

Skagit County Planning Commission
Update: Transfer of Development Rights
Update: Bayview Ridge
Update: 2014 – 2019 Capital Facilities Plan
September 10, 2013

Commissioners: **Annie Lohman, Chair**
 Josh Axthelm, Vice Chair
 Kevin Meenaghan
 Jason Easton
 Robert Temples
 Elinor Nakis
 Keith Greenwood
 Matt Mahaffie
 Dave Hughes

Staff: **Dale Pernula, Planning Director**
 Kirk Johnson, Senior Planner
 Ryan Walters, Civil Deputy Prosecuting Attorney
 Kaci Radcliffe, Facilities Coordinator

Public Commenters: **Roger Mitchell**
 Randy Good
 Connie Munsey
 Ellen Bynum, Friends of Skagit County

Chair Annie Lohman: Welcome to the Skagit County Planning meeting. This is Tuesday, September 10th, and I'd like the Commissioners to please review the agenda and offer any amendments to the agenda or insertions. And I would like to say at this time I'd like to recognize our new member, Kevin Meenaghan, and to acknowledge Carol Ehlers who was appointed in 1988 and her approximately twenty-five years of service. If any Commissioners wanted to say anything about Commissioner – former Commissioner Ehlers, you can do it now.

Jason Easton: Well, I'd just like to say that seven years ago when I came on the Commission Carol showed me a lot of grace and a lot of help along the way and I was able to pass that along to her this week-end. I appreciated all of her service and all the things that she's done. She promised me that we will see her again and hear from her, I'm sure, in – I'm sure – future testimonies and all the different – other than – you know, she doesn't just attend these. She's involved in other County issues also. So I think it's as – I would have asked Dale but – it's been historically that the Commissioners do something for each of the outgoing ones.

Can you make sure that we are made aware of the date when they are going to do something to honor Carol?

Dale Pernula: Okay.

Mr. Easton: I appreciate that.

Chair Lohman: So were there any other adjustments to the agenda? Okay, seeing none, we'll move right into public remarks and Josh is going to be our timer. So if the members of the public who want to talk, if you'd like to come to this mic here, and please remember to say your name and where you live. So come right on up.

Roger Mitchell: Roger Mitchell, Bow. Madame Chair, Planning Commissioners, and fellow citizens, I appreciate the opportunity to share my opinions with you. Also welcome to our new member. We look forward to working with you.

Kevin Meenaghan: Thank you.

Mr. Mitchell: I had planned to share my considerable research and findings on TDRs this evening but I was reminded that I am prohibited from doing so because public comments are not allowed on agenda items. The more I thought about that prohibition of citizen input the more disturbed I became. Article 1, section 1 of the Washington State Constitution says that citizens institute government, and that government is required to do only those things that citizens consent for government to do.

Chair Lohman: Um, excuse me, Roger. You *are* allowed to speak. This is not a public hearing.

Mr. Mitchell: Well, that's not what it says.

Chair Lohman: Yeah, it does.

Mr. Mitchell: Well, I wish I'd have known that because the rules said that we can't speak to anything that's on the agenda.

Chair Lohman: If it's a public hearing.

Mr. Mitchell: No, that's not what it says.

Mr. Easton: So the second phrase – reading from the rule that's attached to the agenda – may I, Madame Chair?

Chair Lohman: Go right ahead, Jason.

Mr. Easton: “This time on the agenda is the opportunity for anyone to speak to the Planning Commission about any topic except items that are scheduled on the agenda for a public hearing that same day, or items that have had a public hearing and are still under Planning Commission deliberations.” And I would concur with the Chair that I believe that he would be fine to be able to speak to that in the future.

Mr. Mitchell: Well, that ship has sailed so I will continue with my –

Mr. Easton: Sure.

Mr. Mitchell: – with my comments. Again, government is required to do only those things that citizens consent for government to do. It’s called “consent of the governed.” The County website description of the Planning Committee contains the phrase “The Planning Commission is the County’s principle citizen advisory body.” I ask you: How is this principle citizen advisory body going to understand what instructions citizens have for their government if citizens’ input is arbitrarily and without due process limited or expressly prohibited? The irony is mind blowing. An additional irony is that citizens had no input into the Commission’s edict limiting and restricting public comments. In contrast, County staff have unlimited and unfettered access to spin their ideology while citizens sit by, helplessly limited or prohibited from offering a balanced alternative view. Also there’s a serious disconnect between the timing of citizen comments on a topic and the Planning Commission’s discussion of that topic. Further, citizens’ comments are unidirectional. There is no dialogue. Folks, how can you faithfully exercise your fiduciary responsibility to reflect citizens’ instructions for its government without having a dialogue with those citizens? There should be a dialogue between us on every agenda item. In addition, citizens should have no less time for input than staff and consultants do. Public hearings are not the answer for at least the following reasons: Typically they take place at the end of the planning process cycle, not the beginning or throughout as they should. Citizens’ input at public hearings is limited and restricted. Citizens’ input at public hearings is unidirectional. It’s not a dialogue. Staff summarizes public comments without any opportunity for citizens’ rebuttal of that summary.

To summarize, the Washington Constitution requires government that operates by consent of the governed.

Josh Axthelm: Time.

Mr. Mitchell: The current planning process makes it difficult for the Commission to exercise its fiduciary responsibility to reflect what citizens instruct their government to do. On-the-record citizen inputs to the planning process should be at the beginning of every process and throughout; unlimited and unrestricted; concurrent with the Planning Commission’s discussions; a dialogue, not –

Mr. Axthelm: Could you wrap it up, please?

Mr. Mitchell: Well, we had a little time there.

Mr. Axthelm: No, I took that into consideration; I stopped it.

Mr. Mitchell: Can I have about fifteen seconds, Madame Chair?

Chair Lohman: Yes. Go.

Mr. Mitchell: It should be a dialogue, not unidirectional; concurrent with and no less time than staff and consultant inputs; and not subject to staff summarization without citizens' rebuttal. Skagit County needs to adhere to the constitutional requirement for government to act by consent of the governed. Thank you.

Chair Lohman: Thank you.

Mr. Axthelm: Thank you.

Randy Good: Hi. Randy Good, 35482 State Route 20, Sedro-Woolley. We are witnessing a complete deterioration of our county governing process. Advisory committees and boards are becoming dysfunctional, and I mean they can no longer function properly and are driven by staff instead of being allowed to be citizen-driven. These committees are becoming puppets for County staff, County and City planners, and the County attorneys. The truth is the Planning Commission is being faced with reorganization due to Dahlstedt's failure – failure – to appoint replacements during campaign seasons. This Planning Commission is the last and now *only* citizens' voice. We as citizens only have maybe three minutes to address documents brought forward, whether they are ten pages or 500 pages, and our written comments are discredited by the County attorney who has the County Administrator's and the staff's agenda to follow. Is this what our County Commissioners really want: a government without citizen representation? Do not allow this to happen to this Planning Commission.

A special thank you to Carol Ehlers for all the time and dedication she has devoted to preserving and being the citizens' voice on this Planning Commission and for keeping this Planning Commission as one of the very few – and I mean very few – remaining boards or committees that is functioning properly in this county today. Thank you.

Chair Lohman: Thank you.

Connie Munsey: Good evening, Madame Chairman, Planning Commission. My name's Connie Munsey. I live at 1000 East Broadway in Mount Vernon. I would like to also take a moment to publicly thank Carol Ehlers for her many years of volunteer service to the citizens of Skagit County, particularly rural Skagit

County, as a Planning Commissioner. And I'd like to point out that I do not know Carol personally and I doubt if she would recognize me in any setting outside this room; however, my husband and I have attended enough of these meetings to objectively observe that Carol has played the role of devil's advocate in defense of landowners and taxpayers against the very people who are paid by our taxes. More often than not, Mrs. Ehlers has been the only person in the room who has exhibited that she has the experience and knowledge of land use, regulation and history, and the tenacity to speak up when the Planning Department initiatives overstep Department authority. In my opinion, without Commissioners like Carol Skagit property rights are in real danger of evaporating. Although we live within the Mount Vernon city limits, we have an interest in preserving the county's entire quality of life and rural flavor. People like us do not usually flee cities like New York or Seattle for more of what we just left. We have also got rural friends who are in constant fear of government agencies reducing their property rights and I include our County Planning Department in a department that they fear. Our government was created to empower the individual, not governmental departments whose ever increasing powers ensure their own self-preservation. With Carol on this committee we've skipped a few meetings because we felt that she was there keeping an eye on things. Now we're not so sure. I look forward to seeing which of you – and I sure hope it's all of you – will step up to the plate and assume Carol's role as a true advocate for taxpayers and landowners in Skagit County. Thank you.

Chair Lohman: Thank you. Anybody else? Come on up.

Ellen Bynum: Ellen Bynum, Friends of Skagit County, Mount Vernon. I'd like to address an issue of process, which we do not believe has been resolved by the Planning Commission in its deliberations and recommendations for the proposed new planning ordinance.

In researching the history and resolutions of appointing Planning Commission members, there is more than one incident where the appointment was made with errors historically. Either the length of the appointment or whether the appointment was as a fulfillment of a vacancy or a completely new, full-term appointment, the starting and ending dates of a few of the appointments were in error. In these instances there was another resolution passed by the Board of County Commissioners noting the errors and correcting the appointments. So this also sets the timeframe back to correct it so that there is the rotation that we're interested in preserving. The correction process has not occurred for the appointments that originally caused the BOCC to investigate changes to the legislative and operating processes of the Planning Commission. If the historical corrections are made, there is no need for reappointment of the Commission to recalibrate the terms. Although the Planning Commission's made written recommendations to the Board of County Commissioners this point was not included, to my knowledge. We bring this to you now so that you have an opportunity to add this to your agenda today and make additional comments to

the Board of County Commissioners at the September 24th public hearing. And I started reading the resolutions. I only did forty-eight of them, and this is a summary of the appointments with the resolution number and the names that – this needs to be redone, but I did do one for every one of you so that you have an idea of what the corrections are and how they're made. And you can go back in and look at those resolution numbers if you want to see how that works. I think we've made errors – you know, I assume – you know, if the court can say an error was made in judgment and it can correct itself, that any arm of government could do that including planning commissions. So I would ask that you consider doing that today because of the public hearing, or additionally if you individually think that this is a good idea and something that needs to happen, you could submit individual comments, I guess, on the 24th.

Mr. Easton: Just for the audience's sake on television, clarify that the September 24th public hearing in front of who?

Ms. Bynum: The Board of County Commissioners.

Mr. Easton: Okay.

Ms. Bynum: For consideration of the adoption of the proposed changes to the legislative and administrative functioning of the Planning Commission – of you guys.

Mr. Easton: Do we know the time on that hearing? I mean, there's people at home that may be – is that a morning?

Chair Lohman: I thought it was 10 a.m.

Mr. Easton: I think it's at 10 a.m. That's what I remember. Okay, thanks. Thank you, Ellen.

Ms. Bynum: Thanks.

Chair Lohman: Thank you. Anybody else? Okay, seeing none –

Male voice: 10:30.

Chair Lohman: 10:30.

Mr. Easton: 10:30 on the 24th.

Chair Lohman: On the 24th. So moving on on the agenda, item number 3: Update of the Transfer of Development Rights Project. Kirk Johnson?

Kirk Johnson: Here.

Chair Lohman: There you go.

Mr. Johnson: Good evening, Planning Commissioners. So I'm going to provide an update on the TDR project and the update is going to focus almost exclusively on the market analysis that's currently underway, because that's really the major thing happening at this point. And the Advisory Committee has said until we get final data or recommendations back from the market analysis – I mean, that's really the key to understanding whether this is going to work and how to make it work. So that's really the focus at this point.

So the purpose of a market analysis – a TDR market analysis – is to determine whether and where there's demand for development within the areas that are being looked at as receiving areas. And I'll talk about what areas we're looking at currently. And that development needs to be over and above what's permitted by the baseline zoning for there to be some way to have a threshold for a TDR requirement. If it's permitted outright then there's no TDR obligation. How that demand can be harnessed to conserve land, so if a developer wants to access additional development in a receiving area and there's a requirement to purchase development rights from a sending zone, how that transaction can be facilitated between the developer and – let's say – the urban area and the property owner and the sending zone, so that they can get together and negotiate a price that's acceptable to both of them for transferring that development right. And then we'll also provide an economic incentive for the desired development. So if your TDRs are priced or your program's structured in such a way where there's no economic benefit to the developer to going ahead to want to do the additional development that's allowed through the TDR, then there won't be any transactions, there won't be any development rights purchased from the sending sites, and there won't be any land conserved, and you won't have a viable program. So there are far more TDR programs in the country than there are ones that are succeeding, and one of the key things that distinguishes programs that succeed from programs that just exist is the programs that succeed have looked closely at the economics behind what it would take to have transactions that actually occur. So that's in a nutshell the purpose of the market analysis that we're in the midst of. Any questions so far?

(silence)

Mr. Johnson: Okay. So the market analysis is looking both at the receiving areas, or the receiving side of the equation, and also the sending side, and I'll talk about the receiving side first. So the areas that we're looking at as potential receiving areas are the Bayview Ridge Urban Growth Area and the city of Burlington. It's the one City among the eight in Skagit County that stepped forward and has said, Yeah, we'd like to be a part of this. We'd like to consider what role we can play. We sit in the midst of the farmland and the greater Skagit Valley and we want to be a healthy city and we also want to contribute to

conservation of lands that make this a great place to live. And then also we're looking at rural upzones. So if somebody comes into the County and says, I'd like to increase my development potential in my rural land then there might be a TDR requirement if that rezone is approved and they are granted more development potential there might be some requirement to purchase development rights to access the additional development potential.

Robert Temples: Kirk, I've got a question.

Mr. Johnson: Yeah?

Mr. Temples: Am I hearing you correctly that out of possibly eight major communities in this area only Burlington's the only one stepping up?

Mr. Johnson: So far, yeah. I can – the Town of La Conner is also on a TDR Advisory Committee, as is Burlington and Mount Vernon. I'd say they're open minded to TDR but they have so little additional development potential within their city limits. – they're surrounded by farmland and floodplain and the channel – that they just don't see a viable role for them. The City of Mount Vernon has had a TDR program that has worked in the past. The Mount Vernon City Council kind of changed its thinking on the residential development that was occurring through the City's PUD ordinance and said, We're not sure we like this and we're not sure that we want to encourage it through connection to a TDR program. So their TDR program is presently kind of non-functional and the City doesn't seem to have any interest in working with Skagit County to become part of a broader regional one.

Mr. Temples: I guess the reason I asked is I'm just thinking of communities like Sedro-Woolley. There's great potential there for residential development, and a lot of the commercial development has been hampered in probably literally the last thirty years or more. And when you look at the number of buildings that are closed over there with the potential of some kind of development, whether it's commercial or residential, there's a lot of potential in some of these other areas. But I guess maybe they just don't have the wherewithal to jump down this road. I don't know.

Mr. Johnson: Yeah, they're really – I think they have one planner – I mean, one Planning Director/planner who's stretched in a lot of different directions. But it would definitely be worth my talking to him and maybe reaching out to the Mayor or the City Administrator to see if they have an interest. I have talked about this several times through the Skagit Council of Government's planners group and, you know, basically encouraged the Cities to get involved just to be aware of the process and how they might fit in down the road. So we had interest from La Conner, Burlington and Mount Vernon, but not the other Cities. I've had some discussion – actually we've had a couple Anacortes City Council members come to a meeting of the Advisory Committee and talk about –

Ryan Walters: Not me.

Mr. Johnson: – right – where they thought there might be opportunities or why they thought there might not. So we've had that dialogue at least with a couple of the Anacortes City Council members.

Mr. Easton: So we don't actually have formal declarations from city councils or mayors that they're turning us down? It's more about – so the three that you said showed some interest you put on the – it seems like they ended up on the Advisory Committee, but even at this point Mount Vernon's not showing significant interest?

Mr. Johnson: Right.

Mr. Easton: Part of this, could it also be tied to what you said earlier, Kirk – that part of why – what might be holding the Cities back from showing interest yet is to see the marketplace analysis?

Mr. Johnson: Yeah, that's part of it. I mean, I've talked to Jana Hanson with Mount Vernon and I said you've got your downtown redevelopment. That's a great showcase project. It's exactly the type of thing where in Kirkland they're using TDR to provide an incentive. And she says, Well, frankly, the market's weak. We really want that to succeed. We don't want to put some additional disincentive on a developer to, you know, do the kind of development we want down there. And they perceive TDR to be potentially a disincentive, I think, in a weak market situation.

Mr. Easton: Because of the fact they would build too high a density?

Mr. Johnson: No, because basically right now they're saying, We'd love developers to come in and build residential above first floor retail. So if you had a TDR requirement you might say, We'd love the developers to come in and build their residential, but they've got to buy some of the development potential that they're going to be able to build versus the City saying, Have at it. We really want it. There's, you know – they're even considering lowering their impact fees for that type of development because –

Mr. Easton: As a magnet?

Mr. Johnson: Yeah. So I think TDR definitely works better where you have very strong kind of heated markets than where the market is weak.

Mr. Easton: Isn't there also a potential problem that current leadership of the Planning Department has – in Mount Vernon – has for at least six to ten years repeatedly said in meetings in the community that they are overstocked with

residential in the 80/20 side of things from just a plain GMA point of view, and that the 80/20 – for the benefit of our new member being that GMA calls out that 80% of the growth should happen in cities and 20% in rural areas – that as a part of their argument that they wanted more industrial land in relationship? So it would seem kind of counterintuitive then to turn around and say, Hey, we want more density?

Mr. Johnson: Yeah, and that's been an issue that the Advisory Committee's talked about a lot, saying here in Skagit County it may not be higher residential densities that are going to make TDR successful. We may need to look at linking TDR to additional commercial development potential or additional industrial development potential. And so that's what we're doing – I'll talk about it in a minute. We did an initial look at Bayview Ridge for industrial and we've done an initial look in Burlington for additional commercial potential, and we're going to move forward in the final phase of the market analysis to see if there might be a way to say, Developers, you know you can build to this box without TDR and you can build to a bigger box with TDR, and to see if that can work. And if we can show it can work in Burlington then maybe we can show other Cities that it doesn't have to be just increased residential densities, which jurisdictions and residents have mixed feelings about.

Mr. Easton: So I don't recall ever hearing of an example where industrial or commercial was tied to TDRs from some of the examples we've been given before. Maybe I missed it. Is that something that we'd be kind of blazing a trail on?

Mr. Johnson: There are a lot of examples.

Mr. Easton: I'm more used to the densities ____ Portland.

Mr. Johnson: Yeah, as close as Seattle or the surrounding cities where there's – you can build to an additional floor to area ratio which is a relationship with how many square feet you can build on a given footprint. And you can access that through purchase of TDR. There are ways where they're waiving parking requirements in cities where there's parking requirements and it basically has to be structured parking – you know, parking buildings where a parking space may cost \$30,000. And so they're saying, If you'll purchase a development right we'll waive a parking requirement. So there are ways trying to integrate TDR with commercial. There's one example in Warwick County – or Township – Pennsylvania, where they created a new kind of commercial-industrial area and they put in infrastructure and they marketed the heck out of it and they've done a great job of selling. Basically they set a very low impervious surface threshold, or lot coverage threshold, of 10% for the commercial-industrial zone and they said you can increase that by purchasing development rights. And, hey, it's just kind of a cost of doing business here and you're helping to preserve the farmland that we all cherish and we'll include you – you know, we'll give you public recognition

and the like, and apparently it's generated a lot of TDR purchases. But that was kind of a unique example where it was a newly created industrial area versus, say, going to Bayview Ridge and saying where you used to be able to have 50% lot coverage or unlimited lot coverage now you start out at 10 and you can only go above that by purchasing it. That doesn't go over too well when you start taking existing, you know, allowances and ratcheting them down.

Mr. Temples: Kirk, I'm trying to understand. Are there other communities, other Cities, jurisdictions, locally that are using a TDR that's working successfully, or it's marginal like Seattle or Everett, Bellevue – I don't care where you pick it. Is there anybody else locally that's doing this successfully, to your knowledge?

Mr. Johnson: King County has a program where if you look at the acres of resource land conserved it's quite successful. I mean, it's in the hundreds of thousands of acres of forestland. I think their initial focus was on Industrial Forestland. Some of that was done where I think the County gave money to the TDR program to purchase the development rights, which sounds more like a purchase of development rights program, but then the program was able just to sell the development rights to developers. So that's kind of working like a TDR bank. But then other of the transactions that have happened through the King County program have been private market transactions between, you know, a developer and a –

Mr. Temples: – specific ___.

Mr. Johnson: Yeah. So I can't quote all the numbers off the top of my head but I'd say King County is considered one of the most successful programs nationally. There are other ones that have worked fairly well and then there are other ones, like I said, that haven't worked at all. And then there's programs in Maryland that have been up and running for twenty or thirty years. There's a paper on the TDR project website that Ellen Bynum provided that was kind of a retrospective look at how the program has worked and where it hasn't worked so well. So there's a lot of examples to learn from some successful and some not so successful.

Chair Lohman: Kirk, can I ask you a question? When you were referencing King County, are they partnering – who are they partnering with? Or is it more dense development within the county, or is it – what Cities?

Mr. Johnson: They've partnered – and again I wish I had more of an encyclopedic memory – but they've partnered with a number of Cities, so Seattle, Issaquah, Kirkland, Mountlake Terrace, and those Cities are a part of the County TDR program. I mean, they have their own TDR programs and they accept transfers from the County. And then I think King County also has some of its own non-municipal urban growth areas or urban centers that aren't cities where

development rights can be transferred. So some of it's within the county and some of it's to participating Cities.

Chair Lohman: And are they residential-centric?

Mr. Johnson: What's that?

Chair Lohman: They're residential?

Mr. Johnson: The programs?

Chair Lohman: The program.

Mr. Johnson: I think they're both. I mean, I think everybody's trying to look beyond just residential. Now there's a stronger demand down there for higher density residential development and so that – you know, that's viable there and it's working in some cases, but they're also looking at – and really I've used this example before but I went to a meeting of ten Cities that were working on TDR programs, and I'd say two-thirds of them saw TDR as, Oh, yeah, this is a great incentive that we're providing to developers in our downtown where we really want redevelopment, we want the multi – you know, the residential above retail. And offering the ability to build higher or whatever is a huge incentive and it's a cornerstone to our success. And then the other third – and I think they were more outlying – were like, Well, our elected officials just see TDR as one additional hurdle in the way of what we want to achieve in our downtown or whatever. So it's, I'd say, real strongly correlated to how strong the development market is in a particular jurisdiction – whether it's seen as, and maybe in truth whether it works as an incentive or a disincentive.

Elinor Nakis: It seems to me that it's just one more fee to tack onto a developer's list of fees that they already pay.

Mr. Johnson: Well, that's why I – that's one of my first, I guess – I mean, that's one of the keys to making it work. So if you're not providing an economic incentive for the desired development for the developer, then it is just a fee. It's not a TDR program. It's like an impact fee. So the way this is structured is like at Bayview Ridge the County has said in the Subarea Plan and in the proposed PUD ordinance, you can develop at four units per acre in Bayview Ridge Residential and, in fact, you *must* develop at at least four units per acre in Bayview Ridge Residential when the PUD ordinance is put in place. We'll allow you to go to six if you purchase the potential to do those two additional development rights. Now if the County wants that to happen then you wouldn't want to price it such that there was no incentive to the developer to build the two additional development rights. I'm not a developer. I can't speak developer talk. But, you know, your profit potential is \$2,000 and your cost of doing it is \$2,000. Are any units going to get built? No. But if your profit potential is \$2,000 and the

cost is 500, then maybe you'd be willing to do that. And so there's a little bit of a windfall – or not a windfall but increased economic incentive to the developer but it's not just like saying oh, you can build to six. It's saying you can build to six with going out and purchasing development rights which then helps to conserve land in areas where the County has said that that's important to do. So some people see it as a win-win, where the developer's happy because they can access more development rights, they have increased profit or return on investment, and some property owners are interested not in developing their property in the rural area but in selling the development rights so they have cash flow for their farming operation or their forestry operation or whatever.

Mr. Easton: So my experience with developers is that the second most important thing – or sometimes the *most* important thing – to get to the money is the time.

Mr. Johnson: Mm-hmm.

Mr. Easton: So a TDR program that doesn't lengthen the period of time it takes to get to market is almost as critical as the amount, because it directly affects the cost of – I mean, the longer you have to spend on money the longer it takes to get to – if you're trying to catch a particular market – as we've experienced watching Bayview, at least in the seven years I've been here, I've seen probably fifteen different real estate markets manifest in those seven years that would have had different effects on whether these projects were ready – some of these potential PUD projects would have been ready to go. So time is what – is the Committee considering how much time would be – how time is affected on these sort of applications?

Mr. Johnson: It's definitely an important issue and there are things that a jurisdiction can do to try to shorten the time, if TDRs are used by like a programmatic EIS for an area so that the individuals (who) develop the projects don't have to jump through that hoop, that it's already done. But we haven't really gotten to the point of what the transaction mechanisms would be. Would it be just buyer/seller? I mean, that's kind of the most efficient, the least public dollars invested and kind of being a middle man and the like. But if there's a buyer interested in buying development rights and there's no one currently wanting to sell then that's your time issue. So if you have the County playing kind of a banking function where it's pre-purchased a certain number of development rights and somebody can just come in and say, I'd like to purchase – or if you have a density credit program where there's a fee where you – you know: I'm in Bayview Ridge Residential and I want to go to six units per acre. You know, how do I have to do it? Well, each unit costs x, sign here, write the check, and you're good.

Mr. Easton: I appreciate your EIS comments. The lack of a buyer and a seller is not the type of time I was speaking to. It's more about vetting, approval, additional paperwork, processing, your PR as an entity in the United States,

specifically in Skagit County; whether you are turning permits around a lot faster than you used to or whether you're not, the perception that you don't is damaging to your reputation. If you add – one of my concerns is if you add what appears to be the option to take on another layer when you have a department that has at least some reputation at times – or, in general, planning departments have a reputation – that things take time to process and that's another potential – you're trying to take the opportunity to turn down the idea of using this and making – you know – making the “no” softer so there's more opportunities to say “yes.” Because my biggest concern – one of my biggest concerns, we put a bunch of time and a bunch of resources – and, granted, we can have a long philosophical debate some other time about grant money, but we are spending different types of money than we would usually on this project, so that makes me feel a little bit better – that we get to the end of the process and realize that it's not – that we just spent a bunch of time figuring out that the process isn't going to fit here. I know we can't – I don't want to make any assumptions, but I just would like you to carry from me back to the Committee that time – as much as money and a financial analysis is important, a quick, efficient process – and I'm going to put “government” in that same sentence at the same time – happens in relationship to this issue so that it doesn't become another potential stumbling block to the developers that are involved – or, for that matter, even for the Cities that are involved. I mean, if you're going to take small Cities or Towns like La Conner or Sedro-Woolley, even though it's larger, they don't have unlimited staff, they don't have unlimited people that deal with some of these issues so it's going to be important to make this as turnkey as possible because the staffs are stretched.

Mr. Johnson: Yeah, I think those are all very good points.

Mr. Temples: And I see a big difference in the fact that when we talk about Bayview it's basically starting from scratch. It's all brand new development which is going to have a whole different economic spin to it than what I think the County has right now. I venture to guess in commercial property we probably have close to half-a-million square feet that's unoccupied. I mean, you could go anywhere. You've got big block buildings that are just empty. There's a lot of commercial land that's not being developed, and for a lot of certain developers that's things they really want to jump into. And how that's going to impact the fees, based on what you're talking, I mean they're kind of really different animals.

Mr. Axthelm: I wonder sometimes if it's – if the TDR program, although you're trying to increase interest and increase density in certain areas, that if it might be discouraging it. Because now instead of going and purchasing a parcel of land that has a desired density and you develop to that desired density, you now have to go purchase another parcel of land or a development right, then go back and transfer it over and have extra paperwork and extra finances tied up, as compared to going to a parcel of land saying, You have an overlay area I want to develop to a certain density. So it seems to me that you just change your zoning and that would encourage the development, because now you're showing that

you're wanting growth, versus a TDR program which then in order to get that growth you have to go purchase it to get the growth. So I would think you'd want to change your zoning directly.

Mr. Easton: _____ Mount Vernon was saying.

Chair Lohman: Well, and that's my question is for the sending area, why would – what's attractive to participate in a TDR program versus, like, the Farmland Legacy Program? Because I recall a prior work session where I think it was Mr. Lisser was talking about it's light years' difference in monetary payout to the property owner. And so what is a property owner giving up when he's participating in a TDR versus if he just participates in the Farmland Legacy Program?

Mr. Johnson: Well, you can only participate in Farmland Legacy if your land is in Ag-NRL. So you've got rural landowners, forest landowners, landowners in Rural Resource that may have – you know, may farm their land, but as I understand Farmland Legacy it only purchases development rights from Ag-NRL. So there's to some extent an equity question: you know, why are we focusing all of our energy on Ag-NRL and not other lands and other landowners who may want to have an opportunity to be compensated for conserving their land, but there isn't much out there. I think it's pretty clear that a TDR program is not going to compete with the 85,000 to \$100,000 per development right that is going for Ag-NRL land. Typically my understanding is in other counties that have TDR programs that have evaluated the value of development rights on different types of land, the ag lands tend to have the highest value. TDR may not work that well for ag lands or they may not work that well for the same ag lands that are the most likely to convert where there's the highest economic pressure. They may work for lands that are far distant where a property owner is willing to accept something less than 85,000 to \$100,000 per acre to sell the development right.

Also the Farmland Legacy Program conservation easement retires more than just the residential development right. My understanding is it has additional restrictions on it like an impervious surface restriction to it, and so that's in part what is raising the price of those development rights – is because it's not just removing the residential development right. It's removing other uses of the land, whereas a TDR easement would probably be a blanket easement, you know, regardless of whether it was ag or Rural Resource or whatever. That would just talk about the residential development right.

So there may be a lot of reasons where TDR just wouldn't function in Ag-NRL. The County, if it were to set a program up, might say Farmland Legacy's doing a good job in Ag-NRL. Let's have TDR focus on something else. But we do have Commissioners like Commissioner Dahlstedt who are saying that available federal funds for Farmland Legacy are becoming scarcer and are coming with more and more strings attached. Like, you know, if you use federal dollars to

preserve farmland you've got to have buffers on any waterways that go through. So maybe if we're seeing federal dollars on the decline we should be looking at other ways that we can offset that loss and maybe one of those ways is using the private marketplace to help achieve conservation goals. So all fair questions and a part of the discussion.

Keith Greenwood: Is it possible that – you know, just because I remember some previous discussions that part of it is having a process or a system in place that you could tap into when the market makes it attractive. And there might be times when it sits on the shelf and just doesn't happen, but if you're not ready it *won't* happen. So, you know, maybe the Mount Vernon approach – they have a program at least so that when they decide they need it it's in place and you can make it active. And I think Commissioner Dahlstedt, I remember him saying at one time that he just didn't want to give away something that he thought had some value to it. So if it doesn't have value now, then maybe there's times where, you know, a municipality wants to give it away. But I think he was looking at having a system in place to where when market forces drive it that it's available.

Mr. Johnson: And that's kind of – I mean, this is a real good discussion and, you know, maybe it's not that important to get to the other slides, but that's, I think, one of the key findings of the first two phases of the market analysis, is that if the County were to create a TDR program tomorrow it's not going to result in a huge number of transactions and a huge amount of land conserved, probably the biggest reason being that we just went through, you know, The Great Recession and there isn't that much demand right now. But that may change five or ten years from now and that also may change as – we've got zoning that's out there, we've got capacity that's out there that has been given away basically. You know, you can build to this amount through zoning and so there's no way except through a downzone to put in place a TDR requirement. So it may take five or ten years for a lot of that existing capacity to be built out.

At that point, like with Bayview Ridge Urban Reserve, the County has an opportunity – I don't know if it'll take it or not, but it has an opportunity. You've got your – Urban Reserve is one unit per 10 acres or two per 10 with a CaRD. If you suddenly jump into Bayview Ridge Residential, you're at four to six units per acre. So you've gone from one per 10 to four to six per 1. That's a pretty big, you know, jump. So the question is: Should the County look for a way to still provide the economic incentive for the property owner when there's demand to want to be zoned into Bayview Ridge Residential but try to capture a little bit of that zoning windfall to help achieve conservation? Or does the County just say: You want to rezone to Bayview Ridge Residential? You got it. And an opportunity has passed. Maybe it's an opportunity that the people or the Commissioners in Skagit County don't want to take advantage of, but, I mean, I've heard people like Commissioner Dahlstedt say, We shouldn't be buying development rights on the one hand while giving them away on the other.

Chair Lohman: But also over time zoning is somewhat arbitrary and we extinguished people's development rights or one of their property rights just unilaterally, where somehow or another other people have been able to preserve it even within the same zoning zone. So some could perceive that as being a fairness issue. Because who's to say that in another few years that, you know, maybe the zoning in Ag becomes one in 80, like in timber? So while we have a history of extinguishing rights right and left with no compensation, some of us have a hard time with that because it's a fairness issue for rural property owners.

Mr. Johnson: So you could flip that around and say TDR is a way to say, you know, maybe Ag-NRL at one per 40. Well, that's very restrictive zoning. Maybe some farmers, some organizations like Skagitonians to Preserve Farmland, the Farmland Legacy Program don't feel one per 40 zoning is enough over the long term, over the next twenty-five, fifty years to protect those resource lands for long-term commercial use. So we have a Farmland Legacy Program that buys those development rights from property owners who voluntarily want to sell them. So, you know, the County could try to say, Well, one per 40 isn't going to protect it so we're going to downzone you to one per 80. But they've come up with Farmland Legacy. That's using public dollars to purchase the development rights. TDR basically is using the private marketplace to try to do the same thing for willing property owners to achieve conservation goals. You know, you could just downzone. A lot of people think that's unfair. I don't think the County Commissioners have a desire to take away people's property rights where there aren't, you know, broader federal or state mandates that are making them do things. So you could see TDR as a way – an incentive-based, market-based way – to provide rural land owners or resource land owners the option to sell a development right that they don't particularly care to exercise but they would sure like to have the money for that. So it's just another way of looking at it.

Chair Lohman: Sorry. We took you off your slides, didn't we?

Mr. Johnson: No, that's okay. I mean I guess I'd rather talk about what you're interested in than what – you know – I'm interested in or planned to talk about.

Chair Lohman: But you can jump right back on, though!

Mr. Johnson: I can try to just sort of go real quick. So those are the areas we're looking at. So Bayview Ridge, looking at the bonus density potential that's already in the Subarea Plan and is proposed in the PUD ordinance of allowing going from four up to six units per acre – potentially looking at a TDR requirement and what the economics of that would be for rezoning from Urban Reserve to Bayview Ridge Residential and then also looking at industrial development.

City of Burlington: Looking at additional residential development in commercial and mixed use zones. And this isn't the County, you know, telling Burlington what it needs to do. This is working directly with the City of Burlington and saying, What are your interests in kind of analyzing the market within your own city for residential development, commercial development; looking at the opportunity to tie TDR to additional commercial intensity.

Rural upzones: an upzone that resulted in increased residential development potential. Last year or two years ago you processed and recommended approval of one that took two parcels from Rural Reserve and put them into Rural Intermediate, so they went from basically one per 10, or two per 10 with a CaRD, to one per 2 ½, or basically four per 10.

Mr. Easton: That's the references to out on Pulver?

Mr. Johnson: Yeah.

Chair Lohman: No. No.

Mr. Johnson: No, it was Bayview.

Chair Lohman: It was the Jensen-Peck.

Mr. Johnson: Yeah, Jensen-Peck.

Mr. Easton: Okay.

Mr. Johnson: So just really looking at the economics of what it would take to make that work and then the policy questions to be discussed later with you and the County Commissioners of whether it should be put in place.

So, again, short-term TDR is not likely to be a house on fire due to the recession, and existing zoning decisions that were made five, ten, fifteen years ago that created a lot of capacity in certain instances. It does look like there may be some potential for the two units of density bonus in Bayview Ridge and possibly for higher residential densities in some of Burlington's mixed use zones, like its downtown area where it has sold a couple of density credits to somebody who wanted to put apartments above their ground floor retail use.

Over the longer term, five to twenty years, which is the horizon we plan under for UGAs, market potentials likely to appear as existing capacity is used up and demand emerges to create more of that capacity to meet the population growth that will likely be coming here over time.

Not many rural upzones are processed in a year, but they tend to have more buying power than an urban residential development right would. I heard

anecdotally that one of the lots created in the Jensen-Peck project might sell for \$300,000, so that's a lot more than \$15,000 for an additional development right in an urban area so – you know, should the County look to harness a little bit of that upzone potential or that windfall to help achieve conservation.

We looked at Bayview Ridge industrial. The demand, at least based on past trends over the past ten years, doesn't indicate that the existing industrial zoning will be used up, say, in the next ten to fifteen years. I know that's counter to some of the recommendations that have come out of the Envision process, and in part it depends on how fast you assume industrial development is likely to happen here in the future and whether the County puts in place more of a coordinated marketing effort, whether Bayview starts to capture more of the county's industrial development because places like Mount Vernon don't have anywhere to grow. But at least for TDR, it doesn't look like there's a good link with industrial development at Bayview. Maybe in Burlington commercial.

So the final phase of the analysis is using what was learned in the first two phases to try to focus in on, you know, what the best opportunities would be from a market perspective, and then again the policy discussion comes: Okay, it looks like the market would work for this transaction. County, are you interested in putting a requirement in place? And it will provide – with the PUD ordinance and the Subarea Plan coming out late this month or early next – it will provide hard market data or financial data necessary to really understand if there is going to be a density credit purchase requirement to do those two additional units of density in Bayview Ridge Residential, what the market would probably bear for those.

So that's it.

Chair Lohman: Thank you. Any other questions from the Commissioners?

Mr. Johnson: You guys have great questions and it makes me think, and if anyone wants to get together to talk more about the project please just give me a call.

Chair Lohman: Are your – is this slide show on the website?

Mr. Johnson: I could put it on the website.

Chair Lohman: Could you please?

Mr. Johnson: Yeah. Yeah. On the Planning Commission website or the TDR website or maybe one linked to the other?

Chair Lohman: Or to both?

Mr. Johnson: Okay.

Chair Lohman: I thought it was – I liked your slide show.

Mr. Johnson: Just goes to show that what you put together in forty-five minutes is often better than what you put together in five hours.

Mr. Easton: You gave away your secret there!

Chair Lohman: You're not supposed to say that!

Okay, moving on: an update on Bayview Ridge.

Mr. Pernula: I'll begin it. This'll be probably a little more brief update because I think we've been keeping you guys involved in a lot of things. We had the PUD ordinance and development standards, and I have copies here if you need to take a look at those. We've had a presentation by Bob Bengford of MAKERS, keeping you up-to-date on what's in that. We also held a neighborhood meeting where we got a lot of good input from a lot of people. It was very well attended. And at last month's meeting of the Planning Commission you went on a tour of Bayview Ridge and you were able to take a look at the industrial development, the residential development, and also where the various elements of the Bayview Ridge Subarea Plan proposes various kinds of uses.

So what I'd like to do right now is go over the current Bayview Ridge Subarea Plan just from a very broad, high level perspective, and recognize that there are some amendments being made to it to reconcile the plan with the PUD regulations and the development standards. Did you want to go over the –

Mr. Walters: Well, I would just say that, first of all, your meeting last month was your orientation to the *physical* Bayview Ridge. This is your orientation to the *legal* Bayview Ridge.

Mr. Easton: I don't think your microphone's on.

Mr. Walters: It says it's on.

Mr. Easton: Okay.

Mr. Walters: Maybe I'm not close enough.

Mr. Easton: Can you turn it up in the house, please?

Mr. Walters: On the screen is the table of contents of the existing Bayview Ridge Subarea Plan. And there will be some changes to the 2008 adopted Bayview Ridge Subarea Plan to make it internally consistent with the new PUD regulation

proposal, and also to bring it up-to-date because it was written in 2004, updated in 2006, 2008, so there are quite a few things that are just a little bit out-of-date, especially in terms of the narrative that's in there. For instance, chapter 1, Existing Conditions in the Bayview Ridge Subarea, has just lots and lots of narrative so there's a lot of – there are a lot of changes you'll see to say that Higgins Airport Way and Highway 20 is signalized now; Highway 20 is now four lanes instead of two lanes; and, you know, a lot of that kind of stuff. The two chapters that are in bold, chapter 2, Land Use, and chapter 4, Community Center, are maybe the chapters that are getting the most substantive updates because the size of some of the zones may change, but there will be a lot of changes all the way through. And we have converted the Subarea Plan to Word and have a track-changes version so we'll be able to see each of those updates. But a lot of them are just really fun – dates and making things past tense.

Chair Lohman: But that'll have a public process – all that changing that you're –

Mr. Walters: What's that?

Chair Lohman: All the changing you've just told us about, it's going to go through the public process, right?

Mr. Walters: Oh, yes. Yeah, the Subarea Plan as a component of the Comprehensive Plan will come to you with the package of the development regulations, the PUD code, and the Subarea Plan together so that you review it all consistently in a coordinated fashion.

Chair Lohman: And the Community Center doesn't mean a clubhouse.

Mr. Walters: Correct.

Chair Lohman: You're talking like a village center.

Mr. Walters: There's actually been some confusion about that. But yeah, the Community Center is a zone and this is the map, which is not quite as vibrant – there, it's pretty vibrant. You can see the different zones, and the BR-CC on the existing land use plan map that's in the 2008 plan is 40 acres, I think, and it will probably be shrunk in the Department's proposal. So it's not a clubhouse. It's a bunch of acreage.

So that's the table of contents for the Subarea Plan. We also have the table of contents for the PUD code and the existing development regulations and the new development standards. So these are all the regulations that were built for the 2008 Subarea Plan and they're all in the County Code in the Zoning chapter, chapter 14.16, so you can look through them there. But they're also all referenced in the PUD code. And the table of contents for the PUD code is here. It would create a new chapter in Skagit County Code, chapter 14.46, which would

be titled "Bayview Ridge," and that chapter would be divided into four parts – or five parts. The parts are numbered one through five and the part number corresponds to the section numbers. So part five is all the 500 sections. We tried to make this as simple as possible. And they're broken out, as you see on the screen: first some purpose statements and applicability – when it is you use this chapter versus the standard zoning chapter; and then the PUD process – how you apply for a PUD and how the application is reviewed; then there's the zoning provisions – these are the development standards, what development looks like inside a PUD; and then there's the community design provisions, which is how elements of the PUD come together, what the Community Center looks like; and then Project Design. So we've got all of these sections. We, I don't think, intended to go through them all tonight. You got them back in April. The draft that the Department releases with everything else will be updated a little bit – you know, there will be some changes that have come along – but it'll essentially be the April draft that you've seen.

Mr. Meenaghan: Why don't you give an estimated time when we're going to be seeing this?

Mr. Pernula: I have a brief summary of the key timelines.

Mr. Meenaghan: Okay, thank you.

Mr. Pernula: Okay, there are several different things that are going to be occurring in the next couple of months. First of all, next Wednesday – that's September 18th – at 11 in the morning, right here in this room there will be a mandatory consultation with Washington Department of – the Aviation Division of the Washington Department of Transportation, the airport management, the Port of Skagit and the pilots regarding the compatibility of land use in the airport environs with the plan.

Mr. Easton: Just the proposed changes, right?

Mr. Pernula: That's –

Mr. Easton: Are we reopening the box that was approved before, that was checked off – you follow my question?

Mr. Pernula: I follow your question. I think that it should be focused mostly on the changes but, you know, they're consulting with us and they may provide us more information than that.

Mr. Easton: Okay.

Mr. Pernula: What may be important is what the Board of County Commissioners and the Planning Commission use that information for.

Chair Lohman: So how are you going to communicate that meeting to us?

Mr. Pernula: You're invited to come to that meeting, but we can also – you can look at the tapes, we can get some transcripts and so on.

Chair Lohman: So it's going to be put up on the website somehow?

Mr. Easton: Televised?

Mr. Pernula: Yeah, I believe it will be. I would recommend that it be. Then that same day on September 18th we're going to have another community meeting. We're going to hold it in the Port offices. Rather than just having a broad general meeting, we're going to target some specific issues. The first meeting, which will be on the 18th at 6 p.m. at the Port offices, the topic will be the Growth Management Act and density. When we held the first meeting there were lots of questions about the Growth Management Act – what it meant and how it works – and so we're going to provide some materials regarding that, and also regarding density and what four to six dwelling units per acre means. We'll have photographs, plans and so on to demonstrate what we're talking about with those kinds of densities.

The second of those discussion group meetings will be held on September 25th at the same place, the Port of Skagit office, and the topic will be Roads and Transportation, and the Engineering Department/Public Works Department will be present. There may be a third additional meeting held out there as well but we don't have a date set and we don't have the specific topics yet as well – could be schools, could be drainage, could be some other issues as well.

The next important date is that we would like to package all these documents that Ryan was talking about – the PUD ordinance, the design standards, the Subarea Plan and so on, and release those for review sometime before October 11. The reason why we're targeting October 11 or sooner is that that will give a 45-day review period for the public prior to the public hearing that we wish to hold this year.

So those are some of the key dates and that's what's happening in the next few months. It's going to be very busy to get this thing done.

Anything else, Ryan?

Mr. Walters: Nothing from me.

Mr. Pernula: That's it.

Mr. Greenwood: Can you clarify for me – what was the time of the meeting with the Board of Commissioners?

Mr. Pernula: That will be next Wednesday, September 18th, at 11 a.m. right here.

Mr. Greenwood: Okay, thank you.

Chair Lohman: And the second community meeting's at 6 p.m. also?

Mr. Pernula: Yes. The one on the 25th will be at 6 p.m. as well.

Mr. Temples: Can I possibly make one suggestion, because I just started doing this on something else and it's really pretty helpful? Instead of generating tons and tons of paper reports on all this thing – and I know you can put stuff on the website, which I've been downloading some – nowadays flash drives are getting to be about as cheap as possible. If you wanted to save some printing time, you might just – at least for the Commissioners or something, if we've all got computers – just do it on a flash drive so we can just plug the suckers in and not eat up a lot of paper. Just an idea.

Ms. Nakis: Good idea.

Mr. Temples: Or a CD.

Mr. Walters: It's interesting that you mention that because the next topic will address that in some detail.

Mr. Temples: I just did a report that was 410 pages and got it all scanned and put onto CDs for the presentations. It worked slicker than I even dreamt.

Chair Lohman: CDs are almost obsolete.

Mr. Walters: I do encourage you to go to the Bayview Ridge website sort of separately. You should go to that website because we do put a lot of information up there. It's mostly grouped by topic, so if you're interested in interaction with the airport then the airport stuff is altogether. And the packet that the Department provided to the airport operators, the pilots and that kind of thing – that was all one big pdf with all the links to all the other pdfs that you might want to read, and the airport master plan and that kind of thing.

Chair Lohman: Well, I recall that at some meeting the Aviation segment of DOT pointed out that maybe the consultant's using the wrong book, so was that rectified?

Mr. Pernula: Well, there was a 1999 guidebook. This is the 2011 version of that book. Most of our plan was based on the 1999 guideline because we've been

working on this process for a very long period of time. This came out in 2011 and there are different guidelines than there were in the 1999 book.

Chair Lohman: So do you anticipate some large changes or are they significant or what?

Mr. Pernula: Yeah. There's one that's been pointed out already to the Bayview School District and that's that they do not recommend locating elementary schools in what's called Zone 6, which encompasses most of the Bayview Ridge area.

Mr. Walters: Although that's not a *new* recommendation. The Planning Commission – I think the way the history goes is the Planning Commission recommended that schools not be included back in 2006 but the Board of Commissioners adopted the Subarea Plan *allowing* schools in Zone 6. And they're allowed today.

Chair Lohman: So they would not be allowed under the new DOT guidelines?

Mr. Pernula: That's their recommendation. Our proposal still has them permitted, but their recommendation will be that – they informed us that they would make that recommendation that they not be permitted in Zone 6.

Mr. Easton: Is the current school in Zone 6?

Mr. Pernula: Yes.

Chair Lohman: Any other comments/questions from the Commissioners?

(silence)

Chair Lohman: Anything else on Bayview Ridge? It's huge! There has to be something else!

Ms. Nakis: I do have a question. I hear a lot about Burlington being limited and how they can expand their city limits. Couldn't they expand their city limits up Peterson Road and move into that Bayview Ridge area?

Ms. Bynum: That's been visited before and the answer is "no," from the Washington Growth Management Hearings Board.

Ms. Nakis: Okay.

Ms. Bynum: So that's not an option for them.

Unidentified male: If they were to be contiguous, they'd have to – the City would have to inform them, I guess.

Ms. Bynum: Right.

Ms. Nakis: Oh, okay.

Ms. Bynum: (unintelligible)

Chair Lohman: Okay, so –

Mr. Easton: You can't build George Jetson-style cities with, like, pods.

Mr. Temples: ___ has.

Mr. Easton: Mm-hmm.

Chair Lohman: So _____ our agenda, item number 5: an update on the Capital Facilities Plan. Is that you, Dale?

Mr. Pernula: No, it's going to be Ryan and Kaci.

Mr. Walters: You go first.

Chair Lohman: If you could introduce Kaci to us. I'm sure we're going to have more questions.

Mr. Pernula: Okay, in your packet you were given some materials, three different items. One is from the State of Washington Department of Commerce regarding capital facilities planning, and then two articles – one is a follow-up of the other article – regarding capital facility planning. They're all pretty good articles and I hope you have the chance to read those articles. The first one is called "The Third Promise of the Growth Management Act." And the Growth Management Act made some promises of three different things. One is protecting critical areas – critical natural resource areas; the second is focusing new growth into designated urban growth areas; and the third is ensuring that new development would be served efficiently by adequate public facilities, and that's really what this is about. If you're going to have this growth, make sure that you have the funds to fund the expansion of those utilities to those urban growth areas. So really the second and the third items go together well. The follow-up article I think expands upon it a little bit and talks about the importance of it, establishing minimum standards, et cetera, not just for the six-year capital improvement program but for a full twenty-year period.

One thing that the articles did talk about a little bit is that, for counties at least, you have all these various districts that are serving the capital facility needs. And

I would say that that, if anything, is one of the biggest difficulties here, in particular with Bayview Ridge. We have a few different drainage districts, we have a few different fire districts, we have a school district and a few other districts that we deal with, and it's a difficult thing to deal with so many districts. Cities often provide many of those services themselves.

Mr. Walters: So I had planned to provide you a statutory overview of what a capital facilities plan is supposed to include. So we have a couple of slides here. And a lot of this may be – actually all of this is – verbatim from GMA and then in the Capital Facilities Plan draft that you received, the reason for that being future planners can then read the draft and figure out what it is they're supposed to do. GMA has a lot of instruction for what jurisdictions are supposed to do for capital facilities plans, but I think – as is typical with most of GMA – it's all sort of piecemeal in the statute. So it's difficult to find in one place in the statute what it is the jurisdiction is supposed to do in order to have a compliant capital facilities plan.

The first thing to note, though, is that it's one of GMA's thirteen or fourteen planning goals. It's Goal 12, but they're in no particular order. Goal 12, which appears on the screen, says that the County – or City – is supposed to ensure that public facilities and services that are necessary to support development are adequate to serve the development at the time that development becomes available for occupancy. So it's essentially ensuring that people don't build houses without roads and sewers to support them.

You know, there are a variety of public services and public facilities in a variety of different categories – we'll go over those in a second – but the general thrust is making sure that capital facilities appear in one form or another the same time that development does. It is a required element of the Comprehensive Plan. It's not optional and it's not separate. It's supposed to be consistent with and integrated into the Comprehensive Plan. There's a planning period of twenty years for some of the requirements and a planning period of six years for some of the other requirements, so as we talk about the individual requirements I'll highlight which ones are twenty and which ones are six.

This is straight out of the statute here. The capital facilities plan should include first of all an inventory of all our existing capital facilities, and that's not just ones owned by the County. As Dale mentioned, there are a lot of capital facilities that are provided by other entities – fire districts, sewer districts, water districts. All of those need to be in the County's Capital Facilities Plan, which provides an extra chore for people who are trying to put together the Capital Facilities Plan because they have to reach out to all of those districts and ask them, Please provide your information. The County doesn't really have any authority to *require* them to provide the information, but they send a nice letter and it's signed by the Board of County Commissioners. Then we ask them for a forecast of future needs for those capital facilities and we include the same for our own County

capital facilities. And see, we've broken this out here a little bit different than the statute by putting "c" right next to "b" because the proposed locations and capacities of those needs are supposed to be included. And then all that information is supposed to be over the same twenty-year period that your comprehensive plan plans over. They break that out in the statute and say, You need to provide a six-year plan for financing those needs. So you've got inventory and needs for the full twenty-year planning period, and then you're supposed to provide over the next six years how you're going to finance them.

So you may have needs that occur ten years or fifteen years out. You don't have to show how you're going to finance something that's fifteen years out, although maybe under some circumstances it would make sense. But you do need to show the things that you're going to do in the next six years, how you're going to finance those things. And that financing can't be speculative. It can't be, We're going to get some money from some place, or, Someone's going to give us money. It's supposed to be, We have a reasonable expectation that we are going to spend general fund money. We're going to spend tax money from real estate – a REET tax. We're going to bond it. We're going to do whatever. It's supposed to have a reasonable expectation that you can actually afford these things and you're supposed to clearly identify what that source of funds is. And then the final element is sort of just a mechanism to reassess the land use element if you fail to identify sources of money or have a reasonable expectation that you're going to be able to meet those capital facilities needs, the land use element being a different part of the comprehensive plan and there being this general requirement that all of your comprehensive plan is internally consistent

So those are the required elements straight out of the one place that you would think to go in the statute, but then you've got to look at the Definitions. The definition of "capital facility" doesn't exist – helpfully – in GMA, but there is a definition of "public facility" and "public services," – I think. It's not on the screen. But if you look in the Definitions you'll find that these two definitions have been meshed together by the Growth Board to get us a better sense of what it is we're supposed to be planning for. So you're talking streets, roads, highways and sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and rec facilities, schools, and then "other public services." That is almost all-encompassing but there are some ways that GMA then restricts this down to a smaller group.

Mr. Easton: How far do you drill down on domestic water? I mean, do you get down to water associations or do you go to private associations? I mean, how far down?

Mr. Walters: Public entities.

Mr. Easton: Only.

Mr. Walters: Yeah.

Mr. Easton: There are some – in parts of the county – there're some relatively larger water systems that aren't public.

Mr. Walters: Right. Right. So the fact that these – under “required components” it does say “inventory of capital facilities owned by public entities,” so that is the one thing that prevents us all from tearing our hair out – because it's “public entities.” It's special purpose districts, it's those limited number of water districts that have elected boards that we're dealing with, not the 150 or 250 – whatever the number is – just regular Group A and Group B water systems out there.

Now the important point is, unlike a City, the County doesn't provide most of these services – and we'll get to some of that a little bit later.

I think *you're* going to cover Skagit County's definition! This is Kaci Radcliffe, who is our Facilities and Sustainability Coordinator, and during the time I was working on sustainability with Kaci we surely identified the need for a real capital facilities plan that would help us do some of that facilities planning. So pretty early on last year, I think it was, the County Administrator decided that – especially with limited Planning staff – it would be helpful if Facilities took on some of the capital facilities planning tasks, which was a revelation and hopefully will help us produce a useable plan this time.

Mr. Easton: So that shifted from Public – wasn't Public Works doing some of this?

Mr. Walters: It was the Planning Department.

Mr. Easton: It was the Planning Department?

Mr. Walters: And clearly there are a lot of functions here that are Planning functions, but there are internal facility needs that are just Facility functions. So that's why we've got Planning working on it and Facilities together to try to produce a useable document.

Kaci Radcliffe: Hi, everyone. So as we mentioned, capital facilities broadly is supposed to be infrastructure needed to support development, but we found as we went along that “capital facilities” as a definition was not as clear, so we spent some time going through a lot of other capital facility plans and talking directly with Commerce to gain some clarity on the definition. And so we really worked to get a specific definition that would work for Skagit County that would basically guide our document in creating things like our inventory in Planning. So we have updated that definition. It will be in the Comprehensive Plan. It's also listed in the main few pages of the document.

So we've stated that as any publicly-owned structure, improvement, or asset, including land, that meets all of the following criteria:

- related to providing facilities and services identified on our prior slide – so those services listed earlier including the other public services like law enforcement, fire;
- exists now or may be needed in the current GMA twenty-year planning period which goes through 2025 currently;
- requires the expenditure of public funds over and above annual maintenance and operation expenses; and
- costs \$10,000 or more; and
- has a life expectancy of ten years or more.

And those were very critical. We found some plans had either/or, some plans had two of the three, but we found this to be – as we looked through what we were receiving from departments and even outside agencies as a list of their inventory – this criteria allowed us to include the most substantial items as a planning tool for the document but not include small things like a printer, and does not include existing vehicles or equipment funded by the County's ER & R fund, as that's listed separately.

So really quick I'll just give you an overview about the document itself and then I will explain the County-owned facilities of the document, and then Ryan will talk about the non-County-owned facilities section of the document.

So we overhauled the document in its structure in adding additional clarity and usability. It's easier to read online now. We hope that most of the users of the document will read it online. It is oriented to fit your screen when you go into a full view mode. No scrolling required. And the tables are bigger; they can be printed on 11 by 17 or larger. And then all of our County-owned facilities information, there's a more comprehensive inventory included that was kind of not as fully listed before. And again some of these changes, especially for the inventory, were done to increase the usability as an interactive planning tool that won't be just sitting on a shelf.

So the entire Facilities Plan has been combined into one document, including the 6-year financing. We did not include transportation. It is incorporated by reference with the Systems Plan for 2001, and the TIP being included by reference. We also did not include Bayview as that is going to be included in the Subarea Plan. But the policies for the Capital Facilities Plan are listed in the Comprehensive Plan, so that did get separated as those policies are quite a long document. So we did subdivide that out. Everything else is included in one plan and, as of now, there are no appendices included, which was a great task for us to get that all in one document.

And we want the document to be more updatable. So the WAC recommends every two years except for the exception that by RCW that we can integrate the Comp Plan when we adopt the budget, which is our goal in our discussion with staff in that adoption with the budget including the 6-year financing plan concurrent with adoption in mid-December would be an annual goal that we would set for the Facilities Plan and, again, to increase its use as a planning tool.

So our County capital facilities: Those are organized into groups.

- General government, so fungible office space. So that's including our Admin building, this building, office space that doesn't always have a long-term, single use, and offices and departments may move;
- Community services;
- Law and justice;
- Parks, trails, recreation, including our fairgrounds;
- Solid waste;
- Stormwater management; and
- Transportation.

And some of the highlights in the document are we are currently in a draft review of some concepts for our facility needs analysis, which breaks down County-owned facilities – in this case, it would be physical buildings that we own – and long-term planning for that. So that document, I believe, will be done by the end of the year, so we will update the Capital Facilities Plan to include the major elements of the Facility Needs Analysis when that's available. And also with the evolution of the new jail we've included a section describing that, but, of course, a lot more content will be included in the Facilities Plan, and probably a whole separate section in one, the new jail; the facility needs and planning, financing for that, but also the old jail and what uses and financing we'll have for making use of that space.

Mr. Walters: So we also included a lot of text directly in the document about what's the point of including non-County facilities. Because the County doesn't have supervisory authority over how the non-County entities provide those services – the fire district is an entity in and of itself. How it provides fire service is its own responsibility, not the County's.

So what we did is pasted in – straight out of some Growth Management Hearings Board opinions – some description of why it is that GMA does require the County to include information about non-County facilities. And generally the reason is so that that information is all in one place. We are so glad that the County is tasked with that duty. But it does mean that someone is in charge of assembling that data together, and other fire districts can look and see what their neighboring fire districts are doing as a result. Other service providers can see how those services that are provided by other entities that may be meshed together: fire services provided, water services provided. Fire service requires water. You

know, how those things can be compatible and how the planning can be coordinated. So it is to a large extent simply putting all the information in one place and making sure also that if there is a service provider that is just not going to be able to provide the service, that we take that into account when we decide on the land use element if the land use element needs to be revised because a service provider is not going to be able to provide the capital facilities necessary.

It goes a little bit beyond that, though, because schools especially have liked to levy impact fees. In order to impose an impact fee a school district has to show their work; they have to do the math; they have to analyze what their needs are; they have to develop their own capital facilities plan and show how much those needs cost and how much they are going to be able to charge an impact fee associated with the building permit. They provide that work to us. We are supposed to analyze it and then we, as the County, adopt their capital facility plan by reference into our capital facilities plan and we will collect the impact fee for them. So anytime a school district wants to change their impact fee, they need to do all that work again, submit the plan to us, and we have to adopt it. If we don't adopt it we are not going to collect their impact fee.

Right now the Schools section in the document that you have is somewhat light, but there will be a table in there analyzing school district capacities, enrollment and doing the synthesis that the narrative calls out as necessary to figure out whether they are providing the capital facilities that are necessary.

Mr. Easton: Hold on. So historically when we've reviewed these we take testimony – we go to the public hearing, we take testimony from the school districts that want to change their impact fees, and this is the section where that would still continue to occur?

Mr. Walters: Yeah. I haven't heard that this year anybody wants to. I don't think so.

Mr. Easton: So and each year they have the opportunity through their boards to – first they approve it and then they send it to – it has to be approved by the Commissioners to be effective? Or is it –

Mr. Walters: Their capital facilities plan needs to be integrated into our capital facilities plan.

Mr. Easton: Including – to include any changes in their impact fees?

Mr. Walters: In order for them to accomplish any impact fees, yeah. So the Department – the Planning Department – is collecting the impact fee at the time of the building permit application. If they want to change that then it needs to be approved by the County.

Unidentified male: (unintelligible)

Mr. Walters: Right. Right.

Mr. Easton: Good point.

Mr. Walters: And we have one school district that – no, we have two school districts that cross county lines.

Mr. Easton: And every school district crosses city lines into county property, right?

Mr. Walters: Yeah, there's a lot of coordination involved.

Mr. Easton: Thank you.

Mr. Walters: The other – there are other important constraints that are mentioned in the narrative. If the County wants to spend REET money – real estate excise tax – money, there are a variety of statutes that inform how the County can spend that money, but in general – at least before the recession hit and the legislature changed the law through 2016, you were only allowed to spend REET money – or at least the first REET money that you get – on projects that are outlined in your capital facilities plan. So if we want to spend that money, it needs to be in the capital facilities plan.

Mr. Easton: So of the 1.7 – for the benefit of Kevin and others that might be at home not understanding this process – it's basically a transfer fee but it's actually called an excise tax in the state of Washington. You could legitimately call it a transfer fee but at the time that a house or a piece of land changes hands, almost every transaction, with the exception of family transactions and occasionally a few other things, there's a 1.78% fee in this county and all the cities that's charged. Depending on where that transaction happens depends on where that money goes. If it's in the city limits of a city like Anacortes a certain portion of it goes back to the City, the remainder going back to the County, correct? It's like half a percent goes to –

Mr. Walters: I don't have to deal with how the tax is delegated.

Mr. Easton: I think half a percent goes to the City and 1.28% goes to the County. But – don't quote me on that split – but that money is – there're strings that come attached to how that money is spent – were changed in the last couple legislative sessions, because it's supposed to be spent on capital facilities.

Mr. Walters: They were loosened.

Mr. Easton: But they – right. I mean the original intent of the – the first – for all of the years up until just recently there were stringent rules about how that could be spent. There have been some changes which allow for maintenance, as opposed to new – it was supposed to be new capital facilities, so you couldn't repair a sidewalk but you could build a new one. It was sort of part of what the argument was. And so there's been some loosening in those restrictions during the recession.

Mr. Walters: But those sunset in 2016.

Mr. Easton: The way it's currently written?

Mr. Walters: Right. And the other thing is that when you see the – this is not the complete draft. But when you see the complete draft, it's not going to account for all the REET money because it's not a budget. It's a financial planning tool but it is not, in fact, the budget. It's supposed to be adopted *with* the budget so that it informs the budget process, but it's not the budget itself. For instance, most of our REET money is spent on debt service for existing capital facilities so it won't show up in the capital facilities plan which is planning for new and improved capital facilities.

Mr. Easton: Which is why the capital facilities plans that I've seen in the past from Skagit County don't estimate potential – don't go into the whole estimation of what's going to actually be collected. They don't try to speculate on market conditions because it's not an actual budgeting document in a traditional sense were you're trying to just determine what your income is versus your output?

Mr. Walters: Right. For instance the tables that are in there right now are the simpler tables. You look at the stormwater section. The stormwater facilities that are identified as proposed in the next six years are just completely all paid for by the drainage utility. They're not paid for by multiple funding sources. But the jail, for instance, will have a couple of different funding sources. It'll have the sales tax that voters recently approved, and then it will have bonds that will be serviced by the sales tax. So you'll see a table that says the jail is going to cost this much total and it's going to be spent in 2014, 2015, 2016, 2017, and then there will be zero for the remaining years in the planning period through 2019 because it'll be built. And then you'll see revenue lines for each of those years – 2014, 2015, 2016, 2017 – and some – in the first two years, sales tax will be spent on the jail and in the remaining two years bond proceeds will be spent on the jail and sales tax will service the bond proceeds. There's a little note that says sales tax will pay for the bond proceeds but that's not actually in the table because it's not a budget document. It's just a financial planning tool. And it shows you that you have revenue to pay for things and it shows you the costs of things, but it doesn't show you really how you get from A to Z. It doesn't show you all that level of detail. So basically the complete draft may be soon?

Mr. Easton: I think so. Was that a question mark or...

Chair Lohman: When?

Mr. Walters: I don't know, but maybe by the end of the month.

Mr. Easton: Are we on a deadline?

Mr. Walters: The end of the year.

Chair Lohman: This says October public a hearing.

Ms. Radcliffe: Concurrent with the mid-December budget.

Mr. Walters: And the budget – yeah. And because this is part of the Comprehensive Plan, it will require Planning Commission review and approval.

Mr. Easton: Which historically we've had a public – the least attended public hearing probably in history, but we've had public hearings on the Capital Facility Plan on a pretty regular basis. I mean, an annual basis for as long as I can remember.

Mr. Walters: It hasn't been quite annual. For instance, there wasn't one last year.

Mr. Easton: Oh, right, there was a waiver.

Mr. Walters: No, there's not a requirement to do it annually.

Mr. Easton: Even though it's a rolling six years?

Mr. Walters: Right.

Mr. Easton: Yeah I did hear a complaint from the public – from a member of the public – now that you mention it, that we didn't do one last year.

Chair Lohman: The public hearing on your slide – is that the Commissioners or us?

Mr. Easton: That's us.

Mr. Walters: You guys.

Chair Lohman: And so is that our next regular meeting, or first of October meeting – first Tuesday in October?

Mr. Pernula: It could be.

Mr. Easton: You'd have to get out the –

Mr. Walters: Probably not.

Mr. Pernula: It won't be released in time?

Mr. Easton: It's got to be done to release it.

Mr. Walters: Yeah. I'm not sure.

Mr. Pernula: Unless they have a special meeting later in the month.

Dave Hughes: _____ item number 6.

Mr. Easton: My professional opinion is that it should be done before it's released, but that's...

Mr. Walters: Well, we've already released half of it on –

Mr. Easton: True. I have no quibble with the first half you've – that you released the first half. I recognize that. If we're going to ask people to comment we should. Yes.

Chair Lohman: Well, I was thinking that's a pretty fast turnaround.

Mr. Easton: Under agenda item number 7 I'm going to bring something up that's going to lighten our load for the rest of the year, so that should be good.

Chair Lohman: Okay.

Mr. Walters: Well, and I think at one point there was an October 15th Planning Commission meeting.

Mr. Easton: (unintelligible)

Mr. Walters: Yeah, but I don't know if – I mean, that wasn't settled, I don't think.

Mr. Pernula: That's possible. I'll have to talk to Annie and see if it's going to happen.

Mr. Easton: Slide the regular meeting? Not do the regular meeting; do the 15th and make it the public hearing for this?

Mr. Pernula: It might be. We'll see what we have on the agenda for the time. We might have to just slide it to the 15th. I'll talk to Annie and work that out in the next couple weeks.

Chair Lohman: Dale? Anything else on Capital Facilities? Kevin, did you have anything? Okay, let's move on. Item number 6, Department Update.

Mr. Pernula: I think I gave you most of the Update. With the time schedules that are coming up, probably the most important one is the one next week, that airport consultation at 11; the discussion group meetings, which you're certainly welcome to attend, at the Port at 6 p.m. on both the 18th and the 25th. And those are the main things I've already talked to you about and those are the points I wanted to make. That's it.

Chair Lohman: Nothing on the Shoreline?

Mr. Pernula: Shoreline Master Program is – nothing right now. No.

Chair Lohman. Okay. Okay, moving on to item number 7, Planning Commissioner Comments and Announcements. Jason.

Mr. Easton: So it was late-breaking news today that – and I passed around a couple of copies – but for your interest you can probably find a link to this on the GoSkagit site that Tethys and the water bottling plant in Anacortes, they informed the City of Anacortes at some time – although the letter's not dated, so I'm not sure when – but the City announced today and then released the letter from Tethys that says they don't want a bottling plant in Anacortes anymore, which might change our workload seeing as we were sort of in the line of fire for future public hearings on that issue. So if you're so inclined...

The second thing I wanted to mention is I want to revisit what Ellen brought up during her testimony earlier, or her comments earlier.

Chair Lohman: Term appointments.

Mr. Easton: The term appointments. Well, the more – I guess I'm going to ask staff and I may have read this and then missed it, but I want to address the issue particularly that Ellen brought up that said that our concerns about the process of filling *vacancies* or that, particularly, encouraging the Commissioners to appoint people to finish the *remainder* of someone's term as opposed to getting a new term has already been disregarded. Now they have the ability to disregard everything we say and do and sometimes it seems that they have that tendency. But today on the website – not to pick on Kevin – but Kevin just filled someone else's term in theory, because Carol's term didn't end yet, right? I mean, it was still – it had ended?

Mr. Walters: It did.

Mr. Easton: Oh, my mistake. Okay. So Kevin's term then going to the 17th was accurate. Okay. So is there something in our minutes – just let me back up – sorry about that; misunderstanding – is there something in which the way we communicated our concerns that spoke to the fact that if I resign midterm, or somebody resigns midterm, that we want the person to fill the remainder of the term to keep the rotation accurate? Because I thought from Ellen's testimony that that – she's of the opinion that that didn't get communicated, and I know for a fact that multiple members of this Commission made a point of saying that in our open discussion.

Mr. Walters: Well, that's required by the statute, as well. Vacancies are supposed to be filled for the *remainder* of a term, not for a new, four-year term.

Chair Lohman: Maybe somebody, Dale or Ryan, can explain that we – several of us just got reappointed and how long that term is going to be – in September.

Mr. Walters: So – yeah.

Mr. Easton: Well, before you do that let me – so did you just publicly confirm what Ellen has said earlier, as one of the County attorneys, that we weren't following policy when people weren't getting remainder of the terms?

Mr. Walters: Oh, I thought that we were quite clear about that in this whole process. The reason that the term-staggering is not –

Mr. Easton: It got so far off.

Mr. Walters: Right. The reason terms are not staggered today is because historically, maybe pursuant to that table that Ellen provided – I haven't seen it so I don't know – terms were not filled. Instead appointments were for full four years instead of just the remainder of the term. I thought we were pretty clear that that is why terms are not staggered today.

Mr. Easton: Well, I think that was clear. The part that wasn't clear that seemed a bit of a surprise to me is that we're now admitting – and maybe I missed this earlier – that that was actually what we were supposed to do. That we were –

Mr. Walters: Oh, yeah.

Mr. Easton: Okay. And so has it been communicated to the Commissioners by either you or Dale, or through the staff report – because I thought we made that clear – that we would like that to be the policy going forward?

Mr. Pernula: It was very clearly communicated to them – sure.

Mr. Walters: Well, and it's the statute; it's not just the policy.

Mr. Greenwood: It was an error that was recognized. That error was recognized by the ___.

Mr. Easton: Well, recognizing the error and not committing the error again would be helpful for us to continue to stagger – is a key way to keep the staggering in place. So there's no confusion anymore about the way in which they're going to handle their resolutions so that people end up fulfilling the remainders of vacant terms. In your opinion, you don't think that's going to – that problem's not going to happen again?

Mr. Pernula: We will put whatever mechanisms in place to help prevent that, but I can't guarantee it. It shouldn't have happened in the first place.

Mr. Walters: Right – it shouldn't have happened in the first place. Some of the reasons that things happen like that, though, is because if the Department drafts a resolution versus if the Clerk of the Board drafts a resolution versus some other person in the department or an attorney drafts a resolution, you may have four different understandings of what it is the process is supposed to be. And over time, that has clearly – there has to be a disconnect between what the process is supposed to be and how important it is to get it right. With a lot of our other advisory boards there isn't a rule, especially a statutory rule, that requires staggering. So maybe some resolution gets written up, maybe they use some template and it just has, oh yeah, Planning Commission terms are four years so we'll appoint them for four years. And maybe it took three months to figure out who it is they were going to appoint, so now there's a three-month staggering problem. I mean, it is quite the research problem to figure out exactly where all the staggering went wrong, but maybe that's something that Ellen has done.

Ms. Bynum: Yeah, all I did was review forty-eight resolutions and note that when there was an error made previously the error was ___ in a subsequent resolution, and that's the piece that hasn't been done.

Mr. Walters: Right. So the –

Ms. Bynum: At all.

Mr. Walters: – the proposal is just to reboot and reset all the terms staggered, and then there are internal mechanisms like having procedures documents that say these are the checklist things that you have to do when you appoint a person to the Planning Commission, and designating a person to do the work – designating the Clerk so that the Clerk of the Board is always doing it versus –

Mr. Easton: So what about Robert's term then? Because his coming onto the Board was – he was replacing someone who resigned, he was doing it while we were in the process – because we're still in the process of updating this; you know, a public hearing coming and we're still not there yet. So did he receive the remainder of the Commissioner's term that he –

Mr. Temples: No, the term was over in September.

Mr. Easton: You were appointed prior to September.

Mr. Temples: Correct.

Mr. Easton: And reappointed after the end of –

Mr. Temples: I was filling in for someone who vacated.

Mr. Easton: Right.

Mr. Walters: Yeah, I'm not exactly sure. What has finally been accomplished is that the terms start on September 1, at least for these four people – not for the other five.

Chair Lohman: So can you explain what just happened?

Mr. Walters: The Board simply adopted a resolution appointing the four people to four-year terms starting on September 1, so expiring August 31, 2017.

Mr. Easton: Yeah.

Chair Lohman: Dale?

Mr. Pernula: I don't think we've resolved how the full reboot will occur. Have you figured out how that's going to occur?

Mr. Walters: Well, we also don't know if the Board will adopt it. But if the – the Board may want to – it sounds like the Board wants to adopt a new start date, not September 1 but March 1. And if there's a new start date then there will have to be any number of things to try to achieve that.

Mr. Easton: So potentially some of these people's terms may be extended but not extended for four years or potentially shortened, to come back to the March date? Potentially?

Mr. Walters: Yeah. It's quite complicated.

Mr. Easton: Isn't what's out for – so then what's out for review in relationship to this topic right now?

Mr. Walters: The ordinance but not a resolution appointing various people for various times.

Mr. Easton: Well, I understand the resolution's not out for – because it wouldn't need to be. But what portion of the ordinance – the ordinance addresses this issue. Doesn't the ordinance call out for any start date for the reboot?

Mr. Walters: It does. It's March 1.

Mr. Easton: It's March 1. So what happens to those who are – the five of us who aren't through '17 now, because there's five out of nine of us that aren't? What happens to those appointments is not spelled out in the way the resolution's drawn.

Mr. Walters: It's not spelled out in the ordinance.

Mr. Easton: Or the ordinance.

Mr. Walters: The ordinance says that the start date would be March 1 and that members would be appointed for staggered terms, based on what the statute says.

Mr. Easton: But it doesn't address existing terms?

Mr. Walters: It does not address existing terms.

Mr. Easton: It seems like that might end up adding to some complication.

Mr. Pernula: It's going to be very complicated, and the only way to get it back on track where we have the staggered terms again is to reboot it.

Ms. Bynum: No. The only way to do it is to rescind the errors.

Chair Lohman: Wait, wait. We have to invite you to participate.

Ms. Bynum: Okay, well, you're not getting the point.

Mr. Easton: So –

Mr. Walters: There are, in fact, maybe a number of ways to handle the problem, but –

Chair Lohman: Well, I believe that when we had our bylaws committee and they also looked at this, we had quite a bit of discussion on it and it is extremely complicated. And in the limitations of how long that committee was tasked, it could take on a life of its own trying to figure it out. So we kind of punted, didn't we?

Mr. Greenwood: I figured it was their problem, they could fix it – is the way I remembered it. We had some alternatives and we could give them alternatives, but really it was basically something that they would have to figure out.

Chair Lohman: There was no – and then it's complex because you want to be fair to the Commissioners and respectful to the Commissioners and so it's –

Mr. Easton: To the Planning Commissioners?

Chair Lohman: To the Planning Commissioners, *and* to the Board of Commissioners. I mean, so it grows in complexity.

Mr. Walters: At one point maybe a year or so ago now we did have a table that showed end dates and how you would reappoint and it just worked. It worked really well. And, like, a couple people got a month shorter term and a couple other people got a couple months longer –

Mr. Easton: That was during the period where September 1 looked like the timing, if I remember right. That __ was based on September 1.

Mr. Walters: I think it was based on February 1. But it was also a while ago and before other various appointments have occurred.

Mr. Easton: All right. Well, I strongly encourage the Department to find as simple a solution as possible and have it attached to what goes into the resolution so that – at least for the resolution – so that it's solved. I mean, if not, you could pass the – what I see coming down the track – potentially I'm missing it – is you're going to pass the ordinance and still have the same problem with the five of us that aren't – you know, like my term, as an example, is up in the 31st of August of 2014. So if the existing Commissioners aren't addressed in the way in which the resolution's passed, you're only going to have 4/9 of us in compliance.

Mr. Walters: And Elinor's ends next month.

Mr. Easton: Right. And Dave's ends in a year.

Mr. Walters: I don't think Dave's *ever* ends.

(laughter)

Mr. Hughes: It's ending!

Mr. Walters: But, yeah, I don't –

Mr. Easton: Breaking news!

Mr. Walters: I don't think that we would recommend to the Board anything that wouldn't at least finally solve the problem of staggering.

Chair Lohman: But I think, too, we also had a fairly – some discussion about filling vacancies in a timely manner.

Mr. Easton: Yeah.

Mr. Walters: Yes, and there are provisions in the current draft that don't – I think, if I recall correctly, they don't force the Board to make the appointment. Previously when we had a draft that didn't use the Planning Enabling Act we could write a rule that required the Board to make the appointment, but if you're using the Planning Enabling Act we can't quite get there, but it's close. I mean, it provides a lot of incentive and structure to get the Board to make an appointment quickly. Now under the Planning Enabling Act if the person whose district it is – the Commissioner whose district it is – isn't the Chair, then the Chair can just make the appointment. So that solves the problem most of the time. It's just in the situation –

Mr. Easton: Assuming the Chair takes and does it.

Mr. Walters: Right.

Mr. Easton: Because historically in the not-so-distant future – or past – the Chair didn't make – they didn't make any action and then the ninth seat sat empty for sixteen months. So it may be –

Mr. Walters: Well, and in that case –

Mr. Easton: – another example of where the law might exist but it doesn't work unless somebody enforces it.

Mr. Walters: Well, I think in that case the Chair was the district Commissioner who had the vacancy, too.

Mr. Easton: During all sixteen months of that?

Mr. Walters: Not all sixteen months, but it must have been twelve then.

Mr. Easton: I haven't seen a – we haven't had a Chair make a move where it hasn't been led by the Commissioner involved, that I'm aware of.

Chair Lohman: Go ahead.

Mr. Greenwood: I was just going to say that in their comments about this topic they showed even pretty great reluctance to do that to one another. They perceived it as –

Mr. Easton: Force them to make a decision?

Chair Lohman: Right.

Mr. Greenwood: Yes. So that's not likely to happen under current structure.

Chair Lohman: No.

Mr. Easton: No, I think you're right.

Chair Lohman: But I don't think it's their desire either to have a vacancy, but it perpetuated and it went on for too long a time.

Mr. Easton: Clarify for the public that the public hearing – I want to clarify for the public the public hearing on the 24th at 10:30 is not their deliberations. It's actually the chance to testify again about this topic. Then there's going to be deliberations either – sometimes they can do it right after it. Usually they wouldn't. On this type of topic they would usually wait and then have deliberations, correct?

Mr. Pernula: That's the usual process, but it sounded as though they may take action that day on this one –

Mr. Easton: They might? Okay.

Mr. Pernula: – because they also cut off the written comments at the same time.

Mr. Easton: Oh, right, because of comments. Oh – that's important for the public to realize: If you want to comment in writing on this issue the comment period ends when, Dale? 10:30 on the 24th.

Mr. Pernula: Right. Mm-hmm.

Mr. Easton: 10:30 on the 24th. You will not – do not assume that you will get an extension. This group has given people – has given extensions over the years, but that doesn't mean the Commissioners have to or will. I mean, they have, too, in the past, but that doesn't mean they will.

Mr. Walters: Well, and interestingly, in the proposed – the current proposed draft, it gives an additional two days after a public hearing to submit written comments.

Mr. Easton: But that doesn't apply to them! It applies to us!

Mr. Walters: It doesn't apply to – well, it doesn't apply to anyone at the moment because it's not adopted.

Mr. Easton: Assuming they passed it, it would only apply to us. They're not changing *their* public hearing rules.

Mr. Walters: It would also apply to them.

Mr. Easton: They are changing their own public hearing rules in relationship to that?

Mr. Walters: Yes.

Mr. Easton: Oh. So this could be the last time that you have to have your written testimony in by the last day.

Chair Lohman: I think we should note that it's – the Commissioners – we made some recommendations to them and it had to do with extending the written comment period and we changed it – what? – to 20 days.

Mr. Easton: Calendar.

Chair Lohman: And there were some other items that we recommended. But the Commissioners are – this is *their* ordinance and their planning ordinance.

Mr. Greenwood: Because they've taken recommendations from us and from the Planning Department, and they have been coalesced and –

Mr. Easton: And then hopefully from the public on the day of the hearing.

Mr. Greenwood: Yes, they should have taken that into consideration.

Mr. Easton: And they've already heard from the public on some of this.

Chair Lohman: Okay, I have a question – because Carol told me to ask.

Mr. Greenwood: So she's still here?

Mr. Easton: I have a feeling she's watching right now, too.

Chair Lohman: Hi, Carol. She asked me to ask about the Six-Year TIP Plan and find out when that's going to be scheduled on the docket.

Mr. Pernula: I will find out and report back.

Mr. Walters: I heard that it's November, but I'm not sure.

Mr. Easton: That's Public Works, right?

Mr. Walters: It's Public Works and it doesn't come to the Planning Commission.

Mr. Easton: You sure?

Mr. Walters: I'm pretty sure. The Planning Commission will review the CFP. The CFP incorporates the TIP by reference but if the TIP – if the latest TIP is not available at the time you wish to review the CFP, then it will incorporate an earlier TIP.

Mr. Easton: I just remember Public Works presenting TIPs to us in the past.

Matt Mahaffie: We've gotten copies of it at Carol's request. I remember getting it in the mail.

Mr. Easton: Oh, okay, that's what happened.

Mr. Johnson: I think maybe there have been courtesy briefings even though it wasn't a requirement.

Mr. Easton: I think Kirk's right about that.

Chair Lohman: Thank you. Anything else?

Mr. Axthelm: I have one more comment – is that although we have the three-minute timing, it's just that it's a timing for three minutes for public comment, you still have the opportunity to submit written comments, and we do read them. I just want the public to understand that. I know it's frustrating sometimes limiting it to three minutes, but sometimes we have three people commenting, some people (sic) we have twenty people commenting. And we can't get to the agenda and get to all the issues unless we limit it at some point and that's for three minutes. It's not ideal. Ideally I would like to have more people – people have more opportunity to talk. But we do read the written comments. Your written comments are just as important to us – if not more so, because we have the opportunity to underline them or highlight them or bring it up on our own. So if you get those in to us before the meetings that's an opportunity for us to bring those items up.

Chair Lohman: Okay, anything else? Is there a motion to adjourn?

Mr. Easton: So moved.

Chair Lohman: (gavel) We're adjourned.