to obtain property for a school we need to be assured that we can put a school site on that. And at the current time we're 500 students over capacity with our current setting, so anything we do from here out with future growth and economic development really will impact us. And so that's just something, as you think about the importance of a school. We're already very crowded and the Burlington-Edison area is a challenge to build anywhere, just with some of the restrictions. And we worked with John Ravnik, so I would like him to be able to continue to speak on our behalf with some of the items that we've highlighted.

Chairman Easton: Great.

Ms. Browning: Thank you.

Chairman Easton: Thank you. Mr. Ravnik? Seeing how short the list is for speakers tonight and that Ms. Browning didn't use all of her time, I'm going to take a privilege as the Chair and allow Mr. Ravnik seven minutes, you know, give or take thirty seconds, to speak to us.

John Ravnik: Chairman Easton, Planning Commission members, thank you very much. My name is John Ravnik. Last name is spelled R-a-v as in Victor-n-i-k. My address is Post Office Box 361, Burlington, Washington. I'm a Civil Engineer with Ravnik and Associates. Before we go into this, I have handed you a packet and I'm just going to peruse it very, very quickly. The top two white pages of the letter dated September 9th was provided by the School District. The accompanying three blue pages is substantiation of the four additional topics. The tan page is a letter from the District's attorney, John Rorick. That package right there – the white, the blue, the tan – is what has already been submitted to you. The documents thereafter are being provided in addition this evening. And, Carly, I forgot to put one in the box. I didn't see the box, so if that was sufficient – okay.

Then after that you have a photograph, which we'll get to; you've got a letter from the Port of Skagit County; and then the yellow pages are simply the information that was

prepared by the Planning and Development Services. I take it, Chairman Easton, that you're going to be following in order the 2001 (sic) amendments proposal, version 2, where the first topic had to do with clarification in the Airport Environs Overlay?

Chairman Easton: Yeah, my intention was to take it in the order that it is on the staff memo.

Mr. Ravnik: Okay.

Chairman Easton: So that's – that would be correct.

Mr. Ravnik: Okay, and then – I will then be coming up and down a couple of times because out of the six topics, four of them are School District-related.

Chairman Easton: Why don't we do this: Is there anyone here to testify about anything other than the School District issues?

Mr. Ravnik: Marianne is.

Chairman Easton: Okay, so raise your hand if you're here to – help me for a second – you're here to testify but you're not testifying about anything that affects the schools?

Marianne Manville-Ailles: Right.

Chairman Easton: Did I just ask a question that actually made no sense? I think so. Let me try this again. Raise your hand if you have something to say about Burlington-Edison School District items that are on our agenda tonight. All right. John, you're the only one that's left to approach us about this topic. So my preference – unless there's an objection from the rest of the Commission – is that we just take all the Burlington-Edison-related issues and we just take them all in order. We'll deal with that, then we'll take the testimony from the folks.

Mr. Ravnik: If that's acceptable, then that's fine with the School District.

Chairman Easton: Let's go ahead and do that, do it that way. We'll stay on topic that way. Yes, Carol?

Ms. Ehlers: I'm sitting here with hunks of paper, which it looks like Mr. Ravnik gave us a duplicate of. Can we use their information so that we can all be on the same page?

Chairman Easton: Yeah, I think that that would be fine. I expect that Mr. Ravnik is probably going to take us through –

Mr. Ravnik: Yes, sir, I am.

Chairman Easton: – the package in that kind of direction. Okay?

Mr. Ravnik: I am.

Chairman Easton: Any other questions?

(silence)

Chairman Easton: All right, let's – all right, we'll start the clock at – we're gracious with time tonight, so go ahead, John.

Mr. Ravnik: Yes, sir. Item number 1 – and I'm back on the very last four yellow pages and I'll follow that agenda – is just a code cleanup matter, because staff is recommending some changes within the BR-R language which instead of – in the BR-R Hearing Examiner Special Uses for Schools – instead of it saying, "The proposed site includes, or abuts, permanent open space," the recommended change is, "At least 25% of the proposed site will be permanent open space," comma, "playfields," comma, "or other active recreation areas."

Now that's a matter we're going to touch on in a moment, but item number 1 is simply a code clarification in the Airport Environs Overlay so that the two code sections are consistent with one another. When we first met on this matter, which was August 2nd – it was a workshop with the Planning Department – I believe Carly will agree that they recommended and they agreed to it, and then in their staff report tonight they're recommending the same. So I have no comments other than yes, I support and thank you.

Chairman Easton: Is the item on the second page now? I want to make sure the Commission's following you.

Mr. Ravnik: Yes, I am.

Chairman Easton: We're all on the second page of the memo for the Commission?

Mr. Ravnik: Yes, PDS, page 2 of 4. The next one is it lists sections 14.16.340 and I'm on a yellow page numbered in the bottom right-hand corner, Page 2 of 4. And in that changes are proposed to item (4)(f), item (i). Whereas the original language stated "The proposed facility is not sited in Safety Zones 1 through 5, and is sited as close to the outer edge of zone 6 as possible," and a portion of that text is being recommended to be removed. It's lined out. Again, thank you very much. The School District supports that and appreciates the time that staff has put forth into it.

Next item – I'm staying on page number 2 of 4, section (4)(f), Roman numeral (iv). This is the one I just mentioned that was related to the Airport Environs. The original text stated, "The proposed site includes, or abuts, permanent open space." I could go into the justification, but staff and the School District and I are in agreement that the changes proposed stating, "At least 25% of the proposed site will be permanent open

space,” comma, “playfields,” comma, “or other active recreation areas” is fully supported by the School District. Okay? So far, so good?

Next item, number (5)(e). This has to do with height. I believe it was in 2009 that the Planning Department and the Planning Commission changed this to a maximum of 40 feet high, and prior to that the allowable building heights in BR-R were subject to the Port of Skagit County’s flight contours. And so the permissible heights at that time were considerably more.

Staff is – we have suggested to staff and they have supported here that the allowable height for a building – for a school – not be 40 feet but that it be up to 55 feet, provided that a statement from the Port in support of the increased height is submitted and the proposed height conforms to the applicable FAA regulations.

For your reference – and I must admit, Carol, I do appreciate sharing your thoughts – and I have a photograph that is provided in your packet, and it is immediately after the tan section. This is a photograph of Lucille Umbarger Elementary School in Burlington.

Chairman Easton: So why don’t you put that on the overhead, Brian? Let’s show the folks at home. Thanks, John.

Mr. Ravnik: This is a picture of Lucille Umbarger Elementary School in Burlington. The photo was taken today. That building height is 45 feet tall. Now underneath that picture I put some text there and the first small paragraph is Skagit County’s definition of “building height.” And I’ll read it: “Per current Skagit County Code, a building’s height is the vertical distance measured from the average elevation of the area occupied by the structure to the highest point of the structure or roof for flat roofs, and the average height of the roof on gable, shed, hip or other peaked roofs.” In this situation you can take out some of the words and it means, What’s the average, finished, exterior grade immediately around the building to the average elevation between the peak and the eave? All right?

I spoke to a local architect and I said, Well, do all jurisdictions use the IBC in that fashion? He goes, No. Some jurisdictions don’t use the average of the eave to the peak. They actually use the peak. So if Burlington had a 40-foot high building limitation, this building would probably apply because – if you based it on the average. If Burlington had a 40-foot *peak* height we wouldn’t have been able to do so. Jurisdictions are going to have different codes or codes are going to change over time. Building designs are going to change over time. There is no specific site selected for the school site, so some flexibility must be maintained.

So the justification for changing the maximum height allowance from 40 to 55 is (a) to accommodate at least a Lucille Umbarger’s school; accommodate site conditions that are unknown at this time; accommodate flexibility in building design because of all the various programs that get incorporated into a school; and to accommodate the allowance of possible changes in how codes are interpreted or applied in the future.

Ms. Ehlers: May I ask a question while we're on this topic?

Chairman Easton: Yeah, I think that's fine. We're going to deliberate tonight anyway, so I think we'll take questions now and – just go ahead. It won't count against your time.

Ms. Ehlers: Well, my question – I read the entire 1990-91 Josh Wilson School documentation, which I had kept. And one of the things that – unfortunately, in those days the Planning Department did not give the Planning Commission our final decisions that were reported by the – approved by the County Commissioners, so I can't give you that final decision.

Chairman Easton: I just need you to get to the question, Commissioner.

Ms. Ehlers: It was required that there be R-30 in the roof and double-glazing. The double-glazing's no problem, but is there space with this for R-30 in the roof and the other kinds of sound barriers you need when you're in an aviation zone? You might think about that a minute.

Mr. Ravnik: May I respond?

Chairman Easton: Please. Please do.

Mr. Ravnik: Okay. On November 15th of 2010 – since you like dates – a book was provided to Skagit County Planning and Development Services, and in that book it contained an aviation noise study that was – you know where the Bay Ridge Fire Station is?

Ms. Ehlers: Mm-hmm.

Mr. Ravnik: The sample station for the noise study was placed at the southeast corner of the fire station property. I believe it was running for a week, and it recorded every single sound – truck, airplane, bird, you name it. With exception that fire station sounds exceeded the allowable limits and they have the right to do so because they're emergencies, at that location and in that general area no sounds were detected that exceeded the state limitations.

Ms. Ehlers: That is something that we should have been given.

Mr. Ravnik: Okay?

Ms. Ehlers: Thank you.

Chairman Easton: All right, let's – thank you, John.

Ms. Ehlers: Well, you see, that answers it, doesn't it?

Chairman Easton: It does. I agree. All right, we'll move in whatever direction Mr. Ravnik would like to with his testimony.

Mr. Ravnik: Okay. If I could take the photograph off?

Chairman Easton: Yeah, that's fine.

Mr. Ravnik: That's the end of the discussion relative to building height. So going back to your packet of information, again I am on the yellow sheet, bottom right-hand corner, numbered Page 2 of 4. We have now completed our discussion through item (5).

Item (6) –

Chairman Easton: So you're on page 3 of the memo then?

Mr. Ravnik: No, sir. I'm still on the bottom of page 2 of 4. Item (6) Residential and Open Space Provisions. In one of the matters that we presented back to the Planning Commission and to the Board of County Commissioners was the Skagit County Code that does not yet exist for PUDs; however – and code states in the BR-R section – “Planned unit development (PUD) regulations are required for construction of 5 or more units within 1 legal lot of record or for... residential land divisions when 5 or more building lots are proposed.”

Now if you want to, I am reading on my second blue page. If you want to. In the future it's – because the School District is – the school site's more than likely going to be located in a residential area, we hope – it's very possible and likely that a school-sized parcel could be created at the same time as a residential platting is being performed. That would put the school site falling into created “with 5 or more” other lots, and, therefore, subject to PUD regulations. Now there's no PUD regs that apply today so we don't know what those regs might be.

I did take a look at the zoning codes for the City of Mount Vernon, Burlington and Sedro-Woolley and all of their PUD regulations specifically apply to residential development. There are some small residential, small-scale commercial residential neighborhood provisions in the PUD regulations, but there are no allowances or innuendos to schools.

So my question here, or a question to staff has been, Why do we have to be subject to an unknown regulation, especially when it takes three or four years to go through siting investigations, land negotiations, bond preparation and approval, construction documents, and construction, and thereafter have something that we're responsible for that we could have had no idea what it was going to be?

So staff, going back to your yellow page, number 2 of 4 has provided you two options, an Option A and an Option B. Our request was to eliminate school sites from PUD regulations and staff has provided that as Option A. Staff has taken it and narrowed it down a little more specifically with Option B, which is just fine. It's not our intent to open up Pandora's Box and say all large buildings or all commercial facilities are not subject to PUD. We don't have that crystal ball. But it is fair and appreciated that staff has looked at this and said, Well, you know what? That's isolated. Let's just call it schools – are not subject to PUD regulations.

So on Option B, the School District is in support and that does specifically address the second of our four subjects that have been brought up over the last couple of months.

Ms. Ehlers: May I ask a question on the topic?

Chairman Easton: Yeah, a brief question.

Ms. Ehlers: This will be to Carly. Do PUDs have homeowners associations?

Ms. Ruacho: Well, not the PUD. I mean, the PUD is going to be the standards, the design standards that they construct it to. If the buildings built within the PUD, if they choose to have a homeowners association, that's up to them. Homeowners associations are not something that we're involved in.

Chairman Easton: Okay, so just –

Ms. Ehlers: Okay.

Chairman Easton: I don't mean to admonish the Commission or Mr. Ravnik, but try to remember once in a while that people are watching us at home. Let's try not to use a lot of acronyms. It's just really difficult for people to follow, so – and particularly one like "PUD" which has multiple meanings. When we're discussing planned unit developments and whether homeowners associations can – and – so I just want to make sure that others that watch this that don't speak planning can at least somewhat track with what we're doing. Mr. Ravnik?

Mr. Ravnik: Okay.

Chairman Easton: I'm going to extend your time just a few more minutes, but we need to get through numbers 3 and 4 of your concerns.

Mr. Ravnik: If I had five minutes for each of the five topics, I'd have twenty-five minutes.

Chairman Easton: Yes, and if I had a thousand dollars for everyone in the room, I'd be a rich man, but...

Mr. Ravnik: Subject number 3 was Clarification of Uses in Airport Environs Zone. And the only reason that we brought that up was the 4S zone is not an area that a school can be. We know that for a fact. Unquestionably. However, if a school is sited in the BR-R zone – and there's no commitment to such at the time – there's the potential that playfields could be in the 4S zone, congregations of kids, bleachers, backstops, drive lanes, things of that nature. Not building, but is it permissible for those activities to occur? Only because we didn't know, and I think Carly may have some additional information tonight, I provide you a letter from the Port of Skagit County, dated September 9th. It is at the very – it's two pages prior to the yellow. It's right after the photograph. The Port discusses support as long as open space provisions are maintained, which is not a problem with playfields in the 4S zone.

The last item is a matter that we did briefly discuss –

Chairman Easton: I'm going to have you hold on for a second – sorry.

Mr. Ravnik: Excuse me.

Chairman Easton: That relates – am I tracking right? – that relates to the e-mail that the – also tracks to the e-mail that the Port sent in about 4S that didn't make it in before the public comment period ended?

Ms. Ruacho: Right. I think – the e-mail is to us.

Chairman Easton: The letter was to the District.

Ms. Ruacho: For our request of the District – or of the Port to respond. And then John also made the same request of the Port, so they responded to both e-mails.

Chairman Easton: Okay, I just wanted to make sure. And just for clarification for the Commission's sake, the Port sent the Planning Department a response to their – the question I'm sending at. This is a reminder, a request for comments. This is from Gary to Patsy Martin and Sara Young at the Port. See below – also you'll need some more information on the proposed code amendments. They can go to the – they reference the website. The Port responded, and their response to the Department is very similar to the response that is in your packet from Mr. – in Mr. Ravnik's packet that was sent to the District. So because it came in after – excuse me. Because it came in the form of an e-mail, our slightly archaic – I'm sorry. I shouldn't say that; that's commentary. We currently cannot accept comments via e-mail as a commission and as a department. So this was given to me, as the Chair, as important information – just so you're aware of why, logistically speaking, it's not in your packet. Any questions about that?

Ms. Ehlers: Are you saying that, in essence, the Port is – in their e-mail – is agreeing with their letter of September 9th, which we do have?

Chairman Easton: At this time I'll suspend the time that Mr. Ravnik has and I will read the e-mail into the record from the Port to Mr. Christensen, then there won't be any confusion, unless, of course, I fail to read it properly. But I'll do my best.

Gary,

Thank you for the reminder. I needed it.

From an airport protection view, I do not see a problem with the allowance of the proposed – quote – “school accessory” – end quote – uses in the 4S zone, provided that all other requirements of the AEO, including height limits and open space minimums are met. As no changes are proposed that would affect those requirements, this change does not appear to be a problem.

We've also been asked by the BE School District to provide an opinion on the proposed BR-R code amendment to include playfields and other active recreation areas, in addition to open space within the 25 percent open space requirement. In response to that question, we have no objection to the proposed BR-R code amendment, provided that the minimum open space criteria under SCC 14.16.210(10) and Table 1 are met.

I hope these comments are helpful to you. Please do not hesitate to call me if you need any more information or would like to discuss our position further.

This is from Sara Young, who is the Manager of Projects, Planning and Environmental Services for the Port of Skagit.

Does the Commission have any questions about that? I apologize for being sort of – an odd way for us to do something, but that's just how we have to deal with e-mail some times. All right. We'll go ahead and go back to Mr. Ravnik then.

Mr. Ravnik: On a point of clarification, the discussion of allowances in the 4S zone is really not a matter that you're deciding or discussing tonight. I don't believe it was in – Carly, you can correct me if I'm wrong – I don't think it was listed as a matter for them to decide upon.

Ms. Ruacho: No.

Mr. Ravnik: Okay. Last item: When we spoke on August 2nd and then also before the Board of County Commissioners, I believe on August 22nd, one of the matters that I had brought up to you – and I happen to be looking at the second blue page, for your reference – is a portion of code, 14.16.215, Bayview Ridge Urban Growth Area, that says that anybody who does a development in the Bayview Ridge must, for that

development and all the other properties that they own, agree to a no-protest waiver to an LID – future LID – for a period of twenty years.

In your packet of information, the tan pages, which are immediately after the blue, is a letter from the School District's attorney, land use attorneys Dionne & Rorick, dated September 6, 2011. And their comment is this: "In effect," this code – Skagit County Code "14.16.215(3)(c) extinguishes the property owner's right to protest the formation of an LID as a condition to undertaking any development activity within the Bayview Ridge UGA. Given that the right to protest LID formation derives from state law (and has constitutional due process underpinnings), we believe that conditioning any and all development activity within a particular zone upon waiver of that right is quite possibly invalid and subject to legal challenge if enforced."

Furthermore – next paragraph – we have an entity here, and if we want to think of all the parties that could possibly develop up on Bay View Ridge, we have an entity called a "school district" and they are a municipal corporation. And it's not possible for that municipal corporation to accept the fact that I have to have the right to burden my taxpayers to twenty years in the future with an unknown formation of unknown costs in an unknown LID.

If it's a private party, if it's me doing it, I do it with the right of knowledge because I'm the owner in twenty years. I'm the responsible party. This probably is not a matter that the Planning Commission can specifically address. It's not on your shopping list tonight. But it is clearly a matter that we would request that you would recommend staff and the County's land use attorneys clearly discuss and provide a response back to the School District.

I believe we've addressed all the matters that have been presented by staff and then some. I appreciate your time and I'm available if any of you have any questions.

Chairman Easton: Why don't you stay there for just a second, John? You'll have a chance during deliberations to ask John questions, too, but if you have questions for John, let's do them right now.

(silence)

Chairman Easton: Okay. Thank you, John.

Ms. Ehlers: Well, yes.

Chairman Easton: Commissioner.

Ms. Ehlers: If I remember correctly, the LID language was a response to the pleas of the drainage districts down below that they not be abandoned on the subject of water pouring down upon them, which pleas were first initiated back when Jess Knutzen turned in pictures to the Planning Commission showing water going down Peterson

Road four and five inches deep in 1990. The districts were vehement in their need to have their drainage dealt with, and I suspect that this was the County's way of trying to make sure that as development occurred over time that it wasn't forgotten and it actually was dealt with in practice.

Chairman Easton: I'm sure there's a question in there, but we need to get to the question, please.

Ms. Ehlers: How would you recommend it be thought of if there isn't an LID or, if you were exempt, do you wish to be, as a District, exempt from what everyone else –

Mr. Ravnik: It does not make sense for the District to request to be exempt. It does, however – it's not reasonable for the District to be – to not – to have their voice taken away. You have a right to voice an LID. And I stand corrected and I should have mentioned the word "drainage" because it is drainage-related LIDs.

On the other hand, a considerable amount of time, effort and money has been spent by Skagit County and other organizations to analyze the downstream drainage improvements and even to the point of doing cost analyses the extent of improvements. Now that should be assigned as a drainage fee, relative to development. It could be left untouched until things get extremely bad. I hope that's not the case. Okay?

With each individual site development, stormwater regulations must be provided with each project. And that's for the management of quantity and the management of quality. Now there are no standards that came into effect. They're in the course of coming into effect now. Depending on what jurisdiction you're in, they're either already or going to be in effect.

In the Bayview Ridge UGA these new drainage standards are in effect and they are very, very stringent. If you go take a look at many projects, you can often see a detention pond. Now I have done this for twenty-five years. I don't have a shopping list of failed detention ponds, so I can't tell you that the old code is bad. But I know that the new standards have detention ponds that are three times the size because they so significantly reduced the rate that waters are allowed to leave a septic development.

On the context that if a school development or any development –

Chairman Easton: John, that's – I need you to wind this up.

Mr. Ravnik: – provides the necessary detention, you shouldn't have downstream problems. But they still deserve the right to have a voice if an LID is requested.

Chairman Easton: The Chair believes that it *is* outside of our scope to be able to do anything short of a finding on that, so when we get to deliberations we can discuss it further as a Commission. But I think that the justification that – from where I'm sitting, I think that we are probably outside of what would be allowed under the public notice.

Mr. Ravnik: As stated, Chairman.

Chairman Easton: All right. Thank you, John. Any other questions for Mr. Ravnik?

(silence)

Chairman Easton: All right. Thank you. It seems that Tina and George aren't in the room. I don't know – maybe they're watching out on the – in the other room. If they come back in, we'll see if they want to testify. While we wait for them, June, you were signed up next.

June Kite: June Kite, K-i-t-e, and I live at 20819 Starbird Road.

Chairman Easton: Give us five good minutes of your time.

Ms. Kite: Okay. My comments are on the land division code proposed changes. The Planning Commission is proposing optional opportunities. The Planning staff wants to assure regulatory consistency and recommendations of a finite limit to the extension and a reasonable vesting timeline. A new section, (6)(e), was drafted to include options for extensions to both short and long subdivisions: one-time, one-year extension.

State law provides the seven-year timeframe. The County's proposed one-year, one-time only extension creates a total of eight years for the vested period for long plats. One suggestion – one option suggests that there be a seven-year preliminary period with two- or three-year extension, which equals nine- to ten-year vesting period.

Question: Are short plats to be treated the same as long plats? And what is a reasonable vesting lot timeline? Vesting actually begins with a completed application and right now has an unlimited timeframe.

The worst case scenario was demonstrated with the Welts Lake Sixteen long plat, (a) sixty-lot proposal vested in 1996 after the County's adoption of the interim development regulations of 1993 to limit small lot development in rural zones. The County Commissioners were persuaded by Skagit Surveyors to rescind the interim controls for a short time to allow the application to be vested. Fourteen years later, in 2010, the proposal received the first public hearing and approval. With extensions proposed, it could be 2020 before it gets to a final approval. This constitutes a twenty-four-year vested time from construction – before construction actually begins.

Skagit Surveyors also submitted the 1996 application for Moonlight Terrace at Big Lake, a long plat proposal. It was eight years to preliminary approval for the final due in 2009. But 2008 saw foreclosure and new owners and a two-year extension was granted to 2011. A three-year extension was requested but denied by the Hearing Examiner. If it had been granted, it would be an eighteen-year vested proposal.

And I have copies that I will submit as attachments. I have a comment letter that Friends submitted in 2001 on the Moonlight Terrace, and in Erik Pedersen's letter a real estate concern. These letters will be attachments 1 and 2.

County code has a provision that if an application is denied a new application may be submitted for review, consistent with all current requirements. This would solve the problem of carrying over long period of times.

Short plats are an Administrative Official decision. I'm not aware of any short subdivisions that did not meet the five-year preliminary approval period. The short plat does not pose a significant problem for the state, county, or the developer, (and) should not be included in an eight-year timeframe. The one year, one time extension is available on request for short plats for a total of six years. The long subdivision is a Hearing Examiner decision and is the reason for the five-year approval period that is the subject of the proposed optional extensions and vesting period, and *does* pose a significant problem for the County.

Friends of Skagit County's position is that the long subdivision applications being submitted are not rural but are urban.

Chairman Easton: June, I need you to wind up.

Ms. Kite: Okay. They create LAMIRDs and developments of this nature should be processed as Comprehensive Plan amendments.

I have one comment I'd really like to conclude. Friends would recommend a limit to the vesting time. It should include the time from the completed application (example – five years till – to approval and five years to the final). If there is financial difficulties or investors non-interested by the end of the vesting period, the application should be denied. The developer can then resubmit the application.

In the past, Friends has requested land use analysis and population allocation monitoring before granting long subdivisions in rural and resource lands.

Thank you for the opportunity to comment. And I'm speaking for Friends of Skagit County. I have also a third attachment, which addresses long CaRD that we feel – the Friends feel – should be a Comprehensive Plan amendment rather than a long CaRD at Big Lake Overlook.

Chairman Easton: Thank you.

Ms. Kite: Thank you.

Chairman Easton: Marianne?

Ms. Manville-Ailles: Marianne Manville-Ailles, M-a-n-v-i-l-l-e-hyphen-A-i-l-l-e-s, and my address is 826 East Orange Avenue in Burlington. And I would like to speak to the code amendments. There's a couple of things I would like to – there's a clarification that I would like to make and that is on the – for the plat approvals, the discussion about the two-year extension that the – I'm sorry, Carol. I've been yelling at football games and my voice is a little raspy.

Ms. Ehlers: If you were closer to the microphone, it might help.

Chairman Easton: Just pull it closer to you.

Ms. Manville-Ailles: How's that? Is that better?

Chairman Easton: That's better.

Ms. Manville-Ailles: Okay. That provision – the additional two years – went into effect – has only been in effect for a couple of years, so there are subdivisions that are out there right now that received their approval and only have the five-year approval. They did not – they don't meet the provisions to be allowed to have the additional two years. So to say that all, every – because the – Carol, the way it worked was when the state legislature adopted that, they said, From this day forward anything that is approved will get the extra two years.

So there were already projects that were in the pipeline that were at, you know, at year two, year three of their approval that did not automatically get that additional two years. So there are plats that are approved out there that have only the five years, so there are – so we have – we kind of have a series of different time limits for plats, depending on when they were approved. So it is a little confusing to understand that.

In addition, there was a misstatement made about the short plats. In Skagit County, short plats that are approved do not have a five-year approval period; they have a thirty-six-month approval period. So an additional year would not give them six years but would give them four years. That's just some clarification for you on that.

And as we discussed at the work study session, the concern that we have right now and the reason that we have come before you and are supporting the extension on the plat approvals has to do with the economic situation that we are facing. And I appreciate that Jim got up and said, you know, people could come in and they could reapply for – you know, if their period had expired that they could just come in and apply.

But right now the problem that people are facing is that they don't have the money to be able to finish the improvements on these and that there is not lending that's available for those people to be able to do that. In larger projects it is not uncommon at all to have to borrow money in order to be able to get those improvements completed, because it's the way – it's just the way the industry works. And so if lending is not available, those projects cannot be completed. That doesn't mean that no money has been invested in

those projects. Many, many thousands and sometimes tens of thousands of dollars are invested in the projects just to get them to the preliminary approval stage, and then often on some of the larger projects we're talking then millions of dollars of improvement costs in order to complete the projects.

So to say, Well, if you don't – if you can't get financing and your time limit expires, you can just come back in and apply again. Well, just in County fees alone we are probably talking \$10,000 to reapply. And then you'd have the additional engineering and other consultant costs. Granted, it's going to be just updating some stuff but there probably are, you know, another order of magnitude of costs that are involved there. And right now we're in an economic time when we are barely scraping by as it is. And this doesn't affect just the property owners and the developers, but this also affects all of the consultants that work for them, as well.

Chairman Easton: Sure. I need you to wind up.

Ms. Manville-Ailles: And so what we are – all we're asking for at this point is for the flexibility to allow these projects to be completed, and that's why we are supporting either Option C or D and we would – and, I mean, I don't have a crystal ball to tell you what number to put in in those blanks for how many times that this should be done. But I know that, you know, the discussions (that) have been happening are not looking like two years is going to pull us out of this, and it's probably going to then be a year or better for projects to be completed, so I would say anything short of three years is probably not going to be adequate and we'll be back looking at this again. Because Commissioners have said that they do want to provide some economic relief to these projects that find themselves in that situation. Thank you.

Chairman Easton: Thank you. Questions for Marianne? Carol.

Ms. Ehlers: Well, I was thinking about this and Welts and the other plats. Back in the days before there was the kind of financial speculation that hit us in the – from about 1990 to – then really hit in the middle of the '00's, plats used to be – there used to be a series of plats. I'm in a very large subdivision with very – that was originally very large acreage. There was not a lot of money and the developer had plats – long plats – of eight or nine, the minimum number that the code permitted, and he would develop the plat and then sell it. And while he was selling it, he used that money then to develop the next one. And in the process, I think he developed about twenty of them. And it worked very well until the next generation borrowed money. And so that seems to me to be something that – so many of these plats are huge – thirty and forty lots. Is there not some way in which smaller series of plats – another example from where I am –

Chairman Easton: I need you to get to the question, Commissioner.

Ms. Ehlers: Well, the question is, Why can't you phase?

Chairman Easton: Then let her answer it.

Ms. Manville-Ailles: Okay. So, Carol, what you're talking about – those older plats that you're talking about are called “paper plats.” And when they were done, it was – the regulations that were in place were *significantly* less than what they are now. If you were to come in now and you were to do – even in a phasing situation – if you were to phase something that needed to have a water system in it, you would build the water system in the first phase. And I can tell you on the Moonlight Terrace project that has been discussed, the water system alone on that is \$2.4 million. So it's – that is, you know, you can't amortize that with **land laws**.

Ms. Ehlers: We had a phased plat of four and four that did manage it, but we didn't have – he didn't have to spend 2-1/2 million.

Chairman Easton: Is there anyone else who wishes to testify during the public hearing?

(silence)

Chairman Easton: Thank you, Marianne. Seeing none, I'll close the public hearing (gavel). At this time the public hearing is closed. Carly, remind me – for some reason between my e-mails and my paper, I can't remember. When was the official time that the written comment period ended?

Ms. Ruacho: It closed on Friday.

Chairman Easton: It closed on Friday? Okay, so we have received some things in the box tonight.

Ms. Ruacho: John handed you his.

Chairman Easton: Right.

Ms. Ruacho: So you have all that, and then June handed out one and Kirk went and made copies of that so we're ready to hand that out.

Chairman Easton: Okay, why don't we go ahead and distribute that? Then that would accomplish – do we need to extend the comment period? Actually no, because we're allowed to take written comment as long as it's here just tonight.

Ms. Ruacho: Yes, they can hand it in tonight.

Chairman Easton: We couldn't take anything between Friday and tonight.

Ms. Ruacho: Correct.

Chairman Easton: But we can take things now.

Ms. Ruacho: Correct.

Chairman Easton: I just want to make sure we're flying legal.

Ms. Ehlers: But –

Chairman Easton: Yes, Commissioner?

Ms. Ehlers: Do we have to deliberate tonight or can we deliberate –

Chairman Easton: Okay, this is a discussion that we're heading into next. You're already anticipating my next conversation.

So, Commissioners, you've received some new information and you've received some duplicate information. Do not be – don't be overwhelmed by the fact that the packets in front of you are not all new. Some of this is things that were e-mailed to you on a timely basis, or mailed to you, as you request your communication from the County. So the way I see it, as Chair, I see we have two options. We can take some sort of break for a period of time agreed upon by all of us and re-adjourn for our deliberations. Or we can choose to find another time to deliberate.

Ms. Ehlers: When are we meeting next?

Chairman Easton: The 20 –

Ms. Ruacho: Well, you're – technically you're having a meeting next Tuesday because you're attending the Planning Short Course.

Chairman Easton: Ah, yes.

Ms. Ruacho: But then it'll be the first Tuesday of October.

Chairman Easton: And currently – let me pull up our schedule. It's online so we can talk about that until – while I do that, can I hear from some other Commissioners about their – where they're at about this. Do you want to deliberate tonight? Do you want to deliberate in the future? Mary?

Mary McGoffin: I'd like to deliberate tonight. Maybe take a ten-minute recess to go over these materials and then convene. It's only seven. I think we have time to do this.

Chairman Easton: Okay. Any other thoughts? Elinor?

Elinor Nakis: Well, I'll second that.

Chairman Easton: Annie?

Ms. Lohman: I'll third that.

Chairman Easton: Carol?

Ms. Ehlers: Well, I guess I'm the only one that thinks that we should think.

Chairman Easton: Well, there's still three more of us that haven't said anything. Dave?

Dave Hughes: Whatever's the pleasure. I'm easy.

Chairman Easton: I'm going to leave that one alone. Matthew?

Matt Mahaffie: Either way's fine.

Chairman Easton: You want to do it tonight?

Mr. Mahaffie: Either way.

Chairman Easton: Either way. We're adjourned for fifteen minutes. We'll start deliberations at 7:15 (gavel).

(recess)

Chairman Easton: I call this Skagit County Planning Commission back into (gavel) order. We are now deliberating on the issues before us this evening, which are code amendments, and they are the deliberations for the 2011 Code Amendments, Version 2. We will start with 14.16.210, and my preference, I think, for simplicity's sake, is that we'll take each section one by one. We'll do individual votes then on those and each of the changes that are underlined or underscored or you know how they're handled here – strikeouts. And then we will deal with the land division issues under 14.18 last. So any questions?

(silence)

Chairman Easton: The Chair would entertain a motion then in relationship to 14.16.210, and once we have a motion and a second then we'll discuss the safety zone issues.

Ms. McGoffin: I'll move on section 14.16.210, safety zone, that we approve the correction: "at least 25% of the proposed site will be permanent open space, playfields, or other active recreational areas."

Chairman Easton: Is there a second?

Mr. Mahaffie: Second.

Chairman Easton: It's been moved and seconded to approve the changes as proposed in 14.16.210, as Mary stated. Any discussion?

(silence)

Chairman Easton: Hearing no discussion, the Chair calls to the question. All those in favor of the change as proposed, please signify by saying aye.

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

Chairman Easton: Any opposition?

(silence)

Chairman Easton: Any abstentions?

(silence)

Chairman Easton: Let the record show we are seven tonight, so seven-zero. Passes unanimously.

Section 14.16.340, subsection (4), letter (i). And actually we'll just do that whole – we'll do 14.16.340 all the way to – actually we'll just take the whole page. Take that whole page. Any – the Chair will entertain a motion on 14.16.340 and the changes as proposed.

Ms. Ehlers: You're including the PUD issues and the other?

Chairman Easton: I'm sorry, let's stop – you're right. Let's just go down to (4) – (4) and (5). We'll do (4) and (5). Is there a motion?

Ms. Ehlers: I'd like to vote for (4). I don't wish to vote for (5).

Chairman Easton: We'll split them up. And is there a motion for (4)?

Ms. Ehlers: It's the same thing as we just voted on, so –

Ms. Lohman: I move that we accept the amended language for section 14.16.340, the Bayview Ridge Residential zone, to include the – to strike the language in sub (i) and to accept the new language in Roman numeral (iv).

Mr. Hughes: Second.

Chairman Easton: It's been moved and seconded to accept the changes in 14.16.340, as noted by Annie in her motion, which she includes subsection changes in subsection (i) and additional language in subsection (iv). Any discussion?

Ms. Lohman: I misspoke. It's actually Roman numeral (i).

Chairman Easton: Oh, excuse me. I did, too.

Ms. Lohman: Little – it's little (i).

Chairman Easton: Little (i). So subsection (i) and subsection (iv), the strikeout language and the additional language in those sections. Any discussion?

(silence)

Chairman Easton: Seeing none, the Chair calls for the question. All those in favor, signify by saying aye.

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

Chairman Easton: All those opposed.

(silence)

Chairman Easton: Hearing none, no abstentions, let the record show seven-zero.

Ms. Ruacho: Just a point of clarification.

Chairman Easton: Yes. Please clarify anything I'm doing wrong.

Ms. Ruacho: Your motions are always going to say "recommend approval." It's not going to be a motion to approve, it's not going to be a motion to accept. It's going to be "recommend approval."

Chairman Easton: Yeah, because we don't have that much power.

Ms. Ehlers: May we ask that whenever we – at this stage you will add it?

Ms. Ruacho: And I do. I just don't want you guys to get it and think, That's not what I said.

Chairman Easton: Live editing. I mean, and we're not opposed to live editing. I'll speak on behalf of others. If I'm – if we're making those kind of mistakes, that's fine. I'll try to remember to say "recommend approval," but I'm making no promises. I'm just going to try.

All right. Now we'll take on the issue of 14.16.340, subsection (5)(e). Is there a motion to recommend approval? Actually, is there a motion? Because you could recommend not approve. Mary?

Ms. McGoffin: I move to approve – or recommend approval of section (e): “Schools may exceed the 40 foot height restriction provided that the height is 55 feet or less, a statement from the Port of Skagit County in support of the increased height is submitted, and the proposed height conforms to the applicable Federal Aviation Administration regulations.”

Ms. Lohman: Second.

Chairman Easton: Second. It's been moved and seconded that we recommend approval of the changes as before you in subsection (5) of 14.16.340(5)(e).

Ms. Ruacho: Did you recognize the second on that one?

Chairman Easton: I'm sorry. I recognize the second as Annie.

Ms. Ruacho: Thank you.

Chairman Easton: Thank you. Moved by Mary, seconded by Annie. Sorry. I'm all wound up, aren't I? Discussion?

Ms. Nakis: Yes.

Chairman Easton: Elinor?

Ms. Nakis: This doesn't specifically say whether the 55 feet is to the peak, or is it average of the height of the building.?

Ms. Ruacho: Well, I think it is as John discussed. At whatever time they would build the structure, however we define the height of the building, they would have to meet those requirements.

Ms. Nakis: So that building could be quite high.

Ms. Ruacho: If it's the average, you mean?

Ms. Nakis: Mm-hmm.

Ms. Ruacho: It could be higher than the 55 feet.

Ms. Lohman: But it's still –

Chairman Easton: Annie.

Ms. Lohman: Sorry. But it's still well within the airport height restrictions.

Ms. Nakis: Is it?

Ms. Ruacho: It depends on the average grade.

Mr. Hughes: It says it needs a statement from the Port to support.

Ms. Ruacho: It depends on the specific property. If the specific property is higher than the surrounding area, then ____.

Ms. Lohman: It has the caveat, though.

Ms. Ruacho: It does. It will have to meet the FAA regulations. We couldn't allow anything to go above the height contours that the FAA establishes. And that depends on the ground: If you're on a hill, you have to be lower; if you're in a valley, you can be taller.

Chairman Easton: Does the maker of the motion wish to speak for or against – I mean for their motion?

Ms. McGoffin: That was me.

Chairman Easton: Did you want to speak to it?

Ms. McGoffin: No, I think there are enough safety checks all the way around to, you know, to monitor that. You know, between the Port, between Federal Aviation standards. And, you know, you are on a hilly area up there so they could be in a dip, you know, so then they may be higher than 55 feet at some point.

Chairman Easton: Does any Commissioner – are you done?

Ms. McGoffin: Go ahead.

Chairman Easton: Any Commissioner wish to speak against the motion?

Ms. Ehlers: I have a question.

Chairman Easton: A question for?

Ms. Ehlers: For John Ravnik.

Chairman Easton: Mr. Ravnik. Can you come – please approach the bench – or the microphone, in this case.

Ms. Ehlers: This aviation noise study that nobody bothered to give us, which could make a significant difference, at what elevation or height above the ground was the noise study taken? I mean, is it at 30 feet? 40 feet?

Mr. Ravnik: No, it was taken at ground level. Or I could look real quick if you want me to –

Chairman Easton: No. The Chair rules that that question's out of order in relationship to discussion of the motion.

Ms. Ehlers: Well, she's remembering the discussion from the 1991 Josh Wilson School.

Chairman Easton: Let the transcript will record your concerns, and if later you'd like to make that in the form of a finding you're sure welcome to, but I believe that that's beyond the scope of the motion that's being discussed. If you have a question about the motion, I'm willing to discuss it, but noise is not a part of this motion.

Ms. Ehlers: Noise is crucial when it comes to teaching in a school successfully.

Chairman Easton: I – a point of – I'm sorry. Both of you are talking to me at the same time. Which one would you – which – Mary or Dave? Mary? You're asking for the question to be called?

Mr. Hughes: Yes.

Chairman Easton: So you're both calling for the question?

Ms. McGoffin: Yes.

Chairman Easton: Okay. All right. Any further – any further discussion? I will give one more chance.

(silence)

Chairman Easton: All right. Thank you, John. All those in favor of the amended changes as proposed, signify by saying aye.

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

Chairman Easton: All those opposed?

(silence)

Chairman Easton: Abstentions?

Ms. Ehlers: Yes.

Chairman Easton: Let the record show that Carol Ehlers abstained and the six of us voted in favor.

The Chair will now entertain a motion for 14.16.340, subsection (6). And in your motion you will need to make a motion for – to recommend approval of one of the options or recommend neither of the options.

Ms. Ehlers: I'd like to make that one.

Chairman Easton: All right, go ahead and make your motion.

Ms. Ehlers: I'd like to move a recommendation for Option B.

Mr. Hughes: Second.

Chairman Easton: It's been moved and seconded that we consider Option (6) – under subsection (6) of 14.16.340, that we consider recommending approval of Option B. The maker of the motion, please speak briefly to your motion.

Ms. Ehlers: I think it's practical.

Chairman Easton: Excellent. Anyone else for or against?

(silence)

Chairman Easton: Seeing none, the Chair calls for the question. All those in favor, signify by saying aye.

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

Chairman Easton: All those opposed?

(silence)

Chairman Easton: Any abstentions?

(silence)

Chairman Easton: Seven-zero. Next page, page 3 of 4, starting with 14.16.820.

Ms. Ehlers: I move that we recommend acceptance as drafted.

Chairman Easton: Acception?

Ms. McGoffin: Correction.

Chairman Easton: Correction?

Ms. Ehlers: Correction.

Chairman Easton: Correction. Is there a second?

Ms. Lohman: Second.

Chairman Easton: It's been moved by Commissioner Ehlers, seconded by Commissioner Lohman, right?

Ms. Lohman: Mm-hmm.

Ms. Ehlers: Mm-hmm.

Chairman Easton: To accept the correction – the correction! – the change in 14.16.820. We're recommending approval. Any discussion? I butchered that one!

Ms. Lohman: Just for the record, that this is a change of the sign Definitions in the 2009 International Building Code book; it's an update.

Chairman Easton: Right. It was '03 and now we're updating it to '09.

Ms. McGoffin: So I have a – I have a –

Chairman Easton: Mary.

Ms. McGoffin: So, staff, couldn't you just say "the most current" – "the most current one"?

Ms. Ruacho: That is absolutely something you could recommend.

Ms. McGoffin: Because you'll have to change this in a couple years.

Ms. Ruacho: That's correct. We – the original proposal that was forwarded to the County Commissioners for release had that language and they elected to release this language instead of what we recommended, which was –

Chairman Easton: – probably based on legal advice? Marianne?

Ms. Ruacho: It was just – they had discussion. There was two Commissioners that day and they had discussion amongst themselves and decided on this language rather than what we had originally proposed.

Ms. McGoffin: Well, just common sense to me – it seems like it should be “the most current issue of the International Building Code.” And then you never have to revisit it.

Mr. Hughes: Just so it’s in code that when a person reads it they know what they’re –

Ms. Ehlers: Yes, that is a virtue.

Chairman Easton: All right, so –

Mr. Hughes: And what they’re looking for.

Chairman Easton: Yes. Annie?

Mr. Hughes: I agree. Just so it’s kept up.

Ms. Lohman: Question then to Carly: How would the public know which book you’re reading if you had that language?

Ms. Ehlers: Yeah.

Ms. Ruacho: Well, in that specific provision they wouldn’t.

Ms. Lohman: It *sounds* practical.

Ms. Ruacho: You know? But we go through a process each time we change the version, so we could –

Chairman Easton: We just spent more time talking about whether we should do this differently than it would take for us two years from now to approve approving a 2011 version! So, from a time management point of view, the Chair’s going to call the question. All those in favor of the motion to change 14.16.820, please signify by saying aye. Aye.

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

Chairman Easton: Those opposed?

(silence)

Chairman Easton: Any abstentions? Do you want to abstain? You could abstain, if you want.

Ms. McGoffin: I don't care.

Chairman Easton: All right, it passes seven-zero. All right, now for section 14.18.100.

Ms. Ehlers: Shouldn't we point out to people from the School District that we're done with them?

Chairman Easton: Well, I think, I mean done with them in a nice way, yes.

Ms. Ehlers: Well, I mean that they can go home.

Chairman Easton: They look like they're tracking along, but they're welcome – we sure would love for you to stay, but you're welcome to go if you'd like.

Ms. Ehlers: Well –

Chairman Easton: Dave's baked potatoes only got two minutes left in the oven, so...

Okay, 14.18.100, Preliminary subdivisions. In the Chair's opinion, after reviewing this privately and trying to think about how the best way was to manage the discussion about four options, which also have options inside of the options, I've decided that instead of going straight to a motion I would allow for five minutes of us just having general – five minutes, Carol, total – for all of us to have sort of general comments on this issue, because I recognize that there are like eighty-two different ways that we could actually come up with this. So, Carol, you can have the second minute because Mary gets the first one.

Ms. McGoffin: Okay, my thought is that Option D is the most favorable one to me because it doesn't apply to future applications. We are eventually going to move past this slump in our economy so we don't want to make a code correction that is irrelevant ten years from now. And by putting the caveat it only applies to existing approvals, we prevent that from happening. So that's what I like about Option D.

Chairman Easton: Okay. Carol? One minute.

Ms. Ehlers: I agree with the concept that it should only apply to existing. But one of the questions I thought of: This economic condition's going to last, I'm afraid, a lot longer than we'd like it to, which is why I raised the issue about the possibility of phasing in some of these things for at least for others. But what is there that's new that giving it another year is going to let it be viable? I mean, whatever the "it" is. I mean, we're talking at this point about a specific item and I don't like writing laws about a specific item. But in principle, there are probably others out there. I hear there are. It seems to me that if someone comes in and says, I need an extension. I have a loan in hand that is conditioned on this, that it certainly ought to be granted without a lot of discussion. But if there's an enormous amount of money involved, then I'm not sure that giving them an extension isn't just simply continuing the pain.

Chairman Easton: Mary, let's let other Commissioners speak first before we come back for seconds.

Ms. McGoffin: Okay.

Chairman Easton: Anyone else? Sorry, Matt?

Mr. Mahaffie: I had two questions for staff, and some of it relates to what Carol's asking. Has there been any discussion on what "in good faith" determination would be on an application like this?

Ms. Ruacho: Well, we've had discussion. There's no definition.

Mr. Mahaffie: No thoughts about, you know, what kind of threshold – I mean, just coming in and asking, or, Here's my loan paperwork that's been denied over and over? I'm just kind of curious. No?

Ms. Ruacho: It's – it would probably be difficult to deny them if they make any showing, you know?

Mr. Mahaffie: Oh.

Ms. Ruacho: Of whatever documentation. There's no specific documentation. But whatever reasoning – I mean, they inevitably will have a reason, whatever that is, and they will explain their reason, and unless they have not, you know, been trying and their reason is, Well, I just remembered yesterday that I had a plat, or – you know, I just don't think that's what folks are going to say. I think everybody's going to have their rationale, and it might be financing for some and it might be, you know, transfer of ownership for some. And, you know, they'll give their rationale and...

Mr. Mahaffie: Second question for you: As a, you know, more revenue-based department, what does it cost and does any of that cost carry over for extending?

Ms. Ruacho: Is there a fee for an extension? Is that what you're asking?

Mr. Mahaffie: Does it truly cover what it costs? Yeah. Out of the staff turnover over a period of years, you know. Having to relearn, you know, the intricacies of a plat – I mean, is there any cost built in to that to renew it?

Ms. Ruacho: You know, offhand I can't remember when we adopted this in May if we adjusted the fee schedule.

Ms. Manville-Ailles: Yes.

Ms. Ruacho: Yes?

Ms. Manville-Ailles: (inaudible)

Mr. Mahaffie: ___ for the hourly whatever – 125 –

Ms. Ehlers: That conversation was not heard at this end of the table.

Chairman Easton: Okay, so can you repeat what she said or do I need to have Marianne go say what she said from the mic?

Ms. Ruacho: I think I can repeat it. She said that she requested an extension under the current provision and it was a \$600 fee, and then that bought five hours of review time, and then the hourly fee starts after the five – the initial five hours.

Chairman Easton: Matt, does that answer your questions?

Mr. Mahaffie: Yeah, I just want to make sure that folks aren't getting something for nothing from the County, basically. If they're getting an extension, they should –

Chairman Easton: – pay for it.

Mr. Mahaffie: – pay for it in a fair manner.

Chairman Easton: Anyone else who hasn't spoke? Well, our five minutes have ended and Mary wanted a chance to speak again, so we'll grant that.

Ms. McGoffin: Well, I just to make one thing clear. In June Kite's letter, she referred to a particular plat that my family is involved in, the Overlook Crest LLC. But since we are not discussing that plat per se and we're talking about a code that affects all things, I feel I can still discuss the matter. Just letting you know.

Chairman Easton: The Chair wants to know if any other member of the Commission objects to Mary continuing on in this part of the deliberations?

Ms. Ehlers: The subject at-hand is not that one.

Chairman Easton: I agree. The Chair agrees.

Ms. McGoffin: Okay.

Chairman Easton: All right. So I appreciate you putting that on the record. And now I'll entertain a motion for this section, 14 – I lost the page.

Ms. Ehlers: Can I raise a question?

Chairman Easton: 14.18.100 – you can raise it after I have a motion and some discussion.

Mr. Hughes: We need in – on Option D, for example, it's asking "INSERT DATE." Does that –

Chairman Easton: Whoever makes their – now whoever's – here's how I'm going to handle that. Whoever makes the motion will insert in their motion – they'll fill in those two blanks. If they get a second, we'll discuss those two – that motion with those two blanks.

Mr. Hughes: Okay.

Chairman Easton: We're not – they're not doing that – staff's not doing that. We're doing that. That was the intention, correct?

Ms. Ruacho: Correct.

Chairman Easton: All right.

Ms. Ehlers: What do you mean by "date"? Today's date?

Chairman Easton: Well, one of them says, "INSERT DATE." If you're looking at – look at Option D for an example.

Ms. Ehlers: I am.

Chairman Easton: The first blank says, "on or before [INSERT DATE]" so the maker of the motion will have to put into their motion what date they want there and the maker of the motion will have to put in how many such extensions – where it says "INSERT NUMBER" – how many extensions they want. But before we talk about what might happen in the future, why don't we go ahead and get there?

Ms. Ehlers: But –

Chairman Easton: So is there anyone willing to make a motion at this time on this section?

Ms. Ehlers: I don't know what date you're looking for. Are you talking about the 13th of September, 2011?

Chairman Easton: On – okay, I'll read Option D, as an example.

Mr. Hughes: We're all looking at it.

Chairman Easton: We're all looking at it. "Any applicant who has received preliminary short or long subdivision approval on or before" – that's going to need to be a calendar date – "who submits" and then it goes on to read. So if Dave makes a motion right now on Option D, Dave could say that that date is today's date. He could say it was a year ago. He can say it's a year from now. He gets to – whoever makes the motion gets to put a date in there and then when you get down to the – and when you get down to the next blank, somebody's going to have to put a number in there. They get 2800 extensions. It's unlikely that's what the motion will be, but they could do that. Does that make sense?

Ms. Ehlers: The second part makes absolutely clear sense. The first one –

Ms. Ruacho: Carol, this is how – we've done this in code. We have other provisions I could put up on the overhead for you, if it would help. But this is how you keep this provision to applications prior to a date certain and not let them – not let the provision apply to future applications. It's just the way we regulate that.

Chairman Easton: The Chair does not want anyone to assume that we've already decided that we're having – we're working on D. We haven't actually made a decision. But Options C and D have blanks in them and staff has made it available in our options menu here – this little smorgasbord – that we get to decide. If you choose to make a motion about C or D, you get to help fill in those blanks, okay?

Ms. Ehlers: May I make a simple motion?

Chairman Easton: You can always make a – I'm asking for motions, so I'll entertain your simple motion.

Ms. Ehlers: I move that we recommend adoption of Option D, but I'm not going to recommend the date or the number first. So we select D rather than A, B, C for the discussion.

Chairman Easton: Is there a second?

(silence)

Chairman Easton: It dies for a lack of a second.

Ms. Ehlers: Okay.

Mr. Hughes: I move – Mr. Chair?

Chairman Easton: Yes.

Mr. Hughes: I move for whatever the terminology is – recommend approval –

Chairman Easton: “Recommend approval” – I wrote it down so I’d remember it.

Mr. Hughes: – September 1, ‘011 – 2011 – and then certain number would be five. Give us something to talk about.

Chairman Easton: And you’re speaking to Option D.

Mr. Hughes: Option D.

Chairman Easton: Okay. So you said, Option D, September 1, 2000 and –

Mr. Hughes: 11.

Chairman Easton: 11, and –

Mr. Hughes: So they’ve had to have been submitted already.

Chairman Easton: And under the “INSERT NUMBER” –

Mr. Hughes: Five.

Chairman Easton: Is there a second to Dave’s motion? I’ll restate it. He moves that Option D be accepted, that the date inserted be September 1, 2011, and the number to be inserted be only five such extensions shall be allowed. Is there a second?

Ms. Nakis: I’ll second it.

Chairman Easton: It’s been moved and seconded that we consider Option D, with the additional language. The language is in front of you on the code amendments that was provided by the staff, with the blanks being filled in as September 1, 2011, and the blank being five such extensions. Maker of the motion can speak to the motion first.

Mr. Hughes: Well, I believe from what I heard people said at least three years, so that’s why I went with five. Plus I like the idea of something that’s already been approved and nothing in the future.

Ms. Ehlers: So you want –

Mr. Hughes: For Option D.

Chairman Easton: Carol, hold on. Second – who was the one who made the second? Elinor?

Ms. Nakis: I have a question about the existing approvals. Existing approvals are anything that are currently on the books and up-to-date? Is that what an existing approval is?

Ms. Ruacho: It would be a preliminary subdivision that's still within the statutory period given prior to final plat. So if it's a short subdivision, if it's within thirty-six months or within the additional year if they've requested that – which, we've only had one, you know, applicant request an extension.

Ms. Nakis: Okay, so anyone that currently has an extension would still be covered by that language?

Ms. Ruacho: Yes.

Ms. Nakis: For 2011?

Ms. Ruacho: Additional extensions.

Chairman Easton: Good question.

Ms. Nakis: Okay. Thank you.

Chairman Easton: Carol, if you speak for or against the motion.

Ms. Ehlers: I wish a clarification.

Chairman Easton: A clarification of who?

Ms. Ehlers: David.

Chairman Easton: Ask away.

Ms. Ehlers: Five one-year extensions, or five five-year extensions.

Mr. Hughes: Five one-year extensions, I believe is how I read it.

Ms. Ehlers: Okay, five one-year extensions is _____.

Chairman Easton: It reads it. That's the way it reads it. It reads, "granted...1-year extension of the preliminary approval by the Administrative Official or designee upon" the "showing that the applicant has attempted in good faith to submit the final subdivision within the preliminary approval period set forth in Subsections (6)(a) and (b) of this Section. Only" – in this case, the motion is "five such extensions shall be allowed."

Any other discussion? Annie?

Ms. Lohman: Yes. May I ask a question of Marianne?

Chairman Easton: Of course. Marianne, can you go to the microphones, please?

Ms. Lohman: My question is, There is a likelihood that the property may be idle, correct?

Chairman Easton: What do you mean by "idle"?

Ms. Manville-Ailles: I was set to say –

Ms. Lohman: Nothing, because you can't get financing or you can't – you can't get to the next step because of the economy that we're in. You may, in fact, just plain be idle.

Ms. Manville-Ailles: That you may not do improvements – correct.

Ms. Lohman: So I think Dave's suggestion, I support it because it gives you time to maybe get back on your feet and recover. Because you can't just keep going back to the bank and having them say no, no, no, I mean.

Chairman Easton: Okay. Does anyone want to speak against the motion?

Ms. Ehlers: Well, then how many years total is some – are some of these plats going to be lurking there?

Chairman Easton: That would depend on when the application actually started, because there was – as Marianne noted in her testimony earlier – there was a period of time where you could have received a two-year extension but not everyone received the two-year extension because it was the subject that the legislator (sic) made about date certainty. So it's a bit of a variable. Mr. Hughes.

Mr. Hughes: But this will put a finality to the process, correct?

Ms. Ruacho: Right.

Chairman Easton: As long as the state doesn't change anything, but from a Skagit County point of view it would. Correct?

Ms. Ruacho: Yeah. Like you said, some have five years and then they would get an additional five years through this. Some have seven and they could get an additional five.

Mr. Hughes: But they're probably already using those five years, or seven years.

Ms. Ruacho: They're possibly coming up on the end, and then they would get an additional five through this.

Mr. Hughes: Right.

Chairman Easton: I just want to remind you that we're using the number "5" sort of a little too loosely in that they would have to come in every year to renew that. They'd have to pay that fee, they'd have to have some interest, so – in continuing – so those who are watching at home, this is – what we're discussing is not a blanket five years. It's – you have to be actively asking for an extension every year and you'd have to do that five times in a row to get five years and you'd have to do that with the phrase "in good faith" proven to the County at that time. So, you know, these aren't just – this isn't fallow ground and we just gave it all five-year extensions. So everybody's clear about that?

Ms. Ehlers: And it does have the virtue of something the Hearing Examiner commented on in someone else's application that it requires a written application to the County with a payment of money, which makes it clear that it's not just sitting there without any regard.

Ms. Ruacho: Right.

Ms. Ehlers: That is a virtue to it.

Chairman Easton: All right. So the Chair –

Ms. Ehlers: But I think there's a vice to it in that are we talking about 20 – let's see. Five years from now is 2016, so we're going to have plat applications that have been sitting around for twenty years?

Chairman Easton: You've had plenty – you've had a number of opportunities to comment. I want to see if there's anyone else who wishes to comment before we call the question. Any other Commissioners?

(silence)

Chairman Easton: All right.

Ms. Manville-Ailles: Can I sit down?

Chairman Easton: Yes. Thank you, Marianne. Sorry; I should have done that a little earlier. All right, the Chair calls the question. All those in favor of the motion to recommend approval of 14.18.100, subsection (6) – is that right, Carly?

Ms. Ruacho: Yep.

Chairman Easton: Subsection (6) – that we would go with the language under (6)(e), that is currently referred to as "Option D" in the staff report and code language, with the following things inserted. Under the area that says "INSERT DATE," the motion says

“September 1, 2011,” and under the section that says “INSERT NUMBER,” the number is five. All those in favor – does anyone need a clarification?

(silence)

Chairman Easton: All right. All those in favor, signify by saying aye.

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

Chairman Easton: All those opposed?

(silence)

Chairman Easton: Any abstentions?

Ms. Ehlers: Yep.

Chairman Easton: Let the record show that it passes six-zero and Commissioner Ehlers abstains. If I’m doing my paper flipping right and my math, that would be the end of what we need to do in relationship to our deliberations.

Mr. Hughes: Do we need to vote on the ____ as a whole?

Chairman Easton: Do you want to vote on the overall?

Ms. Lohman: Yes.

Chairman Easton: I think in the past Ryan’s asked for one.

Mr. Hughes: I think so.

Ms. Ruacho: He would only want one vote reflected ____.

Chairman Easton: He’d like one whole – one vote and I’m not – I can’t do that. I have a diverse Commission that’s not going to want to do math like that and I’m not – I’m disregarding his advice on that, I guess. So...

Ms. Ehlers: Well, he’ll just use another piece of paper.

Chairman Easton: It’s okay. I can sign four – we know we can sign four sheets of paper. It’s not a big deal. All right.

Ms. Ehlers: Well, he can – no. What has been done in the past is you have the recommendations and the findings, and then you have the various votes.

Chairman Easton: Yeah.

Ms. Ehlers: And you sign the bottom of all of them.

Chairman Easton: I agree. He's asked us to try to streamline it. We have in some ways streamlined it from where it was in the past, but there's a point where I don't think, as Chair, we're going to go there and that's making these too simple, that when people go back and read them they can't see how we voted. Your two abstentions would not have been recorded under the advice from the attorney. I don't agree with that advice, and unless they tell me I'm really, really off the reservation I'm going to keep going this direction.

Ms. Ehlers: Thank you.

Chairman Easton: You're welcome. So are there any findings of fact that you'd like to see added to this deliberation?

Ms. Ruacho: And then another way to consider that – the way it's going to be phrased from now on is going to be “findings and reasons for action.”

Chairman Easton: Oh.

Ms. Ruacho: So that's kind of another way to think about it.

Chairman Easton: Is there anything in relationship to findings or reasons for action that you would like to draw the attention of the Commissioners to in our transmittal? Matthew.

Mr. Mahaffie: I would like to see *some* standards of what good faith would be drawn up by the Planning Department. I hate to just see somebody just write their check for a placeholder, not actually do something.

Chairman Easton: Sort of arbitrary? So you'd like the Board to – what? You'd like the Board to consider defining “in good faith”?

Mr. Mahaffie: I'm not asking the Board to – just some standards from the Planning Department on how – I didn't really particularly like the answer, if somebody asks for it they get it. When it says “good faith,” I want to see something that's good faith.

Ms. Ehlers: I agree with you.

Chairman Easton: Do the majority of you agree that that would be a good point of clarification, or point of reasoning, I guess? No, that would be a finding. That's not a reason. That would be a finding. Eventually we'll figure this out. Any other findings or reasons that you would like noted?

(silence)

Chairman Easton: Seeing none, the Chair –

Ms. Ruacho: Well, we need some.

Ms. McGoffin: Pardon? You need a reason for action? So the reason for action would be to not take advantage of this opportunity to, you know, file for extensions – to not misuse the opportunity.

Chairman Easton: So you need some reasons – you need more than just reasons, then, you're saying, for just this one issue that Matt just brought up.

Ms. Ruacho: Right.

Ms. McGoffin: Oh, I thought you were talking about –

Chairman Easton: You want a reason for why we've approved the stuff in Bayview?

Ms. Ruacho: Yep.

Ms. Ehlers: Well, let me give a reason back on the extension. The date was picked and the Option D was picked to reduce speculation.

Chairman Easton: I think we can all agree on that. Can we all agree on that?

(several sounds of assent)

Chairman Easton: All right. I'm sure Debbie can – I don't want to go too fast, but you're going to pull some of these from the – pull this language back off the tape, right? Or do you need us to slow it down and –

Ms. Ruacho: No. Debbie transcribes them.

Chairman Easton: Debbie transcribes them – I'm sorry. Do you need us to slow down and repeat that stuff?

Ms. Ruacho: Oh, no. No. I have "reduce speculation" and then I have what Mary was saying.

Chairman Easton: All right, here's what I'm going to do for the reason.

Ms. Ehlers: I have another reason.

Chairman Easton: Okay.

Ms. Ehlers: Even though I abstained and I don't like it, the Planning Commission clearly identified with the economic problems that the development community is having.

Ms. Lohman: I agree.

(several sounds of assent)

Chairman Easton: That's good. That's a good point. Let's take the Bayview ones first – the Bayview Ridge ones. I believe that the reason that we chose to approve the Bayview ones is because we wish to work closely and cooperatively with the School District and the Port to accomplish the goal of siting a school in Bayview. I mean, it's that simple.

Ms. McGoffin: Yes.

Chairman Easton: Is that agreeable? Mr. Ravnik's been sort of trying to wave me down. I don't believe I need to call upon you unless I'm missing something. We've already finished our deliberations. We're only just doing reasons of fact.

Ms. Ehlers: Well, there's another reason of fact. We would like –

Chairman Easton: Go ahead, John. Come to the mic. Why not? He's burning up here. Now I'm really curious what's on his – what's under your bonnet there, big guy?

Mr. Ravnik: There was two topics that are not discussion matters tonight, but one of them involves a recommendation which I would request that you would make to the Board of County Commissioners to have legal counsel take a look at the language associated with the LID drainage improvements.

Ms. Manville-Ailles: Yeah.

Chairman Easton: Well, and there's another issue that relates to that and that is the Commissioners chose not to address one of your issues. They've chosen not to put it out for public comment.

Mr. Ravnik: It is a significant weighing matter in the School District's decision and allowance to site on Bayview Ridge.

Chairman Easton: All right. Thank you. Does any Commissioner wish to add a finding in relationship to – and I appreciate Mr. Ravnik's reminder because I did make a note of that earlier that we should consider – I wanted us to at least have a conversation about whether we wanted to use that as a finding. So in the brown letter – let me get to the language – in the blue, page 3 on the blue –

Ms. Ehlers: We're talking subject 4.

Chairman Easton: Subject 4 – excuse me. Page 4 of blue. For your consideration, I would like to add to the record as a finding the following language: “A review of this matter may exceed the Planning Commission’s authority and responsibility” – no, I don’t want that.

Ms. McGoffin: (inaudible)

Chairman Easton: Let me do it. I’ve got it.

Ms. McGoffin: Okay.

Chairman Easton: “The Planning Commission requests that Skagit County’s legal counsel be directed to carefully review the referenced letter from Dionne and Rorick” – I was going to say “Dionne Warwick”! – “the District’s attorneys, and provide a clear and detailed response to the School District.” Does the majority of the Commission believe that that is an acceptable finding?

Mr. Hughes: I do.

Ms. Lohman: Yeah.

Ms. Ehlers: I do, but I would add the reference to the date.

Chairman Easton: The date?

Ms. Ehlers: “September 6th letter from...”

Mr. Hughes: Of the letter.

Chairman Easton: Oh, the date. Okay. I’ll restate it if we actually do it. Annie?

Ms. Lohman: I believe that the intent is to not impact the underlying drainage district that is below Bayview Ridge. But I’m wondering if maybe the Commissioners should consider a different means of doing that than to preclude – than the language here. I think there’s other ways you could satisfy the drainage district and maybe that needs to be explored. And I know there’s been a ton of work. I know the drainage district has worked a lot on that. But I’m questioning that this is the vehicle to use.

Chairman Easton: So why don’t we do this, Annie? Would you be comfortable with this as a finding and then you give us some language about what you just described in relationships – in those relationships as a separate finding, and then we’ll vote on that or come to a consensus on that?

Ms. Ehlers: And I’ll have something to add after that.

Chairman Easton: Okay. Is that all right with you, Annie?

Ms. Lohman: Sure.

Chairman Easton: Okay.

Ms. Ruacho: So just a clarification on findings: Findings are generally, "The Planning Commission finds that the School District has requested review and response from a letter from Dionne and Rorick dated" blah blah blah. But it wouldn't – that's where it would end. If you have a recommendation that the County do something, that would be a recommendation. So just kind of a different –

Chairman Easton: And we're allowed to do recommendations?

Ms. Ehlers: Sure.

Chairman Easton: That's all we ever do is recommendations.

Ms. Ruacho: Absolutely.

Chairman Easton: Okay, so I'm going to step out of the role of being the lead on this one and let somebody else do it since I'm supposed to be the Chair. I am the Chair. Do you want to make this as a recommendation?

Ms. Lohman: Yes.

Chairman Easton: Or a finding?

Ms. Lohman: A recommendation then, because it isn't really – as John said and we've all acknowledged that this really wasn't supposed to be really part of our deliberations, but it came up.

Chairman Easton: Right, and I do believe it's outside of the scope of ____.

Ms. Lohman: But, that being said, the whole point of the School District concerns was the successful siting of a school and this is a big deal to that successful location of a school site. So I would recommend that the County Commissioners not use the language referencing a participation or not in an LID as being the way to deal with the drainage – a *future* drainage issue.

Chairman Easton: Okay. I want to keep – for clarification, I want to keep those two – I'd like to keep – I appreciate what you're saying about –

Ms. Lohman: Okay, then we should wait till the very end then, and put that at the very end.

Chairman Easton: Let me deal with this one with the bulk of this language, then do one about the LIDs.

Ms. Lohman: All right.

Chairman Easton: And if you can get a consensus of the Commission to go with your LID finding or recommendation, awesome. But I'm afraid that if we mix them together it's going to be confusing. Go ahead.

Ms. McGoffin: So why don't we just say, "The Planning Commission recommends that the Board of Commissioners consider the referenced letter from Dionne and Rorick and provide a clear and detailed response to the School District."

Ms. Ehlers: Ooh, I like that.

Chairman Easton: Whichever one of the two of you wants to answer a question about this can come to the microphone, because I have a question for you. Who wants to talk about the lawyers? That phrase didn't include Skagit County's legal counsel. Is the District all right with that – I mean, does the District agree with that finding or recommendation?

Mr. Ravnik: No.

Chairman Easton: No.

Mr. Ravnik: No.

Chairman Easton: Okay. I think that's all I need.

Ms. McGoffin: (inaudible)

Ms. Ehlers: Well, the –

Chairman Easton: Hold on. Wait till you're called on, please. Elinor?

Ms. Nakis: I remember reading this part of what was submitted tonight from Burlington-Edison School District: "Examining PUD development codes for the cities of Mount Vernon, Burlington and Sedro-Woolley, PUD regulations where they exist all pertain to various types and levels of residential development and small scale commercial developments that provide support services to the surrounding residential development. None of these cities have PUD regulations that apply to schools." Perhaps we could put a finding or a recommendation that the County Commissioners read this, look at this and reconsider the description of LIDs and how they apply to school districts.

Ms. Ehlers: LID is a different creature.

Ms. Nakis: What?

Chairman Easton: Okay.

Ms. Nakis: I mean PUDs.

Ms. Ehlers: We've dealt with PUDs.

Chairman Easton: All right. The Chair – please – one meeting. The – we're on somewhat of a precarious spot here because it's the Chair's opinion – and I think that the attorneys, if they were here, would agree that – *our* attorneys – that we're – we didn't notice the public about this so we have to – this has to stay below the level of a decision by us.

Ms. Ehlers: Mm-hmm.

Chairman Easton: And so I'm a little concerned about the words "recommend." They're – it's not "recommend approval," it's not specific, so we can do it. But we can't go much further down this path because we don't have the authority to do it which means they'll just look at it and the legal team will just go blip, blip, cross it out, and the Commissioners won't even – it won't even make it to their desk. So –

Ms. Nakis: And – excuse me – I do apologize. I was confused.

Chairman Easton: Okay. So if we stick to just a recommendation to the Commissioners about things that they do and we don't actually legislate recommending approval, I think we're fine – not including the phrase "Skagit County's legal counsel is not acceptable to the District," or – you know, we've just been told. So does someone want to re – do we want to reconsider the idea of this one? I promise I'm coming back to Annie about the issues in relationship to drainage. Can we reconsider the idea with this type of language: "The Planning Commission recommends that the Board of County Commissioners directs Skagit County's legal counsel to carefully review the referenced letter from Dionne and Rorick, dated September 6, 2011, and provide a clear and detailed response to the School District"? Do a majority of you believe that that is a recommendation you could support. I have three nods – four.

Ms. Ehlers: I think it's the only thing we *can* recommend.

Ms. Nakis: Mm-hmm.

Ms. Lohman: Well –

Ms. Ehlers: Because –

Ms. Lohman: I guess –

Chairman Easton: Let Annie go.

Ms. Lohman: – I'm a little confused on the procedure part.

Chairman Easton: Okay.

Ms. Lohman: In the discussion of the code it was revealed that this is a problem, so maybe what our recommendation is is that this section needs to be revisited and for a reconsideration, and then they notice it if they want to, and deal with it like that.

Chairman Easton: Okay, here's the problem with that. Historically speaking, what you just described is my – the phrase I hate the most in all of planning, and it's called a "trailing issue." And they trail so far behind I'm never sure when I'm going to see them again. If we recommend something to the Commissioners something less specific than tell Will and Ryan and Jill and Arne to read the letter that the District's attorney put in and then get back to them, I'm afraid it will not make it back on the calendar in the near future.

Ms. Lohman: Jason, then –

Chairman Easton: History shows repeatedly, particularly in Bayview and in other areas, that those kinds of things don't get accomplished. So I strongly recommend that we are specific in our recommendation. It's still just a chance that it gets done, because they could choose not to do what we ask for. But the chance it gets done is a lot better if we're specific, from my experience and from the experience of the people who mentored me on this Committee who aren't here anymore. I think that's significant.

Ms. Lohman: But could part of our recommendation be that this needs to be addressed in an expedited type?

Chairman Easton: Of course. I would again say, as the Chair, I recommend that we do that as a separate finding. Can we just – I'm not trying – if you can't get to consensus on this, I'm going to call for a vote on the recommendation.

Ms. Lohman: But asking the Commissioners to read a letter and then write a letter back to the –

Chairman Easton: No. It's – and here he is now. It's asking an *attorney* to read a letter, not the Commissioners. And ladies and gentlemen, from the wings of the building, carried in by angels: Ryan Walters.

Ryan Walters: I read it while you were talking about it.

Chairman Easton: You did?

Mr. Walters: Yeah.

Chairman Easton: And what would you like to say?

Mr. Walters: The Commissioners already decided not to work on this issue. They could reconsider it again later. Maybe they will read the letter and decide to work on it again later. Maybe we'll have some additional discussion. But they already decided not to work on it now.

Chairman Easton: Right.

Mr. Walters: So –

Chairman Easton: Which is why it wasn't part of the legal notice which is why I've been trying not to actually deliberate on it while I'm –

Mr. Walters: It wasn't part of the proposal.

Chairman Easton: – while we're somewhat leading a discussion that *is* deliberating on it. All right.

Mr. Walters: I think the School District knows how to get hold of the County Commissioners and if the County Commissioners decide to put it on the agenda for some future date they will and then the Department will work on it.

Chairman Easton: All right. Annie? I really like what you said, now that Ryan has appeared and told us that my idea's full of crap. So basically we're going to go with what you're going to say and hope that we have some clout with the Commissioners – enough that they actually revisit this, because I, for one, disagree with the decision that they made to not work on this. So if the majority – and I'm just one Commissioner – but if the majority of us want to do this as a trailing issue or as an issue in the future, that is the highest – if that's the highest recommendation we can make – either that or we decide to disagree with the attorney standing in front of us about what the Commissioners are going to do. Help me out, somebody. Mary?

Ms. McGoffin: Okay, I will help you out. I don't think it's fair to a public entity entrusted with taxpayer money to not give them a clear response. They have to make plans years in advance and a do-nothing response is not okay. The drainage issue is a huge one on Bayview Ridge. It cannot be put off. So I think they are entitled to a response.

Mr. Walters: So who was the letter addressed to?

Ms. Ruacho: Laurel Browning.

Mr. Walters: It was addressed to – but she forwarded it?

Ms. Ruacho: They attached it to their comments.

Chairman Easton: It's been submitted into the written record tonight when – with Mr. Ravnik's testimony on behalf of the District – yeah.

Mr. Walters: I feel pretty confident that the Board will see it. I will bring it to the Board and then the Board will certainly see it.

Chairman Easton: And by no means, Mr. Walters, would this be – please don't misconstrue this to be an attack on your character. You're promising us that you take it to them is great. But he doesn't carry the same weight as nine of us, or seven of nine – excuse me –

Mr. Walters: You can make that suggestion.

Chairman Easton: – but ___ seven of nine of us saying we want you to write them a letter in response. You know, we're only a recommending body? I'm quoting you back to me all the time. I'm just making a recommendation that they ask you and your cohorts in the office to write these guys a letter.

Mr. Walters: You can do that.

Chairman Easton: Then that's what – is that what the majority of us want to do?

Ms. Ehlers: Yes, because there's – one of the things that's happened is that apparently Arne is now the Risk attorney and one of the issues on Bayview Ridge drainage is risk.

Chairman Easton: Well, they can disregard our recommend –

Mr. Walters: There are a lot –

Chairman Easton: Thank you. They can disregard our recommendation, but if the – I'm going to – this is contentious enough that I'm going to actually call for a question on his recommendation.

Ms. Lohman: Excuse me here, though. It is all centered on whether they want to be barred from speaking against a future LID. That's what this is about. The drainage part is – would be the reason for potentially having an LID or not having one.

Chairman Easton: Give me an alternative. Give me an alternate, then.

Ms. Lohman: The problem is is the language that would bar them from protesting participating in an LID. That is the problem. Correct?

Chairman Easton: Yeah, I ___.

Ms. Lohman: I think that's what we need to say in the recommendation, that this is not a correct path to be going.

Chairman Easton: Okay. If you want to draft –

Ms. Ehlers: Well –

Chairman Easton: Hold on, Carol.

Ms. Lohman: And we would ask the County Commissioners to reconsider that –

Chairman Easton: Did you have something you wanted to add here?

Kirk Johnson: Yeah.

Chairman Easton: Go ahead.

Mr. Johnson: Okay. In brief discussion with Gary Christensen earlier today, he said – and I'm saying this only because I think maybe a response from County legal counsel would be helpful to provide some of the background. I don't know this background first-hand, but Gary said that this particular provision was drafted by Jay Derr working for the County as part of the County's response to the concurrency requirements for the Bayview Ridge Urban Growth Area and as part of the response to the compliance issues that were raised by Friends of Skagit County and other parties that the County was proposing essentially a city at Bayview Ridge without having a way to provide urban services. And so my understanding – I mean, based on this one-minute discussion – was that there was quite a bit of legal thought that went into this, that this wasn't just sort of picked willy-nilly and that there was some legal justification for putting it in here, and it was part of what was required for Bayview Ridge to be found compliant by the Hearings Board.

So I think it might be good for County legal counsel to shed some light on that – that there's not just one side to the story.

Ms. Ehlers: I agree.

Chairman Easton: Yeah. And, by the way, for those who don't know or are at home, Jay Derr is an outside attorney who was at the time under contract with the County involved in the Bayview Ridge issues. I just want to clarify that.

Well, so, what do you want to do?

Ms. Ehlers: I like what you recommend. I like your language that Ryan said he would agree with, so say it again. If you can remember it.

Chairman Easton: I actually kind of wrote it down. All right. "The Planning Commission recommends the Board of County Commissioners direct the Skagit County's legal counsel to carefully review the referenced letter from Dionne and Rorick, LLP, dated September 6, 2011, and provide a clear and detailed response to the School District and the Planning Commission."

Mr. Walters: I have one suggestion. The Board of Commissioners doesn't direct legal staff.

Chairman Easton: Oh, right.

Ms. Ehlers: Who does?

Chairman Easton: Rich Weyrich does – the Prosecuting Attorney. And we can't make recommendations to the Prosecuting Attorney, I'm guessing.

Mr. Walters: You can just ask.

Chairman Easton: Okay.

Ms. Ehlers: Okay.

Chairman Easton: "The Planning Commission" – I'm going to try this for the seventeenth time; here we go. Boy, this has got to be good TV at home. "The Planning Commission recommends that the Board of County Commissioners ask the Prosecuting Attorney's office to carefully review the referenced letter from Dionne and Rorick, dated September 6, 2007, and provide a clear and detailed result to the School District and to the Planning Commission." Does a majority of the Planning Commission believe that recommendation should be forwarded to the Commissioners?

(Several members said "yes.")

Ms. Nakis: Did you say "2007"?

Chairman Easton: If I did, I meant "2011." Then we're moving on. Okay. Annie? I promised you that you could go next about the LID stuff, so I want to keep my promise.

Ms. Lohman: Well, I think they need to investigate if what Mr. Johnson said is the only way to deal with that.

Chairman Easton: So, let me think of how we would phrase that.

Ms. Lohman: Because, I mean, we don't have all the background information on why this came up. The School District is pointing out that this is a problem. We're interested in helping them site a school. I mean, there's a ton of considerations on siting a school. This is another roadblock to potentially siting a school, or an encumbrance. I think it's

something that – I don't understand where this language came from or why or how or what, and we don't have enough information.

Ms. Ruacho: Maybe the letter would help.

Chairman Easton: Just a second. Carly first.

Ms. Ruacho: Maybe the letter that you're requesting, if a letter is then drafted by the Prosecuting Attorney's office, you know, maybe that will help you understand why it was drafted, what the County's position is on –

Chairman Easton: That's kind of my expectation. I would expect that the letter would bring some of what Kirk talked about earlier – the reasoning and history; he doesn't even have to agree with it – but the reason – or *they* have to agree with it – the reasoning and history behind it. I can't – Carol?

Ms. Ehlers: Well, 14.32 was not, as I remember, a Planning Department ordinance. It's the Public Works ordinance because they're the ones responsible for drainage. And that relates in ways that ought to be described, I think, in this attorney's letter to the legal obligation for development to pay for its own stormwater, whatever stormwater it creates and distributes and the rest of it, because the Drainage Utility, which is what originated the drainage ordinance, will not pay for new development. And so this is all part of a complex equation.

Chairman Easton: So we're stuck somewhere – the County's stuck somewhere with years and years of legal bills and consulting fees on developing a plan that's *still* not actually finished on Bayview.

Ms. Ehlers: Mm-hmm.

Chairman Easton: And they lived with being sued repeatedly in front of Growth Hearings Boards on a regular basis. They're stuck with that in their heads. They don't want to go back to that sort of relationship to Bayview. And they have shown some good faith effort, in my opinion, of wanting to try to get the PUD ordinance done. But the other side is they're – is that – they're – it would be because they're stuck there, they're denying the School District's desire to find an easier – find the path of some less resistance. Not a path of *least* resistance, just some *less* resistance, because it's hard enough to live with 500 more kids than they deserve at capacity and they're trying to build a school so that 500 kids don't have to sit in crowded classrooms. We're just nine – well, seven – we're just seven volunteers who put in a ridiculous amount of hours, but this is bogus. This needs to be fixed by people who get *paid*. It can be fixed. Elinor?

Ms. Nakis: My concern is, Isn't most LIDs, aren't they voted upon by the communities that they affect?

Ms. Ruacho: Right, and the School District would have a vote and they would be able to be involved in the development, as would all property owners. This provision applies to all property owners. And it *is* a provision because no one would voluntarily sign this. No one wants to waive their right to protest for twenty years into the future. The School District is not the first person who's come to us and said, I'm not interested in signing this.

Chairman Easton: And there will be what?

Ms. Nakis: But isn't it a requirement of building?

Ms. Ruacho: But what this provision does is it doesn't allow them to protest the establishment of the district. They can still be involved in its development and shape – you know, be involved in shaping it, but they can't just protest that it be established. Nor can anyone.

Chairman Easton: So the painful part of that, to me –

Ms. Nakis: They can't vote no?

Ms. Ruacho: Protesting is different.

Chairman Easton: Sure, they can vote no, but, Elinor, did you catch the part – catch this part: For the first time in all of my life around government, we're letting one government tell another government that they only get one vote. I thought when we created school districts – I'm going to pull a Carol here and go way back – but I thought when we created school districts we created something that was better for the whole community. Now the District will have the same amount of vote as me, the one guy with no kids who's sixty-seven who owns, you know, a piece of land next to – I'm not sixty-seven – who owns a piece of land in this potential LID? We've taken the greater good of all the kids of – potentially all the kids in Burlington-Edison and said, You're on the same level as everybody else in an LID? That doesn't make sense to me. I don't wake up in the morning thinking I have as much rights in Anacortes as the Anacortes School District does. I actually believe when I wake up in the morning that my kids' school district is a governing body that should have special privileges in relationship to land use. Ryan, I know you don't agree with me. That's okay. I'm not asking you –

Mr. Walters: The School District is not a land use governing body. _____.

Chairman Easton: They're not a land use governing body, but they are a – I understand that they're – that they are using the land and that the County is in charge of land use. But treating them the same way as Bouslog or Wallace or Easton is not right. It's just – it's wrong. I don't – I don't have a legal opinion to back that up. This Commission just lives on volunteers and whenever the lawyers come in and talk to us occasionally. But that's no right.

Ms. Ehlers: Jason, we've already said that they need an explanation. So let's let somebody provide it.

Chairman Easton: It's not enough.

Ms. Nakis: My concern is that thirty-five years ago I looked at property to buy up there at the Port of Skagit County before it was the Port of Skagit County, and it just was above and beyond the scope of what I could afford to handle the drainage. The drainage is a huge issue up there.

Ms. Ruacho: Mm-hmm.

Chairman Easton: Everybody agrees with that.

Ms. Nakis: So I – I mean, I understand why it's so important to make sure that the people that live up there are going to buy into the LID, because I don't think that the County could – or anyone should – be put that burden on them 100% to provide the drainage for that area. Because it is a big deal. _____ important, vital to all the rest of the valley below it.

(several people talking at the same time)

Chairman Easton: We've got –

Mr. Walters: There are also a number of things happening on this front. In the next six, nine, twelve months there's going to be a PUD ordinance that's going to come to the Planning Commission and that could change some of these provisions. There's also our NPDES compliance efforts; there's the stormwater manual – all of which may negate the value of this current provision. So this may get changed anyway as part of integrating all of these things together.

Chairman Easton: Be warned. Be reminded. To the Prosecuting Attorney's office, as their representative: The Chair of the Planning Commission wants to make sure that when the next three – those three things you talk about – come up, this goofy provision that relegates them like this in relationship to the LID is going to continue to be talked about. So when you, as the Planning staff, and you, as the legal staff, come to us, be prepared that that part of it's going to be discussed.

Mr. Walters: Well, in this instance the Board of County Commissioners gives you your assignments.

Chairman Easton: I recognize how I get my assignments. I recognize how I get my assignments, but trust me: I've learned from Carol – I've learned from Carol that regardless of what my assignment is I can ask the questions I want to ask when we're doing meetings. So, yes, I intend – fully intend – as long as I continue to serve on this

to ask the questions about why we're making it – continuously – making it harder for Burlington-Edison School District to put a school up there.

Is there any other finding the Commission wants to make on this topic?

Ms. Ehlers: Not at this time.

Chairman Easton: Not at this time. Is there any other on any of the things we passed tonight?

(silence)

Chairman Easton: Thank you, Mr. Walters. Thank you, staff. We'll move on on our agenda to the other items.

Ms. Ehlers: Before the School District leaves, may I comment on something positive?

Chairman Easton: Please, if it's brief.

Ms. Ehlers: The arrangement you presented us with these colored pages was a first-rate way to keep us clear, clean and able to follow and it's a style that I hope other people follow.

Chairman Easton: Okay. Thank you, Carol.

Your mileage – for those of you who take mileage – your mileage forms are there. For the – we will – the majority, I believe – is it a majority of us that are going to training on Tuesday?

Ms. Ruacho: Everybody but one.

Chairman Easton: Everybody but Dave.

Mr. Hughes: I'm in eastern Washington.

Chairman Easton: Dave's in eastern Washington.

Ms. Ruacho: But – and just a reminder before we get there, you're going to be there so it is a meeting, but because it's not something – it's a paid – not a paid, but a reservation system, so the public can't necessarily attend unless they made reservations, so we need to be very careful that there is no County business discussed at this meeting. It is just to go and listen to the training and, you know, participate in that.

Chairman Easton: So no deliberating, no debating –

Ms. Ehlers: No gossip.

Chairman Easton: No go – well, you can gossip as long as it's not about Planning Commission business.

Ms. Ruacho: Right.

Chairman Easton: All right. Annie, you had something to add under “Other”?

Ms. Lohman: Yes. This is kind of looking ahead. Maybe – it's a question and I asked Carly before and she didn't – before the meeting, and it has to do with the Voluntary Stewardship Plan. Do we – is there more work that we have to be doing that should be doing on the monitoring and the adaptive part of our current Ag-CAO if we want to roll that over into that program, or not?

Ms. Ruacho: Right, and that's – like I said – that's a question you would need to talk to Ryan or Betsy about.

Chairman Easton: Okay, so you can – do you want to call in and ask them?

Ms. Lohman: I can.

Chairman Easton: Or if you want to talk about it again, I'll make sure we add it to the agenda at the next meeting. Does that work for you?

Ms. Lohman: I just want to make sure that we don't lose anything.

Ms. Ruacho: Well, and I think, you know, we're fully aware of the requirements, and if there's work that needs to be done we have staff people working on what we need to do.

Chairman Easton: Okay. Carol, briefly.

Ms. Ehlers: I would like Carly and Tim DeVries to – in the next time we have code changes and definitions – to please define “perpendicularity.”

Chairman Easton: Okay.

Ms. Ehlers: “Perpendicularity” is in that FEMA ordinance. It apparently replaces the horizontal measuring distance. My dictionary says “perpendicular” is upright. Tim says it is at some kind of peculiar angle. If we're going to have to use “perpendicularity” for everything that has to do with the edge of a stream, we need to know what it is and how to use it.

Chairman Easton: Okay. And the Chair has one other to add. Last night the Planning Commission's recommendations concerning pipeline safety were responded to by the

Board of County Commissioners when they decided earlier this summer to have a hearing on the topic or the subject of pipeline safety. And they did not – they have, at this point, not made a decision on our recommendations to reject the proposal. They have – I would recommend that you watch the video. As seven unpaid volunteers you'll find it a good use of your time because the public really went out of their way to thank you. And so – we don't get thanked very often, to be honest – and so I think you should all take a look at that video and let the public say "thank you" to you guys in general. I know that Commissioner Ehlers and Commissioner Lohman were there. And then I would just add that on October 4th the Commissioners have indicated that they will be – at 8:30 in the morning – taking up the issue of our recommendations and the topic of pipeline safety again. And so that's just a little bit of news on that front, okay?

Ms. Ehlers: Apropos of that, the newspapers are full of an explosion in Kenya of – from an oil pipeline that leaked, and unfortunately somebody had a cigarette and that caused the explosion. That is something that Mark Watkinson has warned me about with various kinds of petroleum leaks and it's part of the educational program that I think needs to be given regarding emergencies that everyone said was necessary.

Chairman Easton: A really quick thing: I do not expect, and the Commissioners have indicated, that the next public hearing rounds will not be in front of us; they will be in front of them. And, as Commissioners, you always have the right, just like every other citizen, to testify, if you want to continue to contribute to the issue of pipeline safety.

With that, seeing no other business, we are adjourned (gavel).