

**Skagit County Planning Commission
Deliberations: Shoreline Master Program Update
April 19, 2016**

Commissioners: **Josh Axthelm, Chair (absent)**
 Annie Lohman, Acting Chair
 Martha Rose
 Kathi Jett
 Kathy Mitchell
 Hollie Del Vecchio
 Amy Hughes
 Tim Raschko
 Tammy Candler

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

Acting Chair Annie Lohman: (gavel) I call to order the meeting of the Skagit County Planning Commission. It is April 19th, 2016, and it's 6 p.m., and the reason for this meeting is we're going to be deliberating on the proposed Shoreline Master Program Update. So I see that all the Planning Commissioners, with the exception of Josh Axthelm, are here so we do have a quorum. Are there any changes to the agenda?

(silence)

Chair Lohman: Seeing none, we'll just move on. What I would like to do to help us along with our deliberations is that each Planning Commissioner can ask a general question that they might have, or two, and also whatever issues that they want to have addressed. We don't want to go into the detail of the issues – just kind of list them – and Ryan is going to be creating a list of what those issues and concerns are. And so we will have those. I would like to work on the first four things that were on your page 2 of your Supplemental Staff Report #1, and that would be sea level rise, Guemes Island, public access, and the no net loss of ecological functions. And then I would like to organize the remaining things on that list, as well as our issues that we might have brought up for future meetings, and in a prioritization with the most important being first and ending with Department of Ecology's comments, but starting at important-to-us and working in declining fashion, and then at the very end also working on DOE. So does that sound okay to the rest of the Commission?

(silence)

Chair Lohman: Okay, so moving on, who would like to go first – Martha or Tammy – with your general questions and issues?

Martha Rose: I can go first.

Chair Lohman: Shall we start with Martha? Go ahead.

Ms. Rose: Am I allowed to voice two or just one?

Chair Lohman: I didn't have a specific number.

Ms. Rose: Really some people in the audience a few meetings ago brought up this situation about the 200-foot setback, I think it was, from the high water mark of the dike or from the top of the dike, and how the top of the dike is an inconsistent distance from the edge of the river, and on the opposite side of the river the land is pretty flat for a very long way, and so the 200-foot setback from the dikes seems arbitrary. So that's something I'd like us to discuss further.

And then several people brought up the – How do you determine the baseline and document this no net loss? I think that's an important issue that we need to – I don't know the answer. I'm just saying that that's something that needs to be figured out, is how to establish a baseline and then how to document when improvements are added versus things taken away. How do you document that? Those are my two biggest issues.

Ryan Walters: So if we could switch to the staff table computer. I've included on this list here the list – the groupings from the memo that staff generated of the public comments. And no net loss of ecological functions is one of them. Maybe there are some others. Our intention here is to flesh this out as we go along so let me know if you want something added, wording changed –

Chair Lohman: But, Ryan, this is their – regardless of whether it's on that list, this is their chance to say it out loud.

Mr. Walters: Yes.

Chair Lohman: So we're not going into detail and I wasn't going to have us interject each Commissioner and discuss here.

Mr. Walters: Right.

Chair Lohman: So if we could just put them on the list and if it's already on the list then you don't need to write it three times.

Mr. Walters: Right.

Chair Lohman: But maybe note that it must be going to be near the top of the prioritization list if multiple people are concerned about it.

Mr. Walters: I'll make a hash mark.

Chair Lohman: All right. Okay, Kathi? Kathi Jett.

Kathi Jett: Oh. I'm looking at the list and thinking about what I was reading over the past two weeks and I don't have any –

Kathy Mitchell: Excuse me – we can't hear. Thank you.

Ms. Jett: Okay, I don't have any topics to add at this time. I just have issues and – not issues, but I have questions and comments regarding the things that are listed here. Will we have other opportunities to add a topic if we see something that we missed at future meetings?

Chair Lohman: Absolutely. But did you have anything for now?

Ms. Jett: You mean the ones that I wanted to comment on at some point when there's discussion? Public access, Guemes Island, and sea level rise. The only document that I saw addressing that in any detail was the document from the Swinomish Indian reservation, and there were a lot of points in there that I thought were worth discussing.

Mr. Walters: You may want to adjust your mic a little bit more to make sure that we can get this on the record.

Ms. Jett: Is that better?

Mr. Walters: You might pull it back, too.

Ms. Jett: Or just speak louder?

Mr. Walters: That sounded better.

Ms. Jett: Is that better now?

Mr. Walters: That's better.

Ms. Jett: Okay, do you want me to repeat that – what I just said?

Mr. Walters: No, I think we probably have it.

Ms. Jett: So that's it on the four that are in bold on the screen.

Hollie Del Vecchio: I guess as far as big topics, overarching topics, one thing that I just want to make sure that we're keeping in mind or put out there is that we keep the shoreline regulations separate from the critical area ordinances. And I know I had a little bit of a dialogue with the staff previous to this session, but it just seems like we have some overlap between those two regulations and one of my concerns is that we're not – for instance, you know, with the discussions of achieving no net loss, restoration of ecological functions, that those are maybe better suited and more appropriate for the critical area ordinances rather than the shoreline regulations.

And I think the only – the other big thing for me is outside of the critical area ordinances, making sure that we are including enough flexibility. You know, for example with the dock restrictions and everything – that we are allowing enough flexibility to allow for variations in the types of environment that we're dealing with, whether it's the Lake Cavanaugh or your other areas – that there's enough flexibility built in to be able to tailor them to the needs of the local environment. I think those are my big ones.

Chair Lohman: Go ahead, Amy.

Amy Hughes: I would like a clarification of Activities Exempt, 14.26.410, and Appendix 1 – a little bit more discussion on that; definition of "waters of the state"; structure size for redevelopment in relation to lot size. And then there's a little bit about height limits. I don't know if this affects people in the floodway or not. I don't know how that would work.

Mr. Walters: What was your item before height limits?

Ms. Hughes: Structure size for redevelopment in relation to lot size. I'd like a good presentation of the maps that we're talking about, and how administration for special circumstances would happen. We had a lot of comments about one size fits all regulations. And that would be it.

Mr. Walters: You introduced that list as a list you wanted clarifications on those, so is that in any way distinct from topics that you want changes on? Do you just want to talk about them and get questions?

Ms. Hughes: Mine are clarifications so I understand it better.

Mr. Walters: Okay. All right. I listed them that way.

Tim Raschko: I'm interested in discussion of Lake Cavanaugh docks and setbacks. And as far as monitoring of shoreline enhancement projects, Guemes Island – both setbacks, building code, and dock, and commercial aquaculture prohibition; aquaculture, I'd like to incorporate the changes recommended by Taylor Shellfish; ordinary high water mark as it pertains to dikes; public access; sea level rise; no net loss; any reference to a tree-cutting and -clearing ordinance; finally, the inclusion of nonbinding concept plans.

Mr. Walters: I wouldn't mind if people went a little slower.

(laughter)

Mr. Raschko: Did you miss any of that?

Mr. Walters: It's possible.

Chair Lohman: Could you repeat ___ please?

Mr. Walters: Would you mind rolling through that?

Mr. Raschko: Okay.

Chair Lohman: I was writing furiously as I could, too!

Mr. Raschko: Lake Cavanaugh, both docks and setbacks.

Mr. Walters: Okay, I got Lake Cavanaugh.

Mr. Raschko: And the shoreline enhancement monitoring – or monitoring and shoreline enhancement projects, I should say; Guemes Island, both setbacks, building code, and any prohibition of docks or commercial aquaculture; and then in the aquaculture section, I'd like to recommend incorporation of changes proposed by Taylor Shellfish; ordinary high water mark as it pertains to dikes; public access; sea level rise; no net loss; tree-cutting or -clearing ordinances; and the inclusion of – or *exclusion* of nonbinding concept plans.

Mr. Walters: I think I got it.

Chair Lohman: Okay. The ordinary high water mark with relation to dikes; public access; use of concept plans or non-regulatory plans. And that's it for now. You ready?

Ms. Mitchell: Dikes and ordinary high water mark; lake communities, as far as setbacks go and regulations for the docks, et cetera – and you might put a caveat to that. I don't know that wouldn't apply to some river communities too; the sea level rise; references to concept plans and non-regulatory plans; public access; to go over the maps – hang on a second. My list is a little different from everybody else's – public notification for the Shoreline Management Program and the process that was involved; and the process in general. Thank you.

Tammy Candler: Okay, so for me I had a chance to speak with Betsy Stevenson before the meeting and I also had questions about Lake Cavanaugh and the dock setbacks or the dock lengths and setbacks separately; however, you know, I haven't been able to see the Department's response yet or the staff report which, you know, may change what questions I have or don't have. And so I'm looking forward to that. And I kind of assumed – this is Staff Report #1, so I'm sort of assuming that we're dealing tonight with those first four of the bold type items on this list. I do, though, separate from that, I have – I would like a hash mark for me next to the non-binding concept plan, a clarification. Some people – I think I remember Josh being really adamant at a meeting maybe that that has no part here, but I don't want to speak for him. So I just – I know that there're some people with some strong opinions about that. I'd like to hear what people think about the concept plan – being even just *mentioned* seemed to cause some concern for people. As far as the no net loss, that, I think, is easy enough to figure out but I like the way that Martha phrased it: more an issue of establishing a baseline. That's all I have.

Chair Lohman: Okay, for the folks that went first, did you have any additions?

Ms. Rose: Nothing to add to. I don't have anything to add. Thank you.

Chair Lohman: Okay.

Ms. Del Vecchio: I'll put an X or have Ryan put an X next to the maps. I think that was a big concern for me too. As always, just kind of recapping some of the public notification issues.

Chair Lohman: Okay, so setting aside the four bold items, which are Guemes Island, sea level rise, public access, and no net loss of ecological function, I'd like to spend a little bit of time organizing this list that we've created and get it kind of prioritized for future meetings for the next two scheduled meetings. So –

Ms. Mitchell: Can I ask a –

Chair Lohman: Betsy – excuse me.

Ms. Mitchell: May I ask for a question? If we're going to kick this out, is it possible to get quick copies of this so we can all start with the same written thing? Is there a way to get a quick copy of that?

Mr. Walters: Oh, yes.

Ms. Mitchell: That might help.

Mr. Walters: I haven't printed to that printer before with this computer because they gave me a new one on February 1st, and I didn't prepare for that.

Ms. Mitchell: I just thought that might speed it up for everybody.

Chair Lohman: But while you're doing that, I just wanted to say a lot of us brought up Lake Cavanaugh, but Betsy asked me before the meeting if we could put that further down the list, not because it's not important but because she needs some more time and she is working on it. And I think we should honor her request and put it for maybe the third meeting. Would that work for you, Betsy?

Betsy Stevenson: It's what you have to offer, so I'll take it. Thank you.

Chair Lohman: The other obvious one is quite a few people mentioned the ordinary high water mark and the dikes so that's obviously an important one to us so we should put that one near the top.

Mr. Walters: I don't think I'm going to be able to print it before you get done organizing, so let's just do it on the screen. So you just said ordinary high water mark near the top?

Chair Lohman: Yep. And you have it – you have it first.

Mr. Walters: Yes.

Chair Lohman: Several people mentioned the maps so maybe we should move that up. And this is not necessarily going to be exactly perfectly ranked, and I don't know that we really want to rank things. It's just for meeting planning is all.

Ms. Del Vecchio: Can I just make a couple of comments ____ the things that I mentioned?

Chair Lohman: Go ahead. The issue I raised when I said the shoreline, the critical areas – it probably falls under the discussion of the no net loss of ecological functions. In my mind they're pretty closely related, if it helps to roll those together.

Chair Lohman: I'm not sure that you want to because there is – the County has a variety of options they can do. They can roll that part of the critical area that's in the shoreline, right? You can have the shoreline be in the controlling of that critical area, correct? Is that right or not?

Mr. Walters: That's just the question of jurisdiction, right? Well, wait a minute. Do you want to talk about this now or do you want to move forward on the list?

Chair Lohman: No. I'm not sure that – I think there's a – what you think you're saying and what I'm hearing might not be the same.

Ms. Del Vecchio: Could be. Absolutely. I guess my – the way that I'm thinking of my comment on the – talking about the shoreline regulations versus the critical area ordinances ties in directly to the discussion of no net loss, so maybe at least having them close together so we're not rehashing conversation to the extent that there is overlap would be helpful.

Chair Lohman: You mean talk about them like –

Ms. Del Vecchio: We can keep them as separate items. I just mean we probably don't want to have one as item 3 and then come back and rehash the whole thing as item 10 if there's a fair amount of overlap.

Chair Lohman: I agree with that. That makes sense. That makes sense, but I think they need to be separate.

Ms. Del Vecchio: And then the – I think it was my comment that led – it's off the page now – about the docks – docks' dimensional standards. Was that my comments that ___ typed up as that?

Mr. Walters: I didn't check any boxes next to docks. I heard "Lake Cavanaugh docks" repeatedly, but ___.

Ms. Del Vecchio: Okay, so that's – so I used the Lake Cavanaugh – I wasn't sure where you put it because I wasn't watching the screen at the moment. But I used Lake Cavanaugh docks as an example, but it's more the broader question: Are we incorporating enough flexibility into these regulations to allow for variations such as Lake Cavanaugh?

Mr. Walters: Okay, so we'll put those together?

Ms. Del Vecchio: So if we could just have – can you just write flexibility somewhere? Okay, this is not just for docks – just so everybody knows. Okay.

Mr. Walters: Oh.

Ms. Del Vecchio: That's what I'm saying. I just mean flexibility in general, not just docks. I used that as an example.

Chair Lohman: Well, a couple people brought up the one-size-fits-all versus flexibility.

Ms. Del Vecchio: Yeah, and I didn't see it. I didn't see any of that reflected.

Mr. Walters: Okay, so I added a new item for flexibility.

Ms. Candler: Okay, but – Annie, can I have the floor?

Chair Lohman: Go ahead.

Ms. Candler: Can you leave docks with Lake Cavanaugh, though, because I think that we need to talk about those together?

Mr. Walters: Yes, it's just nobody mentioned docks independent from Lake Cavanaugh that I heard.

Chair Lohman: They did.

Mr. Walters: Did they?

Ms. Mitchell: We did.

Chair Lohman: Yes.

Mr. Raschko: I mentioned docks on Guemes Island.

Ms. Mitchell: And I mentioned it in reference to it could be that plus river communities, so it could be docks in the river.

Mr. Walters: Yeah, I had – oh, it happened in this one here. We might be able to talk about the shoreline versus critical areas issue in *this* meeting because there weren't any public comments that we grouped that way. So we weren't anticipating responding to any public comments grouped that way, so if it's just questions about that topic it might very well go right along with no net loss in this meeting.

Chair Lohman: Okay.

Mr. Walters: Shall we –

Chair Lohman: Several people brought up sea level rise. That was in the bulleted, though. Okay, guys, you have to help me here.

Ms. Candler: Looks like we're getting a disparity between 4/26, and 5/3 as far as how much we need to cover.

Mr. Walters: Well, we have all these down here that we haven't categorized yet. When do you want to talk about, like, this one, which got two tick marks?

Chair Lohman: Is that possible to do tonight or do we have too much for tonight?

Mr. Walters: I think it's possible to do tonight. We'll put it at the bottom of the list or the top of the list and we'll cover it first or last. It's, again, not one that we had planned to respond to public comments about, so I don't think there's anything holding it up. First or last.

Chair Lohman: Okay, let's move it to tonight. I would like to put the Department of Ecology right behind Lake Cavanaugh.

Mr. Walters: I assume after docks.

Chair Lohman: Towards the bottom. Well, sometime on that last day. The shoreline environmental designation maps, maybe we should put that on – move it up a meeting.

Mr. Walters: To the third meeting or the second meeting?

Chair Lohman: Second meeting.

Mr. Walters: How about monitoring of enhancement projects, tree-clearing – tree-clearing not being actually a part of this proposal.

Chair Lohman: But Guemes Island folks brought that up and I'm sure that other people are interested in that subject.

Ms. Candler: That almost seems like it should be part of the Guemes tonight.

Mr. Walters: Well, let's talk about it in Guemes, but it will assumedly be short.

Mr. Raschko: It won't take long.

Mr. Walters: How about monitoring of enhancement projects? It also got a tick mark.

Mr. Raschko: That's an easy one.

Chair Lohman: I think we – we can leave it there.

Mr. Walters: Well, it's currently sort of not on a list for a meeting – way down here.

Chair Lohman: I just assumed it was on May – whatever the leftovers would be on that last meeting.

Mr. Walters: It could be. It could be on May – what is assumedly May –

Chair Lohman: I thought May 3rd was the last meeting.

Ms. Stevenson: Yeah.

Mr. Walters: Well, I put a space there for the ones that you hadn't yet moved into any particular meeting, so ones –

Chair Lohman: I wasn't trying to create a fourth meeting – unless we have to.

Mr. Walters: Okay. Well, then let's get rid of that.

Chair Lohman: I mean, we *can*, if it's the will of the Commission, create an additional meeting, but right now we're just sorting them out and see if we can do it.

Mr. Walters: SMP Update process got a tick mark. Maybe it goes along with public notification process.

Chair Lohman: Yes.

Mr. Walters: Monitoring of enhancement projects. How about we put that one maybe before flexibility, the first one on May 3rd? That leaves these items below: comments on other specific code sections. There were lots of sort of one-off comments on specific code sections in the public comments so we had intended to group those together in responses to comments – respond to each one of those one-off –

Ms. Candler: So that will be driven by when the staff report comes out about it – which meeting. Right?

Mr. Walters: Right. And there are lots of just – of those, of that category of just one person commented on that one section and they don't really lend themselves to being grouped into some other topic. So I think we would prefer that that would be the third meeting – give us more time to go through each of those.

Ms. Mitchell: It's entirely possible that we may identify something else that adds into that list, too.

Chair Lohman: Right.

Mr. Walters: Oh, yeah. We just listed the groupings that we thought logical for the comments we already have.

Chair Lohman: What if we put the buffers with the critical areas/shoreline discussion?

Mr. Walters: I think that is logical.

Chair Lohman: I'm seeing consen – people nodding.

Mr. Walters: And that leaves only miscellaneous, which I think we can safely delete because assumedly you'll have a bunch of stuff you want to talk about maybe again, revisit, or other things you've thought of toward the end of the process. So obviously we can hit those at the end.

Chair Lohman: Did we miss anything or did you think of anything that we –

Ms. Del Vecchio: So are we – did we find the clarifications, questions tonight?

Chair Lohman: Not yet. We're just looking at the agenda. We will.

Ms. Del Vecchio: Yeah, okay.

Ms. Mitchell: We did miss some of the things that Amy said.

Ms. Del Vecchio: No, that's what I'm saying. They're hanging off on the end here. They're not in – they haven't been put anywhere.

Mr. Walters: I might suggest that we answer –

Chair Lohman: Is there more on the screen, Ryan? Are you at –

Mr. Walters: I might suggest that we answer maybe some of the clarification questions, because then we might –

Chair Lohman: All right.

Mr. Walters: – find that we need to talk about those topics so we'll put them on the topic list.

Ms. Candler: All the way to the front of this meeting, you mean?

Mr. Walters: Yeah. I'm suggesting that we answer any questions that you have now that are just questions, not discussion points, and that as we answer the questions you write down any additional discussion points and then we could go through again and add those to the schedule. Does that make sense? I think the primary objective here is to not revisit these topics, so once we've gone fully through one of the topics to not come back to it. Obviously you can, but the objective is to not have to.

Ms. Candler: So how come you're not moving it up?

Mr. Walters: Oh. Well, I'm not moving it up because I thought we would hear the questions, answer them, and then we would put them in if we still wanted to talk about them.

Chair Lohman: So why don't we start with whoever brought up Exempt Activities.

Mr. Walters: Amy brought up all of these.

Ms. Hughes: I was asked when you look at the reading of that, Exempt Activities – and it's under Agriculture, I believe – Agriculture Activities – when you look on page 183 it talks about construction and practices normal for necessary farming, irrigation, and ranching activities. Does that also include people who have livestock that aren't necessarily under those activities?

Chair Lohman: Do you mean like a hobby farm?

Ms. Hughes: Yeah, pasture animal?

Chair Lohman: I think they would fall under the agricultural umbrella, wouldn't they? Because it – you have to go back and look at the definition of "agriculture."

Ms. Hughes: See, and that kind of flipping I'm not really sure. I couldn't tell the person who asked me that and so I brought it up.

Ms. Mitchell: Were you going to read the definition of agriculture? Is that the idea?

Chair Lohman: Well, we didn't put a definition just for agriculture. You start with ag activities and then you have the equipment and facilities and the land.

Mr. Walters: And those definitions were all driven by the statute. We didn't invent any of them, because it's very specific in that area.

Ms. Hughes: Well, and if this just needs to be, you know, looked further into, before we're all done with this process I'd like an answer.

Ms. Stevenson: So livestock is included in the definition of agricultural equipment or facilities.

Ms. Hughes: Okay. So any livestock? It doesn't necessarily have to be for –

Ms. Stevenson: It just says "livestock."

Ms. Hughes: – profitable farming.

Mr. Walters: You've got a definition of "ongoing agriculture" in the normal zoning code that talks about that, but that doesn't appear in these definitions. The Shoreline Management Act has a special exemption that was written in relatively recently – it was changed up relatively recently for agriculture and we're working off of those definitions instead of the definitions that are already in the development code.

Ms. Hughes: So the short of it is people with pasture animals that aren't necessarily farmers are part – are exempt.

Mr. Walters: Betsy, did you just read from that?

Ms. Stevenson: Yeah.

Mr. Walters: Yeah.

Ms. Stevenson: I guess it's a form of an agricultural activity, which is how it's written in there. And, you know, if it was in place prior to the adoption of this code, then you move along and it's exempt. That's how I read what the RCW says.

Ms. Hughes: Okay.

Ms. Stevenson: We may find out differently, but...

Mr. Walters: Way to inspire confidence, Betsy.

(laughter)

Ms. Hughes: Since the next one's mine, do you want me to keep going? Okay. It was also pointed out that maybe we want to have a definition of "waters of the states"?

Ms. Stevenson: I think that's in the DNR regs so I don't think that was me, but I can get that for you and get it to you.

Ms. Hughes: Okay. Well, just whether it needs to be in the document or not is what was pointed out to me.

Ms. Stevenson: Okay.

Mr. Walters: Did we use the term?

Ms. Hughes: Yeah, I think I wrote where the term was seen.

Ms. Stevenson: "Shorelines of the state." I don't know that it's "waters of the state," is it?

Ms. Hughes: See page 10, is what my notes said.

Chair Lohman: Let's give her a moment to find ___.

Ms. Hughes: "Under Profile of Shoreline Jurisdictions, as defined by the Shoreline Management Act of 1971, shorelines includes certain waters of the state plus their associated shorelines."

Ms. Stevenson: Oh, okay. "Certain waters of the state"? Is that what you're –

Ms. Hughes: Mm-hmm.

Chair Lohman: What page are you on now?

Ms. Hughes: Page 10.

Ms. Mitchell: Was that 6A-3?

Ms. Hughes: 6A-3 – last sentence on the page.

Ms. Del Vecchio: What we're really referring to there, though, is the shorelines of the state. It's just maybe not worded ___.

Ms. Stevenson: Right. I think that's just general words. Those are some of the waters of the state. But there is an actual definition for that under the DNR terms and I thought that's what you were asking about. I think that's just another way of trying to define what shorelines of the state are. They are certain waters of the state.

Ms. Hughes: Okay.

Ms. Del Vecchio: And that definition is in the glossary.

Ms. Hughes: Yeah, "shorelines" is.

Ms. Stevenson: I can get it to you, though – that definition. I think it's in the forest practices regulations, honestly. I think that's where it comes from.

Ms. Hughes: As long as it's covered and not forgotten, I mean, as far as –

Ms. Stevenson: Yeah. I mean, I think the use of the words here is just a general accepted use of the words. I don't think that that's an actual phrase that would come with a definition and a certain set of standards. I think it's like Hollie is saying: It's just another way to describe what shorelines of the state are considered by using different words.

Ms. Hughes: Okay.

Ms. Stevenson: That they are just some of the waters that are part of the state.

Ms. Hughes: Okay.

Ms. Stevenson: Is that okay?

Ms. Rose: I think this question, though, is really important because many people probably know that the waters of the U.S. is being challenged in court right now and so it seems a really good idea to really clarify what that is. Does it include the boundaries of a wetland or – you know what I'm saying? What is the full scope of it? And just make it real clear.

Mr. Walters: We probably should make a list of things that we would like to go back and look at further. Because in my quick glance through here I did not see "waters of the state" used in a way that was concerning to me. "Shorelines of the state" doesn't use that term "waters of the state" in its definition. "Jurisdiction" doesn't include "waters of the state." So there might be several of these situations where we want to go back and look carefully and make sure that there isn't an issue and explain why there isn't, or come up with some language to address the issue. So why don't we put that on a separate list that maybe then we can come back to it that third meeting? Does that make sense?

Chair Lohman: Mm-hmm. So you're going to take it off the – you're going to put it on the list.

Ms. Del Vecchio: ___ definitions section? Because I have a feeling we'll have a number of definitions that will come up over the course of our discussions that will probably need to be looked into.

Mr. Walters: I think you should hit those while you are talking about the subject, though, because otherwise you'll be talking about them in isolation.

Ms. Del Vecchio: Agreed. I was thinking if we have a placeholder for definitions we can just kind of make a running list of the definitions that we need, we'd like some clarification on.

Mr. Walters: Oh, because maybe there will be – okay.

Ms. Del Vecchio: Yeah.

Chair Lohman: Because we do, in the Definitions – back to the shorelines of the state – we do have a definition that's pretty lengthy for "shorelines" in the Definitions section.

Ms. Del Vecchio: But I will say it does include the words "water areas of the state."

Chair Lohman: Right. Right.

Ms. Del Vecchio: So it –

Mr. Walters: It says "water areas"?

Ms. Del Vecchio: Yep!

Mr. Walters: So that's another different term.

Ms. Del Vecchio: Yeah.

Chair Lohman: Yeah, "all the water areas of the state" is what it says. I'm looking at it right now on page 176.

Ms. Del Vecchio: And it doesn't really – now that I'm actually looking at it – maybe it's because I'm reading it while I'm talking, but it doesn't seem to make sense.

Mr. Walters: Well, it's not our definition.

Ms. Del Vecchio: No – well, unless there's just an important word missing or something. I'm just asking maybe we want to double-check that because it seems like we're accepting "shorelines" ___ the definition of "shorelines"? And that may actually be – anyways, I got a little lost while I was reading through that.

Mr. Walters: The definition of "shorelines," not "shorelines of the state"?

Ms. Del Vecchio: Not "shorelines" – well, we define "shorelines of the state" as shorelines, and "shorelines of statewide significance," so then you go back to the definition of "shorelines of

statewide significance” and it refers you to the statute – which I know is very long; we probably don’t need to have the whole thing in here as long as it’s referenced – and then you go back to “shorelines,” which is part of the definition of “shorelines of the state” and that’s the one that I didn’t completely follow.

Mr. Walters: It is a complicated series of nested Russian dolls.

Ms. Stevenson: I think maybe that should be “shorelands.” I think you’re right. I think that’s a mistake. We’ll look at it and make sure, but I think it’s supposed to be “shorelands” there where “shorelines” is in quotes.

Ms. Del Vecchio: Okay.

Mr. Walters: Under “shorelines of the state”? Which place? Well, either way. We’ll figure it out.

Ms. Del Vecchio: So anyways, yeah, if we could just make sure we’ve got those definitions clear.

Ms. Stevenson: Good catch. I think that’s right.

Chair Lohman: Amy, moving down on your clarifications.

Ms. Hughes: Structure size for redevelopment versus lot size. I’d like that to go up above. We don’t need to get into that tonight. Just put it somewhere. That’s not really a clarification for me. But in relation to that, this may be able to be clarified today: There’s a height size, height limits. But if you’re in a floodway, how will that work in building in the future because you have to be up above the floodway? Or is it not the same two issues? We just have so many waters that it’s hard to know who’s affected by which regulation.

Ms. Stevenson: So in that situation, if we’re talking about the floodplain –

Ms. Hughes: Okay.

Ms. Stevenson: – probably, because we try to avoid construction in the floodway. But if you’re in the floodplain and you still have a height restriction, you don’t get to necessarily – because we have people with that problem where they have to elevate their structure –

Ms. Hughes: Right.

Ms. Stevenson: – but they’re still this way. So if that’s a situation, they don’t necessarily get a –

Mr. Walters: You have to comply with both.

Ms. Stevenson: Right, you would have to comply with both. So, or – yeah, which would give you some, perhaps, either incentive to move outside a shoreline area, which might move you out of the floodplain area, too, or might not, but it would give you grounds to apply for a variance.

Ms. Hughes: Okay, so that’s how that would work.

Ms. Stevenson: For the height standard.

Ms. Hughes: Okay, so there is a way to take care of that issue.

Ms. Stevenson: Yeah. Yes, yes.

Ms. Hughes: That's why it was a clarification.

Ms. Stevenson: Yes, you can apply for a variance for anything that's in the dimensional standards table.

Ms. Hughes: Okay.

Ms. Stevenson: Sorry to go about the long way.

Ms. Hughes: Okay, thank you. So I think I'm done with mine.

Chair Lohman: Okay, somebody asked for a clarification on maps.

Ms. Hughes: Do we have maps up above again?

Chair Lohman: Did we have maps in the agenda list, Ryan? Because we can't see the whole list and we don't own the mouse.

Ms. Del Vecchio: Yeah, I think we have it a couple of different places.

Ms. Mitchell: Yeah, we don't own the mouse!

Mr. Walters: Yeah, maps is – there's another map item. Maps.

Chair Lohman: Okay, there you go. So we can scratch it off of there.

Ms. Del Vecchio: Yeah.

Chair Lohman: Special circumstances.

Ms. Hughes: That's how I worded that. That was part of the one-size-fits-all/flexibility in the regulations. Did we have that up above somewhere?

(several sounds of assent)

Chair Lohman: Okay, so we did get it. We will have it. It's in the list. We can't tell because – can you scroll so we can see the working agenda?

Several Commissioners: It's right there.

Chair Lohman: Okay, so that's all of the clarifications. Anybody else have any burning questions before we jump into the bold items?

(silence)

Chair Lohman: Okay, so switching gears a little bit we're going to jump into the first item on that list and it's Guemes Island.

Mr. Walters: Oh, I was reminded that I was supposed to give an intro on how this should work. So we listed here our condensed versions of individual comments that people made about each topic. So for Guemes Island we tried to consolidate all the various Guemes Island things into this section, and your bold headings in your memo indicate a comment that someone made. And then we provide a response in plain text after the bold heading. Where the Department thought that the comment made sense and we could propose some way to address it, we did that with a numbered statement. For instance, if you're looking at Guemes Island, the first one, RC-1 – Recommended Change 1 – is, Yeah, go ahead and recommend changing the shoreline environment designation map as requested in Nancy Fox's March 15th comment letter except for the ferry dock area, which she actually didn't even request. She just asked a question about (it). If you wanted to address the public comment in that way, you could just say, Let's add that to the recorded motion, and I would paste that text into your recorded motion and then that would be your recommendation.

RC-2 you could say, Yeah, let's add RC-2 to the recorded motion, or you could say, Let's add to the recorded motion something else – some other text that you supply – and then we would put that in the recorded motion. And you would want to either take a vote or by unanimous consent approve of all of those additions to your recorded motion. But the idea here is that we've provided some language. If this makes sense to you, you can use this language and you can just refer to it by number and we'll copy and paste it, or you can suggest your own text. But remember that your deliberations need to be laser focused on producing a recorded motion because that is your product. So I have a completely blank recorded motion available on the screen after I get this printer thing figured out that I can paste stuff into, and we'll just work along from that. After we get a little ways along, or maybe after we get done with the three meetings, you can come back and pretty up the recorded motion, make any last minute changes – that kind of thing.

Remember you have two parts to the recorded motion. There's the recommended changes and then there's the findings of fact. And based on past experience, we totally think you should be doing the recommended changes first and findings of fact after you're done with the recommended changes. Maybe if you think of a finding of fact you should write that down in a note to yourself and then bring it back up toward the end of the process when we start inserting them into the findings of fact section. Alternatively, if we get far enough along in the process and you have a set of recommended changes, we can try to generate some findings of fact for you that go along with your recommended changes so that you have a bunch of text to work with and you can pick and choose what you want.

So does that make sense? You do not need to go through the memo and go through all the comments here. I think the idea here is just for you to talk about all the Guemes stuff and then move on and never talk about it again.

Ms. Jett: I have a question, Ryan, or whoever I'm supposed to ask it to.

Chair Lohman: Go ahead.

Ms. Jett: Could I hear reasons why the last three on page 4 the staff did not support changing? "Reduce the administrative variance for shoreline setbacks to 25%" – why they didn't support that. And is that –

Ms. Stevenson: That standard is currently part of our critical areas ordinance and it's up to a 50% variance, so they've asked us to reduce that to a 25%. We think that it works pretty well in our critical areas ordinance. We are trying to kind of integrate the critical areas ordinance with the shoreline requirements and that's one of the places that we wanted to continue to do that, so we would like to keep it at the 50% so that they do remain consistent. One of the things that we have now which you may be familiar with is if somebody has shoreline property, it's also a critical area, they have both of those regulations that apply to their property. They would need to comply with both of those regulations for the same – say they're building a house. You build one house but the regulations right now have different standards. You would have to meet both of those standards. So if you need some sort of variance you'd need a variance from the critical areas ordinance and a variance from the Shoreline Program perhaps, as your worst case kind of scenario. By trying to integrate these two so that they're consistent, you would need one review process that would cover both of those things, and right now our critical areas ordinance does allow for an administrative variance to reduce the buffer up to 50% without having to go to the Hearing Examiner. So we would like to continue to propose that.

Ms. Rose: Betsy, what's a – oh.

Chair Lohman: Go ahead, Martha.

Ms. Rose: Wasn't one reason for the allowance of up to 50% reduction to leave room away from the water side of the house for a potential septic system? Some people brought up the point that without a variance they wouldn't have room for both the house and the septic. I don't know if that factored in, but I just remembered that conversation.

Ms. Stevenson: I guess that's part of it. It's one of those things where you're talking about flexibility. This allows for some flexibility. We have people come in and they realize, Oh well, hey, if I do this much of a buffer reduction I can do it administratively so I'm just going to move some things around so I get to that place because I don't want to have to go through the process of going to a public hearing. I mean, it just gives the person – the landowner – some additional options to figure out the best way to design, especially on a smaller lot like you're talking about that needs to have a septic system there somewhere too, and locate them in the best location. Sometimes the property only has a certain little spot for soils that would be suitable for a septic system, so then that's kind of their driving factor. So we're trying to make it easier to get them what they need. And, you know, if there's a buffer reduction, they still have to have mitigation in order to allow that to happen. So it just gives us some more flexibility to work with the landowner and come up with something that works.

Chair Lohman: Okay, I just cannot find the shoreline environmental designations that they – the change. I'm scrolling up and down in her letter and I can't get it to pop quickly. Do you have that available that you could put it on the screen so we can see what we're talking about?

Mr. Walters: Yes. So these are the descriptions – this are on – well, it's not showing me the page number but 98 of the public comments document, and it's followed by a map with numbers that correspond to these.

Ms. Del Vecchio: Have these been confirmed? I mean, for instance when – not that I don't trust her, but –

Mr. Walters: Staff met with the Guemes Island Planning Advisory Committee members and talked through each of these. No?

Ms. Stevenson: We talked through most of them. We didn't get quite through all of them.

Mr. Walters: But there were, like, 12 and they're only recommending six.

Ms. Stevenson: There were nine to start with and I think there were only a few that we still – and most of them, I think, are okay, but I didn't get through the last couple. They had to leave and we were kind of looking them up together, so I still need to kind of quickly –

Ms. Del Vecchio: So we weren't just – just to make sure there was a process to confirm that if they're saying there's three houses on this lot there actually are three houses and there's a basis for –

Ms. Stevenson: Yeah, we were going through all the Assessor's records together and kind of going through it so that we were all looking at the same information and getting our information from the same place and we knew where that source was. We just ran out of time and I think we had three left to do. So we'll get that done.

Ms. Del Vecchio: Okay.

Chair Lohman: Does somebody want to make a motion? And the first issue is the shoreline environmental – the shoreline environment designation map changes.

Ms. Rose: I move that we adopt the staff recommendation for the adjustments on the mapping of Guemes Island.

Ms. Candler: I'll second the motion.

Chair Lohman: It's been moved and seconded that we adopt the staff recommendation for the shoreline environmental designation maps as requested by Nancy Fox as a member of the Guemes Island Advisory Committee.

Ms. Candler: With exceptions.

Chair Lohman: With the exceptions. This is just with the exception that we will not be changing the ferry dock area. Did I capture your motion, Martha?

Ms. Rose: Pardon me?

Chair Lohman: Did we capture your motion correctly?

Ms. Rose: (unintelligible)

Chair Lohman: Okay, discussion.

Mr. Walters: And I've tried to put it on the screen there, too, in track changes, and if you approve it then I'll accept the change.

Chair Lohman: No discussion?

Ms. Candler: I don't have anything. Amy has something.

Chair Lohman: Amy?

Ms. Hughes: I just want to add the rest of what the Planning Department recommended. If the Planning Commission recommends these changes from the Rural Conservancy to Natural, we will send notifications to the affected property owners before the opening of the next comment period on the proposal. So there'll still be some comment on this available from the public, correct?

Mr. Walters: Yes. That's in the memo.

Ms. Hughes: Yeah, it's in the memo so I just wanted that out in the public.

Chair Lohman: Would you like to amend the motion and include that language?

Ms. Hughes: You've been at this process longer than I have. Do you need to or not?

Chair Lohman: No.

Ms. Candler: Isn't she just trying to give notice to the public that they can comment? I don't think our recommendation has anything to do with that.

Ms. Del Vecchio: At what point are these notifications being sent? They're being sent before we actually –

Mr. Walters: No. They would be sent sometime before it happened.

Ms. Del Vecchio: Oh, not in time for them to give them –

Mr. Walters: Yes, in time for them to have comment but not before *you* make your recommendation.

Ms. Del Vecchio: Okay. Okay, we're on the same page.

Mr. Walters: Right.

Ms. Del Vecchio: Thank you.

Mr. Walters: Because remember we're thinking there's a year before this gets adopted.

Ms. Del Vecchio: Mm-hmm.

Mr. Walters: And probably another public hearing, almost certainly some other comment period before the Board before it gets adopted, so there's more opportunity for public process.

Chair Lohman: Martha?

Ms. Rose: Just so I understand: So we make a recommendation today. At some point the affected property owners are given notice somewhere down the road. But just because we

make a recommendation doesn't mean the County Commissioners adopt everything we recommend. Is that true or false?

Mr. Walters: Correct.

Ms. Rose: So if somebody had a strong opinion about it and was able to convince the Commissioners that it was a bad idea, it may not get adopted.

Mr. Walters: Or if Ecology doesn't like it, in this case.

Ms. Rose: Right, that too. Yes.

Ms. Del Vecchio: Do we have a pending motion?

Ms. Rose: Yes, we do.

Chair Lohman: Nobody seconded it.

Ms. Candler: I did.

Mr. Raschko: Second.

Chair Lohman: Okay, it's been moved and seconded to amend the motion to include the language that those folks whose property on Guemes Island that is changed from Rural Conservancy to the Natural designation will be sent a notification prior to the opening of the next comment period on this proposal. Any discussion on that amendment only?

Ms. Candler: Isn't that just an automatic result of this process? Why would it need to be in our
–

Chair Lohman: It's not an automatic ___.

Mr. Walters: It is not an automatic.

Chair Lohman: It's not.

Mr. Walters: But also you don't direct notices.

Ms. Candler: Yeah, I don't think that's –

Mr. Walters: We will do it. I recommend that you not get into that level of detail, but we could put that in here, you know. Why don't we just do that?

Ms. Del Vecchio: It doesn't have to be worded exactly this way. I think the – to me, the – if we're still in discussion mode right now, right? So to me, just the gist of that – that we recommend that if this is adopted that this notification be provided. So recommendation as opposed to directing, if that makes any difference. But just acknowledging that, yes, there is an additional notification step that we need to be going through if these changes are being made.

Mr. Walters: Can I just write?

Chair Lohman: All right, any more discussion on the amendment?

(silence)

Chair Lohman: All right, seeing none, we're going to vote only on the amendment. All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Lohman: All those opposed, say "nay."

Ms. Candler: Nay.

Chair Lohman: Okay, it appears the ayes have it. So now we're going to vote on the original motion, which includes the amended language. So it'll be change the shoreline environmental designations map, as requested in Nancy Fox's March 15th letter, except for the ferry dock area and notification will be sent to the affected property owners whose property got changed from Rural Conservancy to Natural. So discussion on that?

(silence)

Chair Lohman: Right. Seeing none, shall we vote? Okay, all those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Lohman: All those opposed, say "nay."

(silence)

Chair Lohman: Okay, it appears it passed. Okay, moving on to the second Guemes Island item, which is "Skagit County needs a strong tree-cutting and clearing ordinance."

Mr. Raschko: No.

Ms. Del Vecchio: You skipped over accessory buildings.

Chair Lohman: Oh, sorry. Sorry. Second item is "Require accessory buildings to be located landward of" the "principal structures." Does anybody want to make a motion on this?

Ms. Jett: I move that we adopt the recommended language from the number 2.

Ms. Rose: Second.

Chair Lohman: It's been moved and seconded that we adopt the proposed language to require accessory residential structures to be located landward of residences. Discussion?

Ms. Mitchell: I have discussion.

Chair Lohman: Okay, Kathy?

Ms. Mitchell: I think it's a property owner's right – own right to decide on whether they'd like to have that in whatever place on the land that they want.

Ms. Rose: I couldn't hear what you said – sorry.

Ms. Mitchell: I'm sorry, Martha. I think it's each property owner's right to decide where to put that structure.

Ms. Candler: My concern would just be that it doesn't give any option for looking at the actual geography.

Ms. Del Vecchio: I have a similar concern that on some lots that might make sense and on others it just doesn't make sense. And my bigger concern, though, is are we then pushing some of the larger residential structures more towards the water rather than landward? So now are the larger structures being built closer to the water rather than the other way around? Let's make sure we're having the intended effect.

Chair Lohman: Martha?

Ms. Rose: So my question is, Does the variance process allow for an exception to this request? This is actually a request by the group on Guemes, and presumably they've discussed this at length and come up with this as something they would like included. So if a variance process would allow for an exception, that might address people's concerns.

Chair Lohman: Does staff have an answer on that question?

Ms. Stevenson: I mean, I can answer it. You guys are all looking at me! The variance process is for dimensional standards and this isn't really a dimensional standard as such, so my answer would be not necessarily.

Ms. Del Vecchio: And I have another question, too. I know we're talking about this in the context of Guemes Island, but this would not necessarily only apply to Guemes Island, right? This would then be –

Mr. Walters: As worded, this would apply to everyone.

Ms. Del Vecchio: Right.

Ms. Mitchell: And that's a concern, too.

Mr. Walters: Betsy, is this in the current Shoreline Plan?

Ms. Stevenson: No.

Mr. Walters: Okay.

Chair Lohman: I have a question for Betsy. For clarification – excuse me, Tammy; one second – I thought this was on Guemes Island.

Mr. Walters: We just grouped your comments and this one we grouped for Guemes-specific comments, but your recommendations are for everywhere unless you say “On Guemes comma require residential structures to be located landward.”

(Several Commissioners comment on what a big difference Mr. Walters’ clarification makes.)

Chair Lohman: That’s a giant – thank you for clarifying that *early*.

Mr. Walters: We prefer in all cases to *not* write special regulations for different areas but, you know, we will. But in your recommendation, you need to say where you want it to apply because we assume we’re applying throughout the whole Shoreline Plan.

Chair Lohman: Tammy’s up.

Ms. Candler: My question is, Betsy, the staff report response is that “The Department believes that adding such a requirement could be easily implemented, although it is probably only appropriate for *residential* accessory structures.” That doesn’t really give me an impression of whether or not the Department is in favor or not. They’re just saying it could be easily implemented. What are your thoughts as to why we would want to put that in or not?

Ms. Stevenson: Usually a residential accessory structure doesn’t necessarily by its place need to be located closer to the water, so we are trying to protect or, you know, enhance/preserve those buffer areas if at all possible. So we’re trying to get things on the landward side. That was something that we had proposed in a previous version of this that you asked us to remove so we did.

Ms. Candler: I remember we discussed it previously.

Ms. Stevenson: Okay. Okay. I’m not sure that answers your question.

Ms. Candler: So it sounds like the Department just feels that it’s protective of the environment and therefore should be put in there. Is that kind of –

Mr. Walters: Or possibly shoreline aesthetics – views, that kind of thing – all the shoreline values. But I think the feeling is the Department has no strong feelings.

Chair Lohman: Kathy, then Martha.

Ms. Candler: It looks like Dale wants to answer as well.

Chair Lohman: Dale?

Dale Pernula: The question was asked a little while ago if you can have a variance from this requirement. The answer was no and that’s generally true, but here’s what it says in the code: Generally variances shall only be considered for dimensional standards, unless otherwise specified in this title. Under no circumstances shall a variance be granted to allow a use not permissible” et cetera. So I think that if you wanted to allow variances, you’d have to specify that you could allow variances from this provision.

Ms. Mitchell: In that case, then, I would like to strengthen my position and say I think this is too strict. If we're going to be applying this throughout the county, it may be great for some places on Guemes but it still wouldn't allow the property owners there to have site-specific stuff.

Mr. Pernula: I have another comment on that as well, and that's that I personally considered it only for Guemes Island because that's what I thought it was being proposed for. I don't think that we really got comments from all the other shorelines that we have.

Ms. Mitchell: Thank you.

Mr. Pernula: And maybe it's not appropriate in other areas.

Ms. Mitchell: Yeah. Thank you.

Chair Lohman: Martha?

Ms. Rose: So my question is, Is there a provision in the code that allows for exemption of certain size structures – very small ones; for example, little 10 by 10 shed or tool – you know, whatever those portable things or whatever – and if so, are those exempt from these requirements? So, yeah. Is my question clear?

Mr. Walters: Small structures – are small structures exempt? No.

Mr. Pernula: They're exempt from building permits but not from the setback requirements.

Ms. Rose: Okay. So I would vote in favor of this if I knew it was isolated to Guemes Island, but not for the whole county.

Ms. Mitchell: Well, and I –

Ms. Del Vecchio: No, go ahead, go ahead.

Ms. Mitchell: Well, I was going to say, well, I can think of all kinds of examples that would be absolutely lovely on the water side, like a gazebo, so it – you know, it's back to the eye of the beholder. So even so, I think this is just way too strict.

Chair Lohman: Tammy? Tammy, then Hollie.

Ms. Candler: And I remember our discussion about this earlier. I think Josh was mentioning for farmers, you know, it's not desirable if the farmland's on that side of the house. The barn can be on the other side of the house. Like there are certain circumstances where this would be very problematic.

(sounds of assent)

Ms. Candler: And I'm not sure why – I understand – we've heard it from a lot of Guemes people. They've been very active. But I'm a little bit concerned about some Guemes people we maybe didn't hear about having some issues.

Ms. Del Vecchio: That would be – that's partly my concern as well, is that if we have – assuming that there are at least some people on Guemes who would *not* want to see this in

place, are they – or even if they don't exist – you know, we know – do we have a basis for treating Guemes separately as far as this regulation goes, relative to other shoreline areas? What is that basis, other than we have a handful of people who asked for it? And just making sure that we're going into that very cautiously.

Mr. Walters: In terms of basis, there is a Guemes Island Subarea Plan which, I suspect – although I couldn't tell you with assuredness – this is in, and it provides a lot of basis for the Guemes-specific stuff that we're doing in the Shoreline Plan and the Comp Plan Update.

Ms. Candler: So if their Subarea Plan requires it, what would control? Would they –

Mr. Walters: Their Subarea Plan requires very little or almost nothing because most of the policies in there are phrased as "shoulds."

Ms. Del Vecchio: What you're saying is that this regulation could be viewed as helping to implement their Subarea Plan –

Mr. Walters: Yes.

Ms. Del Vecchio: – and is a way of distinguishing that. Okay.

Mr. Walters: Right.

Ms. Del Vecchio: As long as it does actually implement their plan, then that makes me less concerned.

Chair Lohman: However, you know, all of us think that where we live is special. I mean, I'd like to throw up a No Vacancy sign, too, and somewhat facetiously, maybe at the top of Conway Hill. You know? So we all – where you live is all very special to all of us and we need to be careful. We're not in a – we don't – we're not in a single-ownership development that we're talking about or a gated community. We're talking about county property. So I think we need to be careful on the restrictions that we want to impose – if they're logical and if the other language in the plan is strong enough.

Ms. Mitchell: Are we ready to call for a vote?

Mr. Raschko: I was just going to ask if we could call for the question. Is that the proper term?

Chair Lohman: I think so. Okay? So the motion on the table is to require residential – to require accessory residential structures to be located landward of residences. So all those in favor, say "aye."

(silence)

Chair Lohman: All those opposed, say "nay."

Multiple Commissioners: Nay.

Chair Lohman: The motion failed.

Ms. Hughes: May I clarify? Number 1 just spoke of Guemes, though – just to clarify that.

Chair Lohman: Yes.

Mr. Walters: It spoke of Guemes because it identifies very specific Guemes map changes.

Ms. Mitchell: If I could ask for a – as we go through this forward, if there's something else that pops up like that, can we ask our counsel to help signal on that, because it's so easy to lose track on something like this. And I don't want to do something really bogus.

Chair Lohman: I would like to just say out loud for clarity to anybody listening that number 1 was Guemes-specific.

Ms. Mitchell: Thank you.

Chair Lohman: And we assumed it when we read it.

Ms. Rose: We did.

Ms. Del Vecchio: And Nancy Fox's letter is specific to Guemes Island, right? So the reference to Nancy Fox's letter makes that Guemes-specific.

Mr. Walters: Correct.

Ms. Del Vecchio: But once this is – once we're through this process that little clause is going to be lifted and put in another document and it might be worth going back and just adding clarification that this is – Nancy Fox's letter – was specific to Guemes Island.

Mr. Walters: This is not going to be lifted and put in another – this is your recorded motion right here. See how empty it is because you've only accomplished one item so far?

Ms. Del Vecchio: Oh, I'm looking at a different document than you are.

Mr. Walters: Oh, okay. Okay, yes. On the screen, yeah.

Ms. Del Vecchio: So you did, you did lift it from this, from what we were – from the staff report.

Mr. Walters: Correct. The lifting has already occurred. Yes.

Ms. Del Vecchio: Right, okay. So the lifting has happened – and thank you – and it is already out of context, so there's no – it's not clear here that it is Guemes Island other than that we know that the letter is in reference to Guemes Island. So do we need to go back and amend?

Mr. Walters: I suggest you let us clean that up because what we were thinking –

Ms. Del Vecchio: Okay.

Mr. Walters: – is that we would list those items in a subheading there so that we would have a lot of specificity without ever having to look at that letter again. We could just identify them right from this.

Ms. Del Vecchio: Perfect. Can I put forth another motion on RC-2, just to make sure that we're all on the same page? I'd like to move that we adopt RC-2 – or not adopt, but include as a recommendation RC-2: Require accessory residential structures to be located landward of residences on Guemes Island with a variance provision. I just want to make sure that it's all reflected.

Chair Lohman: Is there a second?

Ms. Jett: I second the motion.

Chair Lohman: Okay, it's been moved and seconded to adopt requiring accessory residential structures to be located landward of residences on Guemes Island with a variance provision. Martha?

Ms. Rose: So how much does it cost to have a variance, or to apply for a variance? Is it a flat fee no matter what the item is or is it based on the value of the item?

Mr. Pernula: It's a flat fee. I don't have it in front of me right now.

Ms. Stevenson: It depends on the type of variance. If it's an administrative variance, it's around \$1800 right now.

Ms. Rose: Did you say 1800?

Ms. Stevenson: Yeah. If it's a full-blown Hearing Examiner variance, it's 4000.

Ms. Rose: 4000?

Ms. Stevenson: Yeah.

Ms. Rose: So my only reservation about this current proposal, or the motion, is that some structures might only cost a couple grand and if they have to apply for a variance it could be \$1800 to 4000. That'll pretty much – negates the value of having the item in the code.

Ms. Mitchell: Absolutely.

Ms. Del Vecchio: And my response would be that you – it's not that you can't –

Chair Lohman: You need to wait first.

Ms. Del Vecchio: Sorry.

Chair Lohman: You've got two people ahead of you.

Ms. Del Vecchio: Sorry.

Chair Lohman: You're third. Kathy?

Ms. Mitchell: Thank you. Well, it'd still fall back on, even for Guemes Island there was another person that commented on how he wanted the right to be able to use his own property. And this kind of thing, even with the cost with variance and things like that makes somebody go through

some pretty big hoops that really may not be necessary. So I think that this is too restrictive, for the same reasoning as before, even for the Guemes folks. There are people that may live there now or in the near future that may not want to go through the same hoops with these kind of restrictions.

Chair Lohman: Okay, Tammy?

Ms. Candler: And I just echo kind of the general concept that Annie was saying. Everybody thinks where they live is special. I know I do. I don't think it's a good idea to start piecemealing county planning.

Chair Lohman: Hollie?

Ms. Del Vecchio: I think my response would be that Guemes Island is one of the few areas that have actually gone through the step of implementing and adopting a subarea plan, which I think is meaningful. And if this is something that helps them to implement that, then I would – I think that's a basis for – you know, a reason – for allowing them some separate treatment, if, in fact, it does help to implement their plan. And recognizing that they would still probably be able to build the accessory structures. They would just have some restrictions on where they placed it. But I am assuming that this does actually implement – help to implement their Subarea Plan, based on the staff's review of that.

Chair Lohman: Tim?

Mr. Raschko: I think there can be a situation where people buy a building lot and the set of rules for what you can do on it, and after they've lived there for a number of years and their neighbors have not yet done anything they can restrict the rules if they are allowed so that the property owner next door doesn't have the same opportunities or rights and suffers a property value loss. And to me the fact that somebody went to the effort to make a subarea plan does not necessarily validate what's in it.

Chair Lohman: Okay.

Ms. Jett: I had a remark, too, My thought was that the Guemes Island Subarea Plan was created over a long period of time with lots of opportunity for everyone to have input, and I think that the majority of the people – certainly that we heard from at the meeting; all but one that I can recall – supported the plan, and I just feel like that it's – they live on the island; they have the issues on the island; and that I should let the majority of the people on the island do as they requested in their Subarea Plan.

Chair Lohman: Kathy?

Ms. Mitchell: I do appreciate and like the fact that Guemes Island is doing a subarea plan and calling the shots for making things as best they possibly can. But one of the things that I like to keep in mind – and I'm not trying to push this on anybody else, but just so you understand what I'm thinking – when we see people that come in and speak, we don't necessarily see what's majority. We may be seeing what's the *vocal* majority, which is not necessarily the same thing. Not everybody is informed. Not everybody lives there. Not everybody knows about everything that's going on. And so it's always difficult to balance between what we hear and what we hear public comments on and what makes sense for the long run. And so for this reason I'll fall back on the Guemes Subarea Plan for being able to be implemented by Guemes anyway, and I don't

think that making further restrictions on something like this that would put unnecessary burdens on other property owners would be advantageous.

Chair Lohman: Okay, anybody else?

Mr. Walters: I did look it up and it does implement Policy 5.27 in the Guemes Subarea Plan.

Ms. Del Vecchio: And what mechanisms do they have for implementing their own policies within that plan, or are they relying on us to do that for them?

Mr. Walters: Well, some background: Guemes Island, along with several other areas – Fidalgo, Alger, some others – are listed in the Comprehensive Plan as areas that should get subarea plans. Guemes Island elected a Guemes Island Planning Advisory Committee that was recognized by the Board of County Commissioners. They did a lot of work, including bringing in American Institute of Architects and having a lot of meetings and charrettes on Guemes to develop their subarea plan. It got then sent to the Planning Department. The Planning Department made edits, worked through that process with the Planning Commission, and had it ultimately adopted by the Board. The biggest changes to the plan was changing all of the “shalls” or “musts” to “shoulds” so we don’t have to implement almost anything that’s in there because almost every policy is phrased as “should.” But it is a formal, adopted plan by the County. The Guemes Island residents have no ability to create their own laws. They are not an incorporated community in any way. They rely on the County to do that.

Chair Lohman: Okay, are we ready to vote? Just to recap: The motion is to require accessory residential structures to be located landward of residences on Guemes Island with a variance provision. All those in favor, say “aye.”

Ms. Del Vecchio and Ms. Jett: Aye.

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

Multiple Commissioners: Nay.

Chair Lohman: It appears the nays have it. Okay, the next item on the list, there is no recommendation from staff and it’s (that) the County needs a strong tree-cutting and clearing ordinance.

Mr. Raschko: That being the case, we can strike it from the proposed agenda for future meetings?

Chair Lohman: If we agree with that characterization. Right?

Mr. Raschko: Well, I thought you were done with the topic.

Chair Lohman: No.

Mr. Raschko: Oh, okay.

Ms. Candler: I think that’s the question. If we aren’t recommending anything on a certain item, do we need – or if the Department’s not, there won’t be any changes made. Do we need to make a recommendation about it?

Chair Lohman: Unless somebody on the Commission feels that we need to.

Mr. Walters: For every one of these, if – none of the Department’s recommendations make it into your recorded motion unless you want them in there. So you don’t have to go even through them one by one if you don’t want.

Chair Lohman: No, I’m asking if we agree – is the question on the table. Do you agree with what staff is recommending, and it’s our –

Ms. Jett: Well, it says it in the last sentence: “The Department plans to work on this issue in the latter half of 2016.” That’s not a recommendation but I guess that’s just an intention.

Chair Lohman: Was that in reference to the forestry – I can’t remember what you called it.

Mr. Pernula: It’s part of it, yes – Rural Forestry Initiative. It will be part of that, as well, yes – as well as what it lists here.

Ms. Mitchell: So we would be jumping the gun really even talking about it.

Mr. Walters: Yes. It’s not part of this proposal.

Chair Lohman: Martha?

Ms. Rose: I’d just like to voice my concern about – or my hope that when the Department begins working on this topic that – I’m concerned about – I’ve worked in areas that have had tree ordinances that are downright onerous and don’t make any – they don’t make any sense. So I don’t necessarily – I do and I don’t agree with the statement “Skagit County needs a strong tree-cutting and clearing ordinance.” Part of me says yes, we do, and part of me says no, we don’t. So I feel like this is an important topic for a later date and that we need to be very careful about how we go about it and make sure we look at a very well-rounded group of voices to – if it’s decided to make some sort of ordinance out of it. But it’s not going to be part of this Comprehensive Plan.

Mr. Walters: No.

Ms. Rose: Right?

Mr. Walters: Not part of the Shoreline Plan or the Comp Plan.

Ms. Rose: Right.

Mr. Walters: What we’re talking about is some kind of check to make sure there’s erosion and a sediment control and that you’re not impacting a critical area. Really no new substantive regulations.

Ms. Rose: So that’s logical stuff, yes.

Chair Lohman: Okay, I’m assuming consensus since nobody’s responding. Kathy?

Ms. Mitchell: I don't agree necessarily with the part about needing a strong ordinance. I do think the discussion needs to be had, but like what Commissioner Rose was saying, I think it needed to be a well-rounded comment. So I don't necessarily agree with what was said here, but I don't think this is the place to talk about it right now.

Chair Lohman: Okay. So moving on, the next item on the list is to reduce the administrative variance for shoreline setbacks to 25%. Staff is – as you heard Betsy earlier saying that the critical areas allows for 50% and she gave an explanation already.

Ms. Rose: I'd like to make a motion that we go with the staff recommendation on this one of leaving it at 50%.

Ms. Mitchell: Second.

Ms. Rose: To allow up to 50% variance, or reduction with a variance.

Ms. Mitchell: Second.

Mr. Walters: Let me interrupt you there, though. Your task is to create the recorded motion, so unless you want to insert something into the recorded motion, which you don't really need because you're not making a change, you could just skip over it.

Ms. Rose: Okay, that's fine.

Ms. Mitchell: I'm fine with that, too.

Chair Lohman: I'm reading them to everybody to make sure that we are skipping over it at your will. The next item on the list is to require notification to neighboring properties for shoreline setback variances. Under the proposal, an administrative shoreline variance would be a Level 1 application under Skagit County Code 14.06, which requires public notice, including mailing to neighbors within 300 feet. So I'm not seeing anybody rising to that one.

Ms. Del Vecchio: Can I – just a clarification?

Chair Lohman: Yes, go ahead.

Ms. Del Vecchio: Is it okay? The 300 feet – where is that measured from? Is that from the property boundary, from the center of the property?

Mr. Walters: From the property boundary of property in common ownership with the applicant, I'm pretty sure.

Ms. Del Vecchio: Okay. Okay. Thank you.

Mr. Walters: And some of these comments we put in here – I mean, for instance, this one they wanted notification. The code already provides for that. We put this in here to acknowledge that we received the comment, we thought about it, it's covered. But we don't recommend anything because there's really nothing to be done.

Ms. Mitchell: Thank you.

Chair Lohman: Okay, moving on. Prohibit piers – number 1, piers and docks – prohibit piers and docks, mining, and commercial aquaculture on the Guemes shoreline, consistent with the Guemes Subarea Plan. Tim?

Mr. Raschko: So how can we address this when it says “but a Guemes-specific prohibition could be added to the SMP”? Is that recommending one or saying it might happen or what?

Ms. Stevenson: It kind of goes to the discussion that you’ve been having already about things specific to Guemes and whether you’re comfortable doing that or not. They’re asking for it. Again, I’m not sure – Ryan explained the process a little bit.

Ms. Candler: Can I interject? I took it to mean – and correct me if I’m wrong – I took it to mean the Department’s not recommending it but it’s something that the Planning Commission could make as a recommendation.

Chair Lohman: Well, any of these that’s true you could add that.

Ms. Candler: Well, not any of them. Sometimes the Department’s making a recommendation. But here I read that language to mean that the Department *isn’t* recommending that.

Chair Lohman: Right.

Mr. Walters: Unless you see an RC-number sign, there’s no recommendation. On this one, I think we are also cautioning because aquaculture is a preferred use, and in order to have that hold up we would really need to make a record of why.

Ms. Stevenson: He was just asking about the piers and docks, I thought. So that was all I was responding to.

Mr. Walters: Oh, I thought he was asking about aquaculture.

Mr. Raschko: No.

Mr. Walters: Oh, okay.

Mr. Raschko: The first sentence under the bold.

Ms. Stevenson: Right.

Chair Lohman: Anything from the Planning Commission on that one?

Ms. Hughes: No.

Chair Lohman: Okay, moving on. Okay, next topic – we’re switching gears now – Sea Level Rise.

Ms. Stevenson: Are you going to do the other –

Mr. Walters: There are the two other items in that one.

Ms. Candler: No, we don’t have any recommendations, I think is –

Ms. Stevenson: Okay.

Mr. Walters: Are you skipping all of them?

Chair Lohman: We just did.

Mr. Walters: Okay.

Chair Lohman: I didn't see anybody raise any.

Ms. Stevenson: Sorry.

Mr. Walters: Maybe we'll break these out into separate bullets.

Ms. Candler: I think if anybody –

Ms. Mitchell: Are we going too fast?!

Ms. Candler: If somebody wants to say something, they wave their hand or –

Chair Lohman: And I'm looking as hard as I can. _____. Okay, are you guys ready to move on to the next topic, Sea Level Rise?

Ms. Candler: Yes.

Chair Lohman: Okay, all right. Okay, the first item: "The SMP must address sea level rise." The Department does not recommend any changes to the document because they believe that the proposal adequately avoids impacts from sea level rise.

Ms. Mitchell: I've got a comment.

Chair Lohman: Kathy?

Ms. Mitchell: I agree. I think everything's already in there. We don't need to spell it out.

Chair Lohman: Anything else?

(silence)

Chair Lohman: Okay, moving on: "Locate residential development to avoid the need for shoreline stabilization within the expected lifetime of the structure, taking into account sea level rise." And the recommendation from staff is to amend 14.26.470(4)(b) to consider sea level rise over the lifetime of the structure.

Ms. Mitchell: Hang on a second and ____ look something up. It's page 129 – page 130 on _____. I've got a comment. I think the County's already done really well with spelling a lot of things out again. I don't think the term "sea level rise" even needs to be in the dialogue. And the reason for that is if it hasn't come up before that ends up being a hot button where you're going to have people come out of the woodwork if it's in there.

Ms. Candler: You could put the word “enduring” in there between “including” and “shoreline.”

Ms. Mitchell: Would you say that again, please?

Ms. Candler: You could insert the word “enduring” right there.

Chair Lohman: Please read it.

Ms. Candler: It would then read: “Residential development must be located and designed to avoid the need for flood hazard reduction measures including enduring shoreline stabilization.”

Ms. Del Vecchio: Can I interject? This is one of those areas where I’m getting back to my comments about the shoreline regulations versus critical area ordinance. Are we kind of getting into the area of the critical areas ordinances? Is this a concern, something that would be specific to the critical areas as opposed to shorelines that fall outside those areas? And that would be my – my thought would be I guess I’m in agreement with Kathy that that’s maybe not necessary or appropriate in this area.

Mr. Walters: To answer that question – and, Betsy, feel free to jump in – the shoreline stabilization is in the shoreline. I don’t think it’s in –

Ms. Stevenson: Right.

Mr. Walters: – the critical areas chapter.

Ms. Del Vecchio: But we were looking at the flood hazard reduction. Was it for (4)(b) – right? – where it’s talking about flood hazard reduction measures, and to me that falls more under the critical area ordinance.

Ms. Stevenson: No, this is all specific to the Shoreline Program. We’re required to address this.

Ms. Del Vecchio: Okay, but the idea behind the Shoreline Program is that the critical areas are incorporated into this and we’re just kind of tacking them onto the back. I realize that.

Mr. Walters: You’re just wondering which place to put it?

Ms. Del Vecchio: I’m just wondering – so right now we have the development standards that apply to the shoreline – the different environment designations under the shoreline regulations, and then we have the critical area ordinances that are being tacked on at the back. And those critical areas, those ordinances are designed to address the specific critical areas, like where there’s flood hazards, where there’s geological hazards. So are we – I feel like this is getting back to the concern that I expressed earlier that we are now overlapping and maybe the shoreline regulations are overreaching more than they need to because we do still have these critical area ordinances.

Jill Dvorkin: So I think the key difference here is they’re talking about flood hazard reduction measures. That would be a shoreline modification under the Shoreline Management Act. So it’s talking about an actual structure. You want to place your residence so as to avoid the placement of, you know, flood hazard reduction structures like shoreline stabilization.

Ms. Del Vecchio: And I'm guessing I'm wondering how – and I guess we'll come back to this when we get to that – for the purposes of this particular discussion, I will just say I don't think we need to mention the sea level rise. And we'll come back to the bigger discussion.

Chair Lohman: Okay, I don't really have a – I don't have a motion.

Ms. Mitchell: Then we skip it.

Chair Lohman: Does somebody want to make a motion on recommendation RC-3? Does somebody want to make a motion, or are we going to –

Ms. Mitchell: Just skip it.

Ms. Del Vecchio: We don't *have* to.

Chair Lohman: Okay. Okay, then the next item in the list is "Add a new section requiring structures within Sea Level Rise Risk Zone to be able to withstand storm surge." And staff says that we do not propose a sea level rise risk zone.

Ms. Mitchell: Yep.

Mr. Walters: This was a comment from the Swinomish and they have one, and that's why they used that, I think.

Chair Lohman: Okay, Tim's up.

Mr. Raschko: I do have a question going back to the prior point. The fact that we took no action on RC-3 – forgive me for my ignorance, but will RC-3 still appear then?

Chair Lohman: No.

Mr. Raschko: It goes away.

Mr. Walters: Yeah, you're constructing your recorded motion.

Mr. Raschko: We don't have to make it go away.

Mr. Walters: Right.

Chair Lohman: Here's our list.

Mr. Raschko: All right. At one point my question was just whether staff would have this in as a recommendation.

Mr. Walters: After you generate your recorded motion, staff generate their recommendations on your recorded motion. Both of those go to the Board at once.

Mr. Raschko: Okay.

Mr. Walters: So yes, there could be additional stuff in the staff recommendation.

Ms. Mitchell: And frequently is!

Mr. Walters: Yeah.

Mr. Raschko: Would it be useful then to have a motion to refuse RC-3, so it's on the record?

Mr. Walters: I really don't think so because we are going to try to generate language like this every time, and I guess we'll be less inclined to generate language for you if you also vote against every recommended ___. We're just trying to streamline it for you. The – I am not yet aware of anything strongly that staff feel has to be included, and I think we are likely to largely leave that up to Ecology to tell us what has to be in there. I think staff's recommendation after you generate your recorded motion is likely to be on just blockers – you know, things that will break the system – and I don't currently foresee any of those – or other things that we find are broken after your recorded motion.

Chair Lohman: Okay, so the next thing – just to repeat: “Add a new section requiring structures within the Sea Level Rise Risk Zone to be able to withstand storm surge.” All right, I'm not seeing any response so we'll move on. “Consider future sea level rise in calculating ‘no net loss’ from shoreline stabilization structures.”

Ms. Mitchell: And the comment I would have there is the same as before. Everything in there already takes care of things so well this isn't necessary.

Ms. Candler: And I don't think we can have the policy without trying to make it make sense by putting it in the code. I think we should be consistent with our recommendations.

Chair Lohman: Any other comments?

(silence)

Chair Lohman: Okay, moving on: “Consider erosion due to sea level rise in calculating sufficient setbacks from the top of marine bluffs.” So the Department has proposed some language. RC-4, to “Modify the policy and regulations to address effects of sea level rise on erosion rates when establishing minimum setbacks from the” top “of marine bluffs.” Kathy?

Ms. Mitchell: Okay, the same as before. There's – what so many new people may not know is I used to be a geologist in another lifetime, and the only reason I'm bringing that up is that the County has done an excellent job with addressing geohazard areas in this whole proposal anyway. This kind of thing is needless language, in my opinion.

Chair Lohman: Martha?

Ms. Rose: I would assume that any building permit application that was on the top end of a steep bluff would involve a soil engineer, as well, that would support Kathy's discussion item. So I don't think it's necessary to make a change.

Chair Lohman: Was that a question of staff or –

Ms. Rose: What's that?

Chair Lohman: Was that a question to staff?

Ms. Rose: In other words, I'm saying that their recommended change of, you know, where they're talking about establishing minimum setbacks, I would expect that if you're building on the top of a bluff you have a soil engineer in your employment – would be mandated as part of the critical area ordinance. And that would address the required setback for safety. So I don't think we need to – my humble opinion is that RC-4 is not necessary.

Ms. Del Vecchio: I do have a question for staff on that one. I am assuming in reading this that the tops of marine bluffs would be included in the geological hazard critical areas. Is that a pretty safe assumption or –

Ms. Stevenson: I don't know the answer to that. I mean, probably yes, but there may be situations where they aren't. So I guess, you know, some of them – marine bluffs, some of them are rock. It would be not necessarily geologically hazard in that sense.

Ms. Del Vecchio: And then there would be less – so erosion is probably not as big of an issue if you're dealing just with solid rock.

Ms. Dvorkin: And I think that – the way I understand the critical areas ordinance is if you're within a certain distance of a steep slope that exceeds a certain percentage, you automatically have to do some type of initial assessment, and if that initial assessment determines hazard then you go further with the engineering, the geohazard assessment that's a little more detailed.

Ms. Mitchell: You're absolutely right. I was going to say we had one area where it was a very steep rock cliff, if you will, on one side. And all the mechanisms were in place back in 1999 for this, so the County's very, very good with that. The local geology guy that handles it – name doesn't come to mind – but the County does an excellent job with this already, and so, again, I want to reiterate this language isn't necessary.

Ms. Stevenson: So I guess I would just point out the reason that we put it in here – what we're trying to do with both the previous one and this one is address situations so when people locate their residences they are considering these things and they put them in a place so they aren't going to have to come back and put in any kind of shoreline armoring, any kind of defense works to protect a home that they built in the location that they built it. And this one kind of goes on because those shoreline marine bluffs are feeder bluffs for the beach down below and it is kind of the policy pretty much with anybody that you talk to that the armoring is coming out. We're trying to avoid putting anymore in. We want to continue feeding those beaches. So we're moving away from that sort of thing. So that was why we included those things here.

Ms. Jett: I have a question. The County's liability – what if the County goes ahead – if this is not included and the County issues a building permit – because there's nothing preventing them from doing that unless a geologist says that it's unsafe, but let's just say he doesn't. No geologist says it is unsafe. So what kind of liability does that expose the County to? I mean, is this put in here to help protect the County from liability or is it – is that not an issue? Would this not address that issue?

Ms. Dvorkin: That may require further research on that specific fact pattern; however, I think it would really be the landowner who's facing, you know, financial loss as a result of their decision to build there, and not the fact that the regulations were insufficient to protect the property.

Chair Lohman: Martha?

Ms. Rose: Not to beat this up, but I think the issue exists whether sea level rises or not. To me it's kind of a red herring to throw out to address the effects of sea level rise. These are issues that are real today on any bluff property. And so presumably, like I said, there's a mechanism in place through the critical area ordinance to require a deep analysis of how far back the structure should be, and anybody who buys a lot should do their due diligence and hire a geo – not to say that they *will*, but that doesn't mean that you can – we should regulate, you know – I guess I just have – I just – I'm in favor of an increased setback when it's warranted, I don't think it's related to sea level rise, and I think it's probably already regulated. So I guess I'm just questioning whether we need to add a change.

Chair Lohman: Tammy, ___?

Ms. Candler: I don't have any more comments. I don't hear any motions, though.

Chair Lohman: I'm not hearing any motions either. So moving on – okay, “Require new buildings” to “be located, and new lots” to “be drawn so buildable” – excuse me. Let me start over: “Require new buildings” to “be located, and new lots” to “be drawn so buildable area is outside of the rea likely to be inundated by sea level rise in 2100 and outside areas where wetlands are likely to migrate.” The Department is recommending RC-5, which would add new language – or new sections to Skagit County Code 14.24.350(4) to locate new lots and new structures and buildings outside areas expected to be inundated by sea level rise by the year 2100, and outside areas where wetlands are likely to migrate by then. Tim?

Mr. Raschko: I have a comment. Under the first bullet under this Sea Level Rise part it says that they believe that the impacts of sea level rise in almost all cases will be handled through the application of shoreline buffers. So it seems like this recommendation is in conflict with that initial conclusion.

Chair Lohman: Yep.

Mr. Raschko: And the second thing is nobody knows how much sea level's going to rise by 2100. There's many, many, many opinions. So I think we should just leave it alone.

Ms. Mitchell: Can I make a comment?

Chair Lohman: Yes.

Ms. Mitchell: I concur with what Tim just said. The County's already taken care of this, they've done a good job with it, and this is language that's not necessary for the same reasons that we've all discussed before.

Ms. Rose: I have a quick question. So just to confirm, when is the next update? Is it in 20 years?

Mr. Walters: Of what?

Ms. Rose: Of the Shoreline Master Plan. How often does it get updated?

Ms. Stevenson: It'll be in eight years.

Ms. Rose: Pardon me?

Ms. Stevenson: In eight years we're supposed to do it.

Ms. Rose: Eight years?

Mr. Walters: With the Comp Plan.

Ms. Rose: Okay, well, we can see how – we can measure how much the sea level is – because this 2100 is 84 years from now. So we have a lot of – and the setbacks were increased – are sizable. So in eight years it can be revisited.

Chair Lohman: Just for a point of clarification, that is the Flood Hazard Reduction section that's referenced in there.

Ms. Mitchell: So should we skip this?

Chair Lohman: So I'm not seeing anybody wanting to do anything with it, so we're done with the Sea Level Rise section. We're moving on to Public Access. The first item: "Referencing rights of the public under the Public Trust Doctrine...and the Skagit County Urban Growth Area Open Space Concept Plan is appreciated." Tammy?

Ms. Candler: Well, I think we have reached the point at which we need some clarification on the Concept Plan issues.

Mr. Walters: Okay, so we got some feedback from Ecology. I can think of only one place in the document – maybe someone else with a keyboard attached to their tablet could search – but I think there's only one place in the document where we reference the Open Space Concept Plan. Do you want me to search on the screen here?

Ms. Candler: No, I'm just saying you can –

Chair Lohman: It's on page 37.

Mr. Walters: Well, there's only one place that I can think of, and that was in the place where we referenced the County's public access plan.

Ms. Mitchell: I think it was page 58.

Mr. Walters: Maybe there are multiple places. My point is that we got feedback from Ecology that we did, in fact, not need to reference a County public access plan. And I don't think we looked at that too carefully, but assuming that's true, we are more than happy to delete something that we don't need.

Ms. Dvorkin: This may require further research, but the way I think we initially interpreted the comments was that there is kind of an either/or – you either can do sort of a programmatic approach to public access and identify kind of throughout the county where you want to prioritize public access and then use that plan as the sort of blueprint for regulating public access and how you achieve it. Or you do it on a – in a regulatory format like we've done here where, depending on the type of project you're proposing, public access requirements may be implicated, and then you go through the series of regulations in the subsection of Part 3 to

determine what that looks like. So we've kind of done both. We've said, Okay, this is kind of a plan that identifies things but here are the types of projects that actually do need public access and this is what they have to look like. And they're not necessarily linked to the plan. Does that make sense?

Ms. Candler: Yes, but my question was whether or not it's appropriate to reference a concept plan, I think. We've had some questions about that.

Ms. Mitchell: It's so vague, really.

Ms. Dvorkin: Right, and so I think what we're saying is it could potentially be taken out. But even as it stands, I think that it really is just a – an acknowledgment that these plans exist and provide information about what open space priorities are in the county.

Ms. Candler: So you're – it sounds like you're saying there's no issue with making a reference to a concept plan in our actual document.

Chair Lohman: The concern is that they become a de facto trails plan or a – because they really – they were, as the consultant even said – because I was on the Planning Commission when it came before us – he kept saying, But this is a concept. It isn't the detail. It's an idea.

Ms. Dvorkin: Right.

Chair Lohman: And there is a concern, though, that people ignore the word "concept."

Ms. Del Vecchio: Mm-hmm.

Ms. Candler: The concern is incorporating it by reference basically.

(several sounds of assent)

Mr. Walters: But we are – we're *not* really incorporating it by reference. The one location is page 74 at the bottom that just says the "Countywide UGA Open Space Concept Plan and the 2012 Comp Plan for Parks and Recreation provide for a connected network of parks, open space, and trails, and together constitute" our Shoreline Public Access Plan." We think that we can delete that whole Section 4 and, if we can, we might as well, which would eliminate this issue.

Ms. Candler: Ryan, how does a concept plan provide for anything?

Mr. Walters: Well, we've talked about this a couple of times and –

Ms. Candler: I think we're still confused, though.

Mr. Walters: Well, it's sort of fudging anyway because it doesn't – remember the statute calls for a public access plan, which we have not created. So we were just trying to say, Hey, we've got the Parks Plan, we've got this other plan – is that good enough? But what Ecology has said in their comment letter, which you can read, is that we really don't need this anyway.

Chair Lohman: Well, then let's strike it because you –

Ms. Mitchell: Then let's just drop it.

Mr. Walters: That's what I'm saying.

Ms. Mitchell: Thank you.

Mr. Walters: So that whole section 4 on page 74, I think Jill was saying that we wanted to look at that a little closely before – more closely before committing to that, but that is what we thought we could do.

Ms. Dvorkin: We could acknowledge your concerns, and when we come back to address the specific Department of Ecology comments, come up with a recommendation based on that and based on what we're hearing today.

Ms. Mitchell: My preference would be to go back – because we've had so many comments in the past and it keeps rearing up again – is if at all possible, just avoid reference and don't open that can of worms on that one if you can.

Chair Lohman: Maybe we should put that somewhere in our list so we don't lose it?

Ms. Del Vecchio: Is the basis of the comments the concern with the fact that we don't have an actual public access plan? What's the – is that the underlying concern there, is that we're using these as kind of de facto plans and not – no? Okay.

Ms. Mitchell: That's a component of it but there are larger components of it.

Ms. Del Vecchio: Okay.

Ms. Dvorkin: My understanding is the concern is that, like they were saying, there is an impression that they somehow become regulatory by just mentioning them. I don't interpret that to be the case. I don't think that's how a court would interpret it. But that's, I think, the concern because it would then be considered a public access plan (and) it would carry more weight than it was intended to.

Ms. Mitchell: Exactly.

Mr. Walters: Okay, so we added that to the research items list and we'll come back to that later, but I think that's where we're headed. And if that is where we're headed, we'll draft up some language and then you can copy and paste it into your recorded motion, language probably being "delete section 4 on page 76 (sic)."

Ms. Hughes: For clarification then, does that also then mean that it will be deleted from page 37 – all the reference points?

Chair Lohman: In the policy.

Mr. Walters: I didn't find it on page 37.

Chair Lohman: It's on 37 and 38 multiple times.

Ms. Mitchell: Oh, those were the parentheses, though, right?

Mr. Walters: Oh, right. All those parentheticals go away anyway.

Ms. Hughes: Okay.

Chair Lohman: But can we make a motion to – right now, since we’re on that section, we could make a motion to strike section 4 in its entirety on page –

Mr. Walters: Yes, and then we could research it and come back and – yeah.

Chair Lohman: And I need to remind the Commission we can add things as we go that we want to add that maybe staff didn’t – right? – because it’s a blank document. So is there a motion from the Commission?

Mr. Raschko: So moved.

Ms. Mitchell: Second.

Chair Lohman: It’s been moved and seconded to delete the Shoreline Public Access Plan reference on page 74 of the February 4th, 2016, draft entirely.

Mr. Walters: And I am phrasing it a little differently here because I looked it up and can get you the cite real quick.

Chair Lohman: With deference to staff to write it the way it needs to. Discussion?

(silence)

Chair Lohman: Seeing none, do we want to vote? Are you ready to vote? Okay, all those in favor, say “aye.”

Multiple Commissioners: Aye.

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

(silence)

Chair Lohman: The motion carried.

Mr. Walters: And we’re leaving it on the research list to double-check, but it’s in here.

Chair Lohman: So this is PC-1? PC-1, right?

Mr. Walters: Now you’ve got Dale looking for it!

Chair Lohman: *Planning Commission Recommendation 1.*

Mr. Walters: PCR.

Ms. Candler: Annie, can I say something?

Chair Lohman: Go ahead.

Ms. Candler: Considering our vote just now, I would recommend we not get into the rest of the Public Access sections and move on to No Net Loss if we don't have an objection.

Chair Lohman: I'm not seeing any objection so let's –

Ms. Del Vecchio: I'm sorry. What are we – we just direct – suggested skipping the entire Public Access section – is that what – comments – is that what –

Ms. Candler: Yes. Is that – but if you don't agree _____.

Ms. Del Vecchio: I mean, I feel like there's a lot of public access issues that are – have nothing to do with the Concept Plan.

Ms. Candler: Okay.

Chair Lohman: Okay. Okay, the next item then. I'll just move along and if somebody sees something else, they can jump in just like we did. "Public access regulations need enforcement provisions to ensure public access areas are properly maintained once established." I believe this was – people were talking about litter and vandalism and all of those nuisance issues.

Ms. Del Vecchio: I do have a question then. The last sentence here says, "These concerns could be addressed as part of the individual permitting process." Is that what staff would recommend if we do – because I think maintenance issues are a concern. Just so there's clarification, not that it has to necessarily be on the County to provide the maintenance but that there should be clarification as to who's responsible for maintaining the access. So is that – even though you didn't come up with the recommended language, if we were to do something would you suggest it be as part of the individual permitting process?

Ms. Dvorkin: There wasn't a recommendation one way or the other. It was more providing options to the Planning Commission. In this instance, there does seem to be, you know, kind of an obvious inclusion point for something like that – might be, I think, in .370(3)(a) or in actually probably (3)(b). (3)(b) might be the better point. Some language that might say that there has to be a plan for maintenance and monitoring. But again, like, another way to look at it would be, well, maybe the regulations don't need to be so prescriptive; instead, you could include it as a condition on a permit if that particular public access point seemed to warrant that type of condition. Because maybe not every one would.

Chair Lohman: How do you protect the property owner that's required to provide that and then he's just overwhelmed?

Ms. Mitchell: Mm-hmm, it could happen.

Chair Lohman: Because even some of DNR's and the state's public access, they're having a lot of trouble themselves. So I just want to look at it from the other side of somebody that's been required to put it in and not it's turned into just this monster.

Ms. Dvorkin: So Ryan pointed out to me just now, and I'll hopefully get back to that, but there actually is a provision in subsection (c) on page 70 – actually I think it's page 74 that says – subsection (c)(3) and (4) talking about maintenance "that must be maintained over the life or

use of the development.” That doesn’t include monitoring but it does talk about maintenance. So I guess it is a requirement. We didn’t see that in drafting the memo.

Mr. Walters: And paragraph 4 requires it to be owned by the homeowners association.

Ms. Dvorkin: If it’s related to a subdivision.

Ms. Del Vecchio: Owner or a homeowners association. I mean, I think there’s a bigger question of, you know, Where are we requiring public access and how frequently and all of that which, I think, is ___. I think it’ll come up in some of our other discussion points. So as long as we do have something and it looks like that and at least addresses the maintenance – puts it on the table so that people are clear about what that’s going to look like, that looks sufficient, I think.

Ms. Mitchell: I can think of several places throughout the county now where there is public access and, as a matter of fact, I’m sorry she left at one of the – Carol Ehlers was here earlier when we did one of the tours out around the county trying to actually see things, and we were at one place that already has public access yet you couldn’t park anywhere. No parking, no parking, no parking, no parking, no parking. You just can’t, and so how do you access it unless you hike in from miles away, is really the question. And so I’d just like to throw out the thought is that when public access is going to be required, what seems to be not discussed at this point is that it would be very much site-specific on what would work and what wouldn’t work. And so my concerns are if something does get designated public access that before that happens it sure as heck better be the right place with appropriate capacity and how many roads, parking, whatever else that needed to be.

Mr. Walters: And under the design standards (3)(b), there is a requirement that public access include parking, if necessary, based on expected demand. Because there are going to be public access facilities that are very small and there are going to be bigger ones.

Ms. Mitchell: And then there are surprises.

Chair Lohman: So moving on, “Suggest adding legal markers on public access points so that” the “sheriff and first responders may track instances of criminal activity.”

Ms. Mitchell: I’d like to make a comment. Tammy, go ahead.

Ms. Candler: I think signage detracts from the shorelines. I’m not in favor of that.

Chair Lohman: Kathy?

Ms. Mitchell: I understand, and I’m looking at it from another point. I’m one of those first responders and I’ll give you some examples. Up and down Chuckanut, for instance, it’s not unusual to get a call that there’s somebody that’s injured out there or there’s a fire out there, hiker or something, and it is very hard to find them. We’ve had to – like, we’ve joined the forces up at Larrabee. We’ve had people come in from the north from Larrabee, along the train tracks, along the trails, other places coming from different directions trying to find them because nobody knows where they are. And so from that standpoint, if there is something in the county – as something like this moves forward – if this is so important that we have appropriate public access, a little simple thing – a little green thingie that says “marker something” so people know where they are. Because unless you’ve got GPS coordinates and it’s very difficult – we’ve even had state troopers at our place helping to try and find people that they triangulated off their

phones and it was – only to find out they're still three miles off point. And so, you know, from that standpoint it *is* an issue. I'm not – I don't like the idea of more signs or anything anymore either, but wherever there's public access or a trail to, let's say, the water or something, it's a lot better to know what it is and where it is to find it if you need to find it. And that's from that emergency-type standpoint.

Chair Lohman: Martha?

Ms. Rose: So I naively thought that GPS on our phone would bring somebody right to you, but you're saying, no, that's not true?

Ms. Mitchell: Not always the case.

Ms. Rose: So that was going to be my comment, that maybe we didn't need official markers because almost everybody carries a phone with them.

Ms. Mitchell: It's been interesting. There have been some times when people get lost on Blanchard and we've had to go down and help the troopers and ___ people out because even so they can't really – sometimes they can and sometimes they can't. You hope it's better but it's not.

Chair Lohman: Hollie?

Ms. Del Vecchio: And as far as the signage, these could be just a little, you know, half-mile marker. I mean, that's what we're talking about, right? Just something, some kind of identifier? And I'm an avid trail user and I like to feel like I've gotten away and, you know, away from signs of civilization. And I have no problem with running across the – you know, signage is good. I get lost. Even short of having to call emergency folks out, it's kind of nice to be able to find your way along sometimes. So it seems like the down side of, you know, having some signage along the trail – whatever that is – would be outweighed by the benefit of people being able to find folks.

Ms. Mitchell: Especially if somebody's had a heart attack or a major injury. Honestly a lot of times time is of the essence. And I've been so distressed when the times are when people get lost trying to find where we are. And it's also not unusual when somebody calls in that they call from the wrong place or give you the wrong information entirely. We've been as many as two to three miles off where they were.

Chair Lohman: Okay –

Ms. Dvorkin: I was going to say one consideration, and I think that's indicated in the memo, is there are some uniformity standards for addressing, and GIS, I think, is our department who administers the Title 15 Addressing Code. And trails, open space – they're not designated as something that requires an address per se. I don't know – you know, if you were to make a recommendation, you may want to specify the type of sign but also consider whether a shoreline document is the proper place to kind of be having the larger discussion about, you know, access or creating public access points.

Ms. Mitchell: I take –

Chair Lohman: Okay, it's my turn. I'm struggling with it being in the shoreline document and I read your recommendation that maybe it should be in the sign – or in the 15.24, but I don't

agree that we should necessarily sign all open space. So as far as the shoreline, I don't think we necessarily have to do it there.

Mr. Walters: I think there are two issues here. One is a sign that says, Hey, this is public access. Two is a sign that says an address. And if you want address signs, we would go back and talk to GIS and get more understanding of why trailheads and parks are not already included in the list of things that get addresses, because they get very passionate about their addresses. They – it's part of emergency response, as has been discussed. So we would get some more feedback, bring you back more information at one of your next two meetings on addresses. If you want them to be signed with, Hey, this is public access to the shoreline, that seems appropriate for the Shoreline Plan and we could put that in right now.

Chair Lohman: But that would also be a larger question for other public access because, as Carol Ehlers has brought up repeatedly, we don't advertise very well, or she's having difficulty, anyway, finding those places, and some of them are maybe a little elusive for people to find. So I almost think it's a larger question than just the shoreline.

Mr. Walters: It could be.

Ms. Del Vecchio: But being that we don't have – it seems like that public access plan that doesn't exist would be the perfect place for this, but since we don't have it and since public access is a big part of the Shoreline Plan – I mean, I don't – on the other hand, how long of a stretch are we really talking about for the shoreline public access? And it might be very site-specific.

Chair Lohman: Well, then the question, it would be is – you've almost got two things here. You've got, like, the little marker like you have on the entrance to a campground – the little tiny thing, and then that's how where we usually – by a road turnoff, and it may not be exactly at the access point. Tim?

Mr. Raschko: My recollection of earlier conversation about this – I can't remember if it was public comment or what, but there was concern that if there's public access and people are smoking marijuana or doing whatever – something illegal – the police cannot respond because they don't have a way of recording a location. And so they were asking that somehow these public access places – and I'm not talking about a trail like at Blanchard Mountain. I'm talking about you go from your car to this beach which is 100 yards. But, still, if there's a way to identify it so that if you are asking for police response or help they can document it in some way as to what the location is and respond.

Mr. Walters: And on a linear trail, you'd usually go by some kind of milepost marker or something like that, but that's maybe another slightly different form of signage.

Chair Lohman: Well, does somebody have a motion? Because we're talking about a bunch of different things. Does somebody want to make a motion?

Mr. Walters: I would also point out that the draft already requires signage for public access, noting the hours that it's open, and that's in (3)(b).

Ms. Del Vecchio: I would like us to see some research on how what other areas – we are not the first ones to deal with this. I'm just guessing that somebody's figured out how to link a

location for the purpose of reporting emergencies or crimes or whatever it is that – so if we just find out what that looks like in other areas, that would be really helpful to me, I think.

Ms. Mitchell: Can we put that under research?

Mr. Walters: That's probably going to be a low priority research item. But –

Chair Lohman: I'm waiting for a motion.

Mr. Walters: – we can talk to –

Ms. Del Vecchio: So what ties it – so you had mentioned – sorry, Ryan, but you yourself had said we should talk to our folks to find out what they would like –

Mr. Walters: Which would be GIS. Yeah, that would be easy.

Ms. Del Vecchio: Which, fine. I'm just saying whoever we're talking to, if we get a recommendation for what this would actually look like and if it's doable, and whether that means talking to other jurisdictions or if it means talking to our own jurisdiction and seeing – but if our own jurisdiction hasn't come up with a solution yet or doesn't have any ideas, then let's talk to some other folks, I guess is all I'm saying.

Ms. Mitchell: I'd like to make a motion then, if that's okay with you guys. I'd like to make a motion that we add legal markers on public access points so that the sheriff and first responders – or just so people know where that public access point is – may track instances – well, just leave it short at the beginning.

Chair Lohman: Is there a second?

Ms. Del Vecchio: Second.

Chair Lohman: It's been moved and seconded to add legal markers on public access points so the sheriff and first responders can track instances of criminal activity. It shouldn't be *only* criminal activity.

Ms. Mitchell: Well, or other situations.

Chair Lohman: How about "to help"?

Ms. Mitchell: Right.

Chair Lohman: How about what can – friendly amendment here: Require legal markers at public access points to assist the sheriff and first responders. Or law enforcement or whatever – the guy with the keyboard.

Mr. Walters: And by "legal markers" you don't mean addresses?

Ms. Mitchell: We don't know.

Ms. Del Vecchio: I guess that's the part that we want the research on, like what is that actually –

Chair Lohman: Can you put “legal markers-slash-addresses”?

Ms. Candler: I think that actually makes us *require* addresses. I mean, we’re saying it should be addresses as opposed to some other option.

Chair Lohman: Is that the motion you want to make?

Ms. Mitchell: Before I do that, I’d like one piece of advice from counsel. If we just leave it as “legal markers” at this point and then put a parenthesis, free to investigate or research that, or should we just leave it “markers” where it’s vague – a little bit vague at this point where we don’t get caught in it? Because we want to convey the idea why we want to have it there, but we’re not experts to be able to say what’s necessary yet.

Ms. Dvorkin: Right. I think a more general statement is fine at this stage.

Ms. Mitchell: So what do you guys think?

Chair Lohman: You’ll know in a minute.

(laughter)

Ms. Mitchell: I meant about wordsmithing the motion. Thank you. The way it stands right now is: Require legal markers at public access points to assist the sheriff and first responders. Is that okay for smithing? Okay.

Chair Lohman: Discussion.

Ms. Candler: I have something.

Chair Lohman: Tammy.

Ms. Candler: I think Ryan just said at public access points it’s already in there, so I don’t –

Mr. Walters: Signage is.

Ms. Candler: Signage is.

Mr. Walters: That’s why I asked the question about legal markers.

Ms. Candler: But I guess I’m wondering “at public access points – I’m wondering how that’s going to be read, but it’s not my motion.

Mr. Walters: Well, we have it on the research list so maybe we will come back and add to it or change it later, assuming it’s adopted at all.

Chair Lohman: Any more discussion?

(silence)

Chair Lohman: Okay, shall we vote? All those in favor, say “aye.”

Multiple Commissioners: Aye.

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

Ms. Candler: Nay.

Chair Lohman: Okay, it appears the ayes have it. Okay, we’re on page 6. The “SMP must be clear that most existing levees are on private land and (the) access easements are for flood risk management only – not public access.” And staff explains that there is no public access requirement on existing dikes and levees in the proposed, that it’s only on *new* and it’s only where access rights are secure and access is feasible. And they don’t think additional language is necessary. Tim?

Mr. Raschko: Well, it’s already in the document that it’s required on new dikes. I believe it is.

Chair Lohman: But it’s up and over, not necessarily lineal.

Mr. Raschko: Is that what it is? Does anybody know where that is in the book?

Ms. Mitchell: Could you repeat that, Tim?

Mr. Raschko: What? Public access being required on new dikes.

(some unintelligible comments about where they are in the document)

Mr. Walters: The very top of 71.

Mr. Raschko: Well, I don’t see any reference to them being across the dike rather than along the dike.

Chair Lohman: But the access is to the public’s – something public, and the dike is not public by itself. But it’s access that you would go up and over to get to the public shore. Is that correct, Betsy? That –

Ms. Stevenson: It could be. It could be either way, I think.

Chair Lohman: You think it could be?

Ms. Stevenson: In this case, it definitely indicates that if those access rights can be secured.

Mr. Raschko: But that was – the second part of my comment was that I don’t understand what “secured” means. And –

Ms. Stevenson: If you go to build a new dike, you’re going to have to make some sort of an agreement with the landowner. So it’s securing an easement when you go to build your dike for actual public access at the same time, if that makes sense.

Mr. Raschko: That would be required?

Ms. Stevenson: No, that’s what “secured” means there – that those rights would be secured at the time that you’re going to build your dike. It’s not required necessarily. If they can be secured.

Several Commissioners: If.

Ms. Del Vecchio: So if they cannot be secured, then the requirement –

Ms. Stevenson: – for public access isn't –

Ms. Del Vecchio: – goes away.

Mr. Raschko: So “secured” can't be interpreted to mean other things like –

Ms. Stevenson: Clearly it can be!

(laughter)

Mr. Raschko: Well, that's my concern, is just the vagueness of the word “secured” because, you know, you can use condemnation to secure something, I presume, or mitigation – whatever.

Mr. Walters: And in this case, it's straight out of the WAC.

Chair Lohman: But you have to provide public access to something that's public. It isn't public access to private property.

Mr. Walters: Correct.

Chair Lohman: Martha?

Ms. Rose: I have a question. When I read this, I imagined that the access was to the top of the levee for the length of the levee, not just over it to get to a shoreline. Is it both, or is it one or the other?

Ms. Dvorkin: The way the WAC words it is “to dedicate and improve public access pathways” unless – and then there's a number of caveats. So our language isn't exactly the same as the WAC, but “public access pathways” would presume that it'd be getting you to a point of public access to the shoreline, which would usually imply over, I would think.

Ms. Rose: I see. Well, I know that there are places in the world where the tops of the dikes are nice public pathways, and some of the letters that I read from people gave *me* the impression – maybe it was all in *my* head. I don't know. Maybe I read too much into it. It seemed like people were concerned about the stability of the dikes and whether it was appropriate to provide access. I thought they meant *along* them, along the top. But that was just a question _____.

Ms. Dvorkin: Ryan, would you be able to pull up the language from the WAC here? Because one option may be – although it's, I believe, already in the general feasibility criteria for public access, but in this provision in the WAC it does say, you know, Do this unless it would cause unavoidable health or safety hazards, inherent or unavoidable security problems, unacceptable and unmitigable ecological impacts, conflict with the proposed use. So there's a number of ways to kind of opt out of that, and, again, it's only for new levees.

Ms. Rose: Right, right.

Mr. Walters: Also remembering there are a series of types of public access. That's in (2)(b) there: physical access onsite; physical access offsite; physical access restricted to a community – when you're doing a land division; visual access onsite; and visual access offsite. So in some cases it may not even be physical access.

Mr. Raschko: Well, I'm still concerned because under (1)(a) it says "The section applies to the following shoreline uses and activities which are required to provide shoreline public access." I read that to mean the access is public; the shoreline's not necessarily. Okay? And then this public structural flood hazard reduction measure, which is the dike, it may be on private land and the shoreline might be on private land. Yet I read this as having it required public access that can be secured, and secured can be – in my mind – any number of means, not all of them good.

Mr. Walters: Okay, so as Jill pointed out that it is not exactly what the WAC says. The WAC is highlighted on your screen there. It appears we added the "unless permission cannot be secured" – whatever that said there – "where access rights can be secured," which may be pushing the envelope for what we can put in here.

Ms. Dvorkin: If "secured" is not a word that sets well, I mean, we could think of a synonym, like "obtained." I don't know if that would sound better. It's less ambiguous.

Mr. Raschko: "Unilaterally granted by the landowner"?

Ms. Mitchell: How about "negotiated"?

Ms. Del Vecchio: No, you can negotiate something and not secure it.

Ms. Mitchell: Oh, sorry.

Mr. Raschko: Well, I'm open to suggestions.

Ms. Hughes: Betsy did say yes to your first suggestion – didn't you? Did I see a nod that that might work – maybe?

Ms. Stevenson: That's what we're trying to say. When we say "secured" it doesn't mean that the access would be secure and safe. It means secured in the –

Mr. Raschko: Obtained.

Ms. Stevenson: – in the – yeah. So we could just make that clearer, too.

Mr. Raschko: Does nobody else have a problem with this?

Chair Lohman: Well, yeah.

Ms. Hughes: You're on a good point. We're encouraging you.

Ms. Stevenson: Your problem is with the word "secured" and not with the idea that if the landowner isn't willing to grant the access then the deal's off the table and there isn't public access required – right? That's not what you have the problem with. It's just with the word "secured," that it seemed – you weren't really sure that – what we meant by that?

Mr. Raschko: Well, maybe it's the conflict in using the word "required" and "secured." So if you're saying it's required, but it's not required. It's only required if the guy allows it.

Ms. Stevenson: Right.

Chair Lohman: Or unless there's a hazard or security problems or it's – it says it's unacceptable.

Mr. Walters: Right. There's a whole list of those.

Chair Lohman: There's a whole lot of kind of nice words in there.

Mr. Walters: Well, and almost all of those concepts are replicated for public access as a whole in our draft.

Ms. Rose: I think that Tim's fear – I went the same direction. Yes, we're going to secure it through eminent domain or whatever, but I think it could be mitigated by adding a phrase: "secured through mutual agreement of the property owner and the County" or something like that, just to elaborate on what that really means. You know, or –

Mr. Walters: This would be the applicant, I think, in this case.

Ms. Rose: Or the applicant or whatever. That's just my suggestion because I didn't say it but I went down that same road thinking that the County agency could secure anything they want through eminent domain.

Ms. Dvorkin: Well, that's true regardless, right, if they go through the proper process.

Chair Lohman: Maybe it would be better if you expanded (viii) and included some of the more descriptive language that's in the WAC, because you've left it a bit vague in the County's. But in the WAC, it's pretty specific – it's a little bit more –

Ms. Rose: Robust?

Chair Lohman: – robust, yeah.

Ms. Del Vecchio: But the WAC doesn't have the provision for just not requiring it if we can't secure anything from the landowner.

Ms. Dvorkin: Right.

Chair Lohman: It says "unacceptable." Do you want to define that?

Mr. Walters: Unacceptable ecological impacts.

Ms. Del Vecchio: Yeah, that's different.

Ms. Stevenson: Right.

Mr. Raschko: But all of this number (4) in the WAC, though, doesn't address whether the landowner wants people at large to be on his property.

Ms. Stevenson: Right. So we kind of went the other direction.

Ms. Hughes: How about "obtained by landowner – the landowner"? Could it be as simple as that – "obtained by the landowner"?

Mr. Walters: "Obtained from."

Ms. Hughes: From?

Chair Lohman: But you have "inherent and unavoidable security problems." Isn't that the crux of what – property owners?

Ms. Mitchell: Yep.

Ms. Del Vecchio: I think that's – I would agree. I'm kind of staying out of this discussion because I'm not – anyway, I think we're probably going to run into problems by just saying, Well, if the landowner doesn't grant it then we just move on. I would think that we probably want to have something – because without – the way it's framed currently in our document, I mean, it's just they say "no" and it's done. So it seems like, to me, I would want to at least have something or I think that Ecology's going to want to see something that at least reasonable efforts were made, that a discussion was had – something.

Mr. Walters: I would say there are two things happening here. First of all, the WAC says "public access pathways," as Jill pointed out. I don't think that's defined anywhere – "public access pathways." And that does to me sound more like trail along the top of the dike, and we did not say that. We did not say "trail along the top of the dike." We just said "public access." "Public access" means, you know, four things including over the top or possibly viewpoint and possibly offsite. But then the second thing is we said unless you can't secure permission from the landowner. That's also not supported by the WAC. So we don't know that either of those two things are going to fly with Ecology, but we're trying those two things. We can reword that.

Ms. Del Vecchio: Right. That's the language I would probably use right there to get at the issue where we've been discussing is – unless we can't obtain permission from the landowner. I mean, that's – I think that's the expansion of the word "secure" that _____.

Mr. Walters: Yes, that's an easy fix to the word "secure."

Ms. Del Vecchio: Yeah, yeah. So I think the way that you just described it helps and at least clari – I mean, and I don't – I think there's maybe still going to be some issues with it down the road, but I think it's clearer.

Ms. Stevenson: So, I guess, to interject a little bit, Annie, when you wanted to put those things back in? We actually took those out because of the dike districts' concerns because they were just wide open with all those listed things, and they said no. If the landowner says no when we go to build a new dike, then the answer is no, we can't. We can't address any of those other things unless something's changed since the Advisory Committee meetings. Daryl was quite adamant about that.

Mr. Raschko: Okay.

Ms. Rose: I have just one final comment, which is to be clear, the County could do a negotiation with the property owner and offer a tax break or some sort of financial incentive for them to agree to it. And that – but that’s not going to be – those details aren’t going to be in here. But – I don’t know if you’re thinking that way, but in my mind as a potential property owner, there’s always a give and a take. You can’t just take away from the property owner without some sort of compensation. But that’s where the securing would come in. If you offer the right amount of money or tax break or something, then you might be able to secure this right for the public to use a pathway.

Ms. Dvorkin: Well, I think in any land use regulation the justification for the requirement is the ability to build the levee or get the permit. So that’s the compensation.

Ms. Rose: So it’s mitigation, yes.

Ms. Dvorkin: Yeah, and it’s justified in the police powers of public interest – health, safety, welfare. So just – in this case, just by requiring public access over/through, if certain requirements are met and they get the permit to build the levee, (it) isn’t automatically something you would have to compensate a landowner for. It might be within reasonable regulation.

Ms. Del Vecchio: But if we have that language in there, the County is probably going to have to negotiate something because we may not get them otherwise.

Chair Lohman: Okay, I don’t see a motion.

Mr. Walters: Does that address what you were talking – I’ve drafted – taken the liberty of drafting something for you.

Chair Lohman: I’m asking the question: Do we have a motion? Tim, did you want to make that?

Mr. Raschko: Does this require a motion to change ___?

Chair Lohman: You don’t have to do anything.

Mr. Raschko: Okay. I would make a motion that we change the language to be consistent with – to say where access rights can be secured – no, to where the landowner provides permission – in place of the word “secure.”

Ms. Mitchell: Do you like the way that’s written?

Chair Lohman: Is there a second?

Ms. Mitchell: I want to see if he thinks that’s right first.

Mr. Raschko: On that phrase, “where the landowner provides permission” is fine with me.

Ms. Mitchell: Okay, second.

Chair Lohman: It's been moved and seconded to change Skagit County Code 14.26.370(1)(a)(viii) to say "from where access rights can be secured," to change it to "to where the landowner provides permission."

Mr. Raschko: Yes.

Chair Lohman: Discussion.

Ms. Candler: I don't think it's a bad thing but I don't know that we have the power to regulate eminent domain out of our lives. So I don't know.

Ms. Mitchell: We can recommend.

Chair Lohman: I don't agree with the changes. Anybody else?

Mr. Raschko: You don't agree?

Ms. Mitchell: What bothers you?

Chair Lohman: I think "secured" is a little more broad in what it can be interpreted as. I don't think you can just say no and it'll fly.

Ms. Candler: And that would be my other concern. I don't think it'll fly with Ecology.

Chair Lohman: Any more discussion?

(silence)

Chair Lohman: Okay. Shall we proceed to vote? Okay, all those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Lohman: All those opposed, say "nay."

Multiple Commissioners: Nay.

Chair Lohman: The Chair is confused on who is who, so can I see a show of hands for the ayes? Just two? And the nays? It appears the nays have it.

Okay, moving on: "Public access requirements are untenable and inconsistent with private property rights." I don't see anybody _____.

Ms. Del Vecchio: Are you – are you _____? I guess I'm not quite sure what you're wanting from us.

Chair Lohman: I'm looking for direction.

Ms. Del Vecchio: I'm – I'm not – I disagree for the reasons that were just articulated. But I have a related concern that I'm going to go ahead and throw in here, which is that if we're making the public access requirements too prescriptive, for instance – and I think some of the language was, you know, based on the number of units that were being developed or something that –

there are actually – there are areas where public access is simply not appropriate, and by providing it in a particular location you could be giving a false sense of security if that's not a wise place to be accessing the shoreline, or creating hazards. So I just – and I'm sure we'll be revisiting some of that. But my concern with the public access requirements is not that they're inconsistent with the – you know, with private property rights but rather that we want to be very careful about whether – *where* we're requiring it and making sure there is a – kind of a safety analysis there.

Ms. Dvorkin: So if I can address that point, there are a number of feasibility criteria set forth in (2)(c), and going through that feasibility analysis determines the type or whether you have to do public access. So the type being like actual touching the shoreline, visual access, offsite access. So there's – you know, you kind of scale back on each of those types or do a different type in order of preference, based on the feasibility criteria, which does include safety, ecologic functions, other factors. So hopefully – you know, definitely take a look if that doesn't seem to do the job.

Ms. Del Vecchio: And I did see that and I think I mostly just wanted to highlight that that's – I think that's really important, that we want to maintain that, and also make sure that there's – you know, there might be some places where providing public access simply doesn't make sense, or you've got it two blocks down or blocks up/down and it's really just not necessary based on the level of demand. So, yeah, the feasibility analysis gives us a good way there.

Chair Lohman: Kathy?

Ms. Mitchell: I agree with a lot of what Hollie just said. I do have a problem with always requiring public access in the general sense that they're requiring it. But having said that, I know we're not going to win that argument. But when you do have so many situations where you do have something that's very close by – let's say that there has been a development with, you know, two units of something that go in and then three years later another one goes in. You know, those kinds of things. And that's where I wouldn't like to see six places go through, yet if it reads this way – am I reading it wrong? – it would force them to do it.

Ms. Dvorkin: I personally don't recall the content of the proposed regulation enough to know whether there is kind of an opt-out provision if there's suitable alternative access already existing. You know, maybe there's a way to work something like that in if it's not already there. I don't know.

Ms. Mitchell: Well, from that stand – I think you understand what I'm getting at. I'd like to have that kind of option language put in, if it's possible.

Ms. Stevenson: I think there is language in there that talks a little bit about that as far as the Administrative Official's determination. And they have to determine whether the proposed project would actually increase the demand for public access. So if you already have a whole lot of public access around there and whatever you're putting in is not going to increase the demand enough that gets it beyond what's already existing, then that's one of the criteria that we're looking at and considering and it's right there.

Ms. Mitchell: Do you think that's strong enough – do you guys think that that's strong enough that we don't need to put a recommendation in about the concern?

Mr. Walters: Well, it goes on.

Ms. Stevenson: Yeah, that's only one piece of it because that was the question that you asked.

Mr. Walters: There are two other – yeah.

Ms. Stevenson: Yes, I think that this section that gives the Administrative Official the ability and, actually, legally we have to have this information in here. I think that's what you need. And it's on page – at least in my print, it's on page 71, the types of public access under number 2. So it's whether it'll increase the demand, which is the nexus; whether the public access being required is consistent in nature to the type of demand – meaning is it proportional? Whatever you're developing, is what you're requiring in the way of public access proportional to the development impacts?

Ms. Del Vecchio: And my thought, to bring it together – my reason, I guess, for raising that is that with those provisions I don't have a concern – I don't share the concern that's expressed on the page here because we have that. So as long as we're –

Mr. Walters: And there's a third one.

Ms. Stevenson: And the third one –

Ms. Del Vecchio: Yeah!

Ms. Stevenson: – is “public access to be provided as reasonably necessary at this location or an approved offsite location to mitigate the incremental demand created by the project.” So I think you've covered it coming and going.

Chair Lohman: Okay. So changing subjects to No Net Loss.

Ms. Del Vecchio: Did we just – oh, are we skipping over the Open Space Plan?

Chair Lohman: Well, we talked about the Open Space. We already talked.

Ms. Del Vecchio: I didn't read far enough. Can I – so we're approaching nine o'clock and I'm guessing No Net Loss is going to be a pretty substantial discussion. Is there –

Chair Lohman: What else was on our list for tonight?

Ms. Del Vecchio: Yeah, is there something else that we can bump up and use as filler and save the No Net Loss for the *beginning* of our next discussion?

Mr. Walters: Shoreline versus critical areas; buffers; public notice; and process. Those are the four unbolded.

Chair Lohman: How about the SMP Update process? Can we do that?

Ms. Stevenson: So far we haven't been able to, and how many years has it been? Yeah! Sorry, I'm getting kind of –

Ms. Mitchell: You're allowed.

Ms. Candler: But I don't think it would be a bad thing to spend 15 minutes on it.

Ms. Stevenson: Yeah, that's fine.

Chair Lohman: So we'll save No Net Loss for next meeting? Maybe we could put it at the top of – thank you. Okay. Does somebody want to start?

Ms. Mitchell: I'd be happy to.

Chair Lohman: Okay.

Ms. Mitchell: I put a handout for everybody at the beginning so you guys are aware what it is. One of them was a picture of the ad that Betsy put in the newspaper, so people know what that looks like, plus some copies – two copies of after the public comment period opened in February, and it just shows which documents were available when. And we had a problem – a little bit of a problem, I'm going to say – after February 4th when it started for which documents were available. There were some sections that were going to be hopefully coming in at February 26th and those still didn't make it to the page. And then you'll notice in March – I think it was the 21st. Is that what I gave you? I've got seven pages and just gave you two of them. Then there was still one document that was missing and Commissioner Lohman had called in and said, Hey, we still need to see that one other document. So the reason I'm bringing this up is that there were some public comments. I don't know whether all of it was to you guys but I certainly got phone calls and, you know, at the grocery store grabs to where people were concerned about which documents were available for when. So I wanted to bring it to the attention for everybody else that I can see where there was confusion for people on what documents were available when and what would be commented on publicly. And as I thought about it more, it's entirely possible that somebody could be a very energetic person and had looked at the information on February 5th or 6th and thought they got the bulk of it, put some comments in – you know, that kind of thing – and moved on. Then there's more information that could have been pertinent. And so you can see there were some changes and some evolving time to go forward, so I just want to make sure that other people saw the same information. So you know why some people had some concerns.

Ms. Dvorkin: Can I – may I make a comment to that? My understanding is the later published documents were supporting reports and not actually development regulation proposals or amendments to the actual Master Program, or policies, which in terms of a, you know, legal perspective is important because public notice requirements by the state and then as translated into local regulations really focus on the development regulations and policies, not the accompanying documents.

Ms. Mitchell: Supporting documents – exactly.

Ms. Dvorkin: So and even pretending they were regulatory documents that needed to meet the minimum level of review, we accommodated for that by allowing longer time periods for review than the minimum requirements by state law. So in that regard, I think it's been a robust process, defensible process.

Mr. Walters: And as we've kept mentioning, there will almost certainly be another comment period before this is finally adopted – before the Board – and Ecology has their own comment period when it gets to them for their review. So there will be more public process regardless.

Ms. Mitchell: Well, one of the questions I have for you on the Notice of Availability, at the bottom of the middle of the page, I think it says specifically that the Shoreline was going to become part of the Comp Plan. Was that wordage/verbiage/message put anyplace else besides in that Notice, do you know? In other words, is that the only place that somebody would have understood that the Shoreline Plan was going to come out of the Comp Plan?

Mr. Walters: I couldn't tell you. It's part of state law. There's a statute that I could not point to off the top of my head, but that says that shoreline plan policies are comp plan policies and shoreline regs are development regs. I'm not sure that it was in any other document.

Ms. Mitchell: I'm not sure either. The reason I'm asking is because of the questions of public perception and public comment, because there were people that were wanting to know – not realizing that this gets folded together – and were looking for more input or notice of that, and that's the only place that I know of that I could find.

Ms. Stevenson: It's right in the beginning of the SMP.

Ms. Mitchell: Right.

Ms. Dvorkin: I was going to say maybe in the How To Use This Document.

Ms. Stevenson: No, it's right in the – yeah.

Mr. Walters: But also it is the –

Ms. Dvorkin: Which has been available for months, right?

Mr. Walters: It is the Notice of Availability we turn to for this kind of stuff.

Ms. Mitchell: Right. Right. So there're at least – there's at least two places for it and so it has been said.

Ms. Stevenson: And we've been talking about it at every meeting that we've had because that's kind of the way we decided to do it from the beginning, so I –

Ms. Mitchell: Thank you. I'm just asking for it to be on record so people would know.

Ms. Stevenson: Okay.

Ms. Del Vecchio: I have another – a related comment. Just getting back to the, you know, kind of – legally these documents don't really need to be there. I would say that, you know, in the case of the staff reports, the resources that are just kind of helpful to us as going through the process, I would maybe agree. If we are saying, though, in our – in the documents that are being proposed that these documents – the justification for what we're doing in these proposed documents is based on these other documents, and then we're not providing these other documents in a timely manner so that people can make that assessment on their own, then we are potentially getting into problems. And I don't know, timeline-wise, you know, were they actually provided with enough time? I haven't done the math. So I am assuming that we've complied with, you know, getting things up – and maybe not by the time we think they're going to be up but in the time that complies with notice requirements. But I do – I take a little bit of issue with saying that the supporting documents are not necessary as part of that public review

process to the extent that we're saying we're relying on these documents in developing our proposals.

Mr. Walters: Well, the other thing about those documents is that the Shoreline Analysis Report was done in September 2011 and has been on the websites – this website – since then. The Shoreline Restoration Plan was done in 2013. There was an addendum that we did in February 2016, and if you look through that it's very brief.

Ms. Del Vecchio: But if we're putting a link here and a link – okay, so why was there not a link then if it's easily accessible, which means – because we keep on telling people, Everything you need is on this page. So then we're also saying, Okay, *but* you need to go search throughout the County website to find things that –

Ms. Mitchell: Like best available science or something like that.

Ms. Dvorkin: If I'm recalling correctly – and Betsy could correct me – two of the reports – the latest received reports are the Cumulative Impacts Analysis Report and the No Net Loss Report, both published on March 4th. Two things: I think there was a placeholder for both of those maybe that said "expected by." I can't confirm that, but I think. And the second is –

Mr. Walters: There was.

Ms. Mitchell: There was.

Ms. Dvorkin: – in order to do those reports, the consultant needed a draft of what was going out to the public to make the case for how those achieved no net loss.

Ms. Stevenson: They have to actually make references to sections in the plan and in order to do that they had to see the document that we sent out with those section numbers and things like that so they could actually say, Hey, it's here, here, here. They had done those reviews in the past with the other iterations of the SMP Update but they had to go ahead and go back and do it again based on all the changes and revisions that we had made.

Ms. Dvorkin: So the option would have been to either hold back everything, you know, until those reports –

Ms. Del Vecchio: Well, or to allow – I mean, the bottom line is we need to be able to give people enough time to review the documents. And it's a lot of information so the more time that we can provide for that – and I'm guessing we know that in advance – that the consultant is going to need this information – so it's just a matter of staging it so that the public is able to receive the documents that – and us! It's not just the public but it's us – that we're receiving the documents in time to really do an actual review of them.

Chair Lohman: Well, especially since as soon as our meeting is over our agenda with the links disappears. So –

Mr. Walters: Well, we don't rely on your agenda for any of the notices, though.

Chair Lohman: I know, but – I know that, but when we want to review, unless somehow you've saved your live agenda on your computer – if you have it just printed, you can't get back to the supporting documents if you can't find it.

Ms. Mitchell: And to that point, on the Planning Commission webpage in years past, not too long ago you guys used to do something that was great for us where you had the supporting documents and not just the agenda or the transcript when that was available but the supporting documents for that meeting, and, boy, that was handy.

Chair Lohman: Well, there it is. I stand corrected.

Ms. Mitchell: Well, no, the agendas are there but would you scroll further down for me, please? Keep going. Keep going – like 2013. There we go. You see, like January 7th, 2014? Remember how you used to put the supporting documents in there for us every time? That's handy, and it's also handy for the public for information.

Mr. Walters: Well, those are linked on the agenda. I'm – especially with the one long-range staff member that we have and the zero available natural resources division staff members, we have constraints.

Ms. Mitchell: What are you doing Saturday nights?

Mr. Walters: Sometimes here.

Chair Lohman: Well, I stand corrected. I see the agenda there.

Mr. Walters: But that's not really a public notice. This is a – the agenda is for you.

Chair Lohman: Right.

Mr. Walters: The public notices are the legal notices, the postcards, the ads – those kinds of things. Those are the ones that are targeted at the public. I mean, the public has access to these, too, and they get them via the mailing list. They're on the website, and those links are not on this page but they're on the agenda. So they're still all there. And all of those notices for the public – the postcard, the ads, the legal notice – point to the Shoreline page. If I recall correctly – and maybe Betsy can help me out – the older reports – the 2013 reports, the 2011 stuff – was all on this page. It wasn't elsewhere on the website. It was here.

Ms. Stevenson: We created this page when we started having documents that we wanted to start sharing.

Mr. Walters: Right. And as you heard, we don't actually have to offer public comment on these at all because they're not the regulatory documents. They're just background documents. I'm actually not sure if there's a requirement to put them on the page or make them available at all. Maybe there is.

Ms. Del Vecchio: If somebody's asking for them – I mean, that is – if it's a basis for, a reason, a justification – this is my experience with the public notice ___ – it needs to be – it's something that needs to be provided. The question is, okay, Do we want to make people actually request them? Or – what we're saying is that you don't have to request them; we're going to provide them for you. And so if we are not actually doing that in a timely manner, then to me that is an issue. And I understand you can't go and pull it off of the consultant's computer for them but, you know, if we have a draft document, if we have – you know, or if we need to just extend – you know, push out the public comments to accommodate the fact that we've received

something late. And like I said, I don't – I'm going to rely on Kathy for the actual timeline on this one.

Ms. Mitchell: I've got seven different snapshots and webpages. You guys were great for putting a lot of stuff up. I've got stuff from way back when. That part's great. But what I am concerned about is because the perception of some of the stuff not being available and some people starting to worry about which documents they were actually supposed to be commenting on. There was some confusion and there was some problem. And when that perception – as you know; you live this – when that perception happens, then things start to go sideways. And so knowing that there's some of that sideways already, it would be great if we could extend the public comment period, you know. I know the ship sailed on this one, but if we know that there's going to be a huge project like this in advance, either we wait another month before the whole thing starts – I realize you were told what to do – but if we wait another month and started it in March instead of February, then perhaps stuff would be ready. It's one of those things where this part – it's already a problem now; there's some perception problems out there for what was available or not; and I sure as heck would like for us not to run into this kind of problem again. And so that's why I'd like to bring the issue up.

Mr. Walters: And I guess the important distinction for us is there never was a public comment period on the reports.

Ms. Mitchell: I know.

Mr. Walters: Yeah. And I understand the confusion over maybe what people thought they should comment on, although I didn't think it was that hard to figure out, and we didn't get questions. We got some complaints –

Ms. Mitchell: Right.

Mr. Walters: – but they weren't really phrased as questions, if that distinction is clear.

Ms. Mitchell: I got both.

Ms. Dvorkin: And I commend Ryan for his efforts on the staff reports, which are very instructional about where to look in the document, what the documents are. And I think if you looked at the staff report, it should have been clear what documents were to be reviewed. But certainly, confusion happens.

Chair Lohman: I would like to switch gears. You mentioned that Ecology during their review that it's open for public comment. Can we put that on the website to let us know that we can comment to Ecology? Or where do we find that?

Ms. Stevenson: They'll do a notice and I assume, like the other jurisdiction, there would be a public hearing. And so –

Chair Lohman: Here?

Ms. Stevenson: I don't know where they will have it.

Chair Lohman: And then after Ecology goes through there, is it going to come back to us? I almost think it would be logical if it came back to us because we've been in the trench, so to speak. And then send it back to the Board of Commissioners.

Mr. Walters: That is not the process, but you could include that in your recorded motion as a request, maybe separate from your recommendations.

Ms. Stevenson: Once they hold a public hearing, they're ready to adopt our program.

Chair Lohman: Oh. Who holds a public hearing?

Ms. Stevenson: So you don't want it coming back to you.

Chair Lohman: No, no, no – after Ecology.

Ms. Candler: Unless they don't.

Chair Lohman: Oh.

Ms. Stevenson: That's their adoption time. It's like, We are ready to adopt this now and we want to get your comments again.

Ms. Dvorkin: So that is after they've done their review, sent it back to us for correction, and then –

Ms. Stevenson: We've corrected, done whatever we had to, they're happy with it. It's the final final whereas –

Chair Lohman: We're sure on that?

Ms. Stevenson: Okay, then I'm going to say no. I don't have it right in front of me, but....

Ms. Candler: It makes sense, though, because they wouldn't want comments on their ____.

Ms. Stevenson: They don't – they have their own in-house comments and they're going to make those regardless. But once the negotiation happens and once they have something that they're ready to adopt – so it's kind of their notice of adoption time – that's when they start that process. So, no, I can't swear to it when you say, Are you sure? But they do that. I could find it in the code, if you want me to look.

Chair Lohman: So – okay, so maybe I'm a little mixed up on the procedure. After we're done with our deliberations, it goes to the Board of County Commissioners for – is there a hearing there?

Ms. Stevenson: There doesn't *have* to be.

Chair Lohman: So were they going to have one or were they just going to – so they were just going to – they were just going to vote?

Ms. Stevenson: So your recommendation that you're working on right now will go to the County Commissioners, and just like everything else they have their choices that they can make about

what they're going to do with that. Yes, they always have the option of holding their own public hearing, but what they're doing is they aren't actually adopting that yet because Ecology has to approve it first.

Chair Lohman: Okay.

Ms. Stevenson: So what they will do, they can still hold their own public hearing. They can take your recorded motion and say, We love it. We're going to go with all of this. They can look at what the staff recommended or, you know, what the initial document was and come up with something in the middle. And my attorney can tell me if I'm wrong on this, but this is how we've kind of set it up and what we've said to people. Then what we will do is send a Notice of Intention to Adopt to Ecology with all the package of goods and everything that they need to see that, Hey, Ecology, if you approve this, this is what we would adopt as our SMP. And then Ecology will review it, take their time doing what they need to do, get back to us, usually in the form of a letter, and usually it's in the form of a letter of approval that we approve your SMP *if* you do all these things. Then it comes back to us and then we start looking at those things, and some of them may be fairly simple to go through to say, Okay, yeah, we go along with it. Others we may start a negotiating process with Ecology and say, Well, wait a minute. Here's why we think this is really important here and here's why Skagit County *should* be treated differently and here's why we're going to stand behind these things and see if we get to a point, you know, where we finally agree to something. Then that comes back and then the County Commissioners are going to decide how they want to handle that. Yes, I think there are going to be enough substantive changes that there will be another sort of public participation process at the County level. I don't know if it's going to be before the Planning Commission, before the County Commissioners, or how that's going to be handled. I think that's open at this point in time.

Mr. Walters: So for your references, Skagit County Code 14.08 lays out those options for the Board as to what it can do. So you can go back and look at that. Also what might be helpful is for you to Google Pierce County SMP in Ecology. Ecology has a page they are just about to do what Betsy just said: Do the final adoption of Pierce County's new shoreline plan. And you can see that Pierce County has already adopted it by ordinance and they are holding a comment period that started March 15th, ends April 30th, so about 45 days on their comment period. And then they will go ahead and proceed.

Chair Lohman: But there is a comment period *after* Ecology.

Mr. Walters: After –

Chair Lohman: And sends it back to us. That's what I was getting at, too.

Ms. Stevenson: In terms of their letter of approval with all the conditions?

Chair Lohman: Yeah.

Ms. Stevenson: Yeah, that's what I said. I'm assuming that there will be enough substantive changes that we would hold another – another – some sort of public process and hearing.

Mr. Walters: Just the general rule is there always is. There always is a comment period or hearing or something. There is additional public process if there are changes from the things that the public has already been able to comment on.

Ms. Stevenson: Right.

Mr. Walters: That's the rule, and you can extrapolate everything from that.

Chair Lohman: Okay, anything else?

Ms. Jett: A quick question? On the supporting documents, if Ryan or whoever posts these put in parentheses after that word "not subject to public comment" or something that – I mean, I wasn't confused what a supporting document is, but if somebody is does it make it more obvious to them that they don't have any right to comment on the supporting documents?

Mr. Walters: Well, and we thought about that and the wording that you see on the screen is what we came up with because we don't want to turn comments away on the documents. We're just not soliciting them.

Ms. Jett: Oh, okay.

Mr. Walters: Anybody can comment on –

Ms. Jett: So people *can* comment on the supporting documents?

Mr. Walters: Yes, but we are not going to respond to them probably. I mean, anyone can comment on anything is the rule. It's just we are soliciting comments on the regulatory documents.

Ms. Del Vecchio: And just for example, if they wanted to comment on the No Net Loss Report and critiquing its scientific basis or _____.

Mr. Walters: And people did.

Ms. Del Vecchio: Yes, exactly. I'm not taking this from too far out in left field here, but those – so commenting on it to the extent that it is being relied upon in the documents that they are actually reviewing. So in that context, they would actually be commenting on the supporting document but they're commenting on it in relation to the documents that are out for public review. So anyway, I wouldn't want something in there that says "not for comment" because that, I think, is not necessarily what we're looking for.

Chair Lohman: Okay, did we cover that last item on our list? Okay. Okay, we're at the end. Is there a motion to adjourn?

Mr. Raschko: So moved.

Ms. Candler: Seconded.

(gavel)