

Skagit County Planning Commission
Discussions: SMP Update, Legislative Regulations, Bylaws Review
March 5, 2013

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

Staff: Dale Pernula, Planning Director
Betsy Stevenson, Senior Planner
Ryan Walters, Civil Deputy Prosecuting Attorney

Public Commenters: Roger Mitchell
Don Black
Diane Freethy
Paul Taylor
Wiley Clark
Ellie Herr

Others: Dan Nickel, Consultant
Kevin Bright, Shoreline Advisory Committee
Bill Dewey, Shoreline Advisory Committee
Tim Hyatt, Shoreline Advisory Committee
Terry Stevens, Padilla Bay National Estuarine Research Reserve Manager
Ellen Bynum, Friends of Skagit County

Chair Annie Lohman: Okay, I call to order the March 5, 2013, meeting of the Skagit County Planning Commission. If you could please review the agenda and offer up any corrections or changes. Are there any changes to the agenda?

(silence)

Chair Lohman: We're trying some different formats with the agenda. So, if you notice, we put the Public Comment at the beginning. Last time we had it partway

down the agenda and another time we had it at the very end. We're trying to figure out how to do public comment and make it effective for everybody. But it looks like there's an awful lot of people and we have tentatively set fifteen minutes for public comment. Does everybody want to speak or just – how many want to speak? Okay. So with that, why don't we open up the public comment? If you could come up and stand on the X and state your name and where you live for the record.

Go ahead.

Roger Mitchell: Roger Mitchell, 1155 Chuckanut Ridge Drive in Bow. Madame Chair and Planning Commissioners, thank you for the opportunity to share my opinions. The latest iteration of the proposed ordinance continues to studiously ignore input from Skagit County citizens who have overwhelmingly rejected it. Most citizens providing input want the Planning Commission to be independent from the Planning Department, not controlled by it. The 26th February Planning Department's self-serving memo provides a lengthy table comparing the proposed ordinance to the Planning Enabling Act. It's just eye wash. There are no real answers; no real justification for abandonment of the Planning Enabling Act, the statutory basis used by a majority of non-charter counties; no examples of non-charter counties that have abandoned the Planning Enabling Act for the twenty-nine words of police powers; no real explanation why using twenty-nine words of police powers is better than the Planning Enabling Act.

One has to question whether this latest iteration and memo were done in good faith. The memo also suggests that the Planning Enabling Act contains some sections irrelevant to Skagit County. That's probably true for most RCWs and WACs. Ironically the memo's comparison table demonstrates that the Planning Enabling Act provides for each and every planning function we need in Skagit County. Why should we abandon the Planning Enabling Act for twenty-nine words of police powers?

Any good provisions in the proposed ordinance are not legislative. They're administrative. They can easily be handling by administrative action. Any recent deficiencies in the Planning Commission functions are *not* due to underlying Planning Enabling Act. Rather, they're due to a failure of the Board of County Commissioners to direct and supervise the Planning Department, County Administrator, and some members of the County Prosecutor's staff, a faction attempting to weaken and control the Planning Commission's function in this county.

In summary, a wide spectrum of citizens has vociferously rejected the proposed planning ordinance for good and valid reasons. After three iterations and an eye wash memo, there is still no cogent justification of why we should abandon the Planning Enabling Act for twenty-nine words of police powers. An independent planning commission is a citizen's most reliable and trustworthy conduit into the

planning activities of this county. I continue to reject this proposed planning ordinance as an unnecessary – an unnecessary, poorly crafted, disingenuous attempt by the Planning Department and its allies to weaken the Planning Commission. I respectfully request that the Planning Commission recommend rejection of this proposed ordinance in its entirety.

And those in the audience, if you would, if you agree with what I just said would you please raise your hand? Thank you.

Chair Lohman: Okay, next?

Don Black: I feel good now that I'm on the X. My name is Don Black. I live in Skyline in Anacortes. I have a little different take on this. My position is that I wish you would use some discernment and really ask yourself deeply, Why would you want to change what has been in place for some years? This is a grassroots issue and we're living in a time when the electorate is feeling more and more disengaged from its government and the feeling that we are ceding the responsibility for the operation of our government to a bureaucracy as opposed to those that are either appointed or elected to serve the public. The only thing I can suggest to you that has to do with substance is that we, as I understand it, looked hard and long about whether we'd become a charter county and we are not. And if we're not a charter county, then I believe we can't use language that has been presented to you as demonstrating how you can implement it in those areas which *are* charter jurisdictions. And since RCW 36.70, the Planning Enabling Act, has provided you your jurisdiction, I suggest that you continue doing that and you serve the public by conducting yourself as an independent agency, not as something subjected to by the staff or bureaucracy of this department. You're in charge of it and I urge you to stay in charge of it.

Chair Lohman: Okay, next?

Diane Freethy: Diane Freethy, 24177 Moser Road, Sedro-Woolley. Good evening, Commissioners, audience. The Planning Commission, as currently constituted, plays an extremely important role and must not be subservient to any other department or employee. The radical changes outlined in the ordinance serve no purpose other than to frustrate public access to local government operations. Upon thorough review of the information made available to the public to date, we suspect influences from outside the county contributed to the crafting of the document presented by Walters – Mr. Walters – which, curiously, has been renamed several times in recent weeks. Moreover, we are left with the impression that the proposal is nothing more than a devious plot to dismantle long-standing policies and practices that ensure fair and effective regulation of planning and development in Skagit County. We thank you, Commissioners, for considering our concerns, and thank you very much for the time to speak tonight.

Chair Lohman: Thank you. Next, please? Anybody else?

Paul Taylor: Good evening. My name is Paul Taylor. I'm an attorney in Mount Vernon. I'm a local resident – lived in Skagit County basically all my life except for the time I was in the military service. I have a Master's degree in land use planning and I've been an attorney for thirty-three years, but that did not qualify me to be a member of the Planning Commission which I applied for a year-and-a-half ago. I didn't even get an interview. I got a nice letter saying, Sorry, but you don't even get an interview. That should tell you – that thing – that the Planning Department doesn't want quality people. They want people who will just nod their head and go, Yes, whatever you say. And this whole new ordinance is one way to usurp the power from the Planning Commission. I would not want to serve on the Planning Commission under this new ordinance because they're basically pulling away your power. They're putting themselves between you and the Commissioners. The Commissioners appoint you and you have to do all these requirements. Look at all the requirements that you – you have to swear to this and ___ ethics, can't have conflicts, can't do anything. The Planning Department, the Director, only has to supply you with four things. Under the bylaws that you have now, they have to give you everything and give it to you ahead of time – no requirement. This is a (sic) absolute concerted effort by the Planning Department with the help of an attorney here who's, in my work – I mean my experience – very inexperienced – is a poorly drafted ordinance that basically _____. You, under the current bylaws, were supposed to be given this ordinance ahead of time. You were supposed to. Any changes to the bylaws require a majority vote of the Planning Commission members and approval by the Board of Commissioners. In other words, under the current bylaws they can't amend it without approval by you. So under the current bylaws, reject it. You will still retain your powers. The authority they give for doing this is under the Growth Management Act. And anybody in this room who thinks that the Growth Management Act is good for Skagit County ___ the state of Washington and Department of Ecology, along with their Department of Ecology North – the Planning Department, the Skagit County Planning Department – because that's what they do. The Department of Ecology says, Do this. The Planning Department goes, Yes, sir. And they do it. The Shoreline Management Program's just another example. Department of Ecology: We've got a grant for you. Pass this program. So they get this program and guess what? Department of Ecology sends them a program. Here's what it is. Look at it very carefully.

Thank you for your time. I know you've got a hard position. But if you want to keep your power, reject this ordinance in total. Thank you.

(applause)

Chair Lohman: Thank you. Anybody else?

Jason Easton: There's one right there.

Chair Lohman: Sorry – I can't see you.

Wiley Clark: Several tough acts to follow here.

Chair Lohman: Can you state your name, please, and where you live at?

Mr. Clark: Yeah. My name is Wiley Clark. I live at 5304 Dune Way in Anacortes, and I want to thank you for giving me an opportunity to speak here tonight about this Planning Commission change.

As a citizen of Skagit County, I implore the Planning Commission to maintain the RCW 36.70 Planning Enabling Act. We need now, more than ever, a strong and independent Planning Commission and we are not going to have one if you elect to go against the RCW 36.70. Thank you.

Chair Lohman: Thank you. Anybody else? Last call.

Ellie Herr: Ellie Herr, Anacortes. They've spoken so eloquently they've really given you the feeling for the way I think most of us feel, but I would like to give you a very simple analogy. Think about a house. Think about the base of the house – the foundation. Think about that being the Planning Department. Think about how they have the rules and they know where things are supposed to go and they're holding up the house, or the Planning Commission. The Planning Commission, or the house, is where the people go to get people to help them. They are the gatekeepers. They are the people who help us as private citizens not get into trouble, not have our rights taken away. They are the people who are very strongly put for us and we appreciate what they do. But if for some reason that house were to be turned upside down, that foundation would suffocate the people. And in doing this particular ordinance and changing it, I feel that that's what would happen, is you would turn that house upside down and have that foundation push against the people and suffocate them.

I'd like to thank the Commission. I noticed you worked so hard last time. I've been coming for many months, listening and watching, and you guys are incredible. The knowledge and the depth that you have and the passion for this is just wonderful. But I did notice, having been a retired educator, I could see last time that you were absolutely exhausted. You were exhausted. The Planning Department was exhausted. The people in the audience were exhausted. And I just would like you to take a moment to think about when you get to that point, maybe it might be a good thing to just step back and say, Whew, we've had it. Let's table this for another time. Because if you make a decision or try to make decisions at that time when – we've all done it – when we're totally exhausted, I'll guarantee that your decisions at a later date when you're free and clear and your brain is working well that your decisions will be better for all. And we don't want to burn you out. We love you guys. So keep up the good work. Thank you.

(applause)

Chair Lohman: Okay, the next item on the agenda is a – kind of a work session/discussion between the Planning Commission and the Shoreline Advisory Committee. And we're – I'll turn it over there to Betsy. If you could wait a second and let Jason get back.

Mr. Easton: Go ahead.

Betsy Stevenson: I wasn't sure what she said. She said wait, but I wasn't sure for what.

Chair Lohman: I think he's ready.

Mr. Easton: Yeah.

Ms. Stevenson: Okay. I was just going to start out today or this evening by giving a brief introduction, and then there's going to be a presentation and then we can get into our discussion, if that's okay.

So, anyway, I'd like to start by thanking you for being here tonight. I'd also like to thank the members of the Shoreline Advisory Committee for all their work and effort, especially on the Aquaculture section. As you probably saw in the memo that I sent to you, they spent a lot of meetings and a lot of time discussing this. Specifically I'd like to thank a subcommittee of the Advisory Committee: Bill Dewey, Kevin Bright and Tim Hyatt, who are here tonight to discuss this with you. They've worked really hard and tirelessly long hours at meetings, on the phone, and by e-mail to try to come up with something that we think may work.

As just a brief introduction, aquaculture is a water-dependent and preferred use under the Shoreline Management Act. The Washington Shellfish Initiative was established by the Governor in December of 2011. NOAA also adopted an aquaculture policy and established a national shellfish initiative. Skagit County amended its aquaculture section of the Master Program in 1994. Most forms of aquaculture have changed over the years. Advances in technology and market demand have influenced cultivation and harvest techniques, as well as the species that are being cultivated. Much of the shellfish aquaculture in Skagit County has existed for many years. Samish Bay is a very productive area for shellfish aquaculture, although it is heavily impacted by water quality closures after heavy rainfalls. I just have a couple pictures. I'm sure these guys will probably have more but...

This is Samish Bay. This is the Taylor Shellfish Farm, and you can see if you look out there some of the areas – even though they're underwater – where they do farm. Here's another one. It goes out a little further into the bay where you can see some of the areas that are being farmed. I'm not sure these are all

Taylor's spots but they're not too far off the beach there so that's what I – and here's one more from the air. This is the tip of Samish Island out here. So you can see lots of little plots.

Carol Ehlers: That's Hat Island, isn't it – in front?

Ms. Stevenson: Right here?

Ms. Ehlers: Right there.

Ms. Stevenson: This? No, that's an aquaculture farm. That's low tide. That's an aquaculture farm looking south.

(some mostly unintelligible conversation about the pictures)

Ms. Stevenson: Okay. Anyway, Atlantic salmon are raised in net pen facilities both on Cypress Island, which – this is Deep Water Bay there on Cypress Island and also in Samish Bay.

Unidentified male voice: Skagit Bay.

Ms. Stevenson: Skagit Bay – I'm sorry! I knew that! And there is the other facility there. I've also asked both Bill Dewey and Kevin Bright to make some presentations tonight. Bill Dewey is the Public Policy and Communication Director for Taylor Shellfish Farms and Kevin Bright is the Permit Coordinator for American Gold Seafoods. So they are the ones doing the operations here locally, are part of our Advisory Committee, and know quite a bit more than I do about their operation, so I would like to turn it over to them now.

Kevin Bright: Good evening, Commissioners. Madame Chairman. Thank you for having me here. I'm just going to try and briefly go over what American Gold Seafoods – the net pen operations here in Skagit County – does. I was on the Citizens Advisory Committee for the Shoreline Master Program rewrite. It was a really great opportunity. I live in Anacortes and have been working with these fish pens for about twenty-three years now. I've got a marine biology degree so when I think of shorelines I think of just saltwaters. And there's a lot of fresh water in Skagit County and there's a lot of shorelines that I hadn't even considered along the rivers and wetlands, around lakes, so it was a good experience for me to kind of realize shorelines are not just marine.

So I'm just going to try and briefly go through this and kind of explain our operations. It's mostly pictures which, I think, can tell a lot more than words can at times.

Our company is owned by Icicle Seafoods. Icicle's a large U.S. company that has operations in Alaska and Washington state. They're a wild salmon fishing

company but they also fish for halibut, black cod, Pollock, crab, and now they're into aquaculture with Washington farmed salmon.

A lot of seafood companies now are moving into producing both wild fish and farmed fish, or farmed aquaculture products. Just a few examples: there's farmed shrimp, farmed prawns, oysters, clams, tilapia, and farmed salmon. Icicle has seen kind of the growth in demand and they see aquaculture as being able to meet that demand.

Our company owns two freshwater hatcheries. Those are down in the lower region of southwest Washington, down by Rochester. We have eight net pen sites. We actually are the only marine salmon farming operation in Washington state. The sites are at Cypress Island and Hope Island. We've also got a site at Port Angeles and then some sites down by Bainbridge Island and Rich Passage.

The beauty of our operation is that we can harvest fish year-round. We harvest fifty-two weeks a year and it's consistent quality, consistent amount to our customers. It's shipped fresh to them up and down the west coast and back east. We'll produce around fifteen million pounds of farmed Atlantic salmon each year. Atlantic salmon are easier to raise. It's kind of a – it's odd but that's just the way they are. They're closer related to trout genetically than they are to Pacific salmon and so they handle the domestication process a lot better than Pacific salmon. Originally the farm started out raising Coho and – Coho salmon – and they just didn't make it. Other reasons were that they were competing against Coho salmon – wild Coho salmon – on the market so they're fighting for the same price, same customers and things like that. So Atlantic salmon kind of developed as the fish of choice for aquaculture, for fin fish aquaculture. Again it's – like I said – it's an easy fish to raise. It handles the whole domestication process – growing in net pens, growing in the hatcheries. So we've been raising Atlantic salmon in Puget Sound for over thirty years now in net pens.

Our company employs about eighty fulltime people at our marine farms and our hatcheries. We have an annual payroll of around 3.4 million dollars. And there's a study out that shows you an aquaculture job multiplier. Basically it's a three-to-one ratio of aquaculture jobs to actual support jobs around it. So we probably produce around 240 support jobs at seafood processing, sales, packaging, and distribution.

Just crunch some numbers real quick – that our input to local businesses around our fish farms in Port Angeles, Anacortes, Bainbridge Island areas, and Rochester is around 8.7 million dollars a year. A lot of that is marine-related businesses, water-dependent businesses, boat builders, diving companies, diving shops, marine supply shops, just general hardware – things like that just to keep the farm running.

Also – I decided to throw this in there – we pay an aquatic rent to the Department of Natural Resources for the aquatic lands that we use. It's an annual payment of around \$170,000 for all of the fish pen sites. And I just kind of punched the numbers together and it was about 3.6 million dollars into DNR coffers to date.

I'm just kind of briefly go over – this is the stuff I like to talk about because I'm a biologist and I find this really interesting. I've been around hatcheries my whole life. I grew up in Washington salmon fishing and I really enjoy this part of the process, as opposed to the permit coordination stuff. But we have our own brood stock that produce our own eggs. It takes about four years for fish to get mature like this one here. That's about a fifty-pound Atlantic salmon male. So we'll strip the eggs and milt and put them in heat trays and grow them up from there. There's disease screening at that point in time. They're screened for viral diseases and bacterial diseases. We make sure that they're clean of any diseases. So the fresh water phase is the eggs, fry, and smolt. They're grown at the hatchery from a .5-gram egg to an 80-gram smolt. It'll take about twelve months. We photo-adjust the eggs – or the brood stock – and also the smolt so we can plant fish throughout the year – plant the smolts throughout the year – and that allows us to harvest throughout the year. And so once the fish are ready and smolted – this fish here in this photograph is smolted up; it's silvered up; it's ready to go to saltwater. That's about an 80-gram smolt. It'll take another sixteen to twenty months of care and feeding to get that fish up to about a twelve-pound harvest size.

So I just threw a lot of pictures in here. Aquaculture is farming. It's hard work. It's a labor of love. You're caring for these animals, but it's feeding them, diving in the fish pens, making sure the nets are secure, and just – this picture here is of grading the fish. We do size grading. We'll put different size – as they grow they'll grow at different rates – we'll put different size fish in a different pen so that they're ready for market at different times – they're reaching their harvest size. It's challenging. It's a challenging – like agriculture, like farming, it's challenging. It's dealing with Mother Nature. It's dealing with saltwater. It's dealing with storms. It's a challenging profession.

I just thought I'd throw some pictures about what a harvest looks like. The fish are seined up in the net. There's a suction pump that'll suck the fish up and bring those aboard the vessel. The fish are stunned and put into a tank full of refrigerated seawater and then they're taken directly to the processing plant where they're processed. Down in Seattle is where we process our fish. So that's part of the processing. Aquaculture is processing and sales. That's done down in Seattle and that's – actually I should go back to the last slide – that's the best part of it, is when you see them go on the boat and they're going to market. It's like any farmer. It's when you're harvesting your crop, you're digging your potatoes, you're harvesting your corn. It's the best part of the whole process because you know it's getting to market and you've done your job. It's very rewarding, especially after a three-year process!

So I thought I'd throw this in here just to show some of the permits for a new marine fin fish farm. And this isn't all the permits that are necessary but this was sort of the major ones that you have to go through to get a new net pen operation in Puget Sound. It's a very challenging and difficult process. It's evolved over the years. New permits have come up and new regulations have come up. One of the major ones is the National – the NPDES permit: National Pollutant Discharge Elimination System permit. That's Department of Ecology. They really regulate the industry and those permits have been evolved – I'll go back. Every five years those permits are renewed and there's new things added on to those permits each year. If issues come up – fish escapement, those kind of things – those have been added on the permits over the last – and we've had those permits since '96, yeah. Fifteen years. That's really the operating permit for the fish pens. We have to monitor the sediments around the fish pens and report that to the Department of Ecology. We have to report monthly what we use for medicated feeds or any other disease control chemicals. We report our total biomass. We report our total amount of feed. So Department of Ecology is sort of the lead regulatory agency, along with the Department of Fish and Wildlife, as far as regulating the fish pens. But I thought I'd just throw this up there to show you why I have all these gray hairs.

So just the last slide. There's a lot of opportunity for aquaculture in the U.S. Over 80% of the seafood we consume in the United States comes from foreign countries and most of that seafood is coming from aquaculture that's being produced in those foreign countries. Chile is a major salmon producer. Thirty years ago Chile didn't have a single salmon to sell. They don't have salmon runs down there. But they got into salmon farming in a big way and now they import over 500-million pounds of salmon into the United States each year. So it's created a huge industry down there. The Chileans, I have to congratulate them but I also have to realize that they're our competition and they're going at it in a big way.

The projections for U.S. and global demand for seafood is projected to increase with increasing population and this graph kind of demonstrates that. It's showing – this is from the U.N. Food and Agriculture Organization and it's basically showing projections of seafood demand and population increase.

So I just want to finish up – let's just say increasing our domestic production of seafood can create local jobs, can create economic opportunities and, most importantly, I think it'll create seafood produced here under U.S. food and environmental regulations. And I just want to thank you for your time.

(applause)

Unidentified male voice from the audience: Eight or ten years ago the fish pens in Secret Harbor collapsed and there was quite an _____. Was there any

follow on it as far as establishing a run of Atlantic salmon in the west coast rivers?

Mr. Bright: No.

Same unidentified male voice: Well, how come that didn't happen?

Mr. Bright: The fish are domesticated and they don't do well in the wild, so I kind of liken it to a chicken getting out of the coop and running around. They get picked off by predators. They don't recognize natural food prey. They get out in the wild and they're looking for fish pellets and they don't know that a herring is what they should be chasing around. So a lot of them just get eaten by predators and –

Same unidentified male voice: I caught a couple of them on Decatur Island.

Mr. Bright: Well, yeah, predators!

(laughter)

Mr. Bright: I heard a story of one jumping into somebody's dinghy and it just landed in his boat at Skyline. I don't know what happened. It was a –

Same unidentified male voice: (unintelligible)

Chair Lohman: Okay. Please, sir. Sir, this is a meeting of the Planning Commission.

Same unidentified male voice: Okay. Sorry.

Chair Lohman: Okay, Bill. Go ahead.

Bill Dewey: Yeah, thanks very much. I'm Bill Dewey with Taylor Shellfish Farms. And just a little quick background on Taylor's: It's a fifth generation family operation based down in Shelton. They've been farming shellfish in Puget Sound since 1890. They started farming in Skagit County in 1991 when they purchased the Rockpoint Oyster Company from the Steele family, who had owned that farm for seventy years. I managed that farm for the Taylors for the last ten years that they owned it and then I went to work for Taylor's. Now I'm based in Shelton and work for them out of their operation down there, but I also have a home on Samish Island and a clam farm of my own out in Samish Bay and spend a lot of time up here in Skagit County working out on the water.

So I'm going to, like Kevin, just try to take you through a lot of pictures. The shellfish industry in Samish Bay, which is basically the majority of shellfish farming in Skagit County is Samish Bay. There's a history of doing it in Similk

and we'd like to get back there now. We used to lease that land and farm in Similk as well, and now that that's been upgraded we hope to get back over there eventually. But, for the most part, shellfish farming in Skagit County is Samish Bay.

These are the different species – oysters, manila clams and geoducks – that we farm. This is just an aerial view of Samish Bay, and you can see all the tideland parcels out in the bay. Those are what we call “Bush Act” tidelands. Those were sold under laws that were passed in 1895. The Bush Act, which deeded land – allowed you to purchase land specifically for the purpose of farming shellfish. If you did – at that time it was native oysters – if you did anything else, the ownership would revert back to the state, but as long as you grew shellfish you could own that land and that's what was encouraged on it. Laws later changed and allowed us to grow other species of shellfish. That ability to own our tideland for that purpose is why Washington leads the country in farmed shellfish production today. Skagit County/Samish Bay is probably between 2 and 3% of the state's farmed shellfish production. The bulk of it happens down in southern Puget Sound – Willapa Bay and Grays Harbor on the outer coast in the Hood Canal. Samish Bay is kind of your hub for north sound.

These are some of the different companies that you maybe recognize that work out in Samish Bay. Chuckanut Shellfish, lower right, is my personal farm. Of course, you're all familiar with Blau's and Acme out on the island there. Samish Bay Oyster Company's the smaller – (it's) the Ratfield family that has that.

I don't have good statistics for the whole industry in Samish Bay but I threw these up there. I did gather statistics from the industry a number of years ago but they're dated. But these are numbers from Taylor's just to give you a sense of the amount of production that we have coming out of Samish Bay: 430,000 pounds of clams a year; 3.2 million oysters; about 2.4 million in sales between our retail store and wholesale. Our payroll for the Samish farm is just under a million dollars and we've got twenty-five to twenty-eight employees. Bay-wide, I would guess between all the companies, it's probably around FTEs that are supported by the farms there – fulltime employees – supported by the farms in the bay there.

This is our main workhorse species, the Pacific oyster, introduced from Japan early 1900s. Actually Samish Bay was the first place it was planted commercially and now it's the dominant oyster grown on the west coast. It supports most of the industry. Seed used to come from Japan. The boats would come into Anacortes and other ports around the bay loaded with cases of oyster seed from Japan, and the oyster farms would go meet the ships, offload the seed, and take it to the bays and plant it out. It came in these wooden crates that you see here. Today the industry has shifted to hatchery production for our seed. This is Taylor's hatchery down on the Hood Canal. There's a few other hatcheries around that also produce seed for the industry. Some of the activity that goes on

in the hatchery producing the Bayview oysters: The first three weeks of their life, they're plankton free-floating in the water and then they go through a metamorphosis before they settle out and begin their life on the bottom. And this is just some of the activity in the hatchery.

We're doing cluster oyster culture for shucked oyster meats. Your Bayview oysters are set onto a big piece of shell and that grows into a big flower of oysters, and then our shuckers just work their way around the flower cutting the meats out and selling the meats. These are just examples of producing the seed there for that cluster oyster production. All those little brown specks on the shell are called "spat." Those bags are cut open, put on the deck of a boat, and then taken out at high tide and sprayed off on a bed that's ready for planting with a water hose like this. This is in Samish Bay. They're planting seed there. And they just feather that seed out on a thin layer on the bottom and then when we come back hopefully three to four years later we have something that looks like this. This is a mature bed of Pacific oysters with a bunch of algae growing on it.

We also do a lot of long line culture in Samish Way. So when the ground is too soft to support an oyster crop on the bottom – if oysters sink into the mud, they suffocate and die so in muddy areas we use this what we call "intertidal long line culture" where the shell with all the baby oysters attached to it is strung into a three-strand, braided rope and then supported up on pvc pipe stakes. So the whole crop is grown suspended up about eighteen inches off the bottom and it grows into these big flowers of clusters. These are some of the long line beds on the west side of Samish Bay. You can see it works. It's a culture system that works quite well in eelgrass areas. You can see how well the eelgrass does all around these – around the long lines there.

And we do a lot of oyster single culture. This has really been a transition for the industry. The markets for our shucked oyster meats have dried up over the last twenty years and there's been a resurgence in the interest in eating oysters raw on the half-shell. So a huge demand for single oysters on the half-shell for eating raw. So this is some of the production. This is Acme Seafoods Farm on Samish Island. Those are all baby single oysters on that bed there.

We also do what we call "flip bags." So this how we grow our Shigoku oysters. These bags all have floats on them, and as the tide comes and goes that brings the bag up and down, up and down, so the oysters are in constant motion in that bag, and it changes the shell shape and gives them a nice, deep cup and a nice, hard shell, which makes them very ideal for selling on the half-shell – single oysters on the half-shell. A very popular oyster for us.

This is Acme's crew out picking their single oysters there on Samish Island. Cluster oyster culture: We pick into these bushel baskets, dump them into the twenty-bushel tubs. Those tubs all have ropes and buoys that are retrieved at high tide and hauled in on the big harvest boats with the cranes there.

Manila clam culture is something that's grown in popularity in Samish Bay in recent years. This is just some of the Manila clam seed that we plant on the farm. Again, it all starts in Taylor's hatchery. We have a hatchery here in Washington. We have another hatchery over in Kona, Hawaii. We have a big nursery facility down on Humboldt Bay, California. There's a lot that goes into producing seed to supply our farm and all the farms that we sell seed to. Again, a close-up of the clam seed that we're planting there. And basically you're planting clam seed just like you plant in your lawn. You just take it out there and throw it and they burrow into the ground. In Samish Bay we have to cover those clam beds, for the most part, with predator exclusion netting; otherwise, the ___ ducks and Dungeness crab will eat all your crop. And then when it's ready to harvest, this is the traditional way. About nine million pounds of clams a year dug in Washington state, the vast majority exactly like this: people down on their hands and knees with hand rakes raking them out of the ground. I've changed that game a bit with my farm, Chuckanut Shellfish, here in the middle of Samish Bay. I own about 32 acres right there smack in the middle of the bay, and I'm growing clams in rows under predator netting, in sand, and that's allowed me to mechanize the harvest and mechanize the farming. So that's just kind of an overview shot of my farm there.

And then some of the algae that grows on the nets. This is kind of a problem. You put down a hard structure like that and things like to attach to it and grown on it. It creates a great habitat but that algae can suffocate your clam crop and reduce the food to your clams. In this case, it brings the young seed back up through the net and then I'll lose my seed, so I have to keep those nets clean so the seed doesn't do that. So every few weeks in the summertime we go out and we basically sweep the nets. On my farm I've got about eight miles of net, and we out with a street sweeper and just run up and down the rows to clean the weeds off the nets. And this is my harvesting machine. This is a tulip bulb harvester I purchased from the Roozens a number of years ago, and then we've modified it by adding a potato conveyor to the back of it to bring the clams up and put them in the baskets.

(laughter)

Mr. Dewey: Extremely effective. It's basically your – now I can go out with my wife and my kids and in a three-and-a-half-hour tide we can dig generally around 7,000 pounds of clams. And so that would take your crew of about twenty-five people on their hands and knees with rakes doing the same thing, so it's been a wonderful invention and it hasn't gone unnoticed. Others in the industry are starting to pick up on this, Taylor's included – have picked up on it and built a harvester. It's meant for the saltwater. Mine's mild steel meant to be run in a tulip greenhouse and so I have a little bit of maintenance to do on it, but it's dug probably 700,000 pounds of clams over the last ten years and it's still going strong.

This is what it looks like after a day of harvest on the farm. You can see the rows that have been dug by the tulip digger there and the pallets with about 900 pounds of clams each on them there. In the wintertime our low tides are in the middle of the night, so basically from September to March we have to go out in the middle of the night and use headlamps and lights on the machine and so on to work. We all look forward to March and April. This is when we swing back around to daylight tides and we can put the headlamps away, and it's fun to be a shellfish farmer again.

The clams get palletized so we can pick them up again. Here's the tide coming in around those pallets of clams. Taylor's pick those up with their boats so I don't have to carry them in. We're doing some research out there. You know, of course, the question arises when you mechanize the harvest: What kind of an effect does that have on the environment compared to the traditional methods of clam farming? So we've been able to get a grant from the National Oceanographic and Atmospheric Administration to study the environmental effects. You can see the hand digger working on the right and the machine working on the left. And then we've had scientists out there researching benthic impacts from that harvesting activity.

This is interesting – maybe not, if I can't get it to run. This was going to be a video. Two hours after harvest – once you pull that predator net off, you've basically exposed the dinner table. All these things that have grown for three years that the predators couldn't get at are now exposed and open to the predators. So about two hours after the tide comes back there's this incredible feeding frenzy as the starry flounder and other fish move in to eat all the things that you've left exposed now after the clam harvest.

There's a little bit of geoduck culture in Samish Bay. Not a lot, but Taylor's have a bed out there. I've got a few planted on my farm. This is the nursery down in the south sound where we produce the baby geoducks to go on the farms. You can see the baby geoducks look just like the big ones. They can't get all the meat inside the shell so you plant them in these pvc nursery tubes just to protect them from predators for the first year, year-and-a-half, and then the tubes come off and for the next five years they go with nothing; they're just growing in the beach. Then we go through and do the harvest. Hopefully after six years we've got a clam that looks something like this.

(laughter)

Mr. Dewey: Lots of folklore around the geoducks there! So that's the mature geoducks bed. You can see all the siphons sticking up on the beach there, ready for harvest. The harvesting is done same way they do sub-tidal diver harvests, where they have a water pump and they just pump water into the sand until the sand becomes liquid enough that the geoduck pops free. Then they just work

their way through the beach like that. There's also been a lot of really good research done by **Sea Grant** over the last five years on the environmental effects of this activity, as well, which turns out to be quite nominal. The area recovers quickly from any of that activity.

This is an effort on my farm to plant geoducks trying to get away from the tubes and use my regular clam nets. I put the nets up on an elevated frame and then planted the geoducks under those so I could sweep them with my tractor and keep the nets clean with my tractor. I pulled the nets off after a couple years. You can see where I installed these nets is a bare sandbar. You know, it was an area of my farm that didn't have any eelgrass. It was just open sand. And I hadn't planted it yet with Manila clams so I thought I'd try the geoduck there. The corner stakes there in the back – pay attention to those. So that was in 2004. In 2012, that's what that same area looks like now, just to show how dynamic the eelgrass is in Samish Bay. So, again, bare sand bar; bare sand – 2004. 2012, eight years later, you can see how lush the eelgrass is and the geoducks poling up through the eelgrass there.

Shellfish provide a lot of ecological services. I don't want to run on in time here so I'll just try to wrap up. But, you know, shellfish help remove nutrients. They feed on the phytoplankton that's generated by the nutrients and use that energy to build their body mass, and then when we harvest those shellfish we're actually removing a net nutrient removal from the system. That water filtration helps clarify the water so you get more sunlight penetration for the eelgrass and macro algae. It helps the sunlight penetrate through the water. Depending on the type of crop, you create a lot of valuable habitat as well. This is just an example of how effective shellfish are. That feeding is sixty clams in that tank on the right. It's a gallon of water in each of those tanks with algae in each one, clams and whatnot in the other. This is a time-lapsed video that captures twenty-eight minutes in fifteen seconds. So that just shows you how effective shellfish are at filtering the water.

A long history – our industry has a long history of working on water quality and protecting water quality. These are signs and articles from papers back when we were taking on the Bellingham pulp mill for the effluent that was impacting the oysters in the bay. The same thing happened in south sound where the industry challenged the pulp mills there. And those efforts go on today as we deal with pollution issues, whether it's from septics or other sources. Today we continue to work on that. Oscar Graham, who is on our committee with us, gave me this article – or this headline. As he remodeled his house in Blanchard a year or so ago, he found this in the walls. They were using newspapers for insulation, and this is a newspaper from 1963 where the oyster growers give up on pollution case – so just documenting some of that historic water quality efforts that we've done there.

Sorry – I hope I didn't go too long there. There's lots of good pictures to give you an idea of what's going on out in the bay with the shellfish aquaculture.

(applause)

Chair Lohman: You're up again.

Ms. Stevenson: Okay. Basically I don't have anymore in the way of a presentation. I will tell you that there was a stack of revision to the Aquaculture section that was sitting on the table. Hopefully you guys all got these when you came in because it has changed. We've been working on it again, based on comments that we received at the last Advisory Committee meeting. So mostly it's organizational changes, but there is some text change as well. So at this point I'm – whatever, however you want to handle it, I guess, is the best way. If you guys had a chance to get through it, I'm not sure what you want in the way of a presentation. If you want to ask questions – what do you want to do?

Chair Lohman: Why don't we start with Matt and all of us can bring up one question at a time and get all the way through and then start over again? So, Carol, one question at a time.

Ms. Ehlers: If you want to know, I have a dozen!

Matt Mahaffie: We just heard two presentations of how wonderful it was. Tim?

Tim Hyatt: I had no advance notice of the presentations. I wasn't invited to give one tonight. _____.

Mr. Mahaffie: I'm sorry. I mean as far as the working as a subcommittee – what's the opposite take? I guess is my question.

Mr. Hyatt: I guess the opposite take would be despite all the wonderful benefits of aquaculture, or *in addition* to all the benefits of aquaculture, we need to make sure that the eelgrass is protected. There's a lot of it out in Samish Bay, even more in Padilla and in Skagit Bays. But those are a little beside the point since most of the shellfish aquaculture is out in Samish Bay. There're – as you saw from the photographs, a lot of what the aquaculture industry does currently is they plow it. It's inevitable. It's part of their harvesting. And I should say I eat a lot of shellfish, too, and I don't disagree with anything that Bill currently does. But I do think it's incumbent on Skagit County in their Shoreline Plan to make sure that the eelgrass – the native eelgrass – that's out there now needs to be protected. I think that the Department of Ecology is going to take a close look at that. It's certainly in the shoreline regulations and the guidelines on no net loss of function. The salmon that use that area depend heavily on eelgrass for habitat and refuge from predators. There was a pretty good study in Willapa Bay where they had an enclosure and they filled it full of some hatchery Chinook and they

were able to monitor where they liked to hang out. And within the enclosure there was native eelgrass, non-native eelgrass, oysters, and open mudflat. The Chinook showed a real strong preference for the native eelgrass. And over the ten days of the study, all of those smolts milling around out there got picked off by heron. Not one of them got picked off while they were in the eelgrass beds. So not only do they have a strong preference for it, it provides a lot of cover that they probably don't get in other types of – other areas out on the mudflats.

So it's important. I think we need to protect it. I think these regulations might get us there, but I had two comments on the regulations themselves. One is I think we need a more specific provision that says – that protects eelgrass outright. I think that's – there was one in the last version that we reviewed. That version has been in there – that provision has been in there since last May.

Chair Lohman: Can you – sorry to interrupt you – can you direct us where?

Mr. Hyatt: It's not in this version now.

Chair Lohman: What about in the February version?

Mr. Hyatt: In the February version? Well, how about this – no – yes, I can direct you. It is repeated verbatim in the Policies, so if you look at Policy 6A-8.7 on page 2. That was taken directly from Ecology Guidance and I think it's pretty similar to what's already in the existing Shoreline – Skagit Shoreline ___.

Mr. Easton: So I'm confused then. I have a version of today's that was delivered to us, or the one that's dated the 3rd but was actually – I was notified about it today at 2. So that one is the – it's still here. 8.7 is still –

Mr. Hyatt: In the Policy.

Mr. Easton: – in the Policy.

Mr. Hyatt: Not in the Regulations.

Mr. Easton: Okay, so where in the Regulations – or maybe Betsy could answer. Sorry, Madame Chair. Can I –

Chair Lohman: You're fine, you're fine. This is a work session.

Mr. Easton: Thank you. Can Betsy or Dan explain why it's not in the Policies or –

Mr. Hyatt: It *is* in the Policies.

Mr. Easton: I mean why it's not in the Regulations, or when did that change?

Ms. Ehlers: Was it in the February version?

Chair Lohman: It's in both, Carol. It's on page 2.

Mr. Easton: It's in the Policies; it's not in the Regulations.

Ms. Ehlers: I don't mean Policy. Is the Regulation in – all right, what page and where do I find it in twenty seconds?

Mr. Hyatt: I had a stack of earlier versions about this thick and I kept getting them so confused, I think I set it aside and didn't bring it.

Ms. Ehlers: I can understand that.

Mr. Easton: What about under "General Regulations"?

Mr. Hyatt: Page 4, number 9 – on page 4?

Mr. Easton: Could you take a look at the current version you have in front of you, page 5?

Ms. Ehlers: It might be number 9.

Mr. Dewey: (3)(c)(i).

Mr. Easton: Yeah. So look at (3)(c) – thanks – (3)(c)(i). Bill just pointed this out.

Mr. Hyatt: On today's version?

Mr. Easton: Yeah, today's version. Does that address your concern?

Chair Lohman: It looks the same as it was.

Mr. Hyatt: Well, for one thing it changed – okay, so if you read the Ecology version, it says "Aquaculture shall not be permitted," right? "...*should* not be permitted."

Mr. Easton: Yeah.

Mr. Hyatt: This says it should be "...designed and located and managed to minimize..." "Minimize" and "prohibit" are two very different things. And I would soften that a little bit. "Prohibit" probably is a little too strict, but "minimize" is a pretty loose term when a grower comes up and says, This is the minimum I can do, and that happens a lot.

Ms. Ehlers: It looks like it might be on page 5, (3)(c)(i).

Mr. Easton: That's what he's referencing right now. That's what he was just referencing.

Ms. Ehlers: Okay.

Mr. Easton: See, he doesn't feel like that language is strong enough as compared to the Policy. With respect to the Chair and the Director, the Director and the Department, (we're) at a painful place to be at to try to have a fruitful discussion of this part of this, given the timing of when we received the document. But a fruitful conversation can be had maybe at another date about this. I mean, I feel sort of – I was surprised to find this at two o'clock today in my inbox. I mean, do you or Betsy want to comment on why we're in this position again? Because it seems to me that supersedes sort of the conversation that can go forward.

Mr. Pernula: My understanding is that we thought it was all ready to go and that the draft that you got was – that was ready to go and what we would be sending forward to the state in your packet; however, members of the subcommittee wanted to make some changes after their most recent meeting and that's why we made some changes.

Mr. Easton: So we submitted in – we submitted in early February, right, Dan? Was it early February?

Mr. Pernula: With all but the Aquaculture – without this section.

Mr. Easton: Without this section. This meeting's been scheduled and this section of the meeting's been scheduled now for at least a month.

Mr. Pernula: Yes.

Mr. Easton: And I have a document in front of me that's dated – and I'm not trying to be a jerk here – but I have a document that's dated March 3rd, today's the 5th, and I got it today at two o'clock. So can you explain *that* part to me?

Mr. Pernula: The draft that went out in your – that was e-mailed to you a week ago is what we thought was ready to go.

Mr. Easton: Okay.

Mr. Pernula: And then since then members of the subcommittee wanted to make some changes to it and that's why you got something different tonight. It was not – we thought it was ready to go at that time.

Mr. Easton: Okay, I think that's good to get clarified. Thank you, Madame Chair.

Chair Lohman: Anybody else with questions?

Mr. Hyatt: Actually I had one other point. It is related.

Chair Lohman: To eelgrass?

Mr. Hyatt: Yes.

Chair Lohman: Okay.

Mr. Hyatt: The other thing that's really missing here is a definition of "existing aquaculture." You've got references to existing aquaculture on page 4, part (1).

Ms. Ehlers: Of what version?

Mr. Hyatt: Today's version. And this, I would point out, is all new language. It may be the spirit of it was here but it certainly wasn't in these words.

Mr. Easton: You mean all the parts that are highlighted or in red?

Mr. Hyatt: No, much more than that. All of part (1).

Mr. Easton: Really?

Mr. Hyatt: Yeah, pretty much. I've never seen it before.

Mr. Easton: Okay.

Mr. Hyatt: Not in these words. So (1)(c), Expansion of existing aquaculture:

"(c)(i) For existing aquaculture without" a "...shoreline permit..."

"(c)(ii) For existing aquaculture permitted under this SMP..."

"(c)(iii) For existing aquaculture permitted under a previous...SMP...." That would be the one in effect now.

So it refers to "existing aquaculture" but there are more than one interpretation of what "existing aquaculture" is. I would interpret "existing aquaculture" to be those areas that are currently under cultivation or have a permit. I think the industry-preferred definition of existing is anything that's ever had a deed, a lease, a local government permit, an easement, or any other property interest in raising shellfish. So if you look at all those plots out in Samish Bay and – does this work as a document pen?

Mr. Easton: Mm-hmm.

Mr. Hyatt: Could somebody help me out?

(Mr. Hyatt and several others talking mostly inaudibly)

Mr. Hyatt: So this is a map of Samish Bay. It's very similar to the one that Bill showed you in his slide presentation. These fine black lines here are the parcels that – for aquaculture growing – that were deeded out in the 1895 Bush and Callow Acts. I may not have that exactly right, but something close to that. The blue plot is the DNR interpretation of where there's eelgrass. You can see there's a lot of eelgrass overlying – you know, underneath or within the parcels for aquaculture. So if you interpret every one of these acres – and I think I did a calculation – and don't hold me to it because this was not a formal analysis – about 3600 acres of eelgrass out there. It gives you an idea of what you're looking at. If all of those parcels are considered existing aquaculture, yet only a third to two-thirds of them are being cultivated, then according to these regs you could expand into that eelgrass and call that a current operation without a permit. So you would be talking – without a shoreline permit – so you would be talking potentially hundreds of acres of eelgrass that would escape a shoreline permit if you don't define "existing aquaculture" narrowly.

Chair Lohman: Carol, then Jason.

Ms. Ehlers: Similk Bay used to be an aquaculture site before it got __ polluted. And when they cleaned it up and when they cleaned it out I think that makes a good example of what might be at issue here in the word "existing." So is Similk Bay where the oysters were, is that existing or non-existing?

Chair Lohman: Hmm.

Mr. Hyatt: I'm not familiar enough to say.

Ms. Ehlers: Or maybe we should let the three of you think about that for a while.

Ms. Stevenson: I would like that Planning Commission finish, if that's okay.

Chair Lohman: Yeah.

Ms. Stevenson: And then we can discuss some of this, because _____.

Mr. Easton: So I had a question for Dan and Betsy along this line.

Chair Lohman: Go ahead, Jason.

Mr. Easton: One slide that was powerful – although hard to read, due to my advanced age – that Kevin put up was the list of all the permits necessary which wasn't – as Kevin said – wasn't exhaustive. You know. One of the things that needs to be clear is you're only talking about the lack of a shoreline permit that no one could go into 3600 – or 36,000 – acres of eelgrass tomorrow without a permit, based on just the word "existing." So we want to make sure we're not sort of stirring unnecessary panic or any sort of run on eelgrass hoarding. But the question I have: Is the Department of Ecology – although you'll find this quote very, very seldom in my mouth – they must have a definition of established aquaculture.

Ms. Ehlers: That's non-existing.

Mr. Easton: They don't currently have one at all in any of the regulations?

Ms. Stevenson: No.

Dan Nickel: It's being debated.

Mr. Easton: So they don't have one defined and we're being dictated to update our manuals – you know, to update what we're doing in relationship to this whole issue, and they don't actually define what is "existing"?

Ms. Stevenson: No. And there's a lot of reason for that, I think, and in all the plans that I –

Mr. Easton: I'm sure there's a lot of disagreement.

Ms. Stevenson: – all the plans that I looked at ___ – I'm sorry. All the plans that I looked at that had been either approved or in the process and are about in the same state as we are, none of them define "existing." And we did our best, because of the comments that we've been receiving from Tim, to go ahead and do a better job at indicating what would require a permit. So I kind of take issue with his last comment and remark and I don't necessarily think it's correct. If you read through some of the changes that we made – and I realize that you guys just got this today – I think it does a pretty good job of describing all the different scenarios that you might run into. Either you've got stuff that's been existing out there long before there were any permit requirements that continue to operate the way they have; you have operations that have come into place and may have permits under either our existing Shoreline Program or an earlier version of that one and how we deal with those; and then you have those that we look to the future with our new Program that would be permitted under our new proposed regulations and our new shoreline requirements. So I guess – and we also indicated those who may have never gotten permits, which would have been in operation prior to the Shoreline Management Act, and then in the table that we put together, which is kind of in green in your copy, it gives you a little bit of an

idea of what would be required. And I don't really see anything there that would allow just a total expansion without some sort of review. The only one is under the one section where we allow for some expansion beyond an existing cultivated area but still within the project boundaries of the permit. And also, I think as you guys pointed out very well, the section that talks about in terms of eelgrass where we would require that to be considered in their site assessment work and also to look at our critical saltwater habitat information. So they will have to do that evaluation and determine whether or not there is an impact. If that impact is significant, whether or not it can be mitigated, which is what we're required to do in order to address the no net loss of ecological functions. So I think we've done a pretty good job of addressing those things. Now whether it's up to what Tim wants or not, I can't say for sure.

Chair Lohman: I'm going to go next, please. I have a question. Bill, I have a question for you. You were –

Ms. Ehlers: I'd like to follow up.

Chair Lohman: You'll get a chance. You were talking about how you had an area where there was no eelgrass and then after a period of time eelgrass grew. So in referring to this picture, is the eelgrass – like a wheat field – where it's solid eelgrass in every bit of that, or is it somewhat thin in some places, non-existent in others, but that is just the generalized, localized area? Can you define that eelgrass section and kind of tell us a little bit about eelgrass and your business?

Mr. Dewey: From my perspective, and I've worked in Samish Bay for thirty years and walked on a good portion of that ground – I'm very familiar with eelgrass (and) also familiar that there's more eelgrass in Samish Bay today than there has been ever in the thirty years that I've worked out there. Eelgrass is at an all-time high, at least in those thirty years in Samish Bay. It's spotty, as you described it. There are a lot of areas where there are very dense meadows and then there's areas where it's sparse or non-existent. So that blue area is definitely not all solid eelgrass. I would speculate that a portion of that, at least on the upper, the shallower portions are non-native eelgrass. _____ introduced through the Pacific oyster. It was classified in the state as a weed, actually, just recently. ____ area of controversy, actually.

But, you know, I – in all due respect to Tim, and I understand, you know, what he's trying to protect and his concerns, and I don't disagree with him. I'm not arguing for one second that eelgrass isn't important habitat. But I can provide you a stack of studies that show the value of the habitat that we're putting back. And we do. We farm shellfish and we do impact eelgrass _____ extensively, but we don't eliminate it where we farm. It is there, and that's the reason after a hundred years of farming actively in Samish Bay you still have all of that eelgrass there. It's for the tribes. I mean, it does have those services I told you about that shellfish provide: filtering, nutrient coupling – all of those things. Shellfish does,

you know, well here. It's not as dense as it is in meadows. But you've got an incredible habitat and I would invite any one of you – I'd be more than happy to take you out on the farms and show you this firsthand. I've asked Tim to come out and do that as well. He's yet to make it and stay and see this for himself firsthand. So I think people – once you see it you rest a little more easily that this is not – it's a changed ecosystem, but it's an incredibly healthy ecosystem as we farm this.

Chair Lohman: Any other comments?

Mr. Hyatt: Yeah, I'd like to respond to a couple of things. I agree – I concur with Betsy in large part but not entirely that these regulations in section (1) do appear to require permits for expansion. But I had to read them multiple times before I could really convince myself of that, and I'm not sure I actually did convince myself of that. I was asking for a definition to clarify the issue and I would expect Ryan to – I'd like to ask Ryan, if I may: Wouldn't the definition make things clearer for everyone and make the regulations more effective?

Ryan Walters: Probably, if you can agree on what the definition would be.

Mr. Hyatt: That's about – you know – that's kind of what I was trying to do is make it all clearer so that it doesn't – that we're all kind of dealing from the same – with the same set of rules and that we all know what those rules are. And I was going to – I proposed a while back a definition: Existing aquaculture means aquaculture operations either under cultivation or permitted under the Skagit SMP prior to the effective date of this chapter. That was taken from another part of the Definitions in the Skagit County Code and kind of adapted for aquaculture. I think it's pretty straightforward and I think it would really clarify what Betsy and staff have been trying to do in number (1).

Chair Lohman: Kevin?

Mr. Bright: I'll go to Carol's question now of an area that got shut down. It was an existing operation. It got shut down for a number of years and now it's cleaned up. Where does that fall into the cracks as far as getting the permits to start up again?

Ms. Ehlers: Mm-hmm.

Mr. Hyatt: But a definition wouldn't change that. That is still covered under (1).

Mr. Bright: That definition _____.

Mr. Easton: That definition is making it less clear to me.

Mr. Bright: It's not under current cultivation. It's been up, it's been felled for eight or ten years because of whatever reason _____ put it back up.

Chair Lohman: Well, pollution.

Mr. Easton: Right.

Mr. Bright: It doesn't have an SMP permit. It never – you know, it was one of those facilities that went in before SMPs.

Mr. Hyatt: That would not be existing aquaculture without a permit.

Mr. Easton: How could you call it "existing" if it hasn't existed for eight to ten years?

Ms. Stevenson: I just think you're trying to do something that we're better off doing it in the way that we've structured it here. I looked at a lot of others. I spent a lot of time thinking about it, talked to a lot of people. Some of you know what we've gone through with trying to put a handle on what ongoing or existing agriculture is. I don't want to go there again! I'm sorry. I just think it's easier to handle it with, you know, you either have a permit or you don't; you either were operating prior to or you weren't. I'm under the assumption, I guess, based on the way we wrote that up, that if you get a permit under our new regulations that we will have that all figured out. Some of the existing permits aren't quite as descriptive, I guess, as where we are. Everything has evolved over the years. I think the permits that, you know, Kevin listed, I think the shellfish growers have to get a lot of permits as well. You know, there's different ways that you can define it but you're going to have the total boundaries of your property and you're going to identify your cultivated areas, but within the boundaries of that property there may be a reason why some of it wasn't cultivated and maybe it will be. As long as those things have been evaluated and impacts have been addressed and mitigated I don't see that trying to limit their ability to move around within that project area if everything has been addressed as part of it, and they're going to have to show us that that has happened one way or another, or we *will* be asking for those site assessments. If they don't have another permit from some other agencies that have addressed those issues in a way that we're comfortable with, we still have the ability to do that under what I think we have here, if, in fact, you need the expansion or if it's something that hasn't been reviewed or addressed yet. But I think when you start trying to narrowly define something you're going to get yourself in trouble, because there's always something that doesn't fit that and yet it wasn't the intention to make them come back in and get another permit or do that sort of work.

Chair Lohman: Let's let Bill –

Mr. Dewey: I just want to respond quickly to this topic. We offered a definition of pre-existing as well. And Tim had made that comment and we thought it had merit. Obviously our definition was different with Tim's and we had lots of good debate about that. The more I talked with Betsy and got Ryan's input on it and then saw what they came up with that came to you today, you know, I – and we've had a lot of conversations within the shellfish community about it and think that this is actually a better approach than actually trying to put a succinct definition on it, for all of the reasons that Betsy suggested.

Mr. Easton: Kevin, do you feel the same way?

Mr. Bright: Yeah, I agree. I like the definition – I mean, it talks about it – pre-existing aquaculture without existing shoreline permit, any expansion requires a shoreline permit. So if somebody came in – a business comes in, wants to start cultivating geoducks, they would – if I were a business and I was going to invest that kind of money into it, I would want to make sure I had the permits – five years later that I can harvest those things, or am I going to get shut down halfway through my planning process, with all the money I've invested in seed stock and labor and everything else? I mean, you just can't go in and start tilling the soil and throwing seed out there. I would want to have permits in hand or make sure that I was doing it on the up and up.

Chair Lohman: Carol.

Ms. Ehlers: Finally. If you look at map B-7, which we were given – I don't know why we weren't given all of them, but...I guess that means we don't know what's missing – but in B-7 it's very clear that there're shellfish in Similk Bay where there hasn't been for many – (she moves closer to the microphone and starts over) It's very clear that there're shellfish identified here in Similk Bay where there hasn't been, and further down to the south along the edge of Snee-Oosh where I don't think there has been, at least not commercial. If there is, we've never heard about it in all these years. Now geoduck is a new production here so, yes, it would be clear you'd have to get it because you have made it clear that for each one of these kinds of shellfish or aquaculture production requires a different set of permits for a different set of reasons, because of why you cultivate them, how you harvest them and all the rest of it. That seems clear to me. But looking up here in Similk Bay, how does somebody who lives up there know what the status of anything is? If there was a permit – and I'm sure – I would think there was – it was called the Oyster House for many years. It was down there at the Similk Beach. And we got the impression – although none of us actually knew because you never knew how these things worked – that it was shut down because of the pollution. So what are people who live around there going to know that's going to happen? Because aquaculture occurs out in the water but there is also a landward effect or impact possible, sometimes more than others, and people, I think, have the right to know what's next to them, especially if they're going to be obligated to be very, very careful about all kinds of things like fecal coliform,

which is important – crucial. And also, as long as the testing in this county doesn't seem to be able to tell the difference between domesticated animal fecal coliform – like cattle – and avian. There was an accusation on March's Point a couple of weeks ago for cattle fecal coliform, but there weren't any cattle there. And the refinery, I am told, sent away to a testing lab in Texas and discovered it was four different avian species, starting out with ducks. So you don't want people who live someplace to be automatically blamed for something that's quite valid and quite important because the lab that they use in this area can't differentiate among avian species. This is pretty important to all of you. And I'll tell you later who to talk to if you want to know more about how to find out that lab.

Chair Lohman: We were going to start with Matt, but got –

Ms. Ehlers: I have no answer.

Chair Lohman: – sidetracked. Did you have any more questions?

Mr. Mahaffie: No.

Chair Lohman: Elinor, did you?

Elinor Nakis: No.

Keith Greenwood: Well, I was reading the chronology here and I just picked up on the – on our memo from Betsy pertaining to the version that we had time to – a week or so – to look at, pertaining to these revisions, and it says, Please note the draft is being sent, even though in the introduction it says Kevin and Bill and Tim were refining and reworking. So they worked on the version that we looked at, but they were still working on – and maybe it just wasn't ready for review yet, even though we wanted it to be – where it says that they're still working on another version after their February 19th meeting, so there would be ongoing changes. So those are the changes that we're seeing now –

Mr. Easton: In the March 3rd document.

Mr. Greenwood: Yes, in the March 3rd that showed up just now. So, just as an observation, it looked like the version that was from February was pretty well-crafted, in my view. I thought it looked pretty representative and readable. This newer one's not quite as clear to me.

But with that said, I guess my question pertains to – oh, let's see – the first version that I had, which was more – if no net loss of ecological function is our objective in our land use planning, then part of it is a biological assessment, which identifies the places that are good for doing it, the places that aren't good for doing it. It calls for doing all of those things. And did you guys feel that the

biological assessment was done adequately? I see up and down and – no. Do you think it's accurate or not?

Mr. Hyatt: We went back over the inventory that was done months before we got into the regulations to see what it said about existing aquaculture, and there was very little data on the aquaculture that was in Samish Bay, the critical areas, and what was called a critical area. The Ecology Guidelines say you need to inventory all these things: fish and wildlife habitat, critical areas. I don't have the list in front of me, but very – there was – you know, in the defense of the folks who put the inventory together, they were trying to work with existing information and do it fast. They had a whole county to cover. But, no, I don't think they actually inventoried what was out in Samish Bay, and that only comes up when you have to go back, you know, six months later and look at it. I don't think it was there.

Chair Lohman: Betsy?

Ms. Stevenson: Keith, can I ask you a question?

Mr. Greenwood: Yes.

Ms. Stevenson: When you say "biological assessment," what are you referencing?

Mr. Greenwood: Well, I'm looking at the maps primarily – but the description of those – and Tim just mentioned it that in the Department of Ecology Guidelines they list – "Describe minimum agriculture information that should be included in an inventory and characterization. These include existing aquatic interests or wildlife habitats, native aquatic vegetation, riparian and associated upland plant communities, and critical areas including wetlands, aquifer recharge areas, fish, wildlife habitat conservation areas, ecologically hazardous areas, and frequently flooded areas" and then the WAC reference. So is that in the biological assessment or not?

Mr. Nickel: We have the information _____ eelgrass presence ____ where these habitats were located. We have that information as part of the inventory. I ____ look back at the inventory to look at the ____ on the aquaculture locations and where they relate to the eelgrass presence. And as Tim mentioned, you know, in terms of the operations out there we'd have to take a look at that again _____ what we described. We do document the habitats that are out there and the part of the state databases that we have available to us.

Mr. Greenwood: To me that's a biological assessment is what the habitats are, not what ongoing uses are necessarily, although that's important to know as well. But the biological assessment would identify where the critical areas are, the

critical habitats are, how healthy they are, how much is native, how much is non-native. You know, to me that plays a role, whether it's – in how the fish, if fish is the concern – native fish – how they're doing is based upon the habitat, not necessarily how it got there.

Mr. Bright: For a shellfish, they're also on _____ as well. So it gets a little confusing if you're just trying to identify eelgrass when shellfish are also listed as on the critical habitat _____.

Mr. Greenwood: Right, and from my perspective working in the timberlands, almost anything that has to do with water is a critical habitat, so everything is listed as critical at this point. So what's critical for you might be different than what's critical for salmon, per se. And what's critical for Kevin's activities might be different as well.

Mr. Dewey: _____. I didn't show the list of permits that we need to get, as Kevin did. One of them is an Army Corps of Engineers permit. And recently _____ has been in evolution for the last several years. In 2007 they issued what's called a Nationwide 48, a programmatic permit to cover all ___ in shellfish farms in the country – trying to bring some consistency in how we coordinate and permit it. And in Washington state, that Army Corps permit on all these _____ shellfish farms underwent, a biological evaluation was prepared and then a formal biological opinion was prepared by both NOAA Fisheries and the U.S. Fish and Wildlife Service. And, granted, that assessment is specifically for threatened and endangered species so it's not the whole ecosystem, but it's a pretty good indicator of what the effects are, what the net effects are of those, particularly on threatened and endangered species. And the BiOps both found that there was – they were not likely to adversely – the activities of shellfish farming – the activities were not likely to adversely affect listed species or their habitat. That was a pretty comprehensive review of the science and both of those BiOps _____.

Ms. Ehlers: Do they include all the sites?

Mr. Dewey: Yes.

Mr. Hyatt: I would like to –

Ms. Ehlers: Then you have the statement of what they thought was existing.

Mr. Hyatt: And I would like to elaborate on that, if I could.

Chair Lohman: Okay.

Mr. Hyatt: I have the BiOp with me. I looked over it fairly carefully. What that BiOp examined was what I've been calling – what I interpret – is what I've been calling the cultivated areas. Not the broader definition of everything that's been platted, but they looked at essentially what was existing cultivation and they did determine that because Nationwide 48 – the one that this BiOp covers – was not going to allow expansion or new – Nationwide 48 was only for existing aquaculture – they said reissuing Nationwide 48 is not going to have a big effect on the fish because it basically doesn't change anything. This is all stuff that's already under cultivation. That's exactly my point – that that should be the baseline, that expanding beyond the existing cultivation probably *would* have an effect and that's another BiOp that's being written now. Because Nationwide 48 now does allow expansion, they have to write and research a new BiOp, and the jury is still out.

Chair Lohman: And it's ongoing right now?

Mr. Hyatt: It's ongoing now, as far as I know. Bill probably has a more _____. So they haven't made that determination yet, but the –

Chair Lohman: Is it going to happen or –

Mr. Hyatt: They're just starting but this shoreline code should be well adopted and in place long before we get that answer.

Chair Lohman: Go ahead.

Mr. Dewey: This is an important issue what was consulted on. The attorney for the Shellfish Growers Association is very involved in all of that work for the Army Corps of Engineers and can accurately state for us what was consulted on. If you're interested in _____ is misrepresenting and what the Corps _____.

Mr. Easton: The attorney.

Chair Lohman: Okay, since he's here. Is that okay with the rest of the Commission?

Mr. Greenwood: I'd like to hear it.

Mr. Easton: Yeah.

Ms. Ehlers: I think we should.

Mr. Easton: Yep.

Mr. Dewey: So it's Billy Plauche with Plauche & Carr from Seattle, and he represents the Pacific Coast Growers Shellfish Growers Association.

Chair Lohman: Can you state your name and –

Billy Plauche: Sure, it's Billy Plauche with the law firm of Plauche & Carr in Seattle. And, again, we represent both Taylor but as well the Pacific Coast Shellfish Growers Association and actually have represented the Association since – for about ten years, and were actively involved in getting that Nationwide permit that went into effect in 2007 – into effect in 2007 and then implemented.

And just a couple of things: This actual – this point of what was covered in the consultation has been a point that has come up in a lot of contention just recently. Let me just first state when the Corps decided to do a nationwide permit that covered all existing farms, that permit covers existing farms and what it defines as existing is an operation that's in place and there was some aquaculture activity on that plot prior to 2007. So, in other words, there was some aquaculture activity on the parcel. But the Corps, within the confines of that permit, allows that activity to go throughout the parcel as long as some activity was commenced at the time that the permit went into effect in 2007. So it does go to sort of the boundaries of the leased area or the deeded area, the boundaries of that – that's what they call the project area, that kind of defined boundaries.

The National Marine Fisheries Service and the – so the Corps adopted that and said, We're going to cover this with a nationwide permit because we think that the impacts of that kind of shellfish farming is minimal. That's the threshold for a nationwide permit is that it's minimal adverse effects on ecosystems. And what the Corps said, if you look at that, was that we believe when we look at it that the estuaries in the United States – and it's a national permit that covers everywhere in the United States – the estuaries in the United States that have shellfish farming in them are healthier than those that don't. And we think this is an activity that you should – that should be promoted and it has minimal effects. So that was kind of step one, getting it in the nationwide permit.

Then when it came into Washington we had to go through not just an Endangered Species Act consultation but a consultation for impacts on essential fish habitat under the Magnuson-Stevens Fishery Protection Act. So it's not just – as Bill said, it looked at both endangered salmon and other endangered fish species, but also other managed fish species. So it's a pretty broad swath of what they looked at in that ESA consultation. And the Services determined that the permitted activity does not have any adverse effect – it's not likely to have an adverse effect – on those threatened species, their habitat, or critical habitat for managed species.

What they consulted on was a total of about 36,000 acres of shellfish farming tidelands in Washington state. And we had to dig into this recently on behalf of one of our clients and look at exactly what – did they look at just what was, as

Tim's saying, under cultivation in 2007, that piece that somebody was actively growing? Or did they look at the boundaries of the project area? And the record was very, very clear and, in fact, the Services just last month issued a clarifying letter making clear that what they looked at was the extent of that project area, the boundaries of that leased area or that property, as long as there was some aquaculture activity that had taken place as of 2007. That's the definition of existing that was used both by the Corps and by the Services.

Now there is in 2012 that permit because the Corps has said, We continue to believe this doesn't result in negative impacts. That permit has been expanded to allow completely new farming operations to be covered. Those have not yet undergone ESA consultation and that is the ESA consultation that needs to happen before that can be implemented. But that is not – they did not cover just areas that were under cultivation. They were parcels that had some cultivation on them to the extent of those property boundaries, and I think the record's really clear on that.

Mr. Easton: Thank you.

Chair Lohman: I'm going to skip my turn.

Ms. Ehlers: I'd like to know what Keith's reference was.

Mr. Easton: Oh, he was in the – weren't you in the _____?

Mr. Greenwood: SMP Handbook from Department of Ecology – is that what you're – yeah. Page 9.

Chair Lohman: You're up, Josh.

Mr. Greenwood: That was my first question. Josh?

Mr. Axthelm: No.

Chair Lohman: Carol, you're up.

Ms. Ehlers: I have a half-dozen questions.

Mr. Greenwood: You have one before I do my second one.

Ms. Ehlers: Okay. One of the most basic questions is that the flood committee is planning to dump the – the Flood Zone Control Committee is planning to dump the excess water from a major flood either into Padilla Bay one of two ways: either via Joe Leary Slough or by the Swinomish Slough, or by overland near the Joe Leary Slough or by overland through the Swinomish Slough. In the document which was last published, they say that this – and the excess amount

is something like 88,000 cfs. If it were in the Swinomish bypass area, they said it would be four to eight feet of water continuously. In the document they say that the – for this water to come into the Joe Leary Slough area would decrease the salinity. They do not seem to think that the water that goes into the Swinomish Slough will go into Padilla Bay because they don't think it will have any effect on its salinity. Are these things that you folks have heard about, know about, have any connection? Because that might affect your aquaculture.

Mr. Dewey: It's not something we considered part of our deliberations on the Aquaculture chapter.

Mr. Easton: So you had _____?

Chair Lohman: Jason, you're next.

Mr. Easton: Yeah. So I'm particularly intrigued by the statement earlier that was made that some non-native eelgrass that was planted – how long ago was that planted?

Mr. Dewey: Those boxes of Japanese oyster seed?

Mr. Easton: Yeah, it goes back to –

Mr. Dewey: (unintelligible)

Mr. Easton: So in the 18 – in the late 1800s?

Mr. Dewey: Early 1900s.

Mr. Easton: Early 1900s? it's just recently now been classified as a weed?

Mr. Dewey: Class C weed.

Mr. Easton: A Class C weed. And so how much of that is in the bay – approximately? Do we know?

Mr. Dewey: We know that it's been mapped.

Mr. Easton: Has it been mapped? Oh, Betsy looked very excited at that.

Ms. Stevenson: Just a quick verification. I guess the weed board considers it a noxious weed within existing shellfish areas, right?

Mr. Bright: I think it's been expanded now.

Ms. Stevenson: Is it? Okay.

Mr. Easton: So it's not just in the shellfish bed areas? It's in –

Mr. Bright: Terry, you may be able – can you clarify that?

Terry Stevens : I believe it's – the weed board's decision was to just classify it as a Class C noxious weed.

Mr. Dewey: Not just on shellfish farms?

Mr. Stevens: Correct.

Ms. Stevenson: Okay. Sorry.

Mr. Easton: Okay. Well, that – I guess that's all I have on that.

Mr. Dewey: But declared Class C doesn't mean we *have* to control it.

Mr. Easton: Right.

Mr. Dewey: It just means you *can*. We are able to on our farms.

Mr. Easton: And as a side note because – since Carol brought up the flood issue. I serve on the Flood Control Zone District Committee – it's the world's longest name for a committee; it's actually six more words longer than that. It would be good for you to track what the Corps is doing and the three alternatives that are being studied currently. I think all three of you would probably benefit. And there's, you know, meetings every two months. Betsy could probably help you get on their calendar to be aware of these upcoming meetings. The Citizens Advisory Committee exists with six citizens and nine of the –six mayors - or three mayors, three at-large citizens, and then a number of people from environmental land use and dike & drainage districts that are all working together to try to evaluate the upcoming issues in relationship to the – to that. And, yes, what we do with flood water will obviously affect your industry so I would concur that you should be aware of that work. We're in the midst of a process that's taken us many years and may take us a few more years to finish just in the studying with the Corps. But the Corps has turned a corner in the last eighteen months in how fast our process is being dealt with. It's considerably quicker than it had been before. We're a model project around the country. So we expect to be done probably within eighteen months if the funding continues, so you may want to stay – I know Dale and Betsy can help you guys stay aware of that or just at least be aware of when those meetings are.

Ms. Ehlers: The next meeting is the 15th of April at 2:30.

Ms. Stevenson: And Daryl Hamburg is also on our Advisory Committee –

Mr. Easton: Right. Daryl's the Chair.

Ms. Stevenson: – for the Shoreline Update so he has been helpful in terms of sharing information as well.

Chair Lohman: Matt? Back to you.

Mr. Easton: Matt two.

Mr. Mahaffie: Sure. Actually I have a question about the definition. Everything that's been discussed seemed to be focused at the commercial level. How much discussion was focused at the other culture of aquaculture? The state level, or I'm thinking PSE has that in operations – hatcheries, you know, things like that? Was that thought of at all?

Mr. Bright: I think we kind of considered it. We talked about enhancement net pens and stuff like that, just making sure that that was an allowed use. Net pens is pretty cut and dried. You've got to apply for this permit, this area – you have to do a biological evaluation on that area. You're going to put this structure in ___ waters so all of a sudden you're triggering all these studies. It's pretty cut and dried as far as the permitting process. You've got a footprint, a certain amount of surface area that you got permitted for. It's on all the maps and everything like that so expanding it is pretty difficult to do without –

Mr. Mahaffie: They do a lot of scientific permits – you know, moving net pens, floating barges, things like that, so I was kind of curious.

Mr. Bright: Up in the lakes? I think a lot of enhancement things are done – they're pretty small-scale as far as the biomass and impact. You're talking small fish, and then they're released out in the wild anyway so it's kind of like they're concentrated for a while and then they let them go _____ or out to sea.

Chair Lohman: Elinor?

Ms. Nakis: No.

Chair Lohman: Keith?

Mr. Greenwood: I had a question. Where did you say the net pens were? There's one out in the San Juans and then did you say there was one in Skagit Bay or no?

Mr. Bright: Yes. Yeah, there's one near Hope Island. It was put in around 1983.

Ms. Ehlers: North or south of it?

Mr. Bright: North of Hope Island.

Mr. Greenwood: Well, how did we get that started if in our existing Comprehensive Plan it says, "In recognition of the importance of the Skagit and Samish Rivers to native hatchery and fish resources, commercial fish net pens should not be located within Skagit, Padilla and Samish Bays."

Ms. Stevenson: _____ it came in after that. These permits were done in the '80s and that language wasn't in the code then.

Mr. Greenwood: Okay.

Mr. Bright: It was added in the mid-90s.

Ms. Stevenson: '94.

Mr. Greenwood: So would that preclude additional net pens then in the Skagit Bay?

Mr. Bright: Apparently it does.

Mr. Greenwood: Okay. So we'd be looking to remove that from the most recent version.

Mr. Bright: Yep. I mean, what you talk about – the biological assessment, biological evaluation – the permit process to get a new net pen there's a lot of scientific information site-specific to that location that has to be produced by Fisheries biologists. It goes to the Corps – Army Corps of Engineers. National Marine Fisheries will look at it. NOAA looks at it. There's eight-two consultations so if somebody came into Skagit water to put a new net pen in Skagit Bay there would be a lot of review, a lot of public comment. It's a shoreline substantial development. Additionally with these permits there would be a lot of public comment and public involvement. Certainly all the tribal agencies – pretty much every agency would have something to say about what that was doing and look at what species were being raised and if that's going to have an impact or not.

Mr. Greenwood: I can only imagine you must go through more hoops than any other business I could even think of. So I don't – I just wondered how we did that, looking at the old version versus the new Shoreline Master Program. If we're trying to update, we should –

Mr. Bright: That Hope Island one was put in in the mid- – so were the Cypress Island ones. They were put in in the mid-'80s. And there hasn't been a new net pen permitted in Washington state for about twenty years now.

Mr. Greenwood: Why do you think that is?

Mr. Bright: I think it's a very difficult process to go through and we end up probably **in court** losing lots of money.

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

Chair Lohman: I do have a question. It's kind of a farmer question. On page 7 they talk about mechanical disturbance, and yet you showed us your convertible digger and I'm a farmer and I'm just thinking God, we got rid of the horse. It says that mechanical disturbance of the "bottom materials for shellfish harvest is prohibited" and then it goes on except for "traditional mechanical (drag)." What is your device considered?

Mr. Dewey: So my device is non-mechanical drag. Traditional mechanical drag is referring to an oyster bed – which I didn't show a picture of it; we don't use that much anymore, but in September and March we don't have good low tides so we use them then into some of buried deeper beds. It's basically just a chain bag that ends off the oyster scow and scrapes along the bottom and scrapes the oysters up. So that's what the traditional mechanical drag dredge is. But also just to point out, in the Samish Bay the Shorelines of Statewide Significance don't start until below mean low or low water, so all of our farms in the Samish Bay are actually not in the Shorelines of Statewide Significance so this would not apply to our farms.

Ms. Ehlers: Why don't you repeat that? I think that's crucial.

Unidentified female voice: Louder, please.

Chair Lohman: Okay, can you clarify where that line is then for us? Because are there some that *are* in that area?

Mr. Dewey: Pardon me?

Mr. Easton: Some that are in there?

Chair Lohman: Are there some that *would* be in that area?

Mr. Dewey: There would not be any shellfish farms that I'm aware of in Samish Bay that would fall into Shorelines of Statewide Significance, because that definition for Samish Bay is below mean low or low water.

Ms. Ehlers: Below...mean...

Mr. Dewey: Just the outer boundary of our ownership ____.

Mr. Easton: So in laymen's terms, then you're technically upland of where these rules apply? And that's for all of Samish – all the harvesting you're aware of in Samish Bay?

Mr. Dewey: Yes.

Mr. Easton: So in Skagit County then – refresh my memory if I'm missing something – where would shellfish aquaculture be impacted by the current rules that are being considered in relationship to Shorelines of Statewide Significance?

Ms. Stevenson: Do you want me to answer that one?

Mr. Easton: Sure, I'd love an answer. I'm sorry – I jumped – I think it wasn't my turn, but – sorry.

Chair Lohman: You took cuts.

Ms. Stevenson: Under the definition for Shorelines of Statewide Significance, the one specifically laid out for Skagit are Skagit Bay and the adjacent area from ____ Point to Yokeko Point. Okay, so that's kind of from the county line all the way up and around. And then Neah Bay from March Point to William Point, which takes you from March's Point all the way around to the end of Samish Island.

Mr. Easton: So whose harvest – in follow-up back here?

Chair Lohman: Go ahead.

Mr. Easton: Maybe you or the Association attorney could clarify that. Is there someone who is not in the situation you're in, where these – that's currently – is there someone in Skagit County who's currently in this part of aquaculture who will be impacted by these new rules?

Mr. Dewey: Not that I'm aware of. I mean, there's some clam digging that goes on in Padilla Bay, which would be in the Shorelines of Statewide Significance _____ mechanical.

Mr. Easton: But that wouldn't be commercial.

Mr. Dewey: And the commercial?

Mr. Easton: But it's not mechanical.

Mr. Dewey: That's not mechanical. It can't harvest.

Mr. Easton: Okay.

Ms. Stevenson: And I guess to clarify, too – I’m sorry – the area that Bill was talking about would be all the other areas of the Puget Sound that are in the areas that’s between ordinary high water mark line and extreme low tide – so looking further out into the water.

Mr. Easton: Okay.

Chair Lohman: You’re up.

Ms. Ehlers: You just lost me.

Chair Lohman: Josh’s turn.

Mr. Axthelm: So it seems to me there’s a lot of different opinions on agreeing whether this document is even close to what it needs to be. My concern with Skagit County is we don’t want to get in another lawsuit. I think we need to work on some of these definitions or get – what is it? – the Department – get the state to buck up on some of these definitions so that we don’t have to front all that in Skagit County. So I’m worried about that. I don’t want to have – us have to front a bunch of lawsuits and have us be the guinea pig for the rest of the state and the rest of the nation.

Some of the things that concern me are looking at this is, if you go to – well, just an example I pulled up on this page – page 5.

Ms. Ehlers: Of the new version?

Mr. Axthelm: I guess it is the new version, yeah. Under item (3) General requirements. There’re some words in there that kind of – that I’m worried about, like it says “prevent the spread of disease,” or “significant impact,” or “minimize impact” on eelgrass. So, you know, is there – you look at farming, you look at forestry, or, for that matter, construction – the industry I’m in – is that we have to disturb the ground to get – to do what we do. But when we finish, we want that returned to the same or better condition than it was before. Like with the eelgrass situation, is there a reasonable amount of time for replacing that or for getting it back to a better condition?

Mr. Hyatt: I think Bill would agree that the stuff comes back pretty quickly by itself. What I would like to minimize, if not – what I’d like to minimize is the encroachment into it in the first place.

Mr. Dewey: This is a scenario that Tim and I disagree on. He has a different view of the science than I do.

Chair Lohman: Betsy.

Ms. Stevenson: I think what we tried to do, too, is keep this kind of consistent with the rest of the document in this area so that you would, if you were going to do aquaculture in any fashion captured under number (1) that would require you to get some sort of shelling permit from the County – so something different than, you know, what you've been doing all along – and you were planning on going into any of those areas, you have to do what you guys would have to do on the land in the way of a critical areas review and site assessment to determine what the impacts are to everything going on out there, which includes eelgrass and kelp beds, which are part of those critical saltwater habitats. So there's actually – you'd be doing a site assessment and, in addition, you would have to be looking at all the things that we've laid out as critical saltwater habitat, which gets back to the list that you mentioned from the Ecology guideline that you asked if it was in the inventory. Now if for some reason it wasn't picked up in the literature review of the inventory, we do require that they do a site assessment specific to property that they are proposing the aquaculture activity for.

Mr. Greenwood: Right. I just think there's a difference between regulating and planning. And I'm kind of interested more in the planning phase where we try and identify appropriate land uses so they're not in conflict with one another, whether that's eelgrass or whether that's a development – condominiums right next to Taylor Shellfish Farms, you know, with septic – put a nice little pipe there. You know, I'm just trying to differentiate those things. And so as much as we can spend on the appropriate identification of appropriate land uses and compatibility with those, I tend to think that shellfish – at least the way it's been described to me – and other aquaculture seems to work pretty well with what we're trying to do upriver as well with the salmon runs and such. So, I mean, I'm trying to be compatible in my industry, as these folks are, and so we just have to be able to assess that when we're doing something that has an impact on it and not have a net loss or a negative impact. That's not something that isn't restored. That's something else is being affected.

Mr. Axthelm: Are there areas – similar to like a TDR program or something like that – are there areas that you want to preserve that are currently in – for shellfish, and areas that you guys might want to pick up or use that are in an area where right now isn't designated for such? I mean, because that would be kind of like a trade situation.

Ms. Ehlers: Trading for what?

Mr. Axthelm: I mean you have a certain area that there's tracts that you're able to use and there might be areas that haven't been farmed which you now can't farm but are desirable areas to farm – so to take areas that you can trade for that. Does that make sense? Like the TDR or Transfer of Development or whatever, so trade for this section for another section.

Mr. Hyatt: I've proposed more than once that we make it very easy or encourage aquaculture on mudflats where it won't affect the eelgrass, and perhaps we could protect – that would allow more protection in areas where there is eelgrass. And I want to kind of back up a second – something said a second ago. I don't actually think we're very far off from this. I think we're actually pretty close.

Mr. Axthelm: That was a question to me, that _____.

Mr. Hyatt: I would say we're actually very close. You know, that provision that I pointed out at the very beginning I think is necessary. I don't know if it's – but in the definition I think it would be a good idea if we could – if, depending on the answer to this question – hypothetical: If we got 150-acre shellfish farm that's permitted and only 50 of it is under cultivation and the other two-thirds is native eelgrass and always has been, if more planting is planned for that parcel, is that ongoing operation or is that new and expanded?

Ms. Stevenson: And I can answer this in the way that we always would: It would depend. If it was permanent such that all the review was done for the entire leasehold or the project area, then it would be existing or it would be ongoing. If it was – if they only asked – they said, Yeah, we own all the rest of it but we only want our permit right now on this amount of it and that was all that was reviewed for all the impacts and everything else, then that would be an expansion. So it's going to depend on how the permit was done and written when it was issued.

Mr. Hyatt: And if the permit was silent on that issue?

Ms. Stevenson: No, it wouldn't be silent on how big the farm is, or it shouldn't be. I mean, that's kind of a pretty important question to answer.

Chair Lohman: It almost seems like the committee work isn't finished.

Ms. Stevenson: I guess I would like to just say something here, okay? You're getting a sense of what we've been going through. This is never going to be finished.

Mr. Easton: Yeah.

Ms. Stevenson: Somebody's just going to have to decide. I'm sorry. And whether it's tonight or whether it's some other time, I think that this is about as much as I can do to get as close as we're ever going to come. I don't think we're ever going to agree. And maybe that's not fair to say, but I'm at that point now. _____ working on it _____. I mean, I think these guys would agree.

Mr. Bright: It goes to Josh's statement earlier about the litigation things. This is a draft and it's going to go in front of Department of Ecology and they're going to

review it and they're going to make comments on it and look at the validity of various things. They're going to take public comment also on it at that time and make adjustments and it's going to come back to the Planning Department with recommendations for changes, alterations and things like that. So this isn't the final written-in-stone ____. That's one thing I had to get through my head is, you know, it's going to change probably from what we're looking at right now. And we do get to vet it in front of the Department of Ecology, which they are the _____.

Chair Lohman: Carol, you're up.

Ms. Ehlers: I have two things. On Policy 8.3 it talks about restrictions – potential restrictions: temperature, flow, oxygen content, adjacent land uses, wind protection. You need to add storms to that. We had –

Mr. Easton: She's on the February 23rd version.

Chair Lohman: It's the same as –

Ms. Ehlers: It's the same, I think – isn't it?

Mr. Easton: The Policies haven't changed. I'm sorry _____. Sorry.

Ms. Ehlers: I'm on Policies. We had another one of our huge windstorms in Burroughs Bay with rollers that were six to eight feet high crashing on the shoreline. That happens because the water – the water and the wind come from the Strait of Juan de Fuca uninterrupted. And the same thing happens at the north side of Guemes. It stopped aquaculture a couple of times. It would be good to put storms in there because it's easy to forget. I'm not going to add tsunami, but those are both places where it's – at least on Burroughs Bay – it's where tsunami is expected, and so I should think that would be a restriction you'd just as soon plan on. So please add storms.

Mr. Greenwood: You only get one. I want one!

Mr. Easton: So this comes down to – to me, we're sort of at a point, and I don't mean –

Ms. Ehlers: I don't want to be finished yet. There's something basic.

Mr. Easton: This is so – I'll start over. So to me it seems that we're at a point in general – not that I'm cutting off anybody's specific conversation because that's up to the Chair – but it seems to me that we're at a point where a well-intended and diverse committee is not going to have 100% consensus on a chapter. A well-intended and diverse Planning Commission's not going to add anything to the pie that makes that consensus happen. We don't have any magic fairy dust

up here to bring consensus amongst these three groups or any groups in general, as our history would show us.

We need to send a version to the Department of Ecology that's as close to what everybody can live with as possible. I tend to agree with – and maybe it's only because I've had more time with it than I had with today's – I tend to feel like the 23rd's was more readable and a bit more presentable. And I don't mean that as a slide to you guys. It sounds like you were working – you were probably shooting e-mails back and forth to each other up until two o'clock this afternoon when one got shot to us, or something to that effect. So there may be a more cleaned up version of the March 3rd that would be more readable or – I don't know if "palatable" is the right word. I don't disregard Tim's concerns. I think that some of those can be addressed. If it is mentioned here and it's not mentioned there I think that's a clarification that can be added. If we start adding major ground, we're going to break up what consensus we have out of frustration. So I want to ask the Department what their intentions are about where we're going. Is the intention now to take this to Ecology? I'm sorry – Ryan's talking. Is the intention now for this to be taken to Ecology after our meeting?

Ms. Stevenson: Excellent point. I guess I would like to say, too, just out of respect for the rest of the Advisory Committee. We did have a meeting on the 19th of February.

Mr. Easton: Because this is just a subcommittee of the Advisory Committee.

Ms. Stevenson: Right. And we had some of this discussion and some of the discussion wasn't ___ at that meeting for the entire Advisory Committee and some assumptions were made about what was still missing or lacking, and we kind of said the same thing: We think that you're really close. So what their direction was was to go ahead and go back amongst the subcommittee and if we could agree on those last items that we had identified during that discussion, then they would be okay with presenting that to you in that sense. But if for whatever reason we couldn't get that agreement then they would be glad to come back together and do some more stuff. So I sent out what I had heard at that meeting back to the Advisory Committee and got some comments back that reverted back to some other comments that had gone before, and some were brought up at the meeting and some were not brought up at the meeting. So I sent that information along with what I had come up with out to the entire Advisory Committee by e-mail because I knew that this meeting had been tentatively scheduled and we were trying to get some stuff done. They reviewed the information and made some comments and, for the most part, I think I heard from everybody that was at the meeting on the 19th and they were okay with the version that we had come up with after that meeting and to try to move it forward.

Mr. Greenwood: Which version?

Ms. Stevenson: The version that you guys received.

Mr. Greenwood: The March –

Ms. Stevenson: No, the first one.

Mr. Easton: The 23rd.

Ms. Stevenson: Then what we have been doing with all the rest of it as well is trying to go back and clarify it and making it easier to read. What happened was with some of the comments that came in that kind of went back to other discussions and other versions and edits, then that raised a whole lot of questions that we thought we had already agreed to at the Advisory Committee meeting or at least came up with. Some of it still wasn't under agreement and we knew that, but a lot of it was. So it was revisiting some additional issues, but I guess I would say that at least for the members who attended the Advisory Committee meeting on the 19th, consensus isn't 100%. I would say – and I can share the e-mails with you, if that would help – but we did reach a consensus to give you that information and move it forward.

Chair Lohman: So which versions lag?

Ms. Stevenson: I guess they both are, as far as I'm concerned, because, I mean, the version that they saw because they got the revisions at the same time or a little bit after you guys did today, so they haven't had a chance to weigh in on that either. And these guys haven't seen them either – the three that are sitting here – so they deserve some time to do that.

Chair Lohman: Dale?

Mr. Pernula: I'll make it a little simpler. It was fully my intent to have the version that was ready last week to go out to be reviewed by the Commission, incorporate comments from the Commission into it, and send it to Ecology. I think they thought that they could make some simple modifications, but once it got opened it opened up a can of worms. The draft that was sent to you a week ago, which I thought we were going to be submitting, was never thought of as being the final edition because we thought we'd probably get some recommendations back from Ecology that could again – could then go back to the Advisory Committee, be reworked and then resubmitted. But once that door got reopened then it just kind of opened up a can of worms.

Ms. Stevenson: You know, I guess I could suggest, if you would like for me to, to reconvene the Advisory Committee and give them a chance to go back over some of the new version that you got today and see how they feel about that one, if that would help. I'm sure they'd be glad to do that.

Ms. Ehlers: With our comments?

Ms. Stevenson: And have a discussion.

Ms. Ehlers: With our comments tonight?

Ms. Stevenson: Sure.

Chair Lohman: Well, I think we should take one more pass. I know I have one more question, or a couple. So, Jason, did we leave off with you?

Mr. Easton: Yeah.

Chair Lohman: So, Matt?

Mr. Easton: Matt.

Mr. Mahaffie: Nope.

Ms. Nakis: I just have a comment about putting the definition of what “existing aquaculture” is in this document. And I notice that there wasn’t anything at the Department of Ecology, but in the U.S. Army Corps of Engineers there *is* a definition and it’s real short and sweet. Definition of “existing” for the purposes of the NWP: “An existing operation is one that has been granted a permit, license, or lease from a state or a local agency specifically authorizing commercial aquaculture activities, and which has undertaken such activities prior to the date of issuance.” I mean, could something like this – very simple – be put in there? Because couldn’t – I think without a definition then you’re opening yourself wide up to maybe some just private individuals who’ve been practicing aquaculture on their property for quite a while without a permit and then saying because they have been doing that that they qualify.

Ms. Stevenson: I guess my response to that, if you want me to offer one at this point, is the definition that you just read you think is pretty simple, but it opens up a whole lot of cans of worms because it doesn’t say *whose* permit, it doesn’t say *which* permit, and it just said you have to have a lease. I mean, I *don’t* think it – I read that one, thinking that that’s the way that I wanted to go as well, but I didn’t – I don’t think it’s as simple as it sounds.

Ms. Nakis: No?

Mr. Hyatt: I think that one – that definition – would open up all of the areas that I showed on my map that are within those boundaries but have never been cultivated. The definition you just read says that is all existing aquaculture. So I think that would result in a lot of eelgrass being considered existing under that definition and, therefore, no permit would be required to expand into it. I’m not

saying all of it. I'm just saying it would open that door and that's exactly what I was trying to avoid.

Ms. Stevenson: I agree with that. I think that's – I read through that definition thinking that might be the easy answer and I _____. I don't even want to go there.

Mr. Easton: Keep moving.

Chair Lohman: Okay. Keith, you're on again.

Mr. Greenwood: Just a suggestion would be that I like how you've come up with some level of consensus, then pass around one more time to just get some feedback, including from us at this point. Because now if we give you some input that you want to change, now you have another version. We don't just have the March 4th version; now we have another one. So we could keep going around and around. So at some point you do have to come up with the best of what you've gotten some input from and then that's the one that goes up on the website and people get to make comments on and then we can go from there. But I guess my point of – if you were to look at Policy 6A-8.5 on page 1. It's on both versions. I think it's the same – yeah.

Ms. Stevenson: Same.

Mr. Greenwood: I just wanted to maybe put this thought in mind. The way I would read it would be, "The County should strengthen and diversify the local economy by encouraging appropriate aquaculture uses while accommodating compatible shoreline uses such as recreational shellfish harvesting." It might be addressed somewhere else but part of the Shoreline Master Program is to be sure that we consider and accommodate public access and encourage public access to shoreline uses. So I know there're some places where it states that there's public access already. I think a lot of it's Padilla Bay. But just so long as that's part of one of our policies that we're trying to drive for. Yeah, I've written it down so I could write it for you, too.

Ms. Stevenson: (inaudible)

Mr. Greenwood: Sure. It's in pencil but we can change it. That's my one.

Chair Lohman: Okay, we've all been talking saltwater and I think Matt sort of alluded to it, but like for me I didn't quite get all the way in. Isn't there some aquaculture going on in freshwater of some sort? But I haven't heard hardly anything about that.

Ms. Stevenson: _____ right down the line boom, boom, boom! It doesn't necessarily – I mean, there's only one section, I think, in here that talks specifically about saltwater aquaculture.

Mr. Hyatt: You mean freshwater?

Ms. Stevenson: Fresh – no, saltwater. The rest of it would include anywhere. The section under (3)(c)(i) Aquaculture activities proposed in saltwater...That's the only place, I think, we mention one or the other so it would be all. And then in the first section where it shows the table with the different designations and stuff, I mean the aquatic is a freshwater as well. So I – if you think we need a specific policy, I mean, we've included them all together. I'm trying not to necessarily break it up. But most of the commercial aquaculture is in the saltwater but – agreed – there are hatcheries and other things that are happening in other places and could be proposed. So I think we need to –

Chair Lohman: I don't want to cause trouble.

Ms. Stevenson: Yeah, I mean I guess the only place I see in there where we even mention anything is that one that I just read where it talks about saltwater. The rest of it is anywhere.

Mr. Bright: Just trying to think aloud is, you know, we've got a hatchery and you got a piece of property and you're going to – all of a sudden you're going to start utilizing water and then you're going to have to have an effluent pond and then you have to discharge that water, like a hatchery does. So I mean all of a sudden you kick in Department of Ecology and all the land use ___ that you need to divert water and public facilities – stormwater and those kind of things. And then you've got to go to the Department of Fish & Wildlife and get a permit to grow whatever fish species you're going to grow, so they're going to be involved in the process. So I think all of a sudden here a private individual tries to get into the business, you're going to have to get a fair amount of permits in place to ___ freshwater aquaculture. And then all of a sudden you do it in the shoreline environment – you know, next to a lake or a river or a marine environment _____ process _____. I think it's covered, from what you're saying.

Chair Lohman: Are you done?

Mr. Axthelm: I'm done.

Chair Lohman: Carol?

Ms. Ehlers: Yes. It's in both versions. On the March version it's on page 7, it's up at the top, and it deals with new development or redevelopment. That's (a) and then (b) is new residential development. My understanding, Betsy, of

redevelopment means that after the building's been burned you can rebuild. Is that what you're talking about here as well as the rest of the shoreline thing? Because we have a reference elsewhere to "legally built," in case it's within 50 feet or 100 feet or whatever the land aspect of the shoreline is. Because I've gotten an introduction this last couple weeks to the extraordinary amount of tax and property tax valuation there is in the shoreline residential areas. I knew it was high until they tried to double mine, and the increase in taxes for the shoreline areas is extraordinary as the County tries to compensate for the loss of tax value in the county as a whole. It's gone from more than sixteen billion down to fourteen billion for the county as a whole. I asked Dave Thomas what the shoreline value on Fidalgo was a year ago and he told me it was three-quarters of a billion dollars, which means you're talking on the shorelines of this county an enormous amount of property that pays taxes in a county where only 11% of the acreage pays full freight in the taxes. And that 11%, if it's gone from sixteen billion-plus to fourteen billion-a little plus on its way down, maybe – except for some of the things I've heard today – there's too much value there to risk saying that you're supposed to have vegetated swales, retention ponds, and the use of artificial or natural wetlands when you're dealing with the saltwater islands that are based on the kind of cliffs that I see on Fidalgo and Guemes. It just is – it's – and this is partly because you folks don't have any science in your original analysis of the inventory of saltwater islands, so you don't really know what kind of land you're talking about and what kind of shoreline you're talking about. So you're writing regulations again that are based on something that I don't know how to recognize. And it's not a question. It's a statement that you've got to figure out that some places you're going to prefer residential and some places where there is no residential perhaps you prefer this, like in the Samish Bay. You just can't start saying what they used to try to tell us in the '80s that the residential area of the county has no tax value and no intrinsic value.

Chair Lohman: But can I ask a question, maybe kind of dovetailing on Carol? Why is this in here at all on the Aquaculture section?

Ms. Stevenson: Well, because part of what we're trying – what we're supposed to do in terms of the policies is to kind of make sure that those waters remain clean but, if you note the comment, this is going to the General Upland section for the general provisions for upland development in shoreline areas basically, rather than be in the Aquaculture section, because it really is – it's more of an – this is what Keith was talking about in terms of the surrounding development – that they are compatible. We run into an awful lot of closures of the bay for shellfish harvesting because of the water quality issues, which I'm sure you're all aware of. So all this is doing is trying to say, Hey, if you live in the upland areas then you need to make sure that you're following all the existing laws and regulations as far as water quality on your property. And it's just additional notice that you have to do those things and we're going to make sure that you're doing those things, especially if it's a direct, just right up above, an existing aquaculture area. But we recognize that this probably wasn't in the right place being in the

Aquaculture section, so we intend to move it into the – what was it? I think it's on my other – ____ I think the General provisions for upland development.

Ms. Ehlers: This whole red area?

Ms. Stevenson: Yes, which is what the comment says.

Ms. Ehlers: Well, it still represents a problem when you – even if you move it. There has – this is what Keith, I think, is talking about. You have to plan, and then once you plan you do some sticking to it because you have to have predictability. You build aquaculture for fifty, sixty, seventy, or in the case of the Samish since 1895, and you do the same thing for residential development. You have to know that you can redevelop. And one of the things the Planning Commission has not done since I can remember – that's twenty-some-odd years – is talk about planning to retain value of taxable acreage. We don't pay attention to taxable acreage. We don't even think about it. And yet it has now become a crucial issue because of all the various things property tax is going to have to pay for. And that's not things that we ever hear about here. You have to go to other meetings to hear about it but it doesn't mean it isn't there. So –

Chair Lohman: Betsy, go ahead.

Ms. Stevenson: I just want to ask a question. A little bird just whispered in my ear. On (b) that you're talking about, Carol, there, I think what you're referring to is "Such measures must include but not be limited to vegetated swales..." I think that was supposed to be just a list of examples of things that you *could* do, so what if we changed it to "Such measures include but are not limited to" so that you're being put on notice that you're supposed to be doing something to control the runoff from your property? But this is just an example list of some of the things that you can do.

Mr. Bright: And it's for new developments.

Ms. Stevenson: And this is for new residential developments.

Mr. Bright: Which there already _____.

Chair Lohman: It's already in your QAO.

Mr. Bright: They already have to have a stormwater plan.

Ms. Stevenson: _____. They already have to do it.

Ms. Ehlers: I have no objection to new development because I don't think there's very many places where you can do it. And when the Shoreline's passed there won't be any that I can think of. But it's the redevelopment business that can be

difficult. And redevelopment, given what we're talking about – what we have been talking about – is that if a house burns, can you rebuild it?

Chair Lohman: But, Carol – but let's keep on task with the Aquaculture section.

Ms. Ehlers: This *is* on-path. We're talking about something, whether it's aquaculture or anywhere else, only the law in (a) – the second line talks about areas of existing aquaculture. And there has to be ways of being fair about it. Fairness is also a word we don't use in the Planning Commission.

Mr. Bright: I guess my impression is there's already existing stormwater discharge and those kind of things. If you go in to rebuild your facility, you're going to have to get a building permit and there may be some land use consideration you have to take in to rebuild a house, and this part, you know, is making sure that you're not going to just plow everything into the bay as far as the –

Ms. Ehlers: Well, the septic is mandated in code after code after code.

Mr. Bright: Yeah.

Ms. Ehlers: But the other part of it is the reality of how you develop some of these parcels that were permitted that were subdivided years and years ago under the Constitution.

Chair Lohman: Okay, Jason? I almost changed your name! You're up.

Mr. Easton: I applaud the work – I'm sure the rest of the Commissioners join me – that the subcommittee, staff and the whole Committee – the Committee as a whole has done on this section. I'm glad to hear that the Committee members seem to be in agreement on one thing – that we're closer than we are – than it may seem. So that's encouraging. So I hope it carries across the line. But I think there's a sense that aquaculture is being protected and hopefully – you know, I think the ___ numbers and some of the other things that were shared tonight really encourage me to hope that maybe this is not something we're protecting, but something that could be a thriving industry for our community for years to come and a growing industry for years to come. I think that the tribes, salmon, people and geoducks can all live together in a big field of eelgrass. So I'm hopeful that we can make it there. So that's my last comment.

Ms. Ehlers: I'd like to have a copy of that map, Betsy.

Ms. Stevenson: It's not my map.

Ms. Ehlers: Not your map?

Mr. Easton: I'm sure Tim would share it!

Ms. Stevenson: It's Tim's.

Mr. Hyatt: You can take that one.

Chair Lohman: Any last words from the Advisory Committee? I'm sure that this isn't the last we'll see you.

Mr. Hyatt: I think Betsy deserves a raise.

(laughter)

Mr. Hyatt: She's worked a lot of weekends and a lot of evenings, and this has obviously taken a lot of patience and perseverance and she deserves a lot of credit for getting it this far.

Ms. Ehlers: Yes.

Ms. Stevenson: The three of you are all sitting at the same table.

Mr. Easton: Yeah.

Ms. Stevenson: I appreciate that.

Chair Lohman: So shall we all move on to the next agenda item?

Mr. Easton: Yes, please.

Mr. Greenwood: Thank you.

Mr. Easton: Thank you.

Chair Lohman: Okay, this is the – thank you, and not to give you the bum's rush but...

Mr. Easton: You can stay, I'm sure.

Chair Lohman: The next item on our agenda is the Discussion of the Planning & Land Use Legislation Ordinance. Dale, I'll turn it over to you.

Mr. Pernula: I'll introduce it with a few comments to begin with. You know the Board of County Commissioners held a public hearing on an ordinance and they wanted to get comments from the Planning Commission. And a couple of them have informed me, you know, take all the time you need. Make sure that your

comments that you make are full and appropriate, but it's important to define the roles of the Planning Commission, staff and so on.

In your packet you have a couple of different things. One is a comparison, both the proposal to the Planning Enabling Act, which was requested by Commissioner Ehlers. You have an updated copy of the ordinance with changes that were suggested by the Planning Commission, which Ryan Walters put together.

And I'd like to make a few other comments, too. As I mentioned, make all the comments that you wish. Any comment that you make will be forwarded to the Board of County Commissioners. We fully respect everything the Planning Commission does. Everything that we will be doing is a collaborative effort of the Planning staff/Planning Department with the Planning Commission.

One thing I'd like to point out in the proposed ordinance: If you go to – on the clean ordinance – page A-2, it'd be section 14.02.100, item (2). And this is a quote directly out of the Planning Enabling Act in that second Purpose provision and this is what you're operating under right now. It says this: "Consistent with RCW 36.70.040, the Planning Commission's mission is to 'assist the planning department in carrying out its duties, including assistance in the preparation and execution of the comprehensive plan and recommendations to the department for the adoption of official controls and/or amendments thereto...the planning commission shall conduct such hearings as are required by this chapter and shall make findings and conclusions therefrom which shall be transmitted to the department which shall transmit the same on to the board with such comments and recommendations it deems necessary.'"

This is not a power grab by the Planning Department. I give full credence to anything the Planning Commission says and every action that the Commission takes will be forwarded to the County Board of County Commissioners. And I'll just leave it at that.

Mr. Easton: Madame Chair, I have a question of the Director.

Chair Lohman: Go ahead, Jason.

Mr. Easton: So I'll just make a statement to my fellow Commissioners. I had a work commitment in January and then caught the plague in February so I apologize. I have been following your work and watching the videos and reading the materials, so I –

Mr. Greenwood: ___ fun, isn't it?

Mr. Easton: Yes – I'm well versed and, for some reason, members of the public like to call me, too, and share their thoughts. So if this is not – let's take the

question of – or the comments about it not being a power grab. So, Dale, you've got a lot of experience. If this is not that, then why such consistency in testimony from such a diverse group of people in the public – I mean, you made a lot of comments about the Planning Commission, but you didn't make any comments about the public. So what – you know, your experience as a planning director – why are we what looks like on the surface began as the idea of updating our rules, why are we standing in this quagmire where people believe that we're blowing the whole baby up?

Mr. Pernula: Why do I think that it blew up like this?

Mr. Easton: Yeah.

Mr. Pernula: I think it had to do with – well, first of all, this began way back in July and August of 2011, like a year before I got here.

Mr. Easton: Right.

Mr. Pernula: And a lot of this has been drafted in interviews with the Planning Commission a lot of the drafting was done before I got here. It started going through the process of being drafted and then there was a self-imposed deadline that maybe we should have ignored that we had a total of four members of a nine-member board – planning commission – that were up for either reappointment or new appointments to those four positions.

Mr. Easton: Right.

Mr. Pernula: And we wanted to do that before that February 1st deadline. And just as the ordinance was getting completed we tried to rush it through and we probably should not have.

Ms. Ehlers: Mm-hmm.

Mr. Easton: And you think that inspired this consistent testimony about –

Mr. Pernula: I think that it resulted in maybe not perfect language in the ordinance and not the best presentation to the Commission over a period of more than one meeting of what's in the ordinance, and not a full understanding by the Planning Commission, nor by the public, of what it's trying to accomplish. I think that that – having a firm date of trying to adopt it early in January so that it can be effective by when we needed to reappoint those people under the new schedule kind of jammed everything into a very short period of time, and it made it look like we're trying to push something through. That's not it. That's why I'd like to resolve it by not being pushy. If you need more time, if you want more information, we'll get it.

Mr. Easton: And you're completely okay with seven of us voting tonight to say we don't want anything to do with this? I mean, if you're giving us that much leeway, we could have that much too, right?

Mr. Pernula: That could be your recommendation that I will forward to the Board of County Commissioners.

Mr. Easton: So we're open to any end of that spectrum.

Mr. Pernula: You're open to that if you wish.

Mr. Easton: Okay.

Mr. Pernula: I would go back to the various things that were identified a couple of years ago and some things still need to be resolved. The roles and responsibilities still need to be resolved. It's an important issue.

Ms. Ehlers: Yes, it is. But Title 14 has *always* come to the Planning Commission. In this case, it went to the Commissioners without the Planning Commission. It has always – ever since I've been involved – it has always come to the Planning Commission, without exception, including in 2011. I've got a reference: When we went through the whole – when Carly went through the whole code, and it includes 14.02 and 14.08. In this case 14.02 and 14.08 were taken to the County Commissioners for a hearing and not to us. And in 14.08.060, under Development Regulations, in (2) – this is on page A-6 – the Planning Commission is taken out of the process for approving the code. It was written into the process and it's not here anymore. So if you're an innocent person reading the old code and the new code, what are you going to think? When the Planning Commission is taken out of the text and the code itself is taken to the County Commissioners direct – not the part that deals with the Department and your job, 2.8, which is new – that's clearly their business, but 14.02 and 14.08 is just as clearly ours. And that is part of where the – that's part of your blatant illustration of where concern is. Because Title 14 is huge – inch-and-a-quarter thick – detailed laws that regulates us within an inch of our existence. Sometimes it's consistent, sometimes it isn't. It always needs work but it always has needed work. And that's the kind of thing which the Planning Commission has always done and taken the heat for. Now under the way this is written, it *looks* like from what is written that in the future anything in Title 14 – and that means the Shoreline document, unless it comes under a Comp Plan, a different kind of arrangement – will go straight to them. And that, I don't think, is politically wise, nor do I think it's appropriate.

I have another issue for later but I think this is the first one because it follows on Jason's.

Chair Lohman: Dale.

Mr. Pernula: I don't think that's true on future regulations, but I think Mr. Walters can answer the question better than I can.

Ms. Ehlers: I mean, why did you take it out, Ryan?

Ryan Walters: What section are you referring to?

Ms. Ehlers: 14.08.060.

Mr. Walters: 14.08.060, Development Regulations – Initiation of review.

Ms. Ehlers: Mm-hmm, paragraph (2).

Mr. Walters: Was the Planning Commission previously in that section?

Ms. Ehlers: It was. This is initiation of review of development regulations to Title – Skagit County Code Title 14 and it's one, two, three, four – the fifth line down: "If the Board decides to initiate review of the proposed regulations or amendments, it shall refer the same to the Planning Commission for review, consistent with the provisions of 14.08.080 through 14.08.100."

Mr. Walters: That section of code, 14.08.060 previously allowed –

Ms. Ehlers: No, 14.08.0.

Mr. Walters: 14.08.060, right?

Ms. Ehlers: .080.

Mr. Walters: Right, right, right, but you're reading that in .060?

Ms. Ehlers: I am – oh, did I misread it?

Mr. Walters: No, no, no. I'm saying that you're *reading* .060.

Ms. Ehlers: I'm reading 14.08.060.

Mr. Walters: Yes.

Ms. Ehlers: And it refers to the "refer the same to the Planning Commission for review."

Mr. Walters: Via .080.

Ms. Ehlers: Via .080.

Mr. Walters: Right. Okay. So –

Ms. Ehlers: 14.08.080.

Mr. Walters: Yes, so –

Ms. Ehlers: 14.06 isn't in here.

Mr. Walters: Not 14.06. Okay. Let's start over.

Ms. Ehlers: Okay.

Mr. Walters: 14.08.060 – is everybody looking at that?

(sounds of assent)

Mr. Walters: Okay, so 14.08.060 previously, or in current code, says that the Board *may* initiate development regulations through this process, right? The verbatim text is, "New development regulations may be initiated..."

Ms. Ehlers: And that you've kept.

Mr. Walters: Well, no. The revision changes that such that the Board *may* initiate the process at any time. To do so the Board must adopt a resolution. This gets back to the issue that we discussed before, that we want – the issue that we talked about before that the *Board* initiates development regulations. They're not initiated by the –

Ms. Ehlers: That's already in the old version.

Mr. Walters: No, the old version says that the Board *may* initiate development regulations, and then it specifies –

Mr. Easton: And the concern there being that we would also be able to do that?

Mr. Walters: No – the Department.

Mr. Easton: So you're taking away the ability for the Department to do it in the way it's newly written then?

Mr. Walters: Right. The objective of this section is to – if the Department has an idea for something, the Department must get approval by resolution from the Board before beginning the process.

Ms. Ehlers: That's fine. There's no problem.

Mr. Walters: Right. So that is why this section is currently written the way it is.

Ms. Ehlers: That is part (1). It's part (2) where you took the Planning Commission out.

Mr. Walters: Yes. The Planning Commission isn't mentioned there because the section is now accomplishing a different purpose than before; however, the Planning –

Ms. Ehlers: Where did you put the Planning Commission in that it shall review – as it used to say – it shall refer the same to the Planning Commission for review? So where is that in the new version?

Mr. Walters: So if you look at 14.08.070 it lays out the public participation requirements, which includes first of all early Planning Commission consultation – that's the section (3), which is new, not previously required – and then 14.08.080, Review by Planning Commission, describes all the required review in the process for the Planning Commission to –

Ms. Ehlers: Well, that's got some problems too, because if you're in .070 on the Planning Commission consultation, you can do the same sort of stuff that we've been given for months where we're supposed to talk about things we've never seen, or in the case of the presentation of this where we were never allowed to see it until after the discussion that we supposedly had, which turned out to be almost as much – from the transcript – as to what kind of documents the public was allowed to turn in in which case a zoning map is not to be allowed to be turned in because it's in color. And yet everything we do is dependent upon the zoning code. There's discontinuities here that are troublesome.

Mr. Walters: The purpose of this section is to have that discussion with the Planning Commission *before* anything is written. It's *early* notice.

Ms. Ehlers: So in 2011 we have a discussion and then in 2013 we have a – we were consulted but we had nothing in writing, then you do the draft proposal? It isn't clear, Ryan.

Mr. Walters: Well, to get back to your earlier comment about Title 14, there's nothing magical about the number 14, about Title 14 and all of its contents.

Ms. Ehlers: Oh, yes, there is.

Mr. Walters: No. There is not. There are a variety of different numbers that different jurisdictions ascribe to their unified development code or not-unified development code. 14 isn't a magic number. So we talked about this before, but let me go over it again. Your role as the Planning Commission is to weigh in on

development regulations, comprehensive plan amendments and comprehensive plans. It's not to weigh in on everything that's in Title 14 and you are also not –

Ms. Ehlers: Title 14 is development. You mean we're only supposed to be allowed as to when you can build a house?

Mr. Walters: No. You are limited to weighing in on development regulations and comp plan amendments, which is not Title 14. The comp plan is not in Title 14.

Ms. Ehlers: I realize that. I'm not talking about that. I'm talking about Title 14 which for more than twenty years has been the responsibility of the Planning Commission so that we could see the whole document as a whole. We are not given Title 15, which deals with animals; we're not given the other titles traditionally; we've only been given 14 because that is the unified development code. And we're supposed to review the unified development code according to the Comprehensive Plan.

Mr. Easton: See, my experience with 14 over the last six years has been that it's the skeleton that the rest of the body hangs from. And we did spend a great deal of time, with the Department's blessing and the Commissioners' approval, working through 14 with Carly just two years – just less than two years ago.

Mr. Walters: Almost everything in Title 14 is the development regulations.

Mr. Easton: With the exception of the section that would address staff, which would be – which would not be under our purview which we all agree. We're – that's not a – I mean, the actual direction about how staff is handled.

Mr. Walters: Right. There's a section in Title 14 accepting grants of real property, 14.42. That's not a development regulation. It would not go to the Planning Commission _____.

Ms. Ehlers: It did in 2011.

Mr. Walters: It could.

Ms. Ehlers: It did.

Mr. Walters: The Board could send it to you. The Board sent you Title 7, Animals, when you did kennels, but that was not required.

Mr. Easton: Please don't remind us of that.

(laughter)

Mr. Easton: Not one of the highlights in our careers!

Mr. Walters: Hopefully this distinction is not particularly difficult. Your jurisdiction, if you will, is development regulations and the Comprehensive Plan. A lot of what's in Title 14 – the overwhelming amount of what's in Title 14 – is development regulations. They don't exactly line up. The circles are not completely congruent.

Ms. Ehlers: So why didn't you let the hearing for this go to us first?

Mr. Walters: Well, there's a simple reason for that and that is the *Board* didn't send it to you and the reason that the Board didn't send it to you is because it sets your rules.

Mr. Easton: But isn't there something that happened before that? Let's be very candid, okay? Did something happen before the Board made that decision, Ryan, and that was – I'm 95% confident that you or Will gave the Board a recommendation about whether that needed to go to a hearing before us first or a hearing before them.

Mr. Walters: We don't provide documentation of what advice we give to the Board, but I assure you that _____.

Mr. Easton: So we'll take that as a yes.

(laughter)

Mr. Easton: So I guess my comment about being candid – we'll take my comment about being candid and set it aside for a minute and we'll go back to the point of you saying that you're not denying that you – that the legal department advised the Board to do a public hearing on this as opposed to sending it to the Planning Commission?

Mr. Walters: I'm not going to talk about what my advice is to the Board. What I am going to say is that my advice to you is the same as the advice to the Board. And what I'm – does that make sense?

Mr. Easton: No.

Ms. Ehlers: Keep going.

Mr. Walters: And the point is my analysis of what your jurisdiction is is development regulations and comprehensive plan amendments, and that is not everything that's in Title 14, and it is things that are not in Title 14 – for instance, the Comprehensive Plan and all the amendments to the Comprehensive Plan.

Chair Lohman: May I interject? Because we're in a circle. I think part of the difficulty is in the old language it stated things a little more bold-faced, like Carol is alluding to, whereas it says what the Planning Commission reviews. I think it would be very helpful if you went to the very beginning where you're listing the duties in 2.80.100, where you talk about the functions of the Department and how it advises the Commissioners. You talk about the Director, the Building Official and the Marshal, and then you talk about the Planning Commission and – but you're down to the how we operate. You haven't said really that we're going to review the Comp Plan, that we're going to review things like SMP, that we're going to review development code. You haven't stated that really. You've done it in a circular sort of an innuendo method. So I think if you were right at the get-go where you're listing everybody's duties, or maybe at the section where you talk about the Planning Commission in 14.02.100 on page A-2, maybe if you put that language in there. Or maybe it *is* in the language where you wrote "No change," but we're missing that link.

Ms. Ehlers: Some of it's in the Authority, but you talk about public hearings and you don't mention *open* public record hearings. Part of the difficulty the public has – at least the phone calls I've listened to – is nowhere in Title 14 does it tell you what a meeting is versus a hearing. Nowhere does it tell you about open public record hearings – and it doesn't in here either – and the difference between an open public record hearing and what the Anacortes City Council has noticed in the paper, a closed public record meeting. Because those are the kinds of technical differences that make all the difference in to how people who aren't part of this and don't listen to this evening after evening, understand how to even communicate.

Chair Lohman: But, Ryan, is that a possible fix –

Ms. Ehlers: It's in the law!

Chair Lohman: – to add language like that? Because this is still a draft, right?

Mr. Walters: Oh, yes. There might be a couple of different things you might want to recommend. One, to define public hearing, public meeting, open public hearing, closed record public hearing. I am rather confident that some of those definitions exist, like closed record, although *you* never hear any closed record public hearings.

Ms. Ehlers: Not in 14. They're in state law all over the place again and again and again and again, but they're not in 14.

Mr. Walters: Well, we could look for each of those terms and identify if there's a definition.

Chair Lohman: But even beyond that, identifying our duties.

Mr. Walters: And, yes, also clearly identifying that the Planning Commission hears all development regulations –

Chair Lohman: But see, you didn't say that.

Mr. Walters: Well –

Chair Lohman: You alluded.

Mr. Walters: It's possible it's not in there, actually, but it is in GMA.

Chair Lohman: But that's really not a comfort. I'd kind of like to see it in black and white.

Mr. Walters: Well, it could certainly be in there.

Chair Lohman: I think that's a message that we've heard – that we want to know what our role is defined. And if we just say it – I don't think it hurts to say it. But when you just say vaguely, That's in GMA – GMA is a moving target, too.

Mr. Walters: Certainly there is a lot of discussion about public hearings before the Planning Commission and the process and describing the process going through the Planning Commission.

Chair Lohman: Right.

Mr. Walters: But, in fact, there may not be a specific ____ –

Ms. Ehlers: I searched.

Mr. Walters: – that says development regulations go to the Planning Commission, but that is certainly an easy fix.

Chair Lohman: And I am going to say that I probably am responsible for the change in the title. And keep in mind the title is a working title. It's still a draft. Because I didn't like the original title that we saw on the agenda way back when when it said "Legislative Reform," and I thought you were going to tell us about what's going on in Olympia. So I suggested to Dale why don't we change the name to be a little bit closer to what it actually is, and so we – in writing the agenda – we said, well, let's call it the "Planning and Land Use Legislation Ordinance." And we – I suggested that it would be a working title. I never knew that the title would be controversial too, but –

Mr. Greenwood: Annie, can I make a comment?

Chair Lohman: Go ahead, Keith.

Mr. Greenwood: This takes me back a little ways but it may lead me to the – maybe an opportunity to make a motion to reject this proposal – recommend rejection – because I went back to the beginning when I wasn't here, which was to read the transcripts from the meetings when you guys were here because I was told that this started from a questionnaire initiated from a memo from the Board of Commissioners on January 31st of 2012. And there was a list of seventeen questions. So I listened – I actually read the transcripts which made it smoother for me from both of those meetings that covered these questions, and you might not want to hear some of the answers that you gave because some of them are kind of funny. But I went down all seventeen and pulled out the answers that you gave as a planning commission, and I don't see where any of them other than a point about getting Commissioners' terms out of sequence and having too many come together at one time for expiration – everything else was addressed, and Dale's addressing everything already. And so many of these actions, like continuing education – Carol's suggestion – so many suggestions about continuing education, annual work load, agendas, participation in the work plan – all of those things are addressed and they don't need legislative – we don't need a change in the title in order to do that or our authority to do that. And Dale, I think, helped substantiate my point in his introduction when he quoted the section that's in this new proposed ordinance as being a quote out of our bylaws. So it's already there. And I was encouraged when I saw on the agenda next is the potential Chair asking to appoint a committee to review our existing bylaws.

And so if there is in fact some changes that need to be – to take place, I think we can address those subtle differences in a change to the bylaws, perhaps – which were done not that long ago. (In) 2009 they were revised. So I don't think there's that many changes that need to take place and I don't think we have to get away from the Planning Enabling Act which provides some comfort to the public with how we function and why we function and our authority for functioning. We could just back up a bit, hang on to that comfort level platform, and revise our bylaws to accommodate the seventeen questions, which I think most are already being addressed.

Chair Lohman: Matt. Excuse me. Sorry, Jason.

Mr. Easton: Go ahead.

Mr. Mahaffie: Just one little thing about the seventeen questions.

Mr. Greenwood: Sure.

Mr. Mahaffie: We never finished that.

Mr. Greenwood: Yes, you did.

Mr. Mahaffie: We never –

Mr. Greenwood: I've got it on transcript! I'll show you.

Ms. Ehlers: We did it in March.

Mr. Mahaffie: No. We never finished that in completion. We were requested – personal correspondence with the Commissioners in letter form.

Mr. Greenwood: So there's additional input besides –

Mr. Mahaffie: Very extensive.

Mr. Easton: There's more than what just happened on the transcripts.

Mr. Greenwood: Well, that's good! That means you answered the questions more, right?

Mr. Easton: So did you write a letter to your Commissioner?

(inaudible voices)

Mr. Easton: So there's some of us that – I don't think I did.

Ms. Lohman: I did.

Mr. Easton: I probably didn't finish the assignment. But I know that when we met, Madame Chair – when we talked about the seventeen things I didn't envision any of those being a legislative action. I thought we were – and if – I haven't read the transcript in a while but I would be surprised – I thought the context, when we had that conversation with the Director, was about improving our relationships, how we did our work, and what we were doing. Not about changing regulations about how we did that but about how to make things smoother. You know, we were trying – we've been trying for years to find a better way to form our agenda, as an example.

Chair Lohman: I believe, though, that it was mentioned in passing – because I did re-examine the transcript when I talked to you, Carol.

Ms. Ehlers: Well, that was the March transcript.

Chair Lohman: But I don't think we envisioned what we got when it was mentioned over a year ago.

Mr. Axthelm: That was never – it seemed to me – that was never the intention that was – which was given to us, at least.

Mr. Greenwood: Which question needs to be addressed with legislative reform here?

Mr. Easton: Probably the only one that I can come up with and the only thing I find redeeming about the whole exercise so far is that the Commissioners in some place either in our bylaws or wherever the legal department prefers it, we need to address the issue of resignation and for filling the terms. We should treat it like any other – I mean, the rules could be very simply drawn to match what elected officials – elected officials have a very simple process. You finish the month of the remaining term of the person in front of you until the next general election. In this case it would be till the end of that term. Then they'd have to be either reappointed or replaced. I mean, that's the only thing that has to be – that can't be a conversation. It actually has to be codified, for lack of a better word. It's just how to handle – so we don't end up with four people dropping, you know, all on one day.

Mr. Greenwood: But you don't have four people dropping all on one day anyway because some of them stay for twenty years-plus.

Mr. Easton: Well – true.

Mr. Greenwood: And they've addressed that – that's okay – they've addressed it by allowing people to stay for multiple terms.

Mr. Easton: Reappointments have addressed that, but the fact that four – when four appointments have to be dealt with –

Ms. Ehlers: It was bad planning four years ago.

Mr. Easton: Well, it can be simply done – you know, when I replace Harry Ota I should have got the rest of Harry's term. It's very simple. I didn't get the rest of Harry's term. They spent eight months asking me and interviewing me and meeting with other people and advertising, and then they made a decision in July, and August – July 31st was the day that they swore me in or that the resolution passed. That became my anniversary date. All we have to change is the way in which mid-terms are handled. And that term stuff works – you know – works its way out.

Chair Lohman: And that could be a bylaw.

Mr. Greenwood: Sure.

Ms. Ehlers: And there is an RCW that covers that.

Mr. Easton: I mean, I like – there's some language in here that talks about timelines, like 45 days to advertise, 60 days to appoint. And, you know, maybe something – a resolution – that's just that simple. What this feels like, though – to ask us to remodel what's in front of us right now – I feel like I've decided to remodel a car that's got way too much body rust. I mean, I just keep cutting over it. I cut over here and I cut over – I'll be down to the frame. And I think it's better – and I – you know, unless you're going to make one first – you know, I'm going to make the motion that we reject this completely and then address the issues – address new things aside. I think trying to remodel internally is too much so, unless the – when the Chair's ready to entertain motions, that's the direction I'm going.

Chair Lohman: Well, it did bring up some good ideas, like having the Commissioners entirely responsible for the work plan. I really like that. Everything has to go through them.

Ms. Ehlers: I thought they always were.

Mr. Easton: Well, I was under the impression from the last Director that everything that was on the work plan was done by – was approved by the Commissioners.

Mr. Greenwood: I just looked at the past year more so than the previous years, but I see that chronology. It's a discussion, it's a – Gary Christensen would put together a work plan.

Mr. Easton: Right.

Mr. Greenwood: Then the Board would approve it and then it would get passed down to us so there's interaction. And then you were asked in one of your seventeen questions, Would you like to be involved in that? You said, Well, let's let the Board and the Department come up with that.

Mr. Easton: Right.

Mr. Greenwood: And then we just said, Well, because when we make input it doesn't stick, or something like that.

Mr. Easton: It was too much to sort out. I mean, if you're talking about the fifty, sixty, eighty things they *could* do in a year, it didn't make sense for nine of us to wade into that when it could get boiled down.

Ms. Ehlers: Yes, but even more, when we did they paid no attention.

Mr. Greenwood: And that's what Carol's comments were in the transcript.

Mr. Easton: I'm sure that's in the transcript!

Mr. Greenwood: Yes.

Chair Lohman: Okay, what are your wishes?

Mr. Easton: You go ahead.

Mr. Greenwood: I'd like to make the motion that we reject this – recommend rejection of this proposal and recommend instead that we review our bylaws through subcommittee.

Mr. Easton: I don't think we need the bylaws part in the motion.

Mr. Greenwood: Okay, that could be in _____.

Mr. Easton: Let's do that as a finding.

Chair Lohman: Is there a second?

Ms. Ehlers: Are you going to second it?

Mr. Easton: I'll second it, yeah. ___ in. Sorry.

Chair Lohman: I have a motion by Keith that we deny this proposal and it was seconded by Jason.

Mr. Easton: Yeah, so we – so –

Chair Lohman: It is – we go under Robert's to have a negative motion as long as it's said to be a denial.

Mr. Easton: Right.

Ms. Ehlers: Mm-hmm.

Mr. Easton: So we recommended denial.

Mr. Greenwood: Recommend denial.

Mr. Easton: Do you want to say it? You made the motion.

Mr. Greenwood: Oh, I think I've said enough.

Mr. Easton: I just want to add that, I mean, it's a – as a seconder – it's just a matter of doing things that keep the public trust in the system. I live in a world – we all live in a world – where government is constantly undermining the trust of its citizens and I don't want to have anything to do with that. I believe that if a diverse group testifies against something like this, you know, with something that's not clearly broken then it goes against every fiber of my being to go ahead and say let's remodel this. I don't want to do anything to make any of these good people who are watching it on TV or here in person make it seem for one minute that it's harder for them to participate in the process. And it's a sad by-product of a rushed project – that that's what happened – and I think this clear action that we take and send to the Board – obviously they get to decide what to do with it – makes a clear statement from us that – or at least from me – that that's how I feel.

Chair Lohman: Matt?

Mr. Mahaffie: Just one comment about the public. This is one thing that's been – I've always pushed for – was development regulations being be able to be put forth by the public. That's what this says. That's what –

Mr. Easton: We can revisit that again.

Chair Lohman: I guess I have to agree with Matt. There is some new language and new ideas in this new document that are not in our current code that I really like, and that's one.

Mr. Mahaffie: I personally don't want to give up on it. It might not be right but it's – there's a lot of good ideas in there.

Ms. Ehlers: Well, I agree but I don't like the way the – I don't like the way it was done and I don't like this all too many details that are negative. I think the thing to do is to deny this then each of us to bring up things that we think ought to be looked at, starting with the bylaws, and each of us bring up one or two things and see where we get.

Chair Lohman: Dale?

Mr. Pernula: If you intend to bring up some of those issues, I would prefer that you hold off on a rejection recommendation because that rejection recommendation will just go to the Board and they will do whatever. You know, they may just reject the ordinance or they may not. But if you think that there are some elements of this ordinance that you would like to see, I would prefer that you take a look at some of those. Matt pulled out one that he thought was appropriate. I think another one that makes it really clear and real simple to make sure we have a full Planning Commission is that every year one member of the Planning Commission is appointed from each of the three districts under this

proposal. And I think that's very clear, very easy to administer, and I think we're not going to end up with some of the bunched up appointments as we have now.

Mr. Greenwood: And yet, and yet it's already available to where the way it's set up is that the Chairman of the Board appoints. The other Board members – Commissioners – the other Board members make recommendations. And then there's other places where it says they should represent the different districts. So if it's important that there's a full Commission, then the Board Chairman will make the appointment, with or without recommendations. That would be pretty hard to do. There's only three of them. They could just turn around and talk to each other. So if they think it's important they'll fill this Commission. If they don't think it's that important on their agenda, then they won't and we'll have to deal with that.

Ms. Ehlers: There is something that Matt brought up before and I would like to bring it up this time. In this description of who gets appointed – what categories of people get appointed – there are categories, specific categories, that are necessary. One of them is a forester. For whatever reason, it took a full year to find a forester and thank God we have one because we have 640,000 acres in this county zoned forestry. That doesn't count the resource lands and it doesn't count the other forestry lands. We've got to know what we're talking about when you have a forestry issue.

The same thing is true with a crop farmer. There are farmers and farmers, but a crop farmer who is in the middle of the rotation process is absolutely crucial for our understanding of not originally how we zoned agriculture, but now how we preserve agriculture because, as Keith's talking about planning, I see item after item after item in the newspaper and elsewhere where there's people, groups, going after the viability of agriculture. And if you have – you should have more than one person so that someone can say, I agree, or I second the motion.

I have been the only one in the Rural Intermediate for most of the time I've been on the Planning Commission, and again and again I have been desperate for a second. But since everyone else lives in the kind of an area that is open – that's in a whole different category – when I need a second sometimes I've gotten somebody from the third district most of the time, which is kind of curious, because I think maybe west district is closer to east district than the middle. But you – if you're following Robert's, you have to have a second. And it's these kinds of issues as to what sort of personnel you have and what kind of a mix – because it changes, as it ought – of knowledge. It's not just geographical area and it's not just, let me say, everybody who has \$7,000 worth of electronic equipment either.

Chair Lohman: Can you – please?

Ms. Ehlers: But – so there are things that I like in some – I would like to help modify but I don't like the language that's here because I don't think it is specific enough to get what it is the County has wanted for all these years on the Planning Commission.

Mr. Easton: Maybe other people who haven't spoken should speak to the motion.

Ms. Ehlers: I've had enough.

Chair Lohman: Are you saying I can't talk?

Mr. Greenwood: You can!

Chair Lohman: There is other things – another thing that I like in this new document *a lot* is the public participation. It's early and often. It talks about it quite a bit. And we've been trying that out with the Shoreline Update. And I really like that the Planning Commission is involved at the concept section, the concept idea. That is *not* what we have now and I don't know if we can get that in with a bylaw change.

Ms. Ehlers: Sure we can.

Mr. Greenwood: Well, I think –

Mr. Easton: Well, we're not limited so we can make recommendations – I mean, I respectfully disagree with the Director. I believe that any of the best parts of this are available for any member to bring up at any time in this structure and for us to vote and to send it to the Commissioners. We control our – there's one thing that's very clear in the current bylaws, will be in the remodeled bylaws – I swear nobody's going to mess with this – that we control our own agenda. If a Commissioner or more than one Commissioner here wants to revisit any of the ideas that they found healthy in this project, we'll make the time. We'll do a hearing. We'll send a proposal to the Commissioners. We've done it in the past. But tonight's – the question about tonight's is, Do we take this body of work and recommend it to the Commissioners?

Chair Lohman: Well, I think we should make a recommendation. Okay, what do you want them to do then? And so rather than just kick the whole thing to the curb –

Mr. Easton: Well, I mean, those are find – I mean, I think that's in a place of finding – findings.

Chair Lohman: But you need to then –

Ms. Ehlers: That's all right.

Chair Lohman: – list –

Mr. Easton: Even if he ends up in the minority or the majority he can add it as a finding.

Mr. Greenwood: Right. Because we can – if you forwarded a proposal that said it's the improvement of public participation reform, it'll go. It you include what Matt said, you include what Annie liked –

Mr. Easton: Clean up the issues with the rotating ___?

Mr. Greenwood: That'll fly. That'll fly.

Mr. Easton: That'll go through.

Mr. Greenwood: Oh, yeah.

Chair Lohman: Matt?

Mr. Walters: I have a –

Chair Lohman: Wait one second. Matt first.

Ms. Ehlers: Speak up, please.

Mr. Mahaffie: Formulating here. Formulate. I just think it's our one shot. I don't think we're going to get a chance to come back and at this length. Maybe one or two things.

Ms. Ehlers: Why not?

Mr. Mahaffie: Because it won't. It won't happen.

Mr. Axthelm: We've seen that before – where we've made a recommendation and it's come back. Our recommendation was a _____. So if we stop this process right now and say we're going to just stop, recommend that we don't adopt it in its entirety, are they going to take it and _____?

Mr. Easton: They won't control our agendas or our recommendations. How many times have they sat with you individually and personally and with us as a group and said, You're our sounding board. We want to hear from you. We want to know what you think is going to be best for the community. Look, if Matt believes that there's something in this that's best for the community and he

makes it a priority to tell Annie he wants it on the agenda, I don't see how five of us don't vote – I mean, if it's made so it's got what floats, it floats.

Chair Lohman: But I think what – and I don't want to put words in Matt's mouth – but I think what he's saying is that – I kind of think, How long are you going to keep this thing alive? I think it needs to be – I don't want it hanging around for another year or two. I think we need to pick out the things that we want to keep and see if they can be incorporated in the old ordinance if that's the will of the body. Or we can – well, we'll have to do what the will of the body is, but I just – there is some really good stuff in here, I think.

Mr. Greenwood: And I think we could handle that in committee. If you want to include that in the – I think a committee to review bylaws and review this –

Mr. Easton: And the Chair has the right to set a subcommittee to do that.

Chair Lohman: We can do that.

Mr. Greenwood: I think that would be helpful because –

Mr. Easton: That's a great idea.

Mr. Greenwood: I watched the Board of Commissioners punt this back. They didn't like the public comment –

(laughter)

Mr. Greenwood: – and Annie and Carol were there. They didn't like it. So we don't have to like it, and send it back to them.

Mr. Easton: I agree. I agree.

Ms. Ehlers: Folks, could we separate 2.8 from the rest of it?

Mr. Easton: So you're suggesting an amendment?

Ms. Ehlers: Because 2.8 sets a precedent.

Chair Lohman: What page are you on?

Ms. Ehlers: That's the Administrative Department. That's a brand new idea in Skagit County Code for each department to have a title of its own. So the Planning Department would be 2.8. Presumably Public Works would be 2.9.

Mr. Greenwood: I'm not following you. I'm sorry. I'm lost.

Mr. Easton: Page A-1.

Mr. Greenwood: Oh, A-1. Okay.

Ms. Ehlers: Because, you see, there's four elements to this and I haven't heard anyone oppose the idea of the County deciding that an administrative office/administrative department should have in code a description of what it is and what it does and the rest of it. I haven't heard anyone object.

Mr. Easton: So you're making that in the form of an amendment?

Ms. Ehlers: So –

Chair Lohman: The motion on the table is to deny the proposal.

Mr. Easton: Right. I think she's asking to remove a portion. Are you asking to remove a portion?

Ms. Ehlers: I think that's the right words. Could you –

Mr. Easton: It's up to the – it first goes to the maker of the motion.

Chair Lohman: The maker of the motion doesn't own the motion. The body owns the motion.

Ms. Ehlers: The maker is usually –

Mr. Easton: Is there a second to her amendment?

Chair Lohman: Well, then it wouldn't be a denial.

Mr. Easton: It would be a –

Mr. Greenwood: (unintelligible)

Mr. Easton: Why don't we take a second motion and deal with it in that?

Ms. Ehlers: Okay.

Chair Lohman: Do you want to vote for the motion or just –

Ms. Ehlers: I'll pull it back.

Mr. Easton: I'll call the question.

Chair Lohman: So the motion on the table is to deny the proposal. So all those in favor, say “aye.”

Ms. Ehlers, Mr. Easton, Mr. Greenwood and Mr. Axthelm: Aye.

Chair Lohman: All those opposed, say “nay.”

Ms. Nakis, Mr. Mahaffie and Chair Lohman: Nay.

Ms. Ehlers: We’d better have a hand vote.

Mr. Easton: She’s got to get it for the record.

Chair Lohman: All those opposed – all those in favor, raise your hand.

Mr. Easton: Say their names for the transcript.

Chair Lohman: So we have Jason, Carol, Josh, Keith. All those opposed? Annie, Elinor, Matt. So it’s four to three.

Mr. Pernula: You need five to pass a motion, I believe.

Ms. Ehlers: You need five to pass the motion so that takes –

Chair Lohman: So...

Mr. Walters: No.

Chair Lohman: It’s a quorum.

Mr. Walters: Hold on. Let me give you a legal answer. Under the Planning Enabling Act you need a majority of five to adopt development regulations.

Mr. Easton: But this isn’t a development regulation.

Mr. Walters: No.

Chair Lohman: But isn’t our bylaws just a simple majority of the quorum?

Mr. Walters: This is just a motion. All you need is four.

Chair Lohman: So we have that, so the motion passed.

Mr. Easton: The only time you need five is if it’s a development regulation.

Ms. Ehlers: Comp Plan amendment, too.

Chair Lohman: So it did pass. So the motion is to deny.

Ms. Ehlers: Okay, I would like to move that we accept new chapter 2.8 – that we recommend new chapter 2.8, Administrative Departments, referring to the Planning and Development Services Department.

Chair Lohman: Can you repeat that in a – can you repeat that for me?

Ms. Ehlers: I'd like to move that we recommend the Commissioners adopt new chapter 2.80, Administrative Departments, 2.80.100, Planning and Development Services Department.

Chair Lohman: You want them to adopt that language.

Ms. Ehlers: I'd like them to adopt it.

Chair Lohman: Okay, the motion is to recommend to the Board of County Commissioners to adopt the language in 2.80.100, Planning and Development Services Department. Is there a second?

(silence)

Chair Lohman: I don't –

Mr. Greenwood: I'm not going to. Can I tell you why? I just wanted – yeah.

Mr. Easton: You could second if you want to discuss it.

Mr. Greenwood: No. No. I'll tell you later.

Ms. Ehlers: Well, then it won't –

Chair Lohman: There's no second.

Ms. Ehlers: Then it won't fly.

Chair Lohman: Did you want to tell her now?

Mr. Greenwood: I think it'll fly. It'll fly later. I think it should be discussed in a subcommittee.

Mr. Easton: I'd like to get back to the motion and do findings of fact.

Chair Lohman: Wait. Can I – can I ask one of you to make a motion that we put this task to the committee that we're going to ask to review the bylaws?

Mr. Easton: So you can, as Chair, form a subcommittee to do that without – you don't have to have a motion because you're the Chair. You can form – our bylaws say that you can form subcommittees and assign them tasks as you see fit, as the Chair.

Chair Lohman: Okay. But do you guys agree with that idea?

Mr. Easton: Right, Ryan?

Mr. Walters: ____ if you give me a second.

Chair Lohman: I think I saw it.

Mr. Easton: I'm 99% sure that that's the case.

Mr. Greenwood: I think so, too.

Chair Lohman: Okay. So, findings of fact. Who wants to go first?

Mr. Easton: Do you want to form a – oh, findings of fact first and then we can do a subcommittee?

Chair Lohman: Yes.

Mr. Easton: So.

Chair Lohman: Who's recording these for us? Are you recording these for us?

Mr. Pernula: My understanding is that a recorded motion is not required because this is not a development regulation. Is that correct, Ryan?

Mr. Walters: That's my understanding.

Mr. Easton: So we don't have any findings of fact.

Chair Lohman: But I think we should give the Commissioners some reasons.

Mr. Pernula: I think that's a good idea, but it's not a recorded motion.

Chair Lohman: Okay.

Mr. Pernula: It's a good idea to explain why you took the action you took.

Chair Lohman: Okay. So we can call them reasonings.

Mr. Easton: Keith, do you want to –

Mr. Greenwood: Yeah. I don't think that this level of change and the approach and the speed at which it came at us is going to work, and we need to start over with taking the parts of it that we like and forwarding those in the spirit of addressing the memo of January 31st, 2012 – seventeen questions from the Commissioners.

Ms. Ehlers: I'd like a copy of that.

Mr. Easton: Transcript?

Mr. Greenwood: Oh, the transcripts are there already, but just my summary of them? I summarized them point by point as far as the questions go. Is that what you mean?

Ms. Ehlers: Oh, I'd love to have that. And when you say they're there, where is that?

Mr. Greenwood: The transcripts? Actually Dale put a nice link for this meeting that chronicles what date what took place, and I just hit those hot links and read those transcripts.

Ms. Ehlers: Oh, there's another thousand dollars.

Mr. Greenwood: I think it helps –

Ms. Ehlers: Well, that's what it costs!

Mr. Greenwood: – review issues.

Ms. Ehlers: At least.

Mr. Easton: I believe that – I'd like the Commissioners to realize that we want to address the best parts of this through a subcommittee that the Chair has indicated she'll be appointing here soon, and one of those will be a solution to the timing issue about appointments, about how to make appointments, either utilizing Dale's idea or the continuing of – finishing the remainder of the term you fill – whatever. Some sort of solution to – I want the Commissioners to realize that we'll address that. Because they extended everyone's term that was due to expire, I would expect that the subcommittee would bring recommendations to us well before we'd have to – before those would come up again, because those aren't – nobody's up again until September. Because I know that's a concern of theirs that needs to be addressed.

Ms. Ehlers: And it's legitimate, and I would hope – I'll hunt for the RCW that I saw that did what Jason suggests – that you fill out the term of the person who has left. Because, otherwise, give another couple of years and we'll be back in the same mess, because people do move or die or decide to quit.

Ellen Bynum: Could I provide information? I went back and looked at all the appointments that have been done, and usually it's designated in the reappointment of the person to fill out the term and end the appointment. And it's also designated whether the person resigned or not. So if you go back and look at the historical documentation – which I don't have all of it, but it's in the resolutions – you'll find that.

Mr. Easton: See, it's interesting, because I looked at mine where I was appointed, and it didn't reference –

Ms. Bynum: No, no. You have to go back.

Mr. Easton: Oh, you mean before our appointments?

Ms. Bynum: Before.

Mr. Easton: Oh, okay.

Chair Lohman: Okay, another reason for the Commissioners?

Ms. Ehlers: Well, I voted against it because they took the reference to the Planning Commission out in 14.08.060. In Public Participation there was much better communication but there's still a thing in here about ten days' notice. There is in here a 300-foot separation, which means that no one intends to protect any public well, which is much longer than that. It's either 7 or 800 or 900 feet. I can't remember. Wellhead protection. There's too many things that aren't what they should be to accomplish what the intent was.

Chair Lohman: Too many omissions? If I were to paraphrase you a little bit.

Ms. Ehlers: Too many omissions, too many things not paid attention to for the public comment. I tried to make the issue of the wellhead protection clear enough. I gave it a whole page with a little paragraph. I'd have made a recommendation myself except that the Health Department people have been moved into Dale's domain but the phone system is a disaster.

Chair Lohman: But, Carol, is that part of the draft ordinance?

Ms. Ehlers: It's in here. Yes, it's in the draft ordinance.

Chair Lohman: I guess I didn't make that leap.

Ms. Ehlers: I'll find it for you. It's on page A-12. It's 14.08.210, Public Notice, and mailing the "notice directly to the owners of the subject property and to all property owners within 300 feet." If you look at the aquifer ordinance, the aquifer 2, which is south Fidalgo Island and up in the hills above Bow Hill, among other places, there's a whole string of disastrous proposals that could be made that might come as special – as things before the Planning Commission that the County's decided to wait until there's opposition to before they do anything to stop it.

Chair Lohman: So your objection is you think that that 300 feet needs to be expanded to – what? Like a thousand feet?

Ms. Ehlers: Whatever the law says for public water system wellhead protection.

Chair Lohman: Okay. Okay.

Mr. Easton: I would add that – I mean, I voted to reject it because it weakens the – I believe it weakens the function of our Planning Commission.

Ms. Ehlers: I agree.

Chair Lohman: Josh.

Mr. Axthelm: I voted to reject it because I believe that the public has some concerns and I feel like I represent the public in some ways and that it's important that they understand things correctly. I think that a lot of the stuff in the document is great. A lot of it makes sense. It helps things go a lot smoother. But unfortunately the public doesn't see it that way and I think if they don't see it that way then obviously there's either a misunderstanding or some type of terminology that needs to be revised to make it so that they can agree with it. And that's important.

I think the Planning Department, there's a lot of stuff in there that's a good thing. It's just the public, if they don't understand it correctly, they need to be heard. And I feel like if the overwhelming majority of people say, We don't agree with this; we don't like it; we think it's taking responsibility or power, per se, away from the Planning Department, then we need to consider that and what they say.

Ms. Ehlers: I have some additional things. On page A-4 when it talks about the job of the secretary of the Planning Commission, what's there is fine. But what isn't there is the whole issue of how you put together an open public record. The Planning Commission is supposed to find facts. But if I look in at least one of the proposals last year there were damn few facts proposed. And I don't want to spend time discussing the details but it wasn't for ten months that it occurred to anybody in the Planning Department there was a canyon across the street, which

is one of the most basic facts you can have. When you're on a hillside, you're talking about the use of a large parcel of land with a history of drainage that goes back for a long, long time where you've got two enormous SEPA documents that apparently somebody, I am told, he wasn't allowed to read it because it would take too long for him to read it. So the process didn't go through SEPA and so it's just pure luck, as far as I can see, that the Planning Commission finally was given a topographic map that showed the facts that illustrated the problem and that they could make the decision on facts.

Chair Lohman: So, Carol, under the code duties of the secretary, what would you recommend?

Ms. Ehlers: Well, there's nothing – I'd recommend what's in the bylaws.

Mr. Greenwood: So could this be addressed in a subcommittee – Carol, do you think? – where we look at the bylaws and compare it with this proposal?

Ms. Ehlers: Yes.

Mr. Greenwood: You think that'd be helpful.

Ms. Ehlers: You could –

Mr. Greenwood: Because they've tried to marry the two into this proposal and I think we can ferret those out.

Ms. Ehlers: It's the rest of the secretary's job that's listed in the bylaws.

Mr. Easton: So that's probably something – that's subcommittee.

Chair Lohman: That's the subcommittee. Okay, anything else? How about for the people that voted against the proposal. Did you want to send something to the Commissioners?

Mr. Mahaffie: Sure. For a lot of the same reasons people said they voted against it.

(laughter)

Mr. Mahaffie: There's a lot of great stuff in there. Just because it was handled poorly, I don't think it should be thrown away. There's been – Mr. Greenwood had asked me, you know, last meeting whether I thought this would make it better or not and I didn't really have an answer. And I thought about it and I think I would answer "yes" because while things seem to be flowing smoother now, Planning Directors don't stay around very long, but it's just one of those jobs that they're not there forever. What happens when the next one's there, and the next

one, and the next one? I'm not looking at, you know, what happened in the last year, what happens in the next ten years. To me this just makes things a lot more concrete and just how interpersonal relationships **turn out that way**.

Ms. Ehlers: And that's why I like 2.8.

Chair Lohman: Elinor?

Ms. Nakis: I just agree with that. And I see a lot of positives here but I also remember our discussion last month and I was comfortable with the explanations that Ryan gave us about why they wanted to move over to this. Because the original act, which I can't remember what it was called – what is it – enabling?

Mr. Greenwood: Planning Enabling Act.

Ms. Nakis: The Planning Enabling Act didn't allow for terms of less than four years, correct? And this gave them more flexibility in setting up the terms of the Planning Commission. So that's what I remember. Otherwise I think that this move is good.

Chair Lohman: Well, I voted against it because I saw a lot of improvements in the plan. Now I'm not a planner and I'm not an attorney so I don't fully understand if we're gaining or losing by switching from the Planning Enabling Act, other than the term, the term idea. We're not. And sometimes when you've got something that's a radical change from what you've always done – maybe you switch from Levis to Wranglers and they don't fit so good, but they're still jeans. I think there's often resistance when you try something new. But I really liked quite a few things. I liked that it seemed like it said the Commissioners were in charge. I liked the public – the talk about the public, where they come in. I think there could have been some better language in certain places. I think with some more work between what we have and what this is that we can get a better plan. But I think if I had to vote today I see a lot of good here, but the execution was rather poor.

So would it be okay if we just wrote three things that we liked so that they see some positive? Maybe get them ___?

Mr. Easton: That's fine. I'm comfortable with that.

Ms. Ehlers: 2.8.

Mr. Easton: Because they watch the meetings. They read the transcripts.
_____.

Mr. Axthelm: (unintelligible)

Ms. Ehlers: That's what we've been saying.

Chair Lohman: But the Commissioners can point back to us as if we don't tell them, okay? They want firm direction. Okay, what words don't you like? What direction do you want? Well, if we say, Okay, well we liked 2.8. We liked the public participation. You like letting citizens bring up Comp Plan amendments, right?

Mr. Mahaffie: Development regulations.

Chair Lohman: Development –

Mr. Easton: Regulations.

Chair Lohman: If we just give them, you know, three or four things that's positive – because it isn't an all-bad document.

Mr. Easton: No. They'd probably like it better if we voted nine-zero on everything and it would be simpler, but they also brag about how we're the most diverse planning commission in the history of the world because of their appointments. I mean, I've heard them say that on – and they're right. We were very diverse so we're going to get four-three votes on nights when we're not nine, and I think we sent them a clear response. We're sending them a response. How they respond to it – you know, it's going to be more of a surprise than the last time we sent them something we rejected. It was, I think, we had a pretty good guess how they'd respond because we sent it nine-zero, or whatever – seven-two. But we'll see what comes from this. And if they give us – they can assign back to us, too, the parts that they like, that they want us to re-do. Or they can pass the whole thing – you know, they can take this recommendation, especially a four-three recommendation, and go ahead and approve it and we could be living under this in thirty days.

Ms. Ehlers: With all the public comment?

Mr. Easton: They could. There's nothing – I mean, there's nothing that – right, Ryan? They have the ability to go ahead and approve this regardless of our vote. We're an advisory commission.

Ms. Ehlers: Okay. You talk about public participation. Public hearings, page A-12. "A public hearing must be advertised at least 10 days prior to the date of the public hearing." How does that improve public participation?

Chair Lohman: I was just talking about the –

Mr. Easton: She's saying that's a finding of fact for why she voted for rejection.

Chair Lohman: Oh. Well, I think that still –

Mr. Easton: (unintelligible)

Ms. Ehlers: I mean, it's the – the public notice was enormously improved. But after the public's notice and after the public has had an opportunity, it still – and there was a change from my comment about thirty days when push came to shove in something long, like the Shoreline – but it still retreated back to the fact it's ten days. Now Ryan suggested language that if it's a minimum thing, a short thing, something that's fairly clear, that ten days is okay. But ten days for the things that we have been getting is nightmarish.

Chair Lohman: Well, maybe, Carol, this is a drafting error and things like up above where it talks about the written comment period it talks about fourteen days, so then all of a sudden it drops to the public hearing notice is ten days. So I think there needs to be – I think there's a lot of mistakes in the document, which is why it got so much flak.

Ms. Ehlers: Well, it could but the other thing was it got so much flak because people had eleven days to comment during _____.

Chair Lohman: Okay, we did vote to deny the – so let's move on to the next one which is I would like to appoint a bylaws committee of three people to report back to us their ideas, and I would also like to expand their duties to maybe look at this ordinance and what we also have and see if you have some suggestions on improvements. So I would like to kind of put you on the spot and ask Keith and two other people. Is that all right?

Mr. Greenwood: That'd be fine as long as Matt's part of it.

Chair Lohman: Matt? Matt, would you like to?

Mr. Mahaffie: Not particularly, but ____.

Mr. Greenwood: It'll help bring back the Planning Commission. It doesn't involve any public ____.

Chair Lohman: It's a subcommittee and they will bring their work to us.

Mr. Easton: Were you asking a question about how they meet and whether they meet publicly and all that? Is that what you were getting at?

Mr. Axthelm: No, no, no. It's more the fact that we're taking part of the Commission and bringing it down to three people instead of the full Commission.

Mr. Easton: Oh, it's just a subcommittee.

Mr. Axthelm: Because then it's still the –

Mr. Easton: So they'll bring back their recommendations to us about our bylaws and recommendations.

Chair Lohman: The last time we did the bylaws I ended up doing them by myself and then you guys all –

Mr. Easton: Loved them. Thanked you profusely.

Chair Lohman: No matter what, the product –

Mr. Easton: Will all come back to all of us.

Ms. Ehlers: You did the bylaws and you used blue ink instead of any other color, and it was so easy to read.

Mr. Easton: See? We *still* love reading it! So you're just looking for a third member now?

Chair Lohman: Do I have any volunteers? I get a get out of jail free card – I did it last year.

Mr. Easton: Yeah.

Ms. Ehlers: You mean you don't want to do it?

Mr. Greenwood: I would – can I suggest it be someone who likes this proposal and sees a lot of good in it and would like to pull out the stuff that they think is good in it?

Mr. Easton: Isn't that what you've got in Matt?

Mr. Greenwood: Yeah. Maybe another one, because I got tired enough of reading this – revising it – to where I stopped looking at it. And it was back behind to where – how did this start? So I have to start over.

Ms. Ehlers: That's a natural place to be. Would you like to be on that committee?

Mr. Greenwood: I think I would.

Chair Lohman: So we have Keith, Matt – Matt, you didn't even get a choice. You were appointed.

Mr. Mahaffie: I realize that.

Chair Lohman: Josh, do you want to? Jason?

Mr. Axthelm: What do you think the timeline is?

Mr. Easton: I'm going to say no. I can't do it time-wise.

Chair Lohman: It's up to you guys.

Mr. Axthelm: No.

Chair Lohman: You could do it all e-mail.

Mr. Easton: Because you're not – well, you should check with Ryan. Can they do it by e-mail? Because they're not a quorum.

Mr. Walters: Correct.

Chair Lohman: That means you can talk.

Mr. Mahaffie: Like I say, I mean, you should –

Mr. Easton: You guys could actually call each other –

Mr. Mahaffie: – you should be the third.

Chair Lohman: Me?

Mr. Mahaffie: You.

Ms. Ehlers: Yes, I think so, too.

Mr. Mahaffie: You know it better than anybody else.

Mr. Easton: It's true you know the bylaws better. It would make the bylaws part go faster.

Chair Lohman: I want a raise.

(laughter)

Mr. Easton: Okay. I vote yes. Put it on the same motion with Betsy's raise.

Chair Lohman: I'm not going to be the Chair of the subcommittee.

Mr. Easton: Let Keith be the Chair.

Ms. Ehlers: Actually that was the one thing we agreed on very easily in March at that meeting – that we didn't want to be paid.

Chair Lohman: What's double a zero? Okay, so the bylaw committee will be Keith, Matt and myself.

Mr. Easton: Thank you.

Ms. Ehlers: How do the rest of us give you comments?

Mr. Easton: Send them to Keith.

Mr. Greenwood: I'm going to say they're going to ask you for them.

Chair Lohman: Yeah.

Mr. Easton: You can e-mail them to Keith, right?

Chair Lohman: Well, you'll get updates at the Planning Commission meetings, and you can just _____.

Mr. Axthelm: Just because we're not a member of the committee doesn't mean we can't give our suggestions.

Chair Lohman: Right. Correct. They're just the ones doing the heavy lifting. Okay, moving on: Department Update.

Mr. Pernula: I don't have anything beyond this right now. This is what we've been working on mostly – this and the Shoreline Master Program.

Ms. Ehlers: I have a question for you.

Mr. Pernula: Okay.

Ms. Ehlers: The City of Anacortes is doing its Comp Plan in 2016 and they're having their first meeting in March on the 13th. One of the things I have noticed is that the official road map of Fidalgo Island looks like it was originally done in 1959 and not very carefully updated. So there are roads that are considered official that aren't. There are roads that are important and official that aren't on it. And the main highway through Fidalgo Island goes from Rosario Beach through Heart Lake through the forest to the one-lane road that's now in the middle of Anacortes through the high school gym, and it seems to me it's a little outdated. So I would like to suggest that perhaps the County and the City could work together on a correct, federally agreed-to road map for Fidalgo Island. And

perhaps there might be someplace else where some kind of cooperation might ensue that would improve.

Chair Lohman: Matt?

Mr. Axthelm: I have a comment before we adjourn. One thing – I went to the City Council – Mount Vernon City Council – and I noticed that their sound system, you could hear really well. And you could be this far away and it would still amplify the sound out in the speakers. A lot more comfortable, because if I'm talking to somebody over here I don't want to put my face over here and look at it. Dale, can we do anything about getting these upgraded so that they work better?

Mr. Pernula: I can ask.

Mr. Axthelm: If you would. Even – I mean, go right over there to the City Council right across the street. And it worked nice. I felt like everybody could hear. I was in the middle of it and you could hear the speakers and hear everything quite well. I mean, we've had so many complaints about these – about hearing people talk and I just don't want to put my face so close to that microphone all the time.

Chair Lohman: Well, they're not really made for amplification.

Mr. Easton: Because they're TV mics.

Chair Lohman: Right.

Mr. Easton: They're not really – they didn't –

Mr. Axthelm: So they aren't making them for ___I?

Mr. Easton: There's some sort of feedback problem with them being turned up in the room so they're constantly bringing the volume down in the house so they're not feeding back into the television. So most of what – this room's been set up for TV, not for live action.

Mr. Axthelm: Okay.

Mr. Easton: That's what I heard the last time I – that's what I understood the last time I asked.

Chair Lohman: It's after 9:30 and –

Mr. Easton: Move to adjourn? Is that what you're looking for?

Chair Lohman: Second?

Mr. Mahaffie: She needs a second.

Mr. Easton: I don't think you need one, do you?

Ms. Ehlers: Once it's been moved to adjourn, the rest of us have to shut up.

Chair Lohman: You've done it again.

Mr. Easton: I'm sorry, Carol. Did I cut you off?

(laughter)

Ms. Ehlers: Yes.

Mr. Easton: I feel horrible.