

**Skagit County Planning Commission  
Work Session: Shoreline Master Program Update  
April 15, 2014**

**Commissioners:** Annie Lohman, Chair  
Josh Axthelm, Vice Chair (absent)  
Kevin Meenaghan  
Robert Temples  
Keith Greenwood  
Matt Mahaffie  
Jason Easton  
Tammy Candler  
Dave Hughes (absent)

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

**Public Commenters:** Carol Ehlers  
Connie Munsey

**Aquaculture Subcommittee:** Kevin Bright  
Tim Hyatt  
Bill Dewey

Chair Annie Lohman: (gavel) I call to order this work session of the Skagit County Planning Commission. It is April 15, 2014. It's 6 p.m. We're still – we're missing a couple Commissioners – Commissioner Greenwood and Commissioner Axthelm. This is a work session where we're going to be working on the Shoreline Master Program, so we'll open it up for a call for order and agenda review. Are there any changes to the agenda?

(silence)

Chair Lohman: Okay, seeing none, we'll move on to Public Remarks. I'd like to remind the public that this is not a formal testimony. This is basically a courtesy of the Planning Commission. And we're going to give you up to three minutes, so if you could say your name and where you live. So come on up.

Carol Ehlers: I'm Carol Ehlers. I live on west Fidalgo Island on the shore of – above the shore of these areas, and I have two comments. The first one: You talk about wind in this document. You do not talk about waves and the action of the sea. And last night the wind was pretty powerful coming in from the Pacific down the Strait of Juan de Fuca, and it sure was beating against the shore. And it illustrates why those of us on the west side of Fidalgo do not have docks, do not have boats moored where it's sensitive, don't have staircases because they would

be beaten up in storms like that one. And so we decided back in 1950 with the establishment of the community out there that we wouldn't do it. And as Matt has said frequently, one ought to have recognition for people who do what they're supposed to, which is what we did.

Now I have given all of you a section from the Natural Hazard Mitigation Plan, the County document that was done in – that I've commented on before – done in reaction to Congress's requirement that everyone identify your hazards. This is the section on land movement. Anyone listening can go find it on the Internet at the County website under Emergency Management. I suggest that you look at the list of where the land's movement has been on page 49 and 50, and then look carefully at page 51 as to what it is that causes these kinds of movements other than simple Mother Nature, such as happened at Oso. Sometimes the land is perfectly capable – moraines, geomorphological-vulnerable land is perfectly capable of sliding on its own, given enough rain. And Skagit County talks about the future of climate change but they have no record of how the climate has changed since 1900 when we got 12-inch rains in Anacortes in the winter of the year, and then it got to the point by the 1950s where there was 16 inches in the whole year. Then back in 1990 – and you'll see a lot of dates in here for 1990 – in November 1990, my rain gauge out in the west had 10 inches of rain in November, in addition to whatever else happened. The water started in the center of the island, slid down through the unmanaged road ditches, and naturally came down onto the shorelines. And that's the other point I wish to make. This law that you're dealing with deals with the last 200 feet, but the last 200 feet cannot control the previous 2 or 3 miles and it doesn't do any good to expect the people who are there to do so. So there has to be some way in your code and in the process of deciding things that you look to see whether something has a history. You look at the topography. You always look at the topographic map. You look at every bit of evidence there is and there's tons of it. Now that'll mean the County has to dig it up –

Kevin Meenaghan: That's three minutes

Ms. Ehlers: – but there's plenty of evidence and the citizens know how to use it to attack the County if they have to. Much better not to.

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

Connie Munsey: Good evening, everybody. Connie Munsey from Anacortes. After spending most of the afternoon hearing if the County Commissioners – if the Envision Skagit 2060 people justify their existence, I want to share with you what I intended to do last month but we were caught at a very contentious PUD meeting and we got here after public comment was over. But I don't know if I have enough copies, but I would like everybody to have one. This is – getting into this I found out that this little book, which is the Constitution and the Declaration, has turned into a ginormous Godzilla of a government and I wanted to find out how Skagit County was really supposed to be. And it wasn't easy to find but there is a Skagit County org chart which I did hand out at last month's SCOG meeting, which was the day after your meeting, and the three Commissioners were there, a whole lot of other folks, members of SCOG. They had never seen this. It's not easy to find. If you Google "County organization chart of Skagit County," the first thing that comes up is this, which I didn't make copies of, and this is the organization chart for the Planning Department. It has about seven sections less than the entire United States Constitution, so we have created a monster here. I just wanted you all to know. You represent us, the citizens, as you are citizens, and note: We are at the top of this – not the Commissioners, not the County Administrator, not the Planning Department, not even Rich Weyrich. So thank you for representing us and we appreciate it when you hear our concerns about things like this – this Shoreline Management Plan. I have one question. Pierce County,

which has probably got more political clout than we do, has opted out of this thing and I'm wondering is the reason they were able to opt out because they did not accept grant money to fund a County employee. I just need to know how this works, but that must be the thing because I'm under the impression here we can't opt out of it and it must be because we took something, therefore we have to follow this back. It was very discomfoting to me last month when I heard Betsy concerned about what Department of Ecology accept and what they wouldn't accept. I'm sorry. We're the citizens. We're at the top here. It's what's acceptable to us. Thank you.

Chair Lohman: Anybody else wish to make public remarks?

(silence)

Chair Lohman: Okay, so moving on we'll go right into the work session for the Shoreline Master Program. I'll turn it over to you, Betsy. But before – I'd like at some point before we get too far started is to have everybody introduce themselves because we have some members of the Aquaculture Advisory Committee. Do you want to do that first?

Betsy Stevenson: Sure. This is the subcommittee of the Shoreline Advisory Committee who worked on the Aquaculture section – has given up an awful lot of all their time to make this what it is, so with due respect to the Planning Commission, I hope that you will show them the respect that they have in terms of the time involved that we have spent on this. And I'm not going to say we all agree to everything that's in there or how it's done now, but they're here to help in any way that they can, I'm sure, and answer questions and maybe have some things that they want to say, because they may not be that happy with it either.

Kevin Bright – you guys, if you want to give your own little spiel that would be fine with me.

Kevin Bright: I'm Kevin Bright. I'm the Environmental Permit Coordinator with American Gold Seafoods. We operate the net pens here in Skagit County. We've been doing that for about thirty years now. I've been involved with them for over twenty years. Got a marine biology degree and I'm just really interested in aquaculture and raising food and to growing fish. I'm really interested in how the Shoreline Master Program affects our operation, and I welcome questions, if there are any, from the Commission.

Tim Hyatt: I'm Tim Hyatt. I'm with the Skagit River System Cooperative. We're a tribal natural resources organization representing the Swinomish and the Sauk-Suiattle Indian tribes. And we – as a matter of policy – we strongly support an aquaculture – a vibrant aquaculture industry – in Skagit County. We just want to make sure that it's done in a way that doesn't affect our fisheries.

Bill Dewey: I'm Bill Dewey. I manage public affairs for Taylor Shellfish Farms. The Taylors have a large plant and an oyster farm up in Samish Bay – a retail store up there – and I ran that farm for ten years for the Steele family, and then Taylors bought that in 1991. \_\_\_\_\_ and I've worked for Taylor's in this public affairs position since then and I also have a farm of my own. I grow Manila clams out in Samish Bay, as well, and that's what I do on the week-ends and in my spare time. I have a second home on Samish Island that I live on when I'm working on my farm up here.

Chair Lohman: Why don't we just introduce the Commission for the Aquaculture Committee?

Robert Temples: I'm Robert Temples. I'm one of the Commissioners from District 3.

Keith Greenwood: Keith Greenwood.

Matt Mahaffie: Matt Mahaffie.

Chair Lohman: Annie Lohman.

Mr. Meenaghan: Kevin Meenaghan.

Jason Easton: Jason Easton.

Tammy Candler: Tammy Candler.

Mr. Easton: I just want to say before we get started that I know you guys have appeared before us before and this has been a long, somewhat drawn-out process – drawn-out for good reasons, I think. I'm trying to get the best results possible. You spoke with a lot of candor last time. I will encourage you to be as direct again today because as we get closer to rolling out a public version and then having to deal with the special issues that relate to Skagit County's aquaculture, that I think that makes us an outstanding example inside of our state now and should be an outstanding example as we go forward. It only comes, I think, if all the players are as honest and direct as possible. I know – Betsy touched on briefly that you may not all agree with everything that's happening, and that is helpful for us as we move forward. I do expect this section to be a section that I spend if not the most time on, it's one that's very highly important to me because very few things affect – very few things that we do here at the Planning Commission – you've hear me say this before – affect the economies of our communities, all three of the communities that you represent differently in businesses and in one sense, private businesses and tribal businesses or tribal nations that are involved in business, and in so and lots of different ways to say that. But basically all three of you are – I recognize your opinion as being important but it also has economic direct impact to the community, and there are very few things that we have that opportunity to be involved in and it's extremely important that we do everything we can, as a planning commission, to understand that this is not just about somebody deciding where to put something or someone being in line with the rules. It's also – this also affects a lot of other people who aren't directly pulling fish out of nets or cashing checks from your companies. There's a trickle-down effect. So your guys' testimony and all the work you've done and I would say on the record, since some of your employers may watch these videos later, we appreciate your companies and the nations that you represent. Their willingness to invest your guys' time, because you don't make your own time decisions on your own, so I want to thank them – I know they're not here – but on behalf of the County and the Planning Commission.

Mr. Hyatt: I might add briefly I neglected to say since we were last here, the Swinomish Tribe has purchased a large portion of Similk Bay and we intend to become – we're planning – who knows how it will actually work out – we are planning to become shellfish growers ourselves. And that being said, we still want to make sure that the natural environment and the fishery are protected.

Ryan Walters: So to kick things off, we are now in Part IV, Shoreline Uses and Modifications. I think it was last time we talked about the Agriculture section. And, obviously, Aquaculture is on the agenda for this week, but I wanted to highlight first that we have reorganized some of the text as we are going along here in each of these sections into three parts: (1) general

provisions; (2) application requirements; and (3) development standards. So for every section in Part IV, with some exceptions, we would like those – each section in Part IV to be organized under those three parts, which is somewhat modelled after the Kitsap Shoreline Master Program's organization and we found forces us to fit the components together in a way such that they make a lot more sense. General provisions is usually then broken down into (1) applicability, and then (2) where the use or modification is located and allowed. So with all that being said, we did not do that with Aquaculture and we're not planning to do it with Aquaculture or Agriculture because we have spent quite a bit of time on organizing those already. They don't lend themselves to that organizational structure as well as some of the other uses, so we are not really planning on trying to fit them into that structure.

Mr. Meenaghan: Ryan, to clarify – that was general and application and development? Those are the three categories?

Mr. Walters: Yeah.

Mr. Meenaghan: And then there was two subcategories under general?

Mr. Walters: Right, applicability and then when allowed.

Mr. Meenaghan: Okay, thanks.

Mr. Easton: I would just say that in reviewing the memo – the latest version of the memo – that – the one dated the 8<sup>th</sup> – that I found that easier to read in that way. So I think that making these changes, I think, then the adjustments and that consistency will be helpful. I agree – I mean, I understand that it might not be easy to accomplish with Agriculture and Aquaculture but in the other sections I think it helps bring some clean – it cleans it up and it feels more user-friendly.

Mr. Meenaghan: It's easier for the public.

Mr. Walters: Yeah.

Mr. Easton: Yeah. I think those who don't speak Growth Management planning, government, and all those other languages that sort of intertwine in here are going to find that the sections are laid out a little bit easier to understand.

Mr. Walters: We felt – almost thought it was a revelation when we hit upon it. The biggest thing is –

Mr. Easton: Was there dancing in the cubicles?

Mr. Walters: The biggest thing is that some of the text that we received from the consultant – some of which is in our existing Plan, some of which is new text – it gets confusing as to whether it is an application requirement or actually a standard for development. And making those two things broken into two pieces really helps clarify which it is we're trying to accomplish. So I think that you'll find as we move through Part IV every other section probably will come in those three parts, and those three headings will be bolded so you'll be able to quickly jump to the section that you're looking for.

So to get right into Aquaculture then, we have gone round and round with Aquaculture. Hopefully it is getting better each time. Maybe it's not there yet. But you have a list of changes on the first page of your memo that represent the changes that we have made since the February 4<sup>th</sup> draft was published, and I believe that all of those changes are related to discussions with Ecology. They have sort of an odd fascination with this section. They have not expressed as much concern about other sections. So we did talk to them and we came up with these changes. We think these changes are relatively minor but some others may disagree, so we thought we would go through them. But the other purpose of this session is to talk about the February 4<sup>th</sup> draft versus the draft that you saw previously. So there's a lot to talk about potentially.

Chair Lohman: So are you going to start with the Comp Plan section first, on page 16 then?

Mr. Easton: So we're going to go to 16?

Chair Lohman: Yeah. So this'll be at page 16 and this will be 6C-2, Aquaculture, in the draft.

Mr. Easton: 6, 16?

Chair Lohman: Right. I think you're off by a page.

Mr. Easton: I brought my – no I'm not – off-by-a-page version tonight. It doesn't mean I'm not necessarily off by a...all right, I'm there.

Mr. Temples: Where are you at?

Chair Lohman: We're in the Comp Plan section, so it would be section 6C-2, page 16, in the draft.

Mr. Temples: In the memo?

Chair Lohman: No, in the working draft.

Mr. Easton: In the draft, the working draft.

Mr. Walters: So the only change there from the February 4<sup>th</sup> memo is deletion of one policy because it's duplicative of the last line of another policy. So we think that one's fairly straightforward.

Mr. Easton: So 6C-2.6, the last line reading "The potential impact of new aquaculture techniques on existing uses and natural systems should be considered," you felt was duplicative of the section 6C-2.3?

Chair Lohman: The last line.

Mr. Easton: Is it also the last line of 2.3?

Chair Lohman: Well, similar wording. It's not the exact wording.

Mr. Easton: Okay. I see that. Does the panel have any objection to that change?

Mr. Dewey: I didn't. I thought it was fine.

Chair Lohman: I did see something from an earlier draft in an earlier meeting with all of us on 6C-2.5. I had penciled in something about recreational harvest – encouraging possibly recreational harvest. Is that my mistake?

Mr. Easton: So, you're getting at it from an economic point of view?

Chair Lohman: Well, for recreation.

Ms. Candler: Did you say 2.5?

Mr. Easton: Mm-hmm.

Chair Lohman: Yeah. I didn't know where it went exactly but I had – so it wasn't just *commercial* shellfish harvest. We were also talking about recreational?

Mr. Easton: So the way this reads right now is it says, "The County should strengthen and diversify the local economy by encouraging appropriate aquaculture uses." It doesn't specifically say only commercial. It seems like recreational would be included in what's being encouraged, but it's not very specific.

Mr. Greenwood: I remember a conversation about it too, in that I think part of our objectives were to increase public access, including to recreational shellfish harvesting, and so that's why I think it came up at that time when we were talking about aquaculture – was to make sure that people had access and were able to continue to do that in the places that are publicly available. But I don't know what –

Mr. Walters: That probably makes sense, because Betsy points out that the defined term "aquaculture" means farming, not recreational harvesting.

Mr. Greenwood: Okay, so it's a commercial operation. It doesn't necessarily have to make money. It just has to be \_\_\_, right?

Chair Lohman: It's farming!

Mr. Easton: There's a rude shot right there if I ever heard one!

(laughter)

Mr. Temples: There's probably some illegal public that takes advantage of situations like this we don't want to access either.

Mr. Easton: Well, that kind of leads to my question which is, Does – if aquaculture doesn't include recreation, should this section make at least a reference to the fact that there isn't anything that precludes people if they are in the right place at the right time to be able to actually harvest from the bounty of the sea on their up – I mean, is this the place to do that? It doesn't seem like there's another natural place in the Plan.

Mr. Temples: Are you talking commercially or publicly?

Mr. Easton: No, no. I'm talking about recreationally. I think we do –

Chair Lohman: I think you'd want to just get a permit and go dig clams for your family.

Mr. Dewey: So, Betsy, this isn't where we got into a discussion about the shellfish gardening –

Mr. Hyatt: I think it was.

Ms. Stevenson: We talked about that.

Mr. Dewey: We had the seed sales to encourage people that owned waterfront property to grow shellfish on their tidelands for personal consumption, not for commercial sale, and use that as an opportunity to do water quality education in the process. And we talked about actually calling it out at one point in the policy and then we backed up from it, as I recall, so as not to confuse things really. We talked about later exempt that activity and decided that calling it out separately and potentially exempting it wouldn't be appropriate, that really the threshold is whether you cross the dollar threshold for development and that triggers whether you need to come into the Shoreline Management Act and get a permit or not. And so not calling it out individually is my recollection when we openly dealt with it.

Mr. Easton: Tim, you raised a good point about bringing up the definition of aquaculture, which on page 179 does include a statement that may – should be read aloud, I think, for the public's sake if released. Maybe the Commissioners will all remember this, but remember aquaculture means the culture of farming of fish, shellfish or other plants and animals period. But aquaculture does *not* include the harvest of wild geoduck associated with the state-managed wild geoduck fishery. So there is a significant exception that applies to geoducks. It doesn't apply to wild geoducks – to clarify. It doesn't apply to anything else in relationship to aquaculture.

So there *is* – I mean, there *is* ongoing, from time to time – clearly with the garden example – examples of people without business licenses who are not participating in anything other than a recreational gathering of the bounty of the sea, of people basically participating in aquaculture in their own way.

Ms. Stevenson: Harvesting shellfish is different than aquaculture. Harvesting –

Mr. Easton: Not if I planted the seeds on my waterfront.

Ms. Stevenson: Yeah, okay. Okay.

Mr. Easton: It wouldn't – I mean, because they weren't – they didn't just – I mean, they didn't just show up there. Yes, there are – yes, if I walk out and grab a clam –

Ms. Stevenson: Okay, that's what we're talking about.

Mr. Easton: – or a mussel, which is probably the vast majority of what happens recreationally in the county, then I would agree. But there is at least examples of the potential for gardening. I mean, I don't want to create a whole other layer of –

Chair Lohman: Regulation.

Mr. Easton: – bureaucracy and regulation over people planting – doing small-scale gardening.

Chair Lohman: But we didn't want to slam the door either.

Mr. Dewey: This isn't the policy section. This isn't in the regulations.

Chair Lohman: This is in the Comp Plan.

Mr. Dewey: \_\_\_\_\_ and I don't have my notes from that last meeting.

Mr. Easton: It's acknowledging that it exists. I think Annie's right. I think there should be a sentence that encour – I would support a sentence that at least presents it.

Chair Lohman: Because it's in the, you know, the 10,000-foot level. It's not in the –

Mr. Dewey: In the regulations.

Chair Lohman: – in the regulations section.

Mr. Dewey: So encouraging it – you know, I – certainly we've had a good experience with the seed sales and the shellfish gardening – getting people engaged and excited about the shellfish resources and water quality protection. So, from our standpoint, we wouldn't want to discourage that activity. And I feel like that the way the regulations work they come into the fold if they decide to get beyond just personal consumption and gardening. Then it crosses a threshold and you'd need a permit from the County and State Department of Health and Army Corps of Engineers and everyone else.

Mr. Easton: Madame Chair, did the other – is there any reservations about adding a line that basically encourages the County to – as a matter of policy – to encourage people to consider this as a possibility?

Mr. Hyatt: No reservations here.

Mr. Easton: Kevin?

Mr. Bright: I just picture it as two different things – recreational harvest and aquaculture. Aquaculture is actively farming a plot of land, and throwing some seed stock out on your front – you know, out your front door on your beach to augment what's existing and then two years later, you know, we'll go out and dig a bucket of clams – that's recreational harvesting. You need a shellfish license. You're not going to turn around and sell those. The minute you – you've got a bucket of clams and go sell it, then you're into a commercial operation.

Mr. Easton: Agreed.

Mr. Bright: So I think it's, you know, it's for personal consumption, it's recreational, and it's just a different – it's a different bird than –

Mr. Easton: So you think including it would be –

Mr. Hyatt: I do think the Department of Fish and Wildlife would have a reservation about people throwing out species that could become acclimated and threaten the native stocks.

Mr. Dewey: We have permits for our seed sales.

Mr. Easton: Well, permitted seed sales, but he's talking about in general.

Mr. Hyatt: \_\_\_\_\_ with something that they got at the aquarium store. I don't know if that's plausible or not, but I do know Fish and Wildlife takes a very dim view of introducing species.

Mr. Easton: Yeah, I'm pretty sure that the office of gardening wouldn't be a big fan of the garden in my backyard either and wouldn't think that I'm a farmer. Trust me. If you went there right now you wouldn't think that's the case. But the raspberries and the attempt at strawberries and rhubarb is real and there's a personal and somewhat of a community benefit from it. I mean, I think there's probably even more benefit from what Bill is saying, but I don't think we're going to – I don't want – you know, I don't want people planting crazy, you know, far Asian versions of something that then starts eating other things and we end up with fish that end up on – you know, river monsters or something. But I don't want to – I just don't think that – if we ignore it, I'm afraid that it's sort of ignorant more than anything. It's real, and especially if it's being phrased like "water gardening."

Mr. Walters: I think that there –

Mr. Easton: You're welcome to my rhubarb, if you want some.

Mr. Walters: I think that there are at least two concepts here, maybe three different concepts. One is aquaculture, represented by the entities at this table; one is gardening – you know, a very small-scale operation; and then the third is harvest, because the harvest – a recreational harvest operation may not, in fact, involve growing your own.

Mr. Easton: True.

Mr. Walters: So maybe what we need to do is separate those concepts. And just the recreational harvest by itself without you growing your own is probably not something that we're going to try to regulate through the Shoreline Plan.

Mr. Easton: I don't think I'd even define that as aquaculture. If I walk out and can grab it it's not aquaculture, but if I –

Mr. Walters: And it's not \_\_\_\_.

Mr. Easton: – and Bill's example *is* – sorry, Kevin – but in my opinion, Bill's example *is* aquaculture because it didn't happen unless someone participated in making it happen and that to me is – that crosses the line between a wild species out on the tideland and proactively growing it. I think that at least those two should be there. I would not touch the found-it-on-the-beach point of view.

Ms. Candler: The only thing is I think that the definition makes it a little bit confusing because they use the word "harvest" to specifically except wild geoduck. So that leaves you to think that if you're talking about harvest of other things then it *is* included. You know what I mean? They specifically except –

Mr. Temples: Well, I think you're talking about an extremely small group of individuals versus major harvesting aquaculture production. I mean, it's like the old saying the tail wagging the dog – I mean we're – I'm not saying we should ignore it, but –

Mr. Easton: The benefits of small-time aquaculture outweigh the bureaucracy of not including a sentence, in my opinion. It's not – we're not creating bureaucracy by recognizing that there's benefits for the County to support people and encourage. To me it's similar to – if people are going to do this and they can see that the County might be able to give them some guidance, maybe we do avoid the extreme example of, you know, they went to the wrong store and bought the wrong seed, and somebody here at the counter could point them back to you can still do this but you should probably go see somebody like Taylor's or somebody to get the right stock, if it's something that the County staff is aware of.

Mr. Dewey: You could conceivably consider a regulation that says if you're going to shellfish garden, purchase your seed from a certified source, or something like that.

Mr. Easton: I'd be open to that.

Mr. Walters: We can develop maybe just a sentence that addresses that.

Mr. Greenwood: Can I ask a question? Who regulates recreational harvesting? Fish and Wildlife's \_\_\_\_\_.

Chair Lohman: Fish and Wildlife.

Mr. Greenwood: I would think they would regulate this recreational growing and harvesting as well. Just the harvest, not the growing.

Mr. Dewey: Just the harvest, not the growing.

Mr. Greenwood: So what about when the guy goes out and throws his goldfish out in the local pond? I mean, isn't that the same kind of thing? They do regulate what goes into water.

Mr. Dewey: That's illegal. You're introducing a \_\_\_\_\_.

Mr. Easton: Right.

Mr. Greenwood: And that would be the same thing with the shellfish, wouldn't it?

Mr. Dewey: Yeah, it would. They regulate invasive species.

Mr. Greenwood: Right. And so I think it's pretty covered in that regard. So, you know, if it's starting to get real big I think Tim would have a challenge – would be more upset with it if there was a whole bunch of it going on and suddenly people go down to Home Depot and say, Hey, I know how to control this vegetation at the same time, and next thing you know you've got tilling operations and then you've got weed control operations – you know, recreational kind of stuff. But it doesn't seem like that's where we're at.

Mr. Bright: For fin fish, Park and Wildlife issues a transfer permit and if you took native fish, non-native fish, whatever, if you're carrying live fish you have to have a permit to carry those fish and they have to be, you know, checked for disease and you have to have their – they have

to have knowledge of where you're transplanting them from this pond to that pond and those things and you get an approval through that. Joe Blow goes and grabs a bucket of rainbow trout and throws it in his pond, he's breaking a law essentially. You know, and if they find out about it he's in trouble.

Mr. Easton: Even if this sentence was defined to do that, there's no way that Ecology and Fish and Wildlife would do anything but object to us doing that, so I don't think we'll see that – this type of conversation that may turn into a sentence into that kind of a thing. Because I don't want to step into Fish and Wildlife's – I don't want to use the Shoreline Master Plan to step into how Fish and Wildlife manages fish. That's not my intention at all.

Chair Lohman: But keep in mind this is the policy section, too.

Mr. Easton: Right.

Mr. Dewey: So, Tammy, on that fact that geoducks are in the definition, I think the reason for that is that at one point Kitsap County was trying to regulate geoduck wild harvest through their Shoreline Program and require a shoreline substantial development permit. And so I think that's been driven either by court cases or legislation that calls out specifically that geoduck aren't – wild harvest geoduck are not covered under the Shoreline Master Program. I think that's probably the reason it's in that definition.

Mr. Temples: I don't know about Kitsap but I also know just a while back on the news they were talking about huge underwater operations of people literally stealing geoducks. I mean, it's a real problem in parts of the Puget Sound.

Mr. Easton: I'm sure Bill could tell us a few stories.

Ms. Candler: I think it implies that harvest is part of the first sentence, is the problem that I have, you know? So that's more like a recreational use is just a harvest without all the other culturing.

Mr. Easton: So should we wait until the staff brings back some changes?

Chair Lohman: I think we need to – maybe the direction is to bring back some language. Is that okay?

Mr. Easton: Maybe some options?

Mr. Temples: Or even a statement – something as simple as “non-recreational harvesting.”

Mr. Easton: No, you still aren't encouraging. You still walked away from what the original conversation was.

Mr. Walters: I think we've captured their comments.

Chair Lohman: But even if you had it as a separate bullet.

Mr. Walters: Yep. Maybe replacing the 2.6 that we deleted.

Chair Lohman: Because you do mention recreational harvest in 2.4 right above it – limited to the Padilla Bay.

Ms. Stevenson: They asked us to do that so we included it so people know that those are privately owned, that they're really not supposed to be out there except on a \_\_\_\_.

Mr. Easton: With the vast majority of Similk now being privately held by the Swinomish, should that be added also?

Ms. Stevenson: I don't know. By encouraging it –

Mr. Easton: (unintelligible)

Mr. Dewey: I generally consider Similk part of Skagit.

Mr. Easton: Isn't it by definition Similk's part of Skagit because that portion – the tidelands is connected to the upland and the upland is in Skagit County?

Mr. Hyatt: I've had the same question actually. Bill used to own it and run it and I'm kind of new to it, but the big bay is Skagit Bay. Similk is a part of that. And I've wondered myself whether Similk is considered in the definition of Skagit Bay.

Mr. Dewey: Well, I wouldn't see any harm in potentially calling it out.

Mr. Easton: Yeah, I think there's some advantage to doing that.

Mr. Dewey: In that policy.

Chair Lohman: In policy 2.4?

Mr. Easton: Just add another comma and say "Similk Bay also."

Mr. Meenaghan: In 2.4?

Mr. Easton: So immediately following "Skagit Bay"?

Chair Lohman: Okay. Are we ready to move on?

Mr. Easton: Can we go to Policy?

Chair Lohman: Okay, was there anything else in the Policy section?

Mr. Easton: Or regulation?

Chair Lohman: Okay, so now we need to jump to page 96. This'll be in the – this'll be 14.26.415, Aquaculture.

Mr. Walters: So in reviewing this section, there are two important, overarching concepts. One, "shoreline review" means a shoreline substantial development permit, a conditional use permit, a variance, or a substantial development exemption. And "shoreline permit" means all of those things but not an exemption.

Mr. Greenwood: Repeat that for me, if you would. You lost me there.

Mr. Walters: So one of the headings in this section is “When is shoreline review required?”

Mr. Greenwood: Okay.

Mr. Walters: And so the two important concepts here are – just structurally to understand the organization and application of this section – is “shoreline review” means getting a substantial development permit or a conditional use permit or a variance or a letter of exemption, if you qualify for a letter of exemption. And then “shoreline permit” – we originally were just going to call that “Shoreline permit,” but Ecology said, No, no, don’t call it that because “shoreline permit” in other contexts we call that everything but not the exemption. So “shoreline review” means going through the review to get one of those things.

Mr. Easton: So not to sound oversimplifying, but why is it what you just said isn’t actually a part of what’s in here?

Chair Lohman: Why don’t we write it?

Mr. Walters: It’s in the definition.

Mr. Easton: Oh, so each word is defined alphabetically in – in an alphabetical order at the end of it that is defined as you just explained it?

Mr. Walters: “Shoreline review” is defined and we – in the Definition – and we added “shoreline review” to the how-to-use-this-document at the beginning of the entire thing.

Chair Lohman: Is this the only place that you are using that kind of strategy?

Mr. Walters: I think so, but the idea is to use it throughout the document.

Mr. Easton: I was surprised to see a heading that starts with a – that has a question mark in it. I – it seems –

Mr. Walters: It was conversational and easy to read. Is that what you were going to say?

Chair Lohman: Why can’t we just say – why don’t we just make a declarative statement and list those four potential scenarios?

Mr. Walters: Well, we can try that too; however, the concept “shoreline review” is used again. It’s not just in the heading.

Chair Lohman: Well, because it’s only here – but because it’s only in this chapter. It’s a one-off, right? Why don’t we –

Mr. Walters: At the moment, yeah.

Chair Lohman: Why don’t we just have an opening paragraph, kind of like you had in the memo?

Mr. Walters: And we did have that in an earlier draft. So if we're not using it throughout the document then we could very easily insert that.

Chair Lohman: I think you should if it's going to be an on – you know, something that's done differently, and you said that. When you introduced the work session you talked about except agriculture and aquaculture we're going to do it a different way. And because it's going to be done differently I think we ought to just be real clear.

Mr. Walters: Well, and the section is organized differently than the others.

Chair Lohman: The public is going to have gone through the tortuous exercise that we are where we've gone over every page so that we understand the nuances throughout the whole book.

Mr. Walters: Agreed and we're cognizant of that. That's why we have spent quite a bit of time reorganizing most of the sections in Part IV, and we'll continue to work on that and keeping track of where the shoreline review concept is used. But also we can add that line.

Chair Lohman: What do the other Commissioners – Keith?

Mr. Greenwood: I would tend to agree that a question of that nature is one that fits real well in a document that tells you how to process or go through, you know, the rules and regulations, which would be pretty complex. But if there were a statement that said, "A shoreline review is required under the following conditions," and to me that kind of simplifies it a little bit, but whatever.

Mr. Walters: I would disagree there because actually we worked with the Committee quite a bit to get to the structure where we are. Because each individual subsection there says then the shoreline review is required – just what you're suggesting, but it does it in the subsection.

Mr. Greenwood: Then just call it "Shoreline review" and make it stand out. Can you do that?

Ms. Stevenson: How about "when shoreline review is required," period, instead of "When is shoreline review required"?

Mr. Greenwood: Sure. That's fine. To me that clarifies it.

Mr. Temples: It's not *Jeopardy*.

(laughter)

Chair Lohman: Yeah.

Ms. Stevenson: The question mark seems to be the problem.

Chair Lohman: On number (3), Permit Exemptions, you have "A written statement of exemption is required for aquaculture..." Is that also true in the other sections for other uses?

Mr. Walters: For other uses? Yeah. The way that that works in general is that an activity that doesn't constitute substantial development needs to get a written statement of exemption.

Mr. Easton: So – correct me if I’m wrong – are we trying to get away from using acronyms in the body of the policy? We’re not?

Mr. Walters: In almost –

Mr. Easton: I’m confused by Betsy’s body language there.

Ms. Stevenson: Oh. Because I was talking to Ryan. I’m sorry.

Mr. Walters: To answer that question, we have a style guide so we use few acronyms but we do use a few. For instance, ordinary high water mark is so many words we just don’t say –

Mr. Easton: Same with the Shoreline Master Plan?

Mr. Walters: Right, and it’s such an important concept to reading any of it we just say OHWM.

Mr. Easton: Okay. My only concern is for those that don’t read from front to back that we’re leaving them with an understanding of what it is that they’re talking about. Okay, I will compromise on that, I guess. I want to go on the record as saying I think that the organization of point (2) – in addition to the question mark, which I obviously had a problem with – is not the – it may not be the way in which I would have organized it, but if this is what the best and brightest of the subcommittee came up with in how they want to structure it I can live with it. My only concern is to make sure that it’s – it just reads clearly to the *industry* as much as it does to the public. I want there to not be any – I’m trying to avoid the opportunity, if at all possible, - or *afford* the opportunity for there to not be confusion about the Plan. But you all feel – I would hope all three of you can agree that this is written in a way in which you think is going to be interpreted consistently?

Mr. Hyatt: No.

Mr. Easton: Ah!

Mr. Hyatt: Is that my cue?

Mr. Easton: If you had 645 for your over/under for a disagreement, cash your tickets at the window. Kevin?

Mr. Walters: And, Tim, before you jump in, I think that we agree that – or we hope that this is not the end all/be all of awesomely organized applicability here. But it is what we came up with, and I think Tim has some good reasons that he doesn’t like it but maybe the other members have reasons that they do.

Mr. Easton: So before I hear Tim’s reasons why he doesn’t like it –

Mr. Walters: Buy maybe before that, Betsy from, like, five minutes ago had a thing she wanted to say.

Mr. Easton: Oh, sorry.

Mr. Walters: So I wanted to hit that before – do you remember what it was?

Ms. Stevenson: Yeah. Annie asked a question about whether this permit exemption was special to this section, and it kind of is because permit exemptions are very narrowly construed and they're listed in a certain section. And this is a little bit different.

Chair Lohman: Yes, but?

Ms. Stevenson: So I guess the answer is yes and no.

Chair Lohman: Okay.

Ms. Stevenson: We do specifically call it out here that you *do* need an exemption for aquaculture activities if they don't rise to the level of a substantial development permit, a conditional use permit or a variance. In other areas you may or may not. You still have to fit into a category of an exemption. So maybe that's...

Mr. Hyatt: Wasn't it originally it was exempt under (1) – under section (2) it was exempt but Ecology said, No, no, that can't be an exemption? You need – an exemption is something else. So you changed it to a shoreline review not being required to satisfy Ecology, but also the Army Corps of Engineers requires a letter of exemption before they will process a permit, so you had to put the exemption in?

Mr. Walters: I don't remember that last bit.

Ms. Stevenson: We initially had it a shoreline permit – requires a shoreline permit – and we in the original beginning with the table for shoreline permits included exemptions in that, and Ecology said, You can't call an exemption a permit. We just don't do that.

Mr. Hyatt: That's what it was. Yeah.

Ms. Stevenson: So we separated it into shoreline review, but then we also wanted to make clear that, hey, you're still going to need an exemption if you're doing aquaculture and you don't need one of these other things. So that's what we were trying to do. But I didn't explain it very well because Ryan's giving me the funny look. There are certain things that are listed in a specific exemption.

Mr. Bright: General maintenance –

Ms. Stevenson: Right.

Mr. Bright: – of an existing facility is an exemption.

Ms. Stevenson: And we didn't include – I mean, there may be some things that don't raise themselves to a level of substantial development permit, conditional use permit or a variance, but it still may or may not be necessarily an exemption or something that would be allowed, if that makes sense. And maybe it doesn't, but that was the point that I was trying to make. We did specifically state here that you need an exemption if it's not one of those other things. I don't think we do that anywhere else.

Mr. Bright: So can I just – for an example, for a net pen facility the cages eventually rust and wear out and then the structure needs to be replaced, just like a dock, and so I need an exempt – you know, I need to go through the County. It's a substantial development, but I get a

substantial development exemption because I'm just replacing an existing facility that was already permitted. Then I've got to go to the Army Corps and say I get a Section 10, Repair and Maintenance of an Existing Facility, go through that whole process. The Army Corps is a little more difficult. There's the ESA review and all sorts of hoops to jump through, but generally if it's an existing facility it's known – it's a known quantity. It's already been reviewed. So that's an exemption in my world of net pen farming.

Mr. Easton: Can we go back to the question I had about section (2)? So I had asked if the three of you felt that just section (2), just the part (2), was clear enough that people would understand, and that they understood/understand what's required of them. Tim said no and hasn't had a chance to explain why. If you could limit it to just (2), because I know we're going to move through things, but if Tim could finish his comments and if the rest of you could comment on that, and if there're some suggestions with this portion of the Planning Commission here that we may be able to bring some clarity that don't change things substantial – you know, may not change things substantially but – or may or may not – but bring it a little closer to being easier to understand. You kind of hear a theme with us – and I think you heard it with your first work session with us – we don't like to sign on to products that we send out to the public – in general, we as the Planning Commission – that are hard for them to understand. We kind of think that that's part of our job as the watchguards – I mean, as the representatives of the citizens. It's a simplification, sort of – oversimplification – but it is kind of what we – at least this group's sort of current makeup kind of feels that way, in addition to our other responsibilities.

Tim, do you want to expand on your “no” answer?

Mr. Hyatt: On the face of it, section (2) looks good. You do need a permit to expand. You need to come in and get that reviewed, whether or not you currently have a permit or not. If you're going to expand, you need to come in and get it reviewed. New aquaculture, obviously, needs a review. Bill, do you want to pass these down? I've got a memo that I've – with a map that I think is going to be useful here in a second. My difficulty is with ongoing aquaculture being undefined. I don't have a problem with what this paragraph is trying to say – that “Ongoing maintenance, harvest, replanting” you don't need a review for that. That's fine. The problem is, What exactly is ongoing aquaculture? If ongoing aquaculture is what is currently being cultivated, that's exactly what I think (2)(b) is trying to get at. But if ongoing aquaculture is undefined and someone else says, Well, that piece of parcel's been destined for aquaculture for ages and I'm not expanding; I am using something that I always intended to use; I don't need permit review; I can start growing new shellfish out in this area and I don't need review. And I think that loophole is pretty big. And part of the problem is the definition that the Army Corps of Engineers uses for ongoing aquaculture. It's in the second indented paragraph in the memo. “...the area” that “is currently authorized to conduct commercial shellfish aquaculture activities identified through a lease or permit...or any other easement, lease, deed, or contract.” “Deed” isn't one of the operative words in that. If you flip over to the map on the next page you'll see that Samish Bay, a lot of it's private and a lot of those private areas with deeds are on what the DNR has mapped loosely as eelgrass. Now if every one of those owners said, I've got a deed, that's ongoing aquaculture, I don't need to come in for permit review, they could expand into what is currently natural eelgrass beds without permit review. And the overlap between private lands out there and the eelgrass is about 2500 acres. That represents a substantial environmental diminishment of habitat that supports forage fish and salmon and pretty much everything else.

Mr. Easton: So before we move to your compadres, did you – and obviously we're just reading this now – did you come up with a definition that you would prefer for ongoing?

Mr. Hyatt: I didn't because I don't like to write things that the County – I don't like to –

Mr. Easton: I mean as a sample. I don't mean to presume that you would get it passed. I'm just saying –

Mr. Hyatt: I would like it to be more similar to the definition for "commercial agriculture," which is basically anything that's now agriculture or was in the last five years, or has been put into some sort of federal set-aside.

Mr. Easton: And one other quick thing before we go to the next person: Ryan, the way in which Tim interpreted that the next jump would be to the Army Corps' definition, is that how you would presume the County would define how the guy at the counter would get that definition in his favor – is to appeal to the Army Corps' definition?

Mr. Walters: Well, not necessarily. I mean, there are frequently defined terms in our code.

Mr. Easton: "Deed" is a pretty loose term.

Mr. Walters: What's that?

Mr. Easton: "Deed" in some ways is a pretty loose term if there hasn't been any –

Mr. Walters: The Army Corps' definition is quite expansive and encompasses a lot. I'm just saying that as a general matter there are defined terms in our code that are defined terms in other codes and we don't necessarily or use other people's codes for those definitions. We interpret our own code.

Mr. Easton: Do we have an – do we have – we currently don't have a definition of "ongoing agriculture," I presume? Or aquaculture?

Chair Lohman: Yeah.

Mr. Easton: Yes, we have one of agriculture – sorry. Wrong culture: aquaculture.

Mr. Walters: Right. That's what Tim's getting at.

Mr. Easton: So you just keep the deferment. Bill, thoughts?

Mr. Dewey: Well, this ongoing aquaculture discussion is probably where our subcommittee spent most of their time, or let me just say a large portion of it. Tim's made these arguments a number of times. We've discussed them as a committee and, you know, this is what we're landing on. It's something I'm comfortable with, where the County is basically on a case-by-case basis making the assessment of whether it's ongoing or if it isn't. You know, if it's going to have a significant environmental impact it's going to need to be permitted. But if you're just doing a change in any of these activities that aren't going to have a significant adverse impact...

Mr. Temples: But is not all of this ultimately under the review of the Army Corps of Engineers? So is that more the source where these issues should be forthcoming than through our level at this point?

Mr. Dewey: We talked about this when – before on it and we all had to get Army Corps permits for our farms, and that requires a pretty extensive environmental review. There's been a transition in the industry in recent years to where a new permit that was issued in 2007 – a Nationwide 48 permit – so all existing shellfish farms got folded into that Nationwide 48 and that 48 went through an extensive biological review/environmental impact review by both the National Marine Fisheries Service and U.S. Fish and Wildlife Service. Every five years those Nationwides get renewed and you go through another environmental review. When the 2012 Nationwide – beyond covering existing farms, is also going to cover expansion and some new farms. So that aspect of it is now being consulted by the federal services.

Mr. Temples: So the Corps is making some future upgrades or changes to their review process.

Mr. Dewey: Yeah.

Mr. Temples: I'm just trying to hear your concerns, Tim, so I'm just trying to –

Mr. Hyatt: Well, for one thing the Corps is deliberating and has been for quite a while. The biological opinion that was written on this has been basically shelved because the rules changed afterwards and it no longer really applied. They are starting a new one. It's not going very quickly. The rules are getting looser. But more to the point, if Skagit County punted to other departments on everything where there's an overlapping interest, you probably wouldn't have much of a Shoreline Plan.

Mr. Easton: \_\_\_\_\_ has to be advocating for that. That would be a mistake to think we're advocating for that. He's trying to get a lay of where the – and remember, there's a membership change since that last time you were with us, so – in Robert's case, I don't think he was with us when you were with us before.

Mr. Hyatt: Thank you. I appreciate that.

Mr. Easton: But there's – just trying to understand the overlay of obviously a field that none of us practice in about how many regulations – I think Kevin probably at our last meeting did a great job of laying out just I think an almost bullet-by-bullet list of all the things that have to be done for him to acquire any new – anything that would be considered new. And if the caveats in here about ongoing, if we can't trust the Department to know the difference between ongoing and some guy who has a deed who says that he was doing it but he has no proof then we've got bigger problems at the *counter* than – this Department's not been known for erring on the side of being vague, shall we say, and there's a reason why there's an attorney with us everywhere we go with this Planning Commission. Because we try not to err on the side of being vague, so I don't think we're stumbling down that path. Kevin?

Mr. Bright: I was looking at the – I guess it's section I, part (c), Expansion of aquaculture, which in my mind – and the lawyer's mind, I think – not that I'm a lawyer – if I'm deeded with this piece of property – if my granddaddy owned it fifty years – it said it was shellfish property but it's never been actively cultivated, right? And now all of a sudden I'm going to come in and I'm going to throw hundreds of thousands of dollars into building up this facility and tearing up the eelgrass and putting shellfish in, that's an expansion of aquaculture, right? And we have that right there. I can't go from never cultivating something to all of a sudden going out there and tearing it up and planting oysters and geoducks or whatever and think that I can do that and get away with it. I don't have a shoreline permit, right? I've got a piece of property on the water that I've owned for eighty years but I don't have a shoreline permit, so if I went out there and started doing that

the County has the authority to come in and basically shut me down instantly. Is that – I don't have an existing permit. Right here it says, "For aquaculture without an existing shoreline permit any expansion requires a shoreline permit." It's in there. I think we covered that. We tried to cover that type of example where somebody can't just go in there and start rolling it. And it's going – you know, you're out there. You're going to need the Army Corps permit and everything else. You need all these permits if you're going to go out there and start doing work over water and tearing up eelgrass or whatever, which is Tim's concern, and that's what we've been through several times. I just don't see people going out there and doing it and rolling dice whether they're going to be –

Mr. Easton: Just because they had a deed or just because.

Mr. Bright: Yeah.

Mr. Easton: So it's intriguing. What's intriguing is you just acquired – some portions of what you just acquired have been non-working, right?

(several sounds of assent)

Mr. Easton: So your original objection to this section was during a time when one of your primary parts of your partnership didn't have nonworking shellfish beds in Skagit Bay or the Similk specifically.

Mr. Dewey: Right.

Mr. Easton: But now you're asking – now *you* may actually be somewhat – your organization may be someone who's going to have to try and convince that – are you going to try and err on the side of saying yes, this was ongoing, even though there was a gap between – clearly there was some gap between when Taylor had it and now you guys have it?

Mr. Dewey: Just for clarity, Tim said we owned it. We didn't.

Mr. Hyatt: Oh. Sorry.

Mr. Dewey: We – Rockpoint used to lease it from the Morgan family, and then when the Taylors bought Rockpoint we continued that lease until the pollution closure shut Similk.

Mr. Easton: So you acquired the lease when – okay.

Mr. Dewey: But we never owned it. We farmed it.

Mr. Easton: You leased it. Was there a gap – am I right to assume there's a gap between when you stopped farming it and when – and as of –

Mr. Dewey: And now this is one of the challenges here frankly. You know, that bay was closed for a decade because the pollution from the failing septic systems.

Mr. Easton: Right.

Mr. Dewey: You know, does that qualify as ongoing? There's a ten-year gap for a pollution closure. Just all of a sudden that \_\_\_?

Mr. Easton: Can you blame the property owner for not using it when they were banned from using it because of the issues that had to do with the water quality?

Mr. Walters: And we considered some language that would have taken into account lands laying fallow for various reasons: pollution closures, regulatory issues – that kind of stuff.

Mr. Easton: What happened to that?

Mr. Walters: The committee didn't like it so we didn't go with it.

Mr. Hyatt: I wouldn't say that –

Mr. Walters: I got the impression the committee didn't like it.

Mr. Dewey: We've already been around and around on it.

Mr. Hyatt: We've been around and around on it. That's definitely the case.

(several people talking at the same time)

Mr. Easton: Injecting us into somebody going around and around is not necessarily known for getting us to a solution, so...

Mr. Hyatt: I'd like to back up to what Kevin was saying. Expansion of aquaculture is clearly regulate – the intention of the code is clearly to regulate.

Mr. Easton: So, Tim, is it expansion – no – is it expansion for you to now take what you acquired and use it when it's been laying fallow for ten years?

Mr. Hyatt: Yes!

Mr. Easton: It's expansion? You expect to fully have to re-permit?

Mr. Hyatt: We have had that discussion internally and we fully expect – we do not expect to play that card. Correct.

Mr. Easton: And I don't think if you don't then with all the resources you all have to know how to manage – and I mean this with respect – with all your resources that you guys have to know how to manage the federal agencies and the state agencies to reach your likely goal, you're probably the best suited to have taken the more difficult path – or the easier path – you're going to choose to –

Mr. Hyatt: You misheard me. I think you misheard me. We intend to –

Mr. Easton: Claim it's ongoing.

Mr. Hyatt: No. We do *not* intend to claim that as ongoing.

Mr. Easton: So your concern about people using ongoing an excuse to do new work – what you would consider new, in the sample you gave us earlier – you're not even willing to do, so why are you concerned –

Mr. Hyatt: We *are* willing to do it. You refuse – let me be perfectly clear. I'm trying to be. We do not intend to claim that Similk Bay is ongoing aquaculture. We will start new.

Mr. Easton: I understand that. Your earlier example –

Mr. Dewey: I think that's very important, in my opinion.

Mr. Easton: You think that they should claim that it's ongoing?

Mr. Dewey: I think that's ridiculous. I mean, here they're going to be penalized and have to go through a multi-month, expensive –

Mr. Easton: You do both realize how ironic this is, right?

(laughter)

Mr. Easton: And I'm just going to say you started this issue by saying that you were worried that people were going to overuse the ongoing section, and you're not even willing to try to use it while you sit next to Taylor's Public Affairs Director who's telling us that he thinks you should use it.

Mr. Greenwood: Because he doesn't think it's right to use. That's why.

Mr. Easton: So then you think that the definition should change because you don't think it's right to use it.

Mr. Hyatt: We think there should be a definition of ongoing aquaculture which would implement part (c), which is the clear intent of the code. The clear intent of the code is that expansion should get a permit, and that's not necessarily something that's never been permitted. It's simply a guy's got 40 acres. He's got a permit for 5. He's got a deed or an easement or something for 40. Under this, in the absence of a definition for ongoing, he could say, That other 35 is ongoing and I don't need no stinking review. And if he got his lawyer –

Mr. Dewey: So we covered that –

Mr. Hyatt: – he could come in here and make that point.

Mr. Dewey: – for aquaculture permitted under a previous version of the SMP, a shoreline permit is required when the activity expands more than 10% beyond the cultivated area, or 1 acre, whichever is less. So we covered that. You can't just go out and blow out another 30 acres without going to the County and getting a permit.

Ms. Candler: I have a question. What type of definition are you proposing? I mean, it would have to be very in depth to deal with \_\_\_, I would think.

Mr. Hyatt: I don't think so. I think it would basically say ongoing aquaculture is that which is currently under cultivation or – like agriculture – or has been for the last five years or was put

into some fallow status by virtue of a protection program of some sort. That's what – that's the definition for agriculture. I don't think it's got to be that in depth.

Ms. Candler: Well, because my thought is – well, yeah, aquaculture's already defined so we're talking about the word "ongoing," right?

Mr. Hyatt: Right.

Ms. Candler: So – correct me if I'm wrong, Ryan – we use a definition from just the ordinary, plain meaning of the word unless we're going to get really in detail about what that's going to be.

Mr. Easton: Correct. You just assume it's the English definition of the word unless it's clarified as something else.

Mr. Hyatt: Or unless somebody wants to raise the Corps definition and say, *This* is ongoing aquaculture.

Mr. Walters: So we wouldn't be going to the Corps definition. We would interpret our own code without the Corps definition. I think I would say the Corps definition of using property ownership as the threshold doesn't really make sense in this context.

Chair Lohman: Well, doesn't it – maybe because it's out of context – the Corps definition. Because I'm under the opinion that the Corps definition makes it this property is potentially eligible to be shellfish.

Mr. Hyatt: That's exactly right.

Mr. Easton: But it doesn't make it eligible – just potentially eligible.

Chair Lohman: But the County code doesn't mean that you can just do whatever you want.

Mr. Hyatt: The context was that Bill suggested that all Bush and Callow Act lands, which is what you see on that map, be considered ongoing aquaculture. And I had a reaction to that.

Ms. Stevenson: And it's not in there. That's not what we agreed to.

Mr. Easton: And Ecology would freak out –

Mr. Hyatt: Actually I have had this discussion with Ecology.

Mr. Easton: – if they thought we were talking about that.

Mr. Hyatt: No. Ecology – I've had this discussion with them. They would not freak out.

(several unintelligible comments)

(laughter)

Mr. Hyatt: But they will not freak out. I think they want to see what the County does.

Mr. Easton: So in your 35 and 35 example, if Ecology read it like you just did where like the guy had 35 acres and he had to lease or deed on the other 35 but never used it and then he claims that that's ongoing for him to expand the 35 to 70 – which, by the way, we're ignoring the fact it triggers what Kevin pointed out. But let's say somehow they figured out a way to ignore what Kevin pointed out, you don't think that if Ecology read that into what is happening in this section that they wouldn't raise a level of concern with us?

Mr. Hyatt: How would they see it? It doesn't require review.

Mr. Easton: Let me bring you back to a comment made by our attorney earlier tonight. "I'm not quite sure" – I think a direct quote is – "I'm not quite so sure why they're so obsessed with this section but they surely are."

Mr. Hyatt: But what this says –

Mr. Easton: Is that almost a direct quote of Ryan earlier?

Mr. Hyatt: Yes. That's true, but –

Mr. Easton: So I can't imagine they're sleeping on this.

Mr. Hyatt: How are they going to see it if it doesn't get reviewed?

Mr. Easton: How's it not going to get reviewed?

Mr. Hyatt: Ongoing –

Mr. Walters: Individual activity.

Mr. Hyatt: Ongoing maintenance does not require shoreline review.

Mr. Easton: No, I'm saying they're going to review the language and if they feel like it sets them up to do the 35 and 35 example –

Mr. Hyatt: They've already said that they –

Mr. Easton: Has Ecology raised the concern about this section? This point in the preview draft.

Mr. Hyatt: Believe me, I've tried to \_\_\_\_\_.

Mr. Easton: Madame Chair, I have no issue with that! I mean, we have not heard any comment from Ecology on the February 4<sup>th</sup> draft on this piece.

Ms. Stevenson: We heard comments but not on this specific item B(2)(e), Ongoing aquaculture.

Mr. Easton: That's all I have on this section, Madame Chair.

Ms. Stevenson: I guess as a little background, too, we've been all through this several times, as you know. One of the things that I was looking to do – Bill didn't get everything he wanted out of this either. It's been a real evolution. But what I was looking at is the Nationwide permits and what the Corps looks at. The operators, as I understand it – correct me if I'm wrong, but this is

how I looked through it. And I went through all the permits and all the conditions and everything that's in there. When they go to get their permits, they can choose to either include their entire holdings as part of the permitted area or they can just do the area that they're actually cultivating at the time and go through the whole process. And if they do their entire holdings then they're going to have to show all the environmental issues and all the impacts and everything for that entire area. They may only choose to cultivate or farm in certain portions of that at any given time, but they're including the whole thing. Now you can just include a portion of that and maybe only some of that's cultivated. It doesn't have to be their entire holdings, as I understand it. So this was the best way that we saw to capture that in a way that says, Hey, if you're doing ongoing aquaculture, then we are going to be looking at that and we are going to be reviewing what you put down for your Corps thing and whether it is ongoing in that area or whether it's considered an expansion into an area that hasn't been cultivated before. But there are all kinds of things – and Bill mentioned a few of them; you guys have come up with a few of them – of different examples of things that happen that we don't necessarily want to get involved with regulating any more than we do with farmers. There are certain reasons why you don't farm in certain areas in certain times for however long it takes, but that doesn't mean that you should have to come back and start the entire permit process over when it's okay for you to go back into that area and do something that you had been doing there before, whether it's because of a water quality closure, whether it's because of an invasive species that's caused problems in that area that it's just unsuitable for that time.

Mr. Dewey: Blau's is an example where they had – you know, they've had 60 acres taken out by this bamboo worm and they haven't been able to farm on it for well over a decade. Some of it's starting to come back into production now. They shouldn't have to come back in and get a permit to start re-farming that area.

Mr. Hyatt: I think we could make an exception for that kind of – we could write a provision that would cover those kinds of things.

Mr. Easton: We did. It's called ongoing and it's right there under point (2).

Mr. Dewey: \_\_\_\_\_ to be clear on that.

Mr. Easton: I think we did. I think we do.

Mr. Walters: So one other consideration is that the flip side of ongoing is expansion. So while ongoing is not defined, expansion does have much more definition to it because expansion talks about when it expands beyond the permitted area or when it expands more than 10% beyond the cultivated area. So there is more definition on the expansion.

Mr. Easton: More 1 acre. I mean, those are some pretty strong – I mean, I would assume you're very fond of (c)(iii), correct? I might even go as far as saying you might have helped write that.

Mr. Hyatt: Actually there are some objections – not mine, but Ecology is going to object to that.

Ms. Candler: Which –

Mr. Hyatt: I think I did help –

Ms. Candler: Wait, wait – which section?

Mr. Easton: (c)(iii). (2)(c)(iii).

Mr. Hyatt: Yeah. I think we did agree on that in committee, and I've heard since then that the Ecology folks don't like that 10% expansion.

Mr. Easton: But it's also counting it before 1 acre.

Mr. Hyatt: That's their comment, not mine.

Mr. Temples: If they don't like 10%, what *do* they want?

Ms. Stevenson: We've met with them several times and they haven't shared that with us.

Mr. Easton: So the same people you're talking to are telling our folks that they – aren't sharing that with our staff? That's making this awkward.

Mr. Dewey: That 10%'s in other counties' SMPs. I've seen it in several counties'.

Mr. Hyatt: As a *revision*. That's their problem with it. I'll let them speak to that.

Mr. Easton: So it's 10% *or* 1 acre, right?

Chair Lohman: Whichever's less.

Mr. Easton: Whichever would be less. Is that how you would read it?

Mr. Hyatt: That's what it says.

Mr. Easton: Actually it literally says "whichever is less" but I was still asking the question. I'm not trying to be rhetorical. I'm just saying... We're not talking about 200 acres.

Chair Lohman: No.

Mr. Hyatt: I understand.

Mr. Easton: Do you want to comment on why you've quoted Ecology a couple of times and how we'd end up in a spot where you're getting quotes from Ecology that are different than the staff's getting? Is that normal? Because it's not very helpful. I'm not trying to point this at *you*. I'm saying to *Ecology*, if they're telling one member of our subcommittee that they don't like sections but they're not telling our staff lead – our staff contacts – clearly, obviously these three represent Skagit County to Ecology. Can you comment on why that's happening? Do you have any insight into that?

Mr. Hyatt: I should let Ecology speak for themselves. Let's leave it at that.

Mr. Easton: Okay.

Ms. Stevenson: But it's not the intention –

Mr. Easton: It's not our intention not to at least hear Ecology's concerns. I'm not saying that myself or any of the rest of the Commissioners are going to necessarily heed all of them, but we definitely have been reaching out to them and I would say as an SMP sample around the state we have definitely leaned ourselves to hearing Ecology's opinion during the process. We're not over in some silo in Mount Vernon, Washington, in Skagit County cutting an SMP that didn't get any input from Ecology. As a matter of fact, some might say we've reached out to Ecology – as we heard from one member of the public tonight – too much. So this is not an attempt to do this in a silo as separate from them.

Mr. Dewey: And on this particular section because Ecology's been so interested.

Mr. Easton: Yes, as we heard earlier.

Mr. Dewey: We had a meeting earlier this year, and I believe the February 4<sup>th</sup> version that the Planning Commission got reflected our committee and Ecology and County staff spent a few hours going through all of these one at a time, just like you're doing, and agreeing to or, you know, the revisions that you saw on February 4<sup>th</sup>.

Mr. Walters: And then we did that again with Ecology.

Mr. Dewey: You guys did it one-on-one with Bob Fritzen from Ecology.

Mr. Walters: Right, just with Bob, which resulted in the changes in the memo, which I think are very minor.

Mr. Dewey: Some of the changes that we're talking tonight.

Mr. Walters: And before that meeting with Ecology with all of you, we met with all of you *without* Ecology and worked through kind of the basic structure. So we have spent quite a bit of time with Ecology and with the committee trying to come up with the structure and then also the rules within the structure.

Mr. Greenwood: Well, the only problem I have with just reading it as a lay person – Ongoing Aquaculture – is the part where it says "...new culture technique that has significant adverse environmental impacts." "New": Would that be a change in what's currently happening, or "new" in the sense, We just came up with a new idea that's never been done before?

Chair Lohman: But, Keith, I don't –

Mr. Greenwood: And the reason I would want clarification on that is that if, you know, one time somebody went out there with a siphon tube and plucked one and they're going to do that again, that's one method that has been used on that plot of ground which is already an acceptable and a preferred use of the shoreline and that particular parcel. It's when you start to have an environmental impact substantial that it not only gets noticed but it needs to then address those concerns. So if you start to remove eelgrass, to me that would be a new culture technique because it's already there. It's there now. You haven't taken it away. Unless you, you know, cultivated it with one practice and then you backed off for a period of time (and) now you're going back to do what you've already been doing on that piece of ground. So, to me, "new" just means new in the sense it hasn't been done *there* before. So if it hasn't been cultivated before, it's a new practice and it would therefore be expansion.

Mr. Dewey: New culture technique. Technique to me means, for example, we've since the industry started growing geoduck we've used these PVC nursery tubes. And so if you had an area permitted for geoduck farming with these tubes and now we're trying to get away from those tubes and go to plastic mesh – kind of like tree protectors? – and so that would be a new technique. We're still growing geoduck in the same area but it's a new technique for farming geoduck.

Mr. Greenwood: Would that be a new cultural practice requiring a permit?

Mr. Dewey: The way I would read it is –

Chair Lohman: No.

Mr. Dewey: – if that mesh tube had a significant environmental impact, then you'd need to get a permit.

Mr. Greenwood: That's exactly the way I would look at it too.

Mr. Easton: And the flip side of that would be if the new practice disturbed more ground or more eelgrass because of the size of the implement you were using to go harvest.

Mr. Dewey: If it's something that had a greater impact, not just \_\_\_\_.

Chair Lohman: But I don't think you want to put handcuffs on anybody from trying something, you know, a new technique –

Mr. Greenwood: If it has a –

Chair Lohman: – a new opportunity to do things better.

Mr. Easton: As long as it does it with the caveat as long as it doesn't make the environment worse.

Chair Lohman: Yeah, as long as it doesn't hurt – you know, why would you?

Mr. Dewey: And I just want it to be clear because I – you know, Kevin, I appreciate your input but I would like to take exception to your earlier comment because it leaves this perception that we're going out and ripping out eelgrass and just kind of raping our habitat when we farm, and that couldn't be further from the truth.

Mr. Easton: I don't remember that part.

(laughter)

Mr. Dewey: You know, I mean, it's just – we're not going out and ripping anything out, you know. We respect the habitat in which we farm. We wouldn't be in business for over a hundred years if we didn't.

Mr. Bright: Right. I understand.

Chair Lohman: Well, aren't some of your areas actually regenerating eelgrass?

Mr. Dewey: Absolutely. Oh, yeah. This perception – now Tim has passed out this map. He's done this at numerous meetings with the perception that if we go there that eelgrass is automatically gone, and that couldn't be further from the truth. I mean, a lot of the areas we plant eelgrass comes in because of the ecosystem services the shellfish provide. It's a –

Mr. Easton: So Tim's going to be able to do that now. He's going to be able to harvest and improve eelgrass at the same time. If the Taylors have been able to do it for a hundred years, I imagine you guys will be even better – or as good or better – at doing it also, which is exciting.

Mr. Dewey: Well, I didn't make enough copies but I know this is always a concern this perception that we hurt the ecosystem which we farm. You can share – there's four copies here. You can kind of start flipping and just flip through the pictures. There's pictures here from Samish Bay and there's some pictures here from Willapa Bay where we also farm extensively in eelgrass very similar to Samish so those pictures would be very comparable to Samish Bay. And then there's also an example in here at the back of an area I planted on my personal farm with geoduck. It was bare sand when I started and you can see what it looks like now entirely. It's one of the densest eelgrass beds I've seen – right over where I've got my geoducks.

Mr. Greenwood: Yeah, you've presented that on a video before.

Mr. Easton: Yeah, we've seen that.

Mr. Greenwood: We're looking at significant adverse impacts before you. You have to have a threshold and that's what it is in many, many disciplines requiring a permit. So there's got to be a threshold.

Mr. Dewey: Significance is hard to define.

Mr. Greenwood: Yeah, very much. Yep.

Chair Lohman: Okay. Shall we move on? The next thing on this page is section (4) where you added – under section (4)(a) – you added an additional (iv) which is to avoid conflicts with navigation. I didn't see any problem with that.

Ms. Stevenson: Do you want to do this or do you want me to? I don't know if you guys have stuff in between where my comments are, so I – if you want to jump in like \_\_\_\_\_.

Chair Lohman: No. No, no. Just go.

Mr. Greenwood: Can I ask a question just on item (iii) of (4)(a)? We're attempting in other sections to replace the word "minimize" with something like "mitigate" or "try to lessen," if you will. It says "minimize impact to the aesthetic qualities of the shoreline, with consideration given to height, color, uniformity, and arrangement." When we say "minimize," that doesn't preclude the option not to do it – if somebody has a problem with it if we say "minimize." Because sometimes "minimize" is to do nothing.

Chair Lohman: Where –

Mr. Temples: That's what they're changing.

Chair Lohman: Where are you?

Mr. Greenwood: Okay.

Mr. Meenaghan: 415 (4)(a).

Mr. Greenwood: I'm just looking under General requirements, page 97, (4)(a)(iii): minimize impact to the aesthetic qualities of the shoreline, with consideration given to height, color, uniformity, and arrangement.

Chair Lohman: Oh.

Mr. Walters: I think what –

Mr. Greenwood: I just wonder about the word “minimize.”

Mr. Walters: I think what we were trying to avoid is using the phrase “avoid or minimize” because the lower end of minimize is avoiding – zero.

Mr. Greenwood: So in this case would it be appropriate then to say “avoid or mitigate impact to the aesthetic qualities”?

Mr. Walters: I'm not sure what line you're reading from.

Mr. Greenwood: Okay.

Mr. Walters: But what I would say is that if it's a general matter, use “minimize” or “avoid” or “mitigate,” just not “avoid or minimize.”

Mr. Greenwood: Okay. Okay, well, I just see it in another place. On page 97 – that's why I brought it up – it's on page 97. We use the word “minimize” under General requirements, subheading (a), we use the word “minimize” and in subheading (e), we use the word “minimize” and we've decided to replace it with “avoid or mitigate.”

Chair Lohman: Yeah.

Mr. Greenwood: I just want to be consistent. It's sometimes hard to find.

Mr. Walters: They're different concepts. Either “minimize” or “avoid or mitigate” are okay. Just – it's whatever you want to try to accomplish – just not “avoid or minimize.”

Mr. Greenwood: Right. Okay. So what do we think then that fits in this aesthetic statement? Should it be “minimize impact”? Is that okay with “minimize impact”?

Mr. Dewey: So if I might comment on that? Personally I would prefer to see “minimize” here just because “aesthetic qualities” is so subjective. To say “avoid,” you get a permit person behind the counter that says, Oh, that's an impact. You're supposed to avoid that. I can see it.

Chair Lohman: Yep.

Mr. Dewey: You know, I mean it's – aesthetics is such a difficult one I'd be really nervous about going to avoid and then coming hard up against them at the counter.

Mr. Greenwood: Sure, sure. You're probably right. Okay, that makes sense. I'm going to let you go on with that. I just struggle with the word "minimize" when we say "minimize visual effects of your activity" – might mean, Okay, now where's the buffer? Where's the screen? Where's the avoidance technique? Now I want you to use brown flagging instead of blue, or something, you know, along those lines. "Minimize" is a pretty high hurdle to reach. But if you're fine with that, I can certainly live with it.

Chair Lohman: I think "minimize" gives you a bit of latitude.

Mr. Greenwood: Sometimes it depends who you're listening to and who's holding you to it. "Mitigate" is to lessen something, and I know there's mitigation sequences that have a pretty stringent threshold, but to lessen – if you look at the definition of "mitigate" it's to lessen impacts. "Minimize" means to hold it to something as close to zero as you can get.

Chair Lohman: But "mitigate" in the page 98 (e) example, though, I'm under the impression that you have to do an offset.

Mr. Greenwood: Those are the places where "mitigate" is a problem the way it's interpreted.

Mr. Temples: About (e)?

Mr. Greenwood: Well, just in general when you use the word "mitigate." That's why people can be reluctant to use it at times. If you were thinking that, Okay, now tell me what the mitigation sequence is that's one thing, but if – you know, usually when I have to look at mitigation I say okay, there is going to be an impact. What is that impact? How do I minimize that impact so that – and maybe it's it can't be avoided. But I cannot have a threshold of significant adverse impacts. So if it's feasible – when it's feasible, you mitigate. You soften the impacts. You consider it basically.

Ms. Candler: I don't know if everyone looks at it that way, though. I think when you mitigate it – minimize is just trying to lessen, but mitigate means you actually have to take affirmative action to replace and replenish – you know, I don't think it's the same. I don't see it that way.

Mr. Dewey: I agree and that's why on (e) I wanted to speak to that because I've got some real challenges with that proposed change in (e). Tim had his concern on "ongoing." I'm going to weigh in on this – on the change in (e). \_\_\_\_\_.

Ms. Stevenson: And I guess I'd like to ask that we change it back to "minimize" for (4)(e). I just wasn't sure where we were yet or if we were there.

Chair Lohman: We are there.

Mr. Meenaghan: So are moving to (4)(e)?

Mr. Easton: So what's the propose – you're proposing to do what with it?

Ms. Stevenson: Put it back to "minimize" instead of "avoid or mitigate." We've pretty much – we've already –

Mr. Easton: Yeah, I –

Mr. Temples: I don't –

Ms. Stevenson: Can I finish, please? We've kind of already addressed mitigation and the sequencing process in (c) and (d), just immediately before this (e), so they're going to have to go through all of those things as part of the site assessment and as part of going through the mitigation sequencing. You've already addressed those things. So I would propose that we put "minimize" back in (e), partially just for the discussion that we've already just had and because it gives you some more site-specific ability to do some things there. They're still going to have to do the site assessment. They're still going to have to go through the avoidance and everything else as part of the sequencing. So I would like to just go ahead and propose that we change that back to "minimize" there.

Mr. Easton: I'm supportive of that.

Mr. Greenwood: Well, can you – if that's the interpretation of the word "mitigate," the definition for "mitigate" is to make less severe, intense, painful, et cetera; mild, soft or gentle. "Minimize" – if you look at that definition, you won't like that very much. So if you're held to that, I don't think you'd like the word "minimize" quite so much. But if that's the way it's being interpreted and that gives you comfort, it's not my section.

Chair Lohman: Hold on a second.

Ms. Candler: What page are you on for the definition for that?

Mr. Greenwood: This came out of a search of definitions not in this. They don't define "mitigate" here.

Mr. Easton: Ah, you threw us there.

Chair Lohman: Yeah, I thought another "should" definition!

Mr. Greenwood: What do you have, Ryan, as a definition for "mitigate"?

Chair Lohman: But in the context of –

Mr. Walters: Well, I was just looking at Part VIII. There's one in Part VIII.

Chair Lohman: Matt, do you want to comment on that?

Mr. Mahaffie: No, I agree with Betsy.

Mr. Easton: I agree with Matt agreeing with Betsy.

Ms. Stevenson: So you just can't agree with me?

(laughter)

Mr. Easton: I did earlier!

Ms. Stevenson: Pretty hard for you, isn't it?

Mr. Easton: No, that's not true!

Chair Lohman: (unintelligible)

Mr. Easton: That's all right. I can take it.

Mr. Greenwood: And if "mitigate" has a negative connotation in this room, then I don't want to bring it up anymore.

Chair Lohman: I think it does.

Mr. Easton: There you go. There's your answer.

Mr. Greenwood: So I agree with Betsy on this one. And Matt.

(laughter)

Chair Lohman: Because the "mitigation" implies that you're going to have to go through the sequencing and some other steps – to me.

Mr. Walters: So one – if you look at 14.26.340, Environmental Protection, you will find the mitigation sequence. And it includes avoiding – number (1), avoiding the impact altogether. But then, as a second step, minimizing the impacts, and then as a third step, rectifying the impact, and then – well, you can read it: reduce or eliminating, compensating, and then monitoring. So I don't know, there are these – and maybe we need a definition for the term – for those terms: avoid, minimize, or mitigate. But we do have some guidance in 14.26.340 as to how those are treated.

Mr. Dewey: And just for your – if you haven't caught it already, there in (c) their reference is wrong. It says 310(4). It should be 340.

Chair Lohman: Up at the top of the page on page 98?

Mr. Dewey: I don't have the pages in front of me structured like you do.

Chair Lohman: Oh.

Mr. Dewey: It's (c) in that same section.

Ms. Stevenson: Yes. Yes.

Mr. Dewey: Where it says 14.26.310(4) that should be 340.

Ms. Stevenson: Yes. And in (d) as well.

Mr. Dewey: And (d) as well.

Ms. Stevenson: It should be 340 now. We told you guys not to focus too much on that because they keep changing, but I think we're pretty much where we're going to be now.

Mr. Hyatt: So the way I read this is, in general, impacts need to be mitigated and that's following the sequence that Ryan outlined – start with avoid; then you minimize; finally, if you can't do all those, you compensate. And I think that gets to Keith's reservations. But that is, you know, the mitigation sequence. But when you get down to (e), you're talking specifically about impacts to eelgrass and macroalgae. And in that, the WAC, the guidance from Ecology is very clear that aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses. They're not talking about mitigating that. They're saying you should not adversely impact eelgrass and macroalgae.

Mr. Easton: What are you reading from, Tim?

Mr. Hyatt: WAC 173-26-241, the Aquaculture Standards for Shoreline Plans.

Mr. Easton: And in your visits with Bob, both privately and with the illustrious gentlemen here, did he raise any concerns about this section?

Ms. Stevenson: They're the ones who asked for the change.

Mr. Easton: They asked for which change?

Ms. Stevenson: To "avoid or mitigate."

Mr. Easton: Yeah, but I'm talking about section –

Mr. Walters: They asked for the change that's in there.

Chair Lohman: Yeah, but can't they in certain circumstances co-exist?

Mr. Dewey: Well, that's what the photographs are showing.

Chair Lohman: Aquaculture and eelgrass.

Mr. Dewey: Absolutely.

Mr. Hyatt: Well, the science is a little divided on that, and of course Bill has pointed out that you can spin the science either way. And I think to some degree, yes, eelgrass does come back when we disturb the ground but, in general, over about three or four different studies in Washington and elsewhere the upshot is shellfish aquaculture diminishes eelgrass by about 70%. Not necessarily the growth of those individual plants that remain, but the number of stems after it's been in aquaculture for a while. Now I can provide those papers. I can provide the summaries of those papers. But the information – the peer review science – is pretty clear on that point.

Mr. Easton: Wow, this is going to be a fascinating five years of watching you guys try to dance between what you just said and the plan to reopen the bay. You're going to pull that off on 30% of the bay then and not the other 70%?

Mr. Hyatt: It would depend on whether or not it's eelgrass.

Mr. Easton: How much of that bay is eelgrass?

Mr. Hyatt: We don't know yet. But I would point out that those same papers will tell you that aquaculture does provide structure that does create habitat for the same critters over – not as good as eelgrass but better than a mud flat.

Mr. Easton: Or Astro turf. So, great. I mean, then that's a perfect example of how –

Mr. Hyatt: So if you want to expand into mudflats, that's –

Mr. Easton: With or without Astro turf, aquaculture would make it better, or with or without – I mean, yes, we're not in a level where we're reviewing peer level science on this issue. We're taking comments from staff, we're bouncing that off of the citizens commission – citizens group – we're refining it ourselves, we're hearing from the public, we're hearing from Ecology, hearing from the public, and then we're going to pass something up to the Commissioners from there. Along those lines, notice that the words science, peer-reviewed science, or the spinning or not spinning of the science does not play into what we're at the level of being qualified to do. So, I mean, there's a balancing act there. And if all they've asked for – I assume you think that what you've seen here in the suggested change then under number 3 on the memo dated the 8<sup>th</sup> to revise 14.26.415(4)(e) from change to "avoid or mitigate" is your preference then. You would prefer us to use the phrase "avoid or mitigate." You agree with Ecology's concerns.

Chair Lohman: Well, those aren't – are these –

Mr. Easton: This one –

Chair Lohman: Hold on a second.

Mr. Easton: She just said (they) were from Ecology.

Chair Lohman: Is this an Ecology suggestion?

Ms. Stevenson: Yes.

Mr. Easton: This particular one is.

Chair Lohman: It's their suggestion but it's our document.

Mr. Dewey: And it's not – I would just like to point out, in our opinion it's not supported by the rule – by the WAC. The WAC language says that you – says you *should*, not shall, avoid such impacts.

Mr. Easton: Oh.

Chair Lohman: What is the WAC that you're looking at?

(several people talking at the same time)

Chair Lohman: Hold on, Jason. Hold on. What's the WAC number again?

Mr. Hyatt: 173-26-241(3)(b), \_\_\_\_.

Chair Lohman: Ryan, can you put that up at all? Is it possible?

Mr. Walters: On the screen?

Mr. Temples: The problem I have with this report you want to bring to us – I agree with Jason. It's like we're not scientists here and, number 2, it's just like what you see in the medical community. My god, how many reports we've seen come out that this is bad and then three other reports come out and say it's good? So I'm sorry, I just – I have a hard time \_\_\_\_.

Mr. Hyatt: I realize you folks aren't scientists and you don't want to read the papers.

(laughter and people talking at the same time)

Mr. Hyatt: I was just pointing out that the term is the "best available science," and it's generally used in shoreline and critical areas regs. You have to stick to it. You're supposed to stick to the best available science and I was pointing out that my interpretation of the best available science is that there is a diminished eelgrass in aquaculture areas. It makes sense that there would be.

Mr. Easton: There is more than one opinion about how to read that best available science within two-and-a-half-feet right there between the two of them.

Mr. Greenwood: Is it a threatened and endangered species or is it just a threshold of – is it a threshold of net loss of ecological functions? Because there's papers that talk about ecological function of native grass and non-native grass, and there's been polls to make sure that there's no net loss of ecological function.

Mr. Dewey: The shellfish provide a habitat with a very comparable ecosystem function. There's an EPA analysis that's been done on oysters, eelgrass, mud, and spartina, and it shows oysters' and eelgrass habitat on a par with each other.

Mr. Greenwood: Because there's even been a push towards trying to – I've heard that we want to keep the same to apply to non-native eelgrass as we do to the native eelgrass and there's been a significant push back there because it inhabits different shoreline areas.

Mr. Dewey: Ecology has clarified for the SMP updates that the SMP is not to protect the non-native eelgrass, just the native.

Chair Lohman: So what is considered non-native? Just what comes in –

Mr. Dewey: Japonica.

Mr. Greenwood: There's different species.

Chair Lohman: It's a different species?

Mr. Dewey: Different species.

Mr. Hyatt: I'm told that in Samish Bay they're intermingled quite a bit. In general, Japonica grows higher in the shoreline where aquaculture isn't as viable. But the native grows lower where it'd be the ideal place for aquaculture.

Mr. Easton: Is that your experience, Bill?

Mr. Dewey: We grow – we overlap – both species we overlap. So in upper near-tidal is where we farm Manila clams – and that's where the Japonica is – and then we transition into oyster culture as you go lower, and that transitions into the \_\_\_\_\_.

Mr. Greenwood: So long as the net – there is no net loss of ecological function, I think that's what we should be – we're called to monitor.

Chair Lohman: That's what our focus is.

Mr. Easton: Yeah.

Mr. Greenwood: So we have a permitted use. We can't allow for a net loss of ecological function, and that has to rely upon science and –

Chair Lohman: So the Commission – the Planning Commission – what is your wishes on item number 3 on the memo to change “minimize”? Do you want to just go back and keep it “minimize”?

Mr. Easton: Yes, that's what I'd do.

Mr. Meenaghan: Whatever is easier for the public or anybody else reading this to interpret, and I think “minimize” is the right option.

Mr. Mahaffie: Can I make a comment just in general on the word “avoid”? I hate it. When you talk about the mitigation sequence, avoidance is number one. There are jurisdictions I've run into that don't believe that there's anything below avoidance. You've got a project. You can't avoid it. Well, there you go – you can't do your project. It's avoidance regardless of what's below that level in the mitigation sequence. I'm not a fan of the word “avoid.”

Mr. Greenwood: But you're used to it.

Mr. Mahaffie: Unfortunately. You know, it's – again, it's a staffing issue. I would trust anybody in Skagit County right now to not work it that way but it's always ten years down the road who's going to be staffing that would see the word “avoid”?

Mr. Walters: So I think the reason that it – that we're choosing between “minimize” and “avoid or mitigate” is so that it does say “avoid or mitigate.” If the alternative is just “mitigate,” then that might lend itself to a situation where they say the first step is avoid and you didn't avoid.

Mr. Mahaffie: And on “no net loss,” as far as eelgrass DOE also promotes a class titled “Eelgrass Restoration and Mitigation.” So kind of a conflict there. It's not just a bright line.

Mr. Easton: Can we move to the next section?

Chair Lohman: Yeah.

Mr. Easton: Number 4.

Mr. Greenwood: Did we provide any clarification on that, though? Or did we punt?

Mr. Easton: No, I thought we said we were going to go with “minimize.”

Mr. Greenwood: “Minimize”?

Chair Lohman: Yep.

Mr. Greenwood: Okay. All right. I didn’t hear that.

Chair Lohman: We all nodded our heads. We should have all probably said it audibly.

Mr. Easton: So number (8).

Ms. Stevenson: That would be on page 101, I think.

Chair Lohman: 100. Page 100.

Ms. Stevenson: (e)?

Chair Lohman: Oh, yes, (e) – 101. Sorry.

Ms. Stevenson: No, that’s okay. So we reorganized it a little bit and changed the language just a little bit. This was based on some discussion at our last meeting with Ecology, as well. Some of it we changed. Some of it we didn’t change. We had a discussion and they were okay with some of it, so mostly we tried to list things instead of having a paragraph, but there are a few changes to it as well. But when we put it up like this, he was okay with it, if that makes a difference.

Mr. Easton: Yeah, it makes a difference.

Mr. Dewey: I’m fine with these changes. As a refresher, you know, Ecology passed regulations for geoduck farming that have to be folded into every new SMP update and so most counties are just taking them verbatim and plugging them in. That’s the way it’s been going. Skagit County’s been consistent there.

Ms. Stevenson: We thought we did but we missed some. I guess that’s the best way to put it. I thought we did just cut and paste.

Chair Lohman: So that whole section (8), starting on page 100?

Ms. Candler: Just (e).

Chair Lohman: But you’re talking about all these management practices pertaining to geoduck and so I had a question: Well, you’re not calling out the other species that are harvested, just geoduck, in all this. Is that because of state law?

Ms. Stevenson: Yeah, they did a whole new study and a whole separate thing within the last – five? I can't remember how many years it's been.

Mr. Dewey: It's been about six years of research and development –

Ms. Stevenson: Specifically on geoduck and they're –

Mr. Dewey: – citizens advisory committees. I mean, it's a very lengthy process to arrive at the rules – probably a two-year process for Ecology to arrive at the rule language, six years' worth of research. And it's landed on this language and most counties, like I say, are just plugging it into their SMP updates.

Mr. Mahaffie: Question? Oh, I'm sorry.

Chair Lohman: That's all right.

Mr. Mahaffie: Number (iii) on your changes in the mitigation measures: Was that a cut-and-paste that whole section, or is that – “must include mitigation measures such as buffers between commercial geoduck...”?

Mr. Greenwood: Cut-and-paste from the – the WAC?

Mr. Mahaffie: Yeah, or sample code or...

Ms. Stevenson: This is right out of the WAC, I think – as I recall.

Mr. Mahaffie: The ‘such as’ portion of it?

Ms. Stevenson: Yes. Yeah.

Mr. Greenwood: I'm noting that there's been a change from the use of the word “may” to use of the word “must,” so I'm assuming that that was a change in the code as well? So it's a requirement? And you're okay with that, Bill?

Ms. Stevenson: Yes.

Mr. Dewey: That's a good question. Is that consistent with the WAC, Betsy?

Ms. Stevenson: It's what Ecology asked for.

Mr. Dewey: (unintelligible)

Mr. Greenwood: Yeah – *may* be conditioned to avoid impacts; *may* include reasonable monitoring. This is saying “must include reasonable monitoring...reporting...” So if that's the case...

Mr. Walters: This is a choice that we will be making here. The WAC says that local governments should consider the following things, and there are twelve of them.

Mr. Greenwood: So we don't want to leave it up to the Shoreline Administrator in this case. We want to require it by saying “must.” We're saying there's –

Mr. Walters: Well, it appears we're only saying "must" four, and there are twelve in the WAC. That means I might take a little bit more analysis here.

Mr. Mahaffie: I would prefer number (iii) to have the example taken out: "must include mitigation measures to ensure no net loss of ecological functions."

Chair Lohman: Is the "such as buffers" our language?

Mr. Mahaffie: Hmm?

Chair Lohman: Is the example language, or the example "such as buffers between commercial geoduck" and on – is that our language?

Ms. Stevenson: I'm not sure.

Mr. Walters: No. It's in the WAC.

Mr. Mahaffie: I don't like examples in code. If it's a specific requirement – a hundred-foot buffer or something like that, but just broad examples are distasteful.

Mr. Greenwood: It could be misleading. I've seen them where they lead you down the road thinking it only applies to this situation and it applies to others as well.

Mr. Mahaffie: And there could be a multitude of different measures you could take and it just – yeah, it takes somebody down the road of just buffers.

Mr. Greenwood: Right.

Chair Lohman: Can you –

Mr. Mahaffie: What's appropriate and –

Chair Lohman: Can you restate your suggestion, Matt?

Ms. Stevenson: He just wants to take out the word.

Mr. Bright: Are they just – I mean, they're specifically calling out conservation areas – fish and wildlife conservation areas, so they're saying leave some space between a geoduck farm and a wildlife conservation area. I mean, that's sort of the way I read it. Not necessarily, This is one example that I'm seeing. Here's a conservation area. You shouldn't put a geoduck farm right adjacent to it. You should have a buffer area. You should have some space between the two.

Ms. Stevenson: The way our code's written, it wouldn't allow you to do that because any marine water is fish and wildlife conservation area.

Mr. Mahaffie: Yeah.

Mr. Bright: Okay, never mind.

Mr. Mahaffie: I was trying to figure out how you put a buffer inside a critical area. You can't do it.

Ms. Candler: So where are we on the "must" versus "may"? I'm reading the WAC to say "should," so that sounds more like a "may."

Mr. Walters: The WAC says that local governments should consider the following.

Ms. Candler: Right.

Mr. Walters: But the WAC defines the "should." It means something other than "should."

Ms. Candler: So but isn't that more like a "may" than a "must," no?

Mr. Walters: Well, the WAC – I don't remember exactly what it says, although it's in Part VIII. The WAC defines "should" to mean do it unless you can't.

Chair Lohman: It's required, in the Ecology definition of "should."

Ms. Candler: Do it unless you can't? You like that?

Ms. Stevenson: It's pretty bad.

Chair Lohman: Yeah. I mean, they had \_\_\_\_\_.

Ms. Candler: Maybe we should use the word "should." How do we define "should"?

Mr. Walters: Well, in Part VIII, Part VIII incorporates the WAC definition and that definition is "should' means that the particular action is required unless there's a demonstrated, compelling reason based on policy of the Shoreline Management Act and this chapter against taking the action." So what we have said in development of – so that's the WAC definition – what we have just said in development of our own Plan is we're just not going to use the word "should" and we're definitely not going to define it to mean something other than the normal English should. So it's in your Definitions chapter right now but, as we said, ignore the Definitions chapter. We haven't gone through it. It's just a bunch of stuff that's put in there – some from the old Plan, some from the current WACs. And we'll work through Definitions a little later.

Ms. Candler: But even with their definition of "should," I still feel like we're making it more restrictive by saying "must."

Mr. Greenwood: We are.

Mr. Walters: Yes. Yeah.

Ms. Candler: And we want that. Okay/

Mr. Greenwood: I don't think we want to.

Mr. Walters: So you just have to choose which one you want.

Mr. Greenwood: I think you should say “may” because the Shoreline Administrator may think it’s appropriate, pertinent, and they may think monitoring is appropriate in that case. It sounds like they may also rely upon the documentation submitted to the federal agencies so that there’s no duplication. The first two items – “may include conditions” – that seems appropriate – and “must identify that this permit entails a right to harvest...geoduck” – those are appropriate. I just think the last two should be conditional and subject to the situation. That’d be my suggestion. But if there’s a reason compelling us to say they *have* to be there, then I’d like to hear it.

Mr. Temples: Well, I’ve heard from some agencies is that there’s – maybe you guys are more keen to that – if there’s been some significant impacts to the geoduck populations in the Puget Sound. So like Ecology is basically saying, Wait a minute. We’ve got to put some more control on this than what’s been done in the past. That’s what I’ve *heard*. I don’t know what you guys –

Mr. Dewey: That’s more wild-harvest related than it has been aquaculture, except for the wild harvest crops – than has been related to aquaculture. But, you know, we don’t – all of our geoduck farms at this point are conditioned with monitoring and reporting of farms.

Mr. Greenwood: So it’s already in there?

Mr. Dewey: Yeah, and we’re doing it and ag can fully expect it to be part of any future permits, so that’s why I don’t really have a problem with (iv).

Mr. Greenwood: I would suggest that the County *should* rely upon that documentation rather than require additional documentation and monitoring.

Mr. Dewey: Well, no. I mean, that’s related to our shoreline permits that we’re getting from other Counties for geoduck farms. So as we’re getting substantial development permits or conditional use permits from other Counties for geoduck farms, they’re all including monitoring and reporting of farms.

Mr. Greenwood: So do you see any additional requirements by the County by this language? It’s going to be the same. The Shoreline Administrator is going to rely upon that documentation as sufficient to fulfill that requirement.

Mr. Dewey: That is the shoreline permit that I’m talking about.

Mr. Greenwood: Okay.

Mr. Dewey: It’s a must or may – I’m finding – requirement.

Mr. Greenwood: It doesn’t matter because you’re going to do it anyway?

Mr. Dewey: We’re going to do it.

Mr. Greenwood: Okay. Well, then it’s already been determined.

Mr. Dewey: I appreciate your \_\_\_\_\_.

Mr. Greenwood: Well, I just think that there’s situations – I know, but at the same time we get beat down into thinking we have to do it and in a lot of cases we just get used to it. After a while it doesn’t hurt so bad.

Mr. Dewey: And I appreciate your argument on (iii) being a “may.” Because frankly, you know, as the science matures around this we’re learning that geoduck farming has minimal impacts. You know, they’re short-term. And so to automatically require mitigation, science says, Well, there is none –

Mr. Greenwood: Because you’re assuming it’s bad when you do that.

Mr. Dewey: Yeah. If there’s not an impact to mitigate, am I required?

Mr. Greenwood: It may be beneficial.

Mr. Dewey: Yeah.

Mr. Greenwood: May be determined to be.

Ms. Stevenson: It just says “...as necessary to ensure no net loss...” It doesn’t say you’re going to have to do it.

Mr. Mahaffie: The mitigation can be a paragraph in an assessment.

Mr. Dewey: So even if you have the “must” you have to add “as necessary” \_\_\_\_ it sort of makes it a “may.”

Ms. Stevenson: “must include mitigation measures...as necessary to ensure no net loss of ecological functions.” I would ask that we keep that “must,” please.

Ms. Candler: Why do you like the “must”?

Ms. Stevenson: Because it gives us the opportunity to require the mitigation measure that is necessary, in this scenario. It may not be necessary, so it takes it away – if that makes sense. But if you just say “may” then somebody \_\_\_\_\_.

Mr. Greenwood: I would suggest – can I suggest alternative language that you might approve of? – “must include mitigation measures...as necessary to ensure no net loss of ecological function”?

Chair Lohman: That’s what it says.

Ms. Stevenson: We did. That was Matt’s proposal a while ago.

Mr. Greenwood: Okay, so you took out the exemption. Okay, then I’m fine with it.

Chair Lohman: Okay, are we all done with geoducks? Okay.

Mr. Easton: Are you guys thinking about raising geoducks? Oh, you don’t want to comment. If you don’t want to comment –

Mr. Hyatt: I honestly am not party to a lot of those conversations.

Chair Lohman: Okay, well, that’s really not our business. Sorry.

Mr. Easton: I've been out of order many times tonight.

Chair Lohman: I was really not wanting to say "out of order." So let's move on to Boating Facilities.

Mr. Bright: Can I make one quick thing that I just sort of found on section (7)? "In addition to the General requirements, a net pen application must include:" and it says a diver survey. Could we change that to underwater photographic survey? Because if we're at 150 – or you're putting a facility in 200 feet of water –

Mr. Easton: Didn't that come up before when we met with guys before? I thought I heard that phrase that you wanted to switch diver survey for –

Chair Lohman: I didn't.

Mr. Bright: Maybe. I don't know.

Chair Lohman: I did not.

Mr. Easton: I thought I remembered them talking about it.

Mr. Bright: There's ROVs, and sending a diver down at 150 feet's dangerous.

Ms. Stevenson: Underwater photographic survey?

Mr. Bright: Yeah.

Ms. Stevenson: Is that what you're calling it? I don't remember you mentioning that before but...

Mr. Easton: It sounded familiar to me.

Mr. Mahaffie: Would you want photographic in there if you *are* doing a diver survey? If you were doing a diver survey, would you want photographic being in there?

Mr. Bright: Yeah. I mean, that would be part – I mean, that's part of what we do right now for our monitoring around net pens, is they send a camera down. They do \_\_ samples and send a drop camera down to take pictures of the sediment.

Mr. Mahaffie: But you don't rely on a diver in any situation?

Mr. Bright: No, it's all from the surface – a lot safer.

Chair Lohman: So what's the – what are you thinking for wording?

Ms. Stevenson: That's old school language. I'm okay with it.

Mr. Temples: Just "diver's survey or photographic evidence."

Ms. Stevenson: Just change it to –

Mr. Walters: "...underwater photographic survey."

Mr. Bright: I mean, if you send a diver down, he's going to take pictures. Part of his report would be taking pictures. I just, you know, writing what I saw down there when I was diving. So you're going to back it up with some photographs.

Mr. Walters: So we'll just eliminate "diver" and add "underwater photograph."

Mr. Bright: That would be – yeah.

Ms. Stevenson: Safety.

Mr. Hyatt: While we're on net pens, can I – I have – I think it's a question. Last time I remember going over the net pens section I thought it had a restriction that no new net pens – if new net pens were proposed within 5 miles of the mouths of the Skagit or Samish Rivers, they had to show that they wouldn't have an effect on native fin fish species. And in our discussions in January I thought that provision was in there and Ecology said you need to show some scientific justification for that. So I sent some in and now it looks like that provision was cut anyway. What happened there?

Ms. Candler: Is that not (b)(i)? Or maybe I'm reading it wrong. Top of page 100.

Mr. Greenwood: Oh, I see what you're saying. Top of page 100.

Ms. Candler: Yeah.

Chair Lohman: Yeah, I would think it would be –

Mr. Hyatt: (b)(i) – I was thinking that having the radius around the mouths of the rivers gave it a little more emphasis for the care that needed to be taken the closer you were to the mouth of the river.

Ms. Candler: So that's the right area –

Mr. Hyatt: I think Kevin and I came to some agreement on that – was the reason it was in there.

Mr. Walters: From what I recall – I don't really know this section, but I don't think we cared about the 5-mile thing but Ecology said that we couldn't have the 5-mile thing unless it was justified.

Mr. Hyatt: Unless it was justified –

Mr. Walters: And I don't think we thought that what you sent in would be enough for Ecology. I don't know if we vetted that with Ecology or not, though.

Mr. Hyatt: Well, there's more but I just thought that that was the most – and I think I said in my e-mail – this is just the one that's most relevant but there's a lot of research on the subject, but I didn't want to inundate you guys.

Ms. Stevenson: Yeah, you sending in the study and providing a best available science peer review are two very different things. So I think I told you at that meeting that if you wanted to try to move that forward that you were going to be responsible for the best available science, and you sending me one study from Canada was not that. So that's why it came out, because Ecology wanted it out.

Mr. Hyatt: Ecology wanted it out?

Mr. Bright: Yeah.

Ms. Stevenson: Yeah.

Mr. Bright: Their position is it's not – setting a 5-mile radius is not justifiable. There's no science that says, Well, in 5.1 miles it's different, or 3 miles it's – or 10 miles. They don't see that there's these – it's sort of an ambiguous number – 5 miles, 5 ½ miles. So basically it's covered under the "A net pen...must demonstrate" – and this is further down. It's section (7)(b)(i) that all areas that you're going to put a net pen in you must demonstrate that "native fish and wildlife resources will not be significantly impacted." So it doesn't matter if it's 5 miles, it's 0 miles, or 100 miles. You're going to have to show that you're, you know, protect native species of fish. So I think that's kind of Ecology's position. I mean, it's irregardless (sic) of a 5-mile radius or whatever. You're going to have to show that, prove that for a new facility.

Mr. Hyatt: Well, I think it can be shown and I thought I had. No one got back to me. I just wrote down a note that I need to show a scientific justification and I thought I had done that.

Mr. Easton: So you'll have another opportunity during public comment when the Plan comes back to us that you can submit then.

Mr. Greenwood: Isn't there another opportunity every time there's another one proposed, whether it's adequate to protect the native stocks or not?

Mr. Bright: That's correct.

Mr. Greenwood: So when there's another one proposed –

Mr. Easton: I didn't mean to present that that was the *only* opportunity. I was saying it was a (sic) opportunity.

Mr. Greenwood: Okay. I was just thinking that's the *best* opportunity to present the best available science.

Mr. Easton: I have no disagreement there. I just was talking about our –

Chair Lohman: Okay. I'm looking at the clock, and so are we finished with the Aquaculture section? If we're not, we can stay longer but – are you guys ready to move on?

Mr. Greenwood: Well, I think while we have these committee members I'd like to feel some satisfaction from them.

Chair Lohman: That was the end. That was the end.

Mr. Greenwood: Are you guys satisfied that we've gone through it enough tonight?

Mr. Dewey: I definitely appreciate the time you've taken on this.

Chair Lohman: Well, thank you for helping.

Mr. Dewey: A lot of debate there – that was good and healthy. I wish you well on Boating Facilities. I'm on the Mason County Planning Commission. I think we took maybe six of our meetings to get through Boating Facilities.

Mr. Greenwood: Okay.

Mr. Dewey: Of course you have a lot of boaters and a lot of docks in Mason County. That turned out to be far more controversial than Aquaculture or any other section.

Ms. Stevenson: Thanks for that introduction! So now you're going to leave, right?

Mr. Dewey: I will say, you know, one of the first things out of the chute in Boating Facilities presumes that everyone just uses their dock for boating. Some people build docks to fish off of, swim off of.

Mr. Bright: I would like to express my gratitude to the Planning Commission and these people here also. This has gone down in front of Ecology. They've made comments. This is one of the better looking Aquaculture SMPs that I've seen. Looking at other counties' which I've been through and past ones from previous history that carried so much baggage in them they were terrible. This is actually fairly well written and I think it's a very workable document. So, with that said, I just –

Mr. Dewey: My thanks to staff. Betsy – she really worked hard on this. Thank you.

Chair Lohman: Thank you for coming. We appreciate your help.

Mr. Hyatt: I guess you won't be too surprised that I'm disappointed that this one is so much more lenient than what's currently in the code and more lenient than what's in the Ecology requirements for Aquaculture sections. I've tried very hard at every step of the way to try and put some appropriate safeguards in there, and I don't think *any* of them have gotten in. Or the ones that did get in in the intermediate versions have since been struck. So I wish – I applaud everyone for a civil debate, but I really am not very satisfied with the outcome as it stands.

Mr. Easton: So one more question before you leave: Is it okay with you if we ask for their – your contact information from staff that we could – if we have questions for you guys as we go through the process?

Mr. Hyatt: Absolutely. Absolutely. Do you want it now?

Mr. Easton: Obviously we got – we still have a lot of deliberations and things.

Mr. Hyatt: Do you want it now?

Chair Lohman: No.

Mr. Easton: No, I'm just thinking it'd be easier – Betsy can just distribute it, I'm sure easily to all of us Planning Commissioners, as long as you guys are agreeable to that.

Mr. Hyatt: Thanks for your time.

Mr. Dewey: You know, we've been, obviously, \_\_\_ players but our Aquaculture committee is a little bit bigger. There are some other members, as well, on the committee.

Mr. Easton: Oh, yeah. Right. Okay, thanks.

Chair Lohman: Okay –

Mr. Easton: So, Betsy, if you could – I don't know if anybody else wants it. I'd like to be able to reach out to them individually if I have a question, a specific question. Those three – could you send me those – actually just send me the Aquaculture list contact. That'd be great.

Chair Lohman: Maybe if you sent it to everybody?

Mr. Easton: Do you have one on the three of them? Oh, I thought he said there were more people on the committee.

Ms. Stevenson: Well, the Shoreline Advisory Committee.

Mr. Easton: Oh, no. I'm just interested in those three. I think I've already got the other's phone numbers.

Chair Lohman: Can you just send it to all the Commissioners, please? Okay, again, we're going to move over to Boating.

Mr. Easton: After Bill's rah-rah speech.

Chair Lohman: The Policy section, the Comp Plan section, is page 18, 6C-3, Boating Facilities, Mooring Structures, and Recreational Floats.

Mr. Easton: 18?

Chair Lohman: Page 18. That's the Comp Plan section.

Mr. Temples: Mine shows up on 101.

Chair Lohman: That's the regs. Did anybody see anything in this section? I didn't see anything here that was different than the prior version.

Mr. Easton: And staff didn't make any changes –

Chair Lohman: No, they didn't either.

Mr. Easton: – in that section either, right?

Chair Lohman: No.

Ms. Stevenson: No.

Chair Lohman: Shall we just move on to the rewrite section then? Just for reference, the *old* section starts on page 101. I did have a question. You said overwater homes and floating homes, including liveboards, are prohibited. Do we have any now?

Ms. Stevenson: No legally. They can be a problem so we have prohibited them in the past. We would like to continue to do that. Most of them don't have any kind of sewage disposal facilities necessarily that they're operating under and it had – in the Clean Samish Initiative work they found salmonella. We would just like to keep them prohibited in areas of the county. I think they may still be allowed in existing marinas within some of the cities, but...

Mr. Easton: So I'm wracking my brain here for a second. Are there – and maybe there's not an answer to this and I'm wrong – are there any existing marinas that are not in city limits in Skagit County?

Ms. Stevenson: Twin Bridges.

Mr. Easton: Saltwater. Saltwater is what I'm thinking of.

Ms. Stevenson: Twin Bridges.

Mr. Easton: Twin Bridges would be. All right. Okay. That would be the only one that I can think of that would be outside of the city limits. I guess I don't think of Twin Bridges as a traditional marina, because of the way I think of a traditional marina that I can actually see boats on the water, where you don't see that from there. You just see the – you see the sheds and stuff. Okay, thanks for that. I was trying to figure out what we're thinking about.

Chair Lohman: And this section goes back to –

Ms. Stevenson: This section was really hard. We've rewritten it, we've tried to reorganize it several times – this has probably been one of the worst in terms of trying to give you all the information because there're so many things included in it – and try to make some sense out of it. So if we failed miserably, feel free to tell us that, too. But it's just – it's a thorny one. We did the best we could with it, but if you have other ideas of a better way to try to organize it after you've had a chance to go through it... This is one that we did sort of try to stick to and reorganize a little bit based on our newly found organizational, but there's a lot of things in here.

Chair Lohman: I have a question and it's a holdover from our last time we perused this section. Jason brought up – on Accessory uses, I believe is the section it would be in. It was the scenario where you have a freshwater lake and you want to put a path or a dock and you have to cross a wetland to get to it. Do you remember your scenario?

Mr. Easton: The way I read the section, it's pretty cut and dried. In section (b) there may be some issues.

Chair Lohman: Because it's (b) –

Mr. Easton: I'm sorry – there seems almost to be a contradiction, right?

Chair Lohman: Yeah.

Mr. Easton: They're allowed but they're not allowed? You can cross a marsh but you can't cross a marsh. You can have it in the marsh but you can't actually have it in the marsh. You can have your access across the marsh but you can't actually have the dock in the marsh or the wetland. So I think the intention is that – I *think* the intention is to allow them if they show that they can be done appropriately. But I'm not sure that that's coming through with the way in which I'm reading it. Am I confused?

Ms. Stevenson: I see what you're saying.

Mr. Greenwood: I think it's how it reads. Isn't that they are prohibited, the way I read it?

Chair Lohman: Yeah.

Mr. Greenwood: The exceptions are in the following item (iii), right?

Mr. Easton: Right, so like –

Mr. Greenwood: Structures *may* be permitted under these conditions. The rest of it is prohibition. But including it in the heading makes you think, Where's the exception?

Mr. Easton: But then if you go back to (b) and you look at (b)(ii) it seems to talk ourselves back into circles.

Chair Lohman: You cancelled it out.

Mr. Easton: Yeah, I feel like I got permission and then a few paragraphs later, go backwards.

Mr. Greenwood: Where did you get permission?

Mr. Easton: Well, you're supposed to – we're supposed to not be limiting people's access to their – to the use of their property.

Ms. Candler: I think it's allowed in this one – (c)?

Mr. Easton: The overall concept's, though, to allow. I mean, we're not working from a double negative here. We're not working from the negative of: You can't have a dock. You get to have one and then there's exceptions about how you build it and where you build it. We're not starting out saying no one gets one, and that's where I'm sort of – I feel like we're sort of – and maybe I'm oversimplifying this, Ryan, but I just feel like we're starting to wander down a path where we start out by saying, Hey, we wrote a law that said we prohibited you from everything and then gave you some exceptions to let you have some back. Aren't we nice? And I don't think that's what we intended to do. Well, I should say I don't intend to vote for something that does that.

Mr. Walters: I'm not – really not following you at all.

Mr. Easton: Well, it's early.

Mr. Walters: The (b)(ii) provision – that's what we're talking about, right?

Chair Lohman: *Capital* (B).

Mr. Easton: Mm-hmm.

Mr. Walters: *Capital* (B)?

Chair Lohman: Well, it's lowercase (b) and then capital (A).

Mr. Walters: Okay, so (1)(b) –

Chair Lohman: And then capital (A).

Mr. Walters: Capital A?

Mr. Greenwood: Correct.

Ms. Candler: (b)(ii)(A).

Mr. Easton: It is lowercase (b) –

Mr. Walters: Okay, “Marshes, estuaries or other wetlands;”

Mr. Easton: – (ii)(A) – in that section, as Annie was referring, right?

Chair Lohman: Yep.

Ms. Candler: And more specifically it's confusing because to contradict with (c). Is that what you're saying?

Mr. Easton: Yeah. Well, I think that's what Keith is pointing out – that they seem to contradict themselves.

Mr. Greenwood: It says you can't do it *unless*, so all these things are the things you can't do. You can't have a structure in any of those conditions. The next section says the conditions under which you could.

Mr. Meenaghan: This is confusing.

Mr. Easton: And to me it all starts back at the first (b)(i) where it says, basically – I mean, it reads to me – this is supposed to be the section about how you can build docks, not how you *cannot* build docks. So, okay, if we're going to make a list of exceptions –

Mr. Greenwood: Oh, I see what you're saying. Because it's “When Allowed” –

Mr. Easton: Yeah.

Mr. Meenaghan: Yes.

Mr. Greenwood: – and you're saying it's not allowed but then you're saying this is when it's allowed.

Mr. Walters: Well, also there is a – there's the use table at the beginning of Part IV which gives you a list of places where all of these uses are allowed.

Mr. Easton: And you're talking about the table that comes after the picture which is on – you're talking about Standards for docks?

Mr. Walters: No. No, the one at the very beginning of Part IV.

Mr. Easton: Oh, okay, so that's back in the draft.

Mr. Walters: The matrix.

Mr. Easton: We maybe have stumbled across that example over there –

Chair Lohman: The matrix is on page 88.

Mr. Easton: Thank you – where the somewhat learned and somewhat read-up mission didn't realize we were referencing something that far back. When you read it in sections, you get lost.

Chair Lohman: But what's confusing, though, it pretty starkly says not allowed.

Mr. Easton: Thank you.

Mr. Walters: Well, and it's not allowed in those areas. I mean, the –

Chair Lohman: But in order to get to the –

Mr. Easton: The point is –

Chair Lohman: You *can't* avoid it.

Mr. Walters: I guess the trail to it issue is not specifically addressed here.

Chair Lohman: Mm-hmm.

Mr. Easton: So building a dock without access to it is sort of like going – thinking you're a leader on a walk and turn around and no one's behind you. You didn't lead anybody. So if I build a dock with no way to get to it –

Mr. Walters: Well, that assumes there's no way to get to it.

Mr. Easton: Well, because your exceptions that list basically a number of things that would make it on some properties impossible to get to. In certain channel mitigation zones, in certain marshes, estuaries or wetlands you couldn't access your dock. So are we saying if the access is not – is the access the limitation on whether you can have a dock? Because you're setting it up that the access is limiting people's ability to have a dock. Is that what you intended?

Ms. Stevenson: Or we don't think that's what we're doing.

Mr. Walters: I still am not very –

Mr. Temples: It says “Structures and uses.”

Mr. Easton: Right.

Mr. Temples: Not trails.

Mr. Easton: But structures –

Chair Lohman: But uses would be the trails.

Mr. Easton: You’re going to build a structure on certain types of the topography to get to a place that’s perfectly fine to have a dock, you may need to cross a marsh or a – Matt might –

Ms. Candler: You might have to build a structure to do it.

Mr. Easton: I’m saying once a trail becomes a bridge if you’re crossing a marsh. I assume we’re not going to lead people into the marsh.

Mr. Walters: But you can’t build the dock on the marsh.

Ms. Stevenson: Right.

Mr. Easton: I’m not building the dock on the marsh. I’m building the access. The question that Annie’s referencing from what I talked about earlier was the issue about access to a dock that would be established is fine. Obviously you can’t start out – you start out by whether the dock can go there. If the dock can go there, then you have to be able to – obviously there has to be some sort of access to the dock. If the access to the dock doesn’t violate this list, that’s fine. My concern is: what if to get to the dock you have to cross a marsh or cross another wetland? Is there any option for that person to be able to have a dock? Is there a safe way to build a bridge across – a legal way to build a bridge across a marsh?

Mr. Mahaffie: You call it a boardwalk and you permit it through the Corps or Ecology as a wetland in fact.

Mr. Walters: Yeah, so I think I now finally see –

Mr. Easton: Sorry!

Mr. Walters: – see where you were going there and I think it’s related to the general term “structures and uses,” and maybe what we mean to say is boating facilities, mooring structures, and recreational floats are not permitted in the marsh.

Mr. Easton: Yes. I would not vote for that to be built in a marsh or a wetland.

Mr. Walters: Right, right, right, right. Maybe that’s the \_\_\_ here.

Mr. Easton: I would define a boardwalk or call it a boardwalk or call it a trail or call it a bridge. Something that is structural will end up impacting – could impact the wetland. Not saying you’d have to go to Ecology – or not Ecology – excuse me – the Corps to get that –

Mr. Mahaffie: Well, you just don’t call it a dock. It’s a wetland.

Mr. Easton: Yeah, it's not the dock. I'm not talking about the dock. Docks don't – serve no purpose if no one can get to them.

Ms. Candler: But if he takes the structures and uses language out –

Mr. Walters: I think we got it. We'll get it fixed.

Mr. Easton: Thank you, Matt.

Mr. Walters: I think we'll fix it.

Mr. Mahaffie: Just on a side note, do we have a definition of "structure"? Is that in our development code?

Ms. Stevenson: Yeah.

Mr. Mahaffie: Is it the very giant, broad one where if you stack two rocks on top of each other it's a structure?

Mr. Walters: I do think that – I think it says two rocks. I think it might be two rocks.

Mr. Mahaffie: Well, if you – I mean, go down south a county or two and structures literally are defined as any artificial movement of any materials.

Ms. Candler: 198.

Chair Lohman: "Structure means a permanent or temporary edifice or building or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels."

Mr. Walters: And that's apparently from the WAC.

Mr. Easton: If the Corps will allow you to cross a wetland and the \_\_\_ will allow you to cross a wetland to get to the dock, so we need language that includes the ability for people to at least investigate that as a possibility –

Mr. Mahaffie: The problem is –

Mr. Easton: – assuming that the location of the dock in question still meets the rest of the code.

Mr. Walters: Yeah, I think what we'll do here is make it clear that (ii) affects just the listed uses – boating facilities, mooring structures, recreational floats – and then there won't be any special ability for you to put in a trail across a wetland, but if you can get to there through the critical areas ordinance –

Mr. Easton: And then I think you should add an additional – I would think that adding an additional letter (E) possibly, or wherever you think it fits, that clarifies the – that describes that access to a dock needs to be part of the – I mean, there needs to be some process to the reality that access is an issue, that access is – needs to be – I mean, we have no place in the way I read it where access is mentioned. Maybe I'm missing it.

Ms. Candler: (unintelligible)

Mr. Easton: Well, it says “water-oriented use by a commercial – conditional use permit.” I don’t know. I think – is it an accessory use? Is an accessory use the access?

Mr. Mahaffie: Where I see the problem with it that’s come up in the past for me is you have a set length for a dock.

Mr. Easton: Right.

Ms. Mahaffie: So the wetland is more than likely going to be included if it’s in the ordinary high water mark of the lake. You might have 60 feet of cattails to get through before you get to open water. And when you count that as the length of the dock –

Mr. Easton: – it got real short real fast.

Mr. Mahaffie: – without going to a variance or – and it comes up again here farther down with the height of the float being 7 feet above. For all the lakes that are very shallow, you might need to be 90 feet out there before you hit 7 feet.

Mr. Easton: I’m not doing a very, very good job of articulating what the fix is. I just realized I think that the access issue is not addressed and needs to be addressed.

Mr. Walters: Let us go back and fix that.

Mr. Pernula: To me it’s a slightly different problem than that. What I see it as is the way it’s organized it says, “When it’s allowed” and then you go down to item (ii) the first thing says “Structures and uses are not allowed” and it lists those, but it goes down later and says that they’re permitted with the shoreline conditional use permit. If it said in a different manner, “These structures are allowed subject to issuance of a shoreline conditional use permit” right up front, then it says that you can get those things and the accessory uses subject to that shoreline conditional use permit, rather than stating right up front they’re not allowed.

Mr. Easton: No, I agree.

Mr. Pernula: It’s just an organizational thing. I don’t think it’s a serious problem with the code.

Mr. Easton: I agree as long as that’s not in exchange for the access issue.

Ms. Stevenson: They aren’t allowed here, though.

Mr. Walters: Well, and it’s not just a conditional use. You also have to meet those two other priority criteria.

Mr. Pernula: I think that can be worked into it better than it is right now. It’s just kind of – it’s backwards, to me.

Mr. Easton: I will agree, with one caveat: as long as that’s not in exchange for a solution to the access issue. But you’re right. The organization of it does feel like we talked ourselves into a circle.

Ms. Candler: What if we added the trail or boardwalk into the examples in Accessories?

Mr. Easton: So under (c)?

Ms. Candler: Yeah.

Mr. Easton: Where it says "Accessory uses"?

Ms. Candler: But maybe reorganized (c), \_\_\_\_\_. But if we made that an accessory use \_\_\_ example? I don't know.

Mr. Easton: I think that "Access" maybe is more general than boardwalk and a trail, but at least some sort of –

Chair Lohman: And that's the problem when you start getting into the list making. It's always the things you left off. That's why you want the list making – if you're going to suggest a list, that it be suggesting that there's other things, too.

Ms. Candler: Including but not limited to.

Chair Lohman: Yeah, there you go.

Mr. Easton: Yeah, exactly. There is other things beside boardwalk and trails that have been used. There's an example on Fidalgo Island where trams have been used to get people to the waterfront or to get people to their homes through areas that would be considered in the ordinary high water mark – potentially in the ordinary high water areas – so I don't want to limit the language to just trails or boardwalks. I mean, there's actually a real – one person used for years – has had beach access over by – it's around the corner from Biz Point. I think you can see it from Biz Point but I can't remember what it is, but it's literally a tram to the water – a vertical tram to the water.

Ms. Ehlers: Not on Biz Point.

Mr. Easton: No, around the – you can see it, not from Biz. You can see it from Alexander. Anyway, there's other ways to get people to the waters.

Ms. Ehlers: That's quite a ways north. It's about two miles north of \_\_\_.

Mr. Easton: Yeah.

Chair Lohman: So maybe we should look at –

Ms. Stevenson: I think what you're talking about in terms of access fits under (c) under accessory development. It's allowed if it's necessary to support the water-oriented use. The water oriented use is the dock. Access to the dock is necessary.

Ms. Candler: So maybe instead of saying "trails" we say "access to the dock."

Ms. Stevenson: We can clarify it and make it clear.

Mr. Easton: That's good. That'd be great.

Ms. Stevenson: And we can work on the other part of it's allowed this way, it's not permitted in these areas but it's allowed under these circumstances and –

Mr. Easton: That's more general than what I was looking at, but, I mean, yeah, that's great.

Chair Lohman: Okay. Are we done with that then?

Mr. Easton: Yeah, I am.

Chair Lohman: Okay, on letter (d), number (ii): Why "For existing lots, single-use docks or recreational floats are only allowed if the applicant can demonstrate that all other reasonable community or joint-use options have been investigated and found infeasible"? Why is that?

Ms. Stevenson: It's another one of the sections that Ecology's asking us to take it one more step and have people take a look at the option of joint use and sharing a dock so that there isn't a dock on every single lot if they don't need it, if somebody else would be willing to share, and they can somehow work that out.

Mr. Easton: So who's the onus on there? Who gets to decide if it's infeasible? So my neighbor and I discuss the idea of a joint dock. He only wants the Taj Mahal. I only want the Walmart version. Is that infeasible?

Mr. Walters: It's the applicant – the text says "the applicant can demonstrate," so the applicant needs to give the showing and the Administrative Official will decide.

Chair Lohman: You're almost making sharing obligatory if somebody already has one.

Ms. Stevenson: You have to at least ask if you can share.

Mr. Easton: It feels like you're almost making sharing required.

Mr. Walters: Sharing *is* required \_\_\_\_.

Ms. Stevenson: Yeah.

Mr. Greenwood: Well, what if there's a public dock? If there's already a public dock then the onus could be, Tell me why you can't use the public dock, and it turns it to where it's even worse.

Mr. Easton: How far away is the public dock?

Mr. Temples: It sounds like you're trying to reduce impact on docks to the water accessibility, which is probably what their goal is but it's something that probably a lot of us have not known or grown up with.

Mr. Easton: So what did you say that – because I don't read this as saying it's required – sharing is required.

Mr. Walters: The previous paragraph: “Sharing is required for new residential development of two or more waterfront dwelling units.”

Mr. Easton: Okay, now that’s defined as those two lots being *created*? If they’re – I mean, that’s a pretty rare thing in this county now that you can create new lots on the waterfront, but most of what we’re looking at in new development would be what I would more commonly refer to as infill – previous lots, lots that haven’t previously been built on that were currently platted. Isn’t that the majority of what we’re dealing with?

Chair Lohman: Mm-hmm.

Mr. Easton: And so in that example that in an infill situation you wouldn’t be required to share because you’re not creating more than two, if you’re only infilling one lot.

Chair Lohman: It doesn’t limit it to how many.

Mr. Easton: It says two or more.

Chair Lohman: No, that’s for new.

Mr. Easton: I’m talking about a new – what a new situation would be. It’s not new dirt development. It’s new building.

Chair Lohman: But it’s for existing lots. That’s for when you –

Mr. Easton: “For all new residential development of two or more...” So that would include an infilled, correct?

Chair Easton: Yeah, but –

Mr. Meenaghan: “...of two or more...”

Mr. Easton: Right. So the individual on a single one could build and not have to –

Mr. Temples: That’s less than two.

Mr. Easton: Then they have to go to point (b) where they have to talk to their neighbors and try to prove to the Administrative Official that they don’t like that guy enough to build a dock with him – or whatever reason. This whole section under “Preference for joint use” was suggested by Ecology, I would gather, or the consultant?

Mr. Walters: I don’t think it’s *suggested by* so much as it – I mean, isn’t this a WAC requirement? It’s policy for joint use –

Chair Lohman: I don’t like that WAC.

Mr. Walters: – and there isn’t a policy for joint use if you don’t at least ask to jointly use something.

Ms. Candler: But aren't they more talking about like what Keith was saying? If there's a public dock, you can just load your boat up on a truck and drive it around. I mean, how – to me the infeasible definition is going to become an issue.

Mr. Easton: Well, I mean, you're just – I mean, that's a serious kettle of fish, right?

Mr. Greenwood: See, I would strike the part "...and found infeasible." Let them demonstrate that they've investigated, because that means they've asked or they've thought about it. That's like encouraging that type of –

Mr. Easton: There's probably no definition of "infeasible," I would assume, in the document.

Ms. Candler: So it's going to be a judgment call on somebody's part.

Mr. Greenwood: Yeah, you buy an infill lot next to a boat – next to a park with a boat launch. Are you not going to be allowed to build a dock?

Ms. Candler: To me, I read it that that could be a problem – yeah. Because \_\_\_ somebody's judgment call.

Mr. Easton: Would the Administrative Official would take that into account, Dale?

Mr. Pernula: You know, it kind of puts the Administrative Official on the spot at times.

Mr. Easton: I think that might be an understatement! Yeah.

Mr. Mahaffie: I don't see a dock as a launch. It's a storage facility. The public boat launch is not where you park your boat for the summer. That's what a dock is for.

Mr. Easton: But you still have to investigate joint uses.

Mr. Mahaffie: And it's not public. It's community or joint. And I see community as you're doing a plat –

Mr. Easton: Right. I get that.

Mr. Mahaffie: With five, do a bigger community dock – that you don't have one in your community. There are newer plats, a few of them.

Mr. Easton: Well, I'm agreeable with Keith to drop the phrase "and found infeasible." And if Ecology forces us back to it we'll deal with it, but –

Chair Lohman: Let Matt finish his thought.

Mr. Easton: I'm sorry. I thought I did.

Mr. Mahaffie: No.

Mr. Greenwood: I'm imagining somebody on the shoreline of, say, Lake Cavanaugh and they've got a lot and they don't have a dock. They want a dock and then they have to – they bought a piece of property that they think they could put a dock on. Now they can't put a dock

on there until they prove that, Oh, yeah, you really need a dock. So I would like to encourage people to look at sharing, you know? I think they might find out they save money doing it.

Mr. Easton: Sure, I have no problem with encouragement.

Mr. Greenwood: I think a community – there might be a community – say you want to do it for fishing and tubing and that sort of thing. You could say the community or the public – I’m going to say the public dock is adequate because you can go swimming off of that one, or go swim to it. And I’m not saying it is, in my opinion –

Mr. Easton: But you’re not using the word “require.” You’re only using the word “suggestion.” I mean, that’s not what this reads.

Mr. Greenwood: I know and that’s why I wouldn’t –

Mr. Temples: I like the concept of striking the “found infeasible,” because if the County has done their investigation, they come up with a decision and that’s what you go with. It’s a decision made by and it’s either feasible – it doesn’t have to say it’s found infeasible.

Mr. Mahaffie: If you take “found infeasible” out, you might as well take the rest of it out.

Chair Lohman: Yeah.

Mr. Mahaffie: There’s no –

Mr. Easton: Okay, I’ll vote for that too.

Mr. Greenwood: Then they just leave “Preference for joint use” at the head?

Mr. Mahaffie: All of (ii), I mean it’s – there’s no point to it being there if it’s found infeasible.

Ms. Candler: Well, there is. There is because, like he said, it’s just encouraging this idea and some discussion.

Mr. Greenwood: It’s like doing a mitigation. It’s like doing an evaluation for significant adverse impacts. If you’re having a significant adverse impact why do you bring it before anybody in the first place? Usually you’ve looked at these things. And they tell you what to look at. They tell you to look at traffic. They tell you to look at impacts to, you know, endangered species and that sort of thing. And you go down the list and this would just be one of the items on the list, the way I see it.

Mr. Easton: This may be a total waste of time because Ecology’s going to come back with a WAC and say that it’s required. So, I mean, I don’t know.

Mr. Greenwood: Well, I’d have to see where it says it’s required, and it probably could be.

Mr. Mahaffie: I mean, this is one area Ecology has the science on their side.

Ms. Stevenson: Yeah.

Mr. Easton: Well, yeah – less docks is better.

Mr. Mahaffie: There's a *lot* of documentation on that.

Mr. Easton: That can't be hard science to find.

Ms. Stevenson: It depends on whether the people who are applying for the dock permit actually own the \_\_\_ lands as well, or whether they're going to be leasing them from DNR. If they're leasing them from the state, they're going to be required to do all these things anyway. If they own them, that may be a little different story. But, I mean, there are impacts from all of these overwater structures on the water. So we need to at least say, Would you mind going out and talking to your neighbor and at least seeing if you can share their dock, or maybe neither one of them have a dock and they're going to build it jointly on the property line. They can make it a little bit longer and a little bit bigger. There's some incentive there for allowing you to do that. They need to at least take a look at that option.

Mr. Greenwood: And to me what you just said in more words was the part everything except "found infeasible." So you just encourage them to do that. You should look at these things because it's to your benefit and the benefit of the scientific studies that led us that direction.

Ms. Stevenson: Well, you need to go meet your neighbor and you need to actually talk about it, and if they say no then that's infeasible, right? I mean, it is to me. We're not forcing people. I mean, it is still a bit of a voluntary agreement, but you at least have to go have the discussion.

Mr. Mahaffie: If you take "infeasible" out, they don't have to do it.

Ms. Stevenson: Right.

Mr. Mahaffie: At all.

Ms. Stevenson: And they won't.

Mr. Mahaffie: There's no enforcement.

Ms. Candler: They have to because –

Mr. Greenwood: Well, why does there have to be enforcement for a good idea? I don't think there has to be enforcement for everything.

Mr. Easton: There's nobody to enforce anything.

Mr. Greenwood: We don't have to force people to do – sometimes education works. It doesn't always work, but –

Chair Lohman: Are we suggesting new language then, Keith, or is it okay the way it is?

Mr. Greenwood: I'm suggesting we remove "and found infeasible."

Mr. Easton: As I agree also.

Ms. Candler: Agreed.

Mr. Mahaffie: I disagree.

Chair Lohman: I disagree too. Because then it makes the whole exercise moot.

Mr. Meenaghan: So can I go back to the Comp Plan part, the policy here. Listen to what this says: "Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred. In support of this, joint-use and community structures are encouraged to prevent proliferation of single-user structures." So there is the overarching policy and guidance right there. And so now we need to do whatever it takes in the other section to make that fit.

Mr. Easton: So are you going to vote with Keith or are you going to vote with the Chair?

Mr. Meenaghan: What did the Chair say?

(laughter)

Chair Lohman: I said what Matt said. I'm seeking cover under Matt.

Mr. Greenwood: They like the "found infeasible."

Mr. Mahaffie: I mean, this is a really big balancing act between private property rights and all of us that own the aquatic resources. And the fact is, docks are bad.

Mr. Greenwood: No, they're not.

Mr. Mahaffie: Yeah, they are. They're bad.

Mr. Greenwood: They're a preferred use.

Mr. Mahaffie: That's what I say – it's a balancing act. I'd love to have a dock, but the fact is they cause ecological damage; therefore, the County is under the burden to show that they're lessening the ecological impact as much as possible.

Mr. Greenwood: Well, I've been down in places like on the Willamette River where it's one dock right after another and I understand that's been fully developed, but we also recognize that we have a unique environment that doesn't have – it has a lot of those ecological functions intact, and we're looking for no net loss of ecological function so we're trying to maintain a strong one and we can do that without saying any impact by man is bad or every dock is going to kill the last fish.

Mr. Easton: There's a three to two vote and two haven't spoke. I mean, if we want to move on – I don't know.

Mr. Meenaghan: So I say strike "and found infeasible" because I think it goes against what our overarching policy says.

Mr. Easton: So you don't have to vote if you don't want to.

Mr. Temples: Oh, I'm going to – at first I was thinking down the same line, but after hearing what Matt had and I've re-thought the thing and I'm going, No, leave that in. Because of all the

impact, I don't care – I'm sure all the boat owners have great intentions but how many septic things have been put into the lakes? How many oil water spills? Go on and on and on.

Mr. Easton: No one who voted for “and feasible” – or vote to struck that, Robert's saying, we should pour oil in the water or sewage. We had a four-three, Madame Chair, four for and three against, the way I count it.

Chair Lohman: Who wants to strike “and found infeasible”? One, two, three, four. So it looks like they want to strike.

Mr. Greenwood: People could dump oil off a community dock, too.

(laughter)

Mr. Greenwood: In case you're wondering.

Mr. Easton: Or sewage.

Mr. Greenwood: Or sewage.

Mr. Easton: I'm sure it's been done.

Chair Lohman: Well, Matt pointed out the 7 feet.

Mr. Mahaffie: \_\_\_, yeah.

Mr. Easton: The 7 what?

Mr. Mahaffie: I was really wondering where that came from – 7 feet.

Mr. Easton: Where are you at on that?

Mr. Mahaffie: That's a weird burden to –

Mr. Easton: Could you help me with the reference?

Mr. Greenwood: What page are we on?

Mr. Mahaffie: There's no page numbers. Development Standards.

Mr. Easton: You're in the memo.

Mr. Mahaffie: (xii) in the memo.

Chair Lohman: Roman numeral little twelve.

Mr. Easton: Little twelve.

Chair Lohman: (xii).

Mr. Easton: Gotcha.

Mr. Mahaffie: I understand the warning of distance between a float and the bottom, you know, of some sort of minimum. I've just seen so many areas that that would make it necessary for the dock to be way the heck and gone out there at mainland water.

Mr. Easton: Doing more damage to the lake, according to science?

Mr. Greenwood: Yeah, where did that come from?

Ms. Stevenson: From Fish and Wildlife. I'm looking and I'm not seeing that.

Mr. Greenwood: Because we're talking about not just any lake. Anadromous fish means those that go out to the ocean. So we might be looking at one where – that's they're coming up a river or into it.

Mr. Temples: Salmon.

Mr. Greenwood: Yeah, salmon, steelhead – that sort of thing. They go back out to the ocean. Or perhaps it might address situations where they truck them up and dump them in.

Mr. Mahaffie: But it's pretty much – I can't think of a lake that has a dock on it.

Mr. Greenwood: Lake Shannon, Baker Lake.

Mr. Mahaffie: Big Lake, Clear Lake.

Mr. Greenwood: Those aren't anadromous.

Mr. Mahaffie: Yeah, they are.

Mr. Greenwood: Oh, Big Lake is?

Mr. Mahaffie: Oh, yeah, and Lake McMurray.

Mr. Easton: Matt, what is the phrase – while we chew on – while they wait to get back to us on 7 feet – what is "skirting" mean in this example? Is that from the bottom of the dock to the waterline?

Mr. Mahaffie: Distance to the water.

Chair Lohman: Is it like on a trailer? Goes around the dock?

Ms. Stevenson: Kind of, yeah. I mean, it's just something that you would put along the edge of the dock.

Mr. Easton: From the edge of the dock down to the waterline?

Ms. Stevenson: Pretty much, yeah.

Mr. Mahaffie: Wouldn't that be something that would, like, lower wave action, though? So, you know, if you just had two floats riding, if you skirted it it would keep the structure more steady? Is that why people would do it?

Ms. Stevenson: That's what I'm thinking too. I'm thinking it's just the aesthetic – the eye. I had to look it up because I wasn't sure either, but I don't know exactly the reasoning for it except just to kind of finish it off so you don't \_\_\_\_\_. But it acts as –

Chair Lohman: So that's like an Ecology prohibition?

Ms. Stevenson: I think it's more from Fish and Wildlife.

Mr. Greenwood: My guess would be –

Mr. Mahaffie: It's a shading.

Ms. Stevenson: Yeah, it's a shading issue.

Mr. Mahaffie: I understand that but if there's a safety or structural –

Ms. Stevenson: I'd have to look into it to find a little more detail.

Mr. Easton: And by putting the word "new" in front of it, is that implying that existing skirting is still allowed – but still those who have existing skirting on docks would be allowed but this would be any new building?

Mr. Walters: Existing stuff is always going to be allowed.

Mr. Easton: I know that's the case in general, but –

Mr. Walters: There were a couple of instances where the word "new" came into some of these from the consultant and we tried to strike those to –

Mr. Easton: Because I think that kind of confuses people.

Mr. Walters: Right.

Chair Lohman: I had a question on the Table 14.26.420-1, Standards for docks. At the very bottom you have boat and watercraft lifts are not permitted for marine waters, and I – I'm – why? I mean, I don't boat, I don't know anything about boats, and so I looked up what in the world is a boat lift and I was wondering what the rationale was.

Ms. Stevenson: I think part of it is some of what Carol mentioned earlier. You have a lot more wind and wave action where the lifts and stuff – I don't know if you've seen them. A lot of them are – the ones that I've seen –

Mr. Temples: Potential for more damage, perhaps?

Ms. Stevenson: Yeah, basically. They're going to end up on the beach somewhere. The ones that I've seen, at least, appear to be built structurally for bikes and that sort of thing. So maybe

they make a heavier version for marine waters. But, again, I think it's one of those things where it's just going to become a problem later.

Chair Lohman: These are those – just individual like –

Ms. Stevenson: Where you can lift your boat up and out of the water basically, when it's tied up alongside the dock. You kind of drive your boat up on it because it sits under the water and then you can crank it up or lift it up out of the water. Maybe I'm wrong.

Mr. Greenwood: No, you're right. It keeps the bottom from developing things on it.

Ms. Stevenson: Right. Right, right. But I mean in terms of marine, maybe they build them strong enough for marine uses too, but...

Mr. Mahaffie: I've run across some alternative boat lifts. They're not overwater boat lifts but like almost like an arm that swings up and takes your boat. Would that be considered a boat lift under non-permitted under Marine, or would that be something else?

Chair Lohman: Like a davit? Like for a lifeboat – davit things?

Mr. Easton: Mm-hmm, yep. There are some of those that already exist in our area.

Mr. Mahaffie: I've seen – there's a whole row of them down in the Tulalip.

Ms. Stevenson: Yeah. That's a good question.

Mr. Easton: Because they're actually not in the water. They're actually on the beach.

Mr. Mahaffie: Yeah.

Mr. Easton: The actual mechanism.

Mr. Mahaffie: Yeah, they're structurally tied above the ordinary high water mark but they swing out.

Mr. Easton: Right. They wouldn't design them to be in the water.

Mr. Mahaffie: So when you just say "not permitted" I –

Ms. Stevenson: I think these that we're talking about here are over-the-water ones –

Mr. Mahaffie: I know what the traditional – yeah.

Ms. Stevenson: – and would be ones either attached or coming off of a dock necessarily. The ones you're talking about would be something different.

Mr. Mahaffie: Yeah.

Ms. Stevenson: And we could see looking at that as whether or not it meets the criteria or test for substantial-type development.

Mr. Mahaffie: Well, I'd assume it would. It's just – yeah, under Not permitted. I assume it would still be required to get a substantial development permit.

Ms. Stevenson: Yeah, these would be associated with a dock or an overwater structure.

Mr. Mahaffie: Okay.

Ms. Stevenson: Does that make sense?

Mr. Mahaffie: Yeah, perfect.

Chair Lohman: It's a standard for docks.

Mr. Mahaffie: While we're on the table, though: the grating on a floating section. I am not picturing that in my mind. I've seen a lot of floating sections. I've never seen one with grating on it.

Mr. Easton: So you're talking about the actual deck being grating instead of actual decking material?

Mr. Temples: Mm-hmm. I've seen it.

Mr. Mahaffie: With nothing underneath of it? I mean, how does the float actually stay up?

Mr. Easton: It would have a structure still. The structure would be \_\_\_.

Mr. Mahaffie: I'm just used to the floats are, you know, chunks of floating plastic and then you deck over.

Chair Lohman: But if it's smaller than 4 feet, not required.

Mr. Easton: So it's a frame instead of a solid object, Matt, and then the idea is that the decking goes over the top of the frame.

Mr. Temples: Yeah, I'm not sure why they –

Mr. Mahaffie: I don't know. I've never seen a grated, floating – I mean, I've seen a lot of grated docks but I've never seen an independent floating section. I was just curious how...

Ms. Stevenson: It's kind of the same idea. I have pictures. I didn't bring any but, yeah, they're in the handbook.

Mr. Temples: I've seen them on access docks down in Everett and such, but I didn't give it much of a thought one way the other!

Ms. Stevenson: You'd need to have an insert as only part of it because it doesn't require that the whole thing be grated, right?

Mr. Mahaffie: Yeah.

Ms. Stevenson: The ramp is supposed to be grated, right?

Mr. Mahaffie: I've just always pictured those super easy things are like 6 x 8 plastic boxes. I mean, we use them at PSE all the time. You just interlock them like Legos almost. Make them big or small, and –

Mr. Easton: Is your concern that that shouldn't be a part of it, or are you just trying to figure out what it is?

Mr. Mahaffie: I was just trying to figure it out. And if it was – it's not just so much figuring it out. It was figuring it out with the widths given. That's what was kind of throwing me. I mean, if it was wider it would make more sense to have a wider float. But with these narrow widths, I don't see the functionality of it and I don't see the – I mean, if you're less than 6 feet wide and you have a 1-foot – your floats on either side, you built them that way – it's kind of ineffective for \_\_\_ infiltration, I think. But it kind of goes up to – we've already heard one person from the public last time about the width. I mean, I'm no fan of docks but – overall, in the big picture – but narrow docks, they seem kind of unsafe in the widths that you have.

Ms. Stevenson: Let me look into that a little bit, okay? I understand what you're saying and I put a note on here and I can't really answer it.

Mr. Mahaffie: I mean, I like the incentive for, you know, joint use being bigger, but, you know, a 4-foot ramp going down? You know, somebody carrying something, somebody in a wheel chair – just seems slightly too small widthwise.

Ms. Stevenson: I'll have to find it again. I had it but I don't have it marked, so I'll have to flag it. Because most of these standards are coming from someplace else and they're sort of the accepted standards, but I'll find it.

Chair Lohman: Anything else on the table? Okay, somebody said they saw something before we got to the table?

Mr. Easton: Yeah, I just wanted to point out that on page – I guess it was after that table. I thought it was before but it was after. I'm on section (b) under Community docks – or (b) and then (ii)(B): "A community dock must be designed to accommodate no more than .75 boats per residential unit that shares a legal interest." Does anyone else find that odd? If we're encouraging people to share and then requiring them to design docks that don't account for everyone having a boat? Aren't we sort of encouraging people not to share?

Mr. Mahaffie: Nor is there a definition of "boat." It could be a 25-foot boat, or a 10-foot boat.

Mr. Easton: So is that  $\frac{3}{4}$  of my 60-foot yacht or  $\frac{3}{4}$  of my 20-foot skiff? Anyone?

Mr. Greenwood: I have a hard time with it. I think it's too cold. I think it's contradictory.

Mr. Temples: It'd be interesting to find out where that comes from.

Mr. Greenwood: Well, it's just less than one. Perhaps that – I mean, that seems to be the goal, right?

Chair Lohman: Yeah.

Mr. Greenwood: Otherwise it's not sharing –

Mr. Easton: So which guy's the odd man out, right? Like, how do you – how does that work? Like there're seven of you, you're like, Sorry, dude, you don't get a boat because the rest of us did? I –

Mr. Meenaghan: No, he gets a dock!

Mr. Easton: He does – a community dock that he'll look at my boat and your boat but he can't use his boat.

Mr. Meenaghan: Except he's got his own dock.

Mr. Easton: Well, in this siting it would be in the community where this would probably be that example where you're building a new development – one of those rare exceptions where there might be a big enough piece of raw land on the water right now still where you could do a CaRD or something and have four, and then you tell the fourth guy, Sorry, buddy, you don't get a boat. I don't – I don't – who writes this stuff? I mean, I don't mean to be offensive with you. I mean, just like who wrote this and thought, Oh, yeah, that's cool. That poor guy's not going to get a boat.

Ms. Stevenson: They're making the assumption that they're not all going to use the dock at the same time.

Mr. Easton: Right. Right. So they're not all going to use the dock at the same time. So now they all have a boat and it's a race to see who gets to use the dock before the – which guy's out on a buoy overnight because – and he's got to paddle in to see his wife and kids!

Mr. Greenwood: I think what lake and how many sunny days you have, right?

Mr. Easton: I just can see this scenario playing out and it's not ending well for that poor fourth guy and his wife and family. I feel bad for them. Making the four-year-old kid swim to the boat is tough. So I'm not sure if we could do a little more investigation on this. I'm going to feel uncomfortable voting for this. It lacks sort of cohesiveness for me. Again, I'm not anti-sharing. I want my mom to know and my kids know I'm very pro-sharing. I just find this a little odd. Sorry to staff. I'm sure you didn't intend for me to make fun of your –

Mr. Walters: I don't think we wrote this at all.

Mr. Easton: Well, good. I'm happy for you.

Chair Lohman: Blame it on the consultant.

Mr. Easton: That's what we paid the consultant for?

Mr. Walters: And, in fact, I mean we have no particular knowledge of this – unless Betsy wants to jump in with some – but you'd sort of imagine that the consultant would be the expert and have surveyed all these developments where they find that 75% of people have boats and the other 25% actually don't, and that 75% is a good ratio. Of course we don't really know that that's true, but maybe it is. And assumedly that's where this kind of stuff comes from. And for every ten, you do get a guest boat. That's the next sentence.

Ms. Stevenson: I guess I would say that they worked really hard and vetted a lot of this with Fish and Wildlife, and a lot of it did change. Fish and Wildlife came back with a lot of stuff that they argued back and forth for quite a while. So there was quite a bit of dialogue with a lot of this language. I didn't say that I necessarily agreed with it either, but it didn't just come out of thin air.

Ms. Candler: I think that guest thing is even more offensive. So you don't get a boat but your neighbor's friend gets his own there?

Mr. Easton: That's even better!

Mr. Mahaffie: When it came from Fish and Wildlife, I mean, I've went (sic) through – I wouldn't say every piece of paper that's come out of Fish and Wildlife that's available as a public document. It's hard to find anything from Fish and Wildlife that is concrete on docks – not to say their staff doesn't have their own definite opinions.

Ms. Stevenson: Well, and I think that's what they ran into. They were dealing with policy people as well as field people, and the people who review the Shoreline Programs aren't necessarily the ones out in the field writing the permits.

Mr. Mahaffie: Yeah, I guess you reference – I'd really like to see where it came from.

Ms. Stevenson: Yeah. Okay.

Mr. Easton: So remind me: Where are we at on budget with the consultant? Are we done, past done, half-done, in overtime? I don't know where we're at.

Ms. Stevenson: The grant was finalized last year, right?

Mr. Easton: So getting responses from them about why this got included is outside of what we –

Ms. Stevenson: I can go back and look through my e-mails and stuff.

Mr. Easton: Okay.

Ms. Stevenson: (unintelligible)

Mr. Easton: But I mean like to ask for new information would be – obviously wouldn't be appropriate then.

Ms. Stevenson: I think it's up to us to rewrite it at this point, but I know they shared a lot of the e-mails with me as we were going through that process. I just can't tell you for sure.

Mr. Easton: Okay. It's all right. No problem.

Ms. Stevenson: But I do need to do some more homework here.

Mr. Temples: Madame Chair?

Chair Lohman: Yes? Robert.

Mr. Temples: It's almost nine o'clock and we are a third of the way through our agenda. What would you recommend at this point, or what would be the consensus of the Commission?

Mr. Easton: We've got a long way to go on boating.

Ms. Stevenson: Why don't I take that one back for a while?

Chair Lohman: Yeah. Because you also need to go back and review that matrix because it had a conditional use requirement for if you were in the Rural Conservation for a float. Everybody else got to have it. Rural Conservancy you had to have a conditional use permit if you wanted a float.

Ms. Stevenson: Yeah, that's my question exactly. I have the same question there.

Chair Lohman: I think we should probably adjourn and come back with the – finish working on this, because we still have quite a bit.

Mr. Easton: Are we going to do the Department Update and the Planning Commission Comments or do you just want to go straight to Adjourn?

Ms. Stevenson: Can I ask a question before you adjourn, please?

Chair Lohman: Sure. We haven't adjourned.

Ms. Stevenson: Oh, okay. Sounds like people are getting ready to. Kevin had asked a long time ago about getting some other people to come to the meetings. I did finally touch base and coordinate with Bob Warriner from the Department of Fish and Wildlife. He is available to come to your meeting on the 6<sup>th</sup> – just give you a brief overview – maybe *he* could answer the questions about overwater structures and docks! – just in terms of – he's a fish person, but he also gets involved with policy things and he works pretty closely with local governments, us included. So he is interested in what we're doing with the Shoreline Update and you should just meet him if you don't know him. He's a good guy, and he could answer questions that you guys may have just about fish issues and things like that.

Chair Lohman: He's Fish and Wildlife?

Ms. Stevenson: He's from Fish and Wildlife. He came before when we met jointly with the Shoreline Advisory Committee. But we have a lot of new members so I think it would be very worthwhile to have him come again. So if you are willing to spend a little bit of time on the May 6<sup>th</sup> agenda to just have come and make a presentation and answer questions that'd be great.

Chair Lohman: I think we should put him on.

Mr. Easton: Yeah, I agree.

Mr. Temples: Mm-hmm.

Ms. Stevenson: Thank you.

Mr. Meenaghan: I would say that that sounds great, and we probably need to give him specific topics that we want him to address. So I guess we should all pitch in with Betsy on that.

Ms. Stevenson: Yeah.

Mr. Easton: Well, I think the issues about docks is –

Chair Lohman: Overwater structures.

Mr. Easton: Overwater structures.

Ms. Stevenson: Oh, man! I didn't mean to set him up for that!

Mr. Easton: Skirting. I'd be curious what his take is on \_\_\_ access. So those are all the topics.

Mr. Meenaghan: Does he know anything about eelgrass?

(laughter)

Chair Lohman: Why don't we go ahead and – are there any Department updates?

Mr. Pernula: Just very briefly: Today the Board of County Commissioners adopted the work program for the Planning and Development Services Department. I sent you each a copy of it probably 4 or 5 this afternoon, so you probably don't have it yet. It's pretty much as – I think you had a draft of it. One thing that got changed was the TDR Program and the Rural Forestry Initiative got switched, so the Rural Forestry Initiative is now a priority item and TDR went down a little bit. The RFI has always been of importance to the County Commissioners but we've had a lot of other items to look – that we're working on. And the reason why they dropped TDR is that they felt that there weren't a lot of receiving sites. There's plenty of sending sites but not a lot of receiving sites. We're still going to finish up the project that we've embarked on through a finishing point. It will not be as high a priority as the RFI. And that was the main change that we have there.

Also the docketing of the 2013 Comprehensive Plan Amendments: The hearing's set for April 29<sup>th</sup>.

Mr. Easton: Will that be the '13s or the '14s?

Mr. Pernula: '13s. '14s aren't due until July.

Mr. Easton: Okay.

Mr. Pernula: But that's also a little bit late. Both of these are a little bit late because we're trying to figure out what we're going to do with Bayview Ridge. So that's been kind of delaying a lot of things. And Bayview Ridge is part of the work program for this year and so we'll – and it will also be one of the docketed 2013 Comprehensive Plan Amendments.

That's all I have.

Mr. Easton: I have a question for the Department.

Chair Lohman: Go ahead.

Mr. Easton: So a couple of different times, both privately and publicly, I've had it referenced to me that Pierce County opted out. Could you –

Ms. Stevenson: They're working on a Shoreline update.

Mr. Walters: I Googled that when that came up earlier. They have a meeting next month.

Ms. Stevenson: They're doing a Shoreline update.

Chair Lohman: I didn't think anybody had the option.

Mr. Walters: I don't believe they do.

Chair Lohman: I'm wondering if –

Ms. Stevenson: We have the option: Ecology will write it for you.

Mr. Easton: So the members of the public who believe that's the case, just bring us something that says that. That would help us. I'm not questioning anybody's intentions in what they – maybe they delayed it and it's been viewed as an opt-out. I don't know, but I'd like some – in the future, if the public wants to comment on that that's fine. I just wanted to ask the Department for a comment.

And then the only other comment I had for – or announcement, is that are we – did we finish the planning for what we need to do – planning about the retreat? Or did we – are we going to have to revisit that at another agenda and did we remember to keep that on the agenda coming forward.

Chair Lohman: This is a work session, remember.

Mr. Meenaghan: This is a work session so next meeting we'll talk about our retreat.

Chair Lohman: Next meeting is our regular agenda.

Mr. Pernula: We could bring it up at the next meeting. Now my understanding is that you really wanted to hold the retreat – a full-blown retreat – in the fall. Perhaps we could have a smaller get-together at lunch or something between now and then, but the retreat would be this fall.

Mr. Easton: Okay. I was just trying to understand how it was fitting together.

Chair Lohman: For clarification is on the work session days we haven't added extra things on the agenda.

Mr. Easton: Makes sense.

Chair Lohman: But on the regular meeting day then it's open to all of the housekeeping and all of the other \_\_\_\_\_. Because this is a special meeting so we can only discuss what's on the agenda. Ryan?

Mr. Walters: So I also sent all of you the memo that is on the Planning Commission webpage about your quasi-judicial and Open Public Meetings Act responsibilities. I didn't get questions from any of you about what other topics you want to see covered except that Public Records was a thing that you wanted to see added. But if you have any other questions, now would be the time. We'll put them into the memo and update it and post it.

Mr. Easton: The specific part about public records requests is – I think it's the clarification to the membership that it is not just your County e-mail account. It is – my understanding of the Public Records Act is that if I communicate in any fashion and I'm asked to turn in a FOIA – I get a FOIA request about my communication with whoever or about whatever topic, it has to be across all forms of which I communicated. It's not just a specific e-mail account.

Mr. Walters: Right.

Mr. Easton: Could you – you could maybe form that into a clarification so that we're clear that that's the case? Okay.

Chair Lohman: Okay, I would like to review what we're going to have for the work session for our May 6<sup>th</sup> meeting. So it'll be the Boating Facilities and its related Comp Plan section; Breakwaters; Commercial Development; Dredging; and Fill, Excavation, and Grading.

Mr. Walters: So nothing additional?

Chair Lohman: Well, that was originally what was going to be tonight but we had Aquaculture in addition.

Ms. Candler: And on that meeting we have people coming, right?

Chair Lohman: Fish and Wildlife.

Ms. Candler: We're not going to get through all that.

Chair Lohman: So we're going to end up having some of this hanging over to the next meeting again. I mean, it's going to happen.

Mr. Walters: As we get closer we can schedule another meeting, if you want.

Chair Lohman: Well, we've already got two meetings coming up. We've got May 6<sup>th</sup> and May 20<sup>th</sup>. So maybe we should start looking ahead.

Mr. Easton: You want to look at June, the middle of June?

Mr. Walters: You've got the June meeting already scheduled, and then you could schedule another June meeting.

Mr. Pernula: If needed. Wasn't our original schedule is to be done at the May 20<sup>th</sup> meeting, so maybe it'll just extend it to June.

Chair Lohman: Well, and we also said that we wanted to review the Public Access again, and there was a couple of other things we wanted to look back again.

Ms. Stevenson: Well, we're going to need some time away from the meeting – catch-up to come back to you. I wasn't planning on doing that immediately after we get done reviewing it with you. We're going to need time to go back through it, okay?

Chair Lohman: Sure!

Mr. Walters: Although we have three weeks coming up!

Ms. Stevenson: Shh!

Mr. Pernula: We've got an extra week this time!

Chairman Lohman: You can't write that fast?! I'm teasing you.

Ms. Stevenson: Yeah, I know.

Chair Lohman: But I just – I wanted to make sure that we get through it all.

Ms. Stevenson: There are a lot of things we didn't make very many changes and there may not be a lot of comments, which doesn't mean that you guys won't find things in there that you didn't last time anyway. I'm not assuming that because you've already looked at it and so – but some of them aren't very long and it may not take as long; however, it's still going to take at least three meetings, I think, to get through it.

Ms. Candler: Can we address that maybe when we're closer?

Chair Lohman: Yeah. How about – can we put it on the agenda on May 6<sup>th</sup> that we look at the next – strategies for –

Ms. Stevenson: Okay.

Chair Lohman: Okay, is there a motion to adjourn?

Ms. Candler: I move to adjourn.

Chair Lohman: (gavel) Okay, we're adjourned.