

**Skagit County Planning Commission
Continued Deliberations: Proposed Shoreline Master Program Update
August 17, 2016**

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

Staff: **Dale Pernula, Planning Director**
 Ryan Walters, Assistant Planning Director
 Betsy Stevenson, Senior Planner

Chair Josh Axthelm: It's Wednesday, August 17th. Welcome to our Planning Commission meeting. We call this meeting to order (gavel). Are there any changes to the agenda from the Planning Commissioners?

Tammy Candler: Nope.

Chair Axthelm: Okay, seeing none, we'll proceed to the Continued Deliberations on the Proposed Shoreline Master Plan, or Master Program Update. Dale or Ryan, do you want to introduce anything? Or Betsy, start out?

Betsy Stevenson: We can start. I just say let's just jump right in. So starting then on page 2 with the Dock Standards, if that's okay.

Chair Axthelm: Mm-hmm.

Ms. Stevenson: So we talked about the Boating Facilities section several times. It's looked different maybe to some of you, maybe all of you, over different reiterations of what we've done and how we've put it together. And we got some comments again on it as far as whether it's clearer or not or whether it applies everywhere, and all that sort of thing. So we took another look at it and continue to work on it. Several of the comments, I think, are valid and valuable. All of them are valuable and some of them are things that we really did think that we needed to address as part of this update and part of some of the things that you should consider and look at too.

Basically we heard from the folks at Lake Cavanaugh. You remember there were quite a few of them here. We got quite a few letters. They were represented by their attorney. I've been to several of their Improvement Association meetings out at the lake to kind of talk things through as we've been going through this process and have had some meetings just with a small group of them and with someone representing the Department of Ecology, and we've also talked

independently with folks at Fish and Wildlife to try to come up with something that might work that might be tweaking some of the standards a little bit. The folks at Fish and Wildlife basically said it doesn't really matter whether they're anadromous fish in the lake or not. The standards are kind of the same regardless. So that wasn't something that we could really do so that didn't play out. And they kind of said, Yeah, and we're not really comfortable changing our standards. We can look at each project on a case-by-case basis and if something isn't applicable then we won't apply it, but we still kind of need to use the standards that we have. So we kind of went back to square one and met with the folks from Lake Cavanaugh again.

I did indicate that we were going to be meeting at a special meeting tonight and they have made appointments and had to cancel appointments a couple times to talk individually with each of the Commissioners to kind of go over it a little bit too and get some other – you know, get their ideas across so that we can have another discussion. But at this point I don't know that we're going to be able to do many of the things that they asked for. But in an effort to at least respond and do the things that we thought we could do, one of the things that they said: they think that our standards are fairly unclear – that the dimensions for floats weren't really all that clear, or at least they didn't think that what we were allowing for floats was big enough and the widths for the piers and the ramps aren't large enough either.

Fish and Wildlife – if you recall, we talked about this a little bit earlier when we went through the agency comments and things – they felt that limiting the length of the docks could be a problem at times because they want you to get the dock long enough so you get out into deep enough water so you're not hitting the bottom and you're not having prop scour of the bottom and all that sort of thing. It makes sense to us. So we kind of tried to go back and rearrange things a little bit and look at things, and in reviewing some of it we went ahead and read through the state standards for Fish and Wildlife for issuing Hydraulic Approvals through the Hydraulic Code and that's what we reference in the staff report. So it's kind of – without reading through everything, which we can certainly do, our recommendation at this point – and we did the best that we could with all the different regulations to come up with what we thought hit it pretty closely, and still we were able to describe what it was we were trying to do, but now we've kind of looked at them and thought, Well, maybe we should just refer to those by reference and adopt them at this point in time and just see if that works, and that people who are going to build docks need to do it in accordance with whatever the requirements of Fish and Wildlife are, either through the WACs to meet the WAC requirements or, if they get an HPA, whatever the conditions of the HPA are. And that would be kind of our advice. We anticipate and envision putting together some little pamphlets and fliers to show people what that means and what it is and not just send them to the WACs because you've had enough experience with those that it can be kind of challenging, so we would sit down and try to put some things together. Because we have brochures and fliers and handouts that we give people that want to build docks and kind of give them some idea of what our standards are now, so we would anticipate doing something similar. So I guess I haven't really been reading this but I've kind of been remembering what we talked about. I think I'm down to the first recommendation there.

Ryan Walters: And the –

Ms. Stevenson: Go ahead.

Mr. Walters: An important point is that residential docks are exempt from shoreline permits so people would be coming to us and asking if they need a shoreline permit. We would tell them no in a letter and we would give them the handout that explains what Fish and Wildlife's standards are and the fact that they need an HPA. But we would not be issuing a permit or doing an

inspection or anything like that for a residential dock because it's exempt from that. They have to comply with our program, but if our program just says comply with Fish and Wildlife's standards then they have no additional obligations as a result of our Shoreline Program.

Chair Axthelm: So does that remove all the definitions on docks and dock standards?

Mr. Walters: No, no. We would keep the definitions because we have to address docks, but we would be addressing them by reference to the Fish and Wildlife standards. And we definitely want to keep the definitions in the section because those pieces, they need to have a place to live for this cross-reference, and there might still be some things left over. I think what we propose here in RC-1 is basically eliminating the table. There is a numeric limit in the table on the number of boatlifts and canopies. We would retain just that because that's not addressed by the Fish and Wildlife standards, but we would move it into the development standards section rather than have it be in the table.

Annie Lohman: And you would rely on the Fish and Wildlife standards, the WAC, for the decking and all of that part of the table as well.

Mr. Walters: Yes. So basically the entirety of the table would be gone except for that number of boatlifts and canopies.

Ms. Stevenson: Thank you. That would have been good information to share with you. My apologies. Yeah!

Chair Axthelm: So with that, why would we limit the boatlifts and canopies then? I mean, if everything else goes to the WAC, why don't we just – even though they aren't commenting on it?

Mr. Walters: What we did was look through the WAC to see which of the standards are addressed by the WAC. And several of the standards that are in our draft SMP are addressed by the WAC slightly differently. I think our standards are actually much more readable than the WAC, largely because they are in the table. But arguably the WAC also provides more flexibility, maybe quite a bit more flexibility. But, anyway, we went through the table to try to find which things were already addressed by the WAC and it's pretty much everything, but not that. So that's why we proposed retaining that. Also nobody commented on that, I don't think.

Chair Axthelm: Okay. Regarding RC-1, do we have any motion on that?

Martha Rose: So moved. ___ I've got recommendation number 1. Do you want me to read the whole thing?

Chair Axthelm: Yes, go ahead.

Ms. Rose: In proposed SCC 14.26.420(4)(b) regarding development standards for docks, replace table 14.26.420-1 with a requirement for all saltwater docks to comply with WAC 220-660-380 for the conditions of Hydraulic Project Approval and all freshwater docks to comply with WAC 220-660-140 for the conditions of Hydraulic Project Approval. Move the numeric limits on the number of boatlifts and canopies into the development standards section.

Chair Axthelm: Do we have a second?

Ms. Candler: I'll second.

Chair Axthelm: Okay, discussion?

Mr. Walters: We can see that on the screen now if we switch to the staff table connection.

Chair Axthelm: Any discussion?

Ms. Candler: I guess I have a question. If you're going to develop some pamphlets and brochures to try to help people figure out what those standards are in the WACs, would it not be possible to convert the table rather than getting rid of it? Is that not workable?

Mr. Walters: Well, we could but if Fish and Wildlife updates their standards then they would be out of sync. Also it would be difficult to accomplish that because they have more flexibility, which is probably why they don't have a table. They provide for quite a bit more flexibility so they need a lot more narrative text. So it wouldn't be very easy to reduce it into a table.

Ms. Candler: Okay. Thank you.

Chair Axthelm: Any other comments?

(silence)

Chair Axthelm: Are we all in favor of adopting the RC-1 as stated in the Staff Report #5?

(silence)

Chair Axthelm: Okay? All right.

Female Commissioner: Aye.

Chair Axthelm: Thank you. So the next one, RC-2. Okay, so SRSC commented that overwater lights should be hooded or screened to avoid the docks from becoming an unnatural feeding station, with a disproportionate effect on proposed species. Docks are already prone to harbor predatory fish and become feeding stations at night when the lights attract plankton, plankton attract small fish, and small fish attract large predatory fish. Staff agrees. This concern is addressed in WAC 220-660-140(3)(d).

Mr. Walters: So while that wasn't addressed by our proposal before, now that we are just incorporating by reference the WAC it is addressed.

Chair Axthelm: Okay. SRSC also objects to planting of riparian vegetation as mitigation for docks, as allowed by proposed SCC 14.26.420(5)(c)(iii). Staff agrees that kind of mitigation would not be like-kind mitigation for overwater structures. So RC-2: Modify proposed SCC 14.26.420(5)(c)(iii) allowing planting of riparian vegetation as mitigation for overwater structures only when all other mitigation options are proven infeasible.

Kathy Mitchell: I've got a question for staff before we go any further. Betsy, could you explain why it's not like-kind mitigation? I'm a little confused.

Ms. Stevenson: Yeah, so what we're talking about now is if you build an overwater structure – a dock or something like that – the impacts that you may have there are very different than the impacts on the upland shoreland where you would be planting this riparian vegetation. That's what he's talking about. And that's an issue that we run into now because we don't have anything in our Shoreline Program necessarily and it's hard with our critical areas ordinance. Well, they're either leasing that or they don't necessarily own where the dock is going. There may be some impacts to aquatic vegetation or things like that from the dock and you're not really mitigating for that. You're putting something up on the bank. So what we're trying to say is you may be allowed to do it, but you need to look at the other options where you're actually either removing an old dilapidated something that's out on the dock or out on the water, or what you're trying to do is take some overwater structures or some sort of something that has an impact on the aquatic resource rather than something on the upland property.

Ms. Mitchell: So in essence what you're saying, like-kind mitigation would be removal somewhere else –

Ms. Stevenson: Right.

Ms. Mitchell: – so there's a one-to-one exchange.

Ms. Stevenson: Right, or something. Like if you have an old dock that you're replacing, maybe this one's going to be a little smaller or maybe you'll want to have a boathouse on it or maybe you're starting to put in some of the grating so it is more of a mitigation for what's actually happening in the impacts in the water and on the water.

Ms. Mitchell: Okay. I've got another question for you along the same lines. This is before anybody puts this up for a vote one way or the other, just so we're clear on what we understand about this. In the letter in the comments, it made it sound that we're applying for this – apply to this – the comments made it sound like docks were a bad thing. Why are docks a bad thing? I don't understand that.

Ms. Stevenson: Which comment?

Ms. Mitchell: It was from the same set of letters, I believe.

Mr. Walters: But yes. The sentiment – I don't recall that in the comment or not, but the sentiment is correct. Docks have a negative effect on ecosystem functions.

Ms. Mitchell: I don't understand that.

Mr. Walters: I recall one particular Planning Commission meeting where former Commissioner Mahaffie launched into a spiel about why docks are bad. I don't remember the content of it. Betsy?

Ms. Stevenson: There's lots of different things. Depending on whether it's a freshwater or a marine water, it can impact the littoral drift and movement of materials up and down depending on how it's constructed and how it's built. It interferes with the sediment flow and things up and down the beach. It shades so that the vegetation that may have grown there otherwise doesn't. It does cause some problems for fish and things in terms of the bigger fish tend to hide out in there and then the little happy fish swimming by get eaten without knowing it because they're hiding within those dock shadows and things. So there are lots of different things. The activity of

people on a dock that weren't there before can affect different species, and a lot of times, at least in the marine waters, it's kind of – nursery area and the estuarine areas are the areas that are closer to shore so you do have some times when they're, as juveniles, they might be slightly more sensitive to that sort of thing – the lighting, the noise, all that. So take your pick.

Ms. Mitchell: I'm still not so sure I understand why it's such a bad thing. You could have overhang from trees and things like that and get shade and all that kind of business. When you look at the percentage of shoreline whether it's – if you look at the saltwater shoreline it's huge, and the same thing for the lake. There may be some places – smaller lakes – where the docks are more concentrated. That's a little bit of different scale, but that's a minority in the whole grand scheme of things. I'm just a little puzzled as to why so much control are being put on the docks when they really are such a small, insignificant piece. If somebody were to do it scientifically and calculate the shoreline, the footprint for everything that was available, where is that really? Where is it theoretical versus the real thing? And so the only thing I'm asking is when you do something like this, what different does it really make?

Mr. Walters: We looked at just a simple aerial photo of Lake Cavanaugh –

Ms. Stevenson: I was going to say the one that they submitted of Lake Cavanaugh is –

Ms. Mitchell: That's an exception, though.

Ms. Stevenson: There's a lot on the lake. There's a lot of docks out there.

Mr. Walters: It's impressive.

Ms. Mitchell: Mm-hmm, but that's an exception. When you look at the county in every place else. Yes.

Ms. Stevenson: The lakes are pretty well built out with docks for the most part, most of them. Or some of them, I guess.

Mr. Walters: It's definitely more of an issue on lakes than on marine shorelines.

Ms. Stevenson: Right. I don't think we're trying to indicate that docks are necessarily a bad thing. I think that if there are – it's always best if you're trying to do mitigation to mitigate for the actual impacts that you're having with whatever you're doing. So if it is an – you know – in-water or overwater impact, then if there's something that you can do to improve that – like a lot of times what we've been doing is there may be some old pilings that are located in the same kind of area. They take those out, or they have some material that's part of their dock that just loose Styrofoam now is being replaced with encapsulated foam. And a lot of the treated materials they aren't using anymore. So a lot of it's more the materials that are being placed in the water as much as anything.

Ms. Mitchell: But those are – which are all valid points, but all those are being taken care of now by different restrictions and requirements and those kinds of things. Is that right?

Mr. Walters: Well, they're being taken care of because we have rules like this.

Ms. Stevenson: Right.

Ms. Mitchell: Right, but they're already there, aren't they?

Mr. Walters: The rules?

Ms. Mitchell: Yeah, for the Styrofoam, the removal of materials – the creosote and –

Mr. Walters: For example, Styrofoam is in our plan.

Chair Axthelm: That's a state requirement, isn't it? The docks, any floats have to be encapsulated now. Not just by us.

Ms. Stevenson: I think it's EPA actually. I think it's a federal requirement.

Chair Axthelm: Yeah. Yeah.

Mr. Walters: How is that even triggered?

Ms. Stevenson: Yeah, without us putting it in our codes, we probably wouldn't be able to do too much. But that's where it came from originally.

Chair Axthelm: Okay. So RC-2? Do we have a motion on that?

Ms. Stevenson: I mean, I guess by putting that as the upland vegetation or riparian vegetation as the – it's a possibility but you need to look at the others first. We are trying to get at that. But if you don't have another option there are a lot of ways that you can improve the upland that will help that shoreline area in between, as well. Just like you said, if you plant a tree or two, it will provide some shade which is a good thing, and some vegetation and some things that can fall actually into the water or along the beach and will get carried in and out.

Ms. Rose: So I move to adopt RC-2.

Chair Axthelm: Do we have a second on that?

(silence)

Chair Axthelm: Okay. The motion fails. Do we have another motion?

Ms. Mitchell: Still thinking.

Chair Axthelm: For ___ of discussion, I move that we do *not* adopt RC-2 as stated.

Ms. Mitchell: Second.

Chair Axthelm: Okay, so it's been moved and seconded we do not adopt RC-2. Discussion?

Ms. Candler: What were your thoughts?

Chair Axthelm: My thoughts is that you have a like – the mitigation. You know, a lot of things happen for mitigation that aren't necessarily like replacement. You know, when you have a – let's say when you fill in a wetlands – I mean, I'm just, for example, not specific – but when you fill in a wetlands and then you have mitigation somewhere else, that can be quite a ways away

from where that location is. So and that's not the ideal situation, but this isn't a whole lot different than that. So I guess the question is, What other options would you have? It says only when all other mitigation options are proven infeasible – what other options would you have?

Ms. Stevenson: I mentioned a few.

Mr. Walters: The document includes a list.

Ms. Lohman: Can you pull up that section? There. I'm trying to scroll to it on my teeny, tiny screen and I can't get it to –

Mr. Walters: So this is that section – Mitigation (c). The list here, (i) through (vii), includes number (iii). The recommendation is to remove number (iii) because it is not as similar as the others; however, the introduction to the list says “new development and expansion mitigation may include one or more of the following.” So removing (iii) would have the effect of saying that just that one is not guaranteed as one of the appropriate mitigation measures. Out-of-kind measures are still available. If you look at (d), it says “in-kind measures are preferred over out-of-kind measures.” But if in-kind measures are not available, you *have* to go to out-of-kind.

Ms. Mitchell: I think one of the things I have trouble with are some of the basic concepts of – and I've talked to other people about it and as many people I talk to I get different answers on – is the shade good or is the shade bad? And usually the answer comes back, It depends. And that's – so we're trying to take care of “it depends” everywhere, and that's what, I think, is making this very difficult.

Chair Axthelm: See, I would suggest with the dock situation is that you put a dock in and then you have a pathway going down to that dock. So you may take out some trees in that situation or vegetation. Well, then planting that vegetation or mitigating with it by planting, like it says on (iii), is that that *would* mitigate for it, for the impacts of it. I guess it depends on how you look – do you see what I'm saying? You're still –

Ms. Stevenson: And your example would because you are actually disturbing the upland area.

Chair Axthelm: Yeah.

Ms. Stevenson: So this would be just for the construction of the dock, allowing somebody to do some planting. And we don't want to remove that. We want to give that as an option to landowners so there is some flexibility because, you know, they may have lawn all the way up to a bulkhead or something. And you are at least improving something by planting some native vegetation in place of some of that lawn. No, we understand that it isn't what the commenter is asking for in terms of like-for-like. He would like us to remove it, and our option or our kind of response to that is, Well, we don't really want to remove it because we want them to be able to do that if there's no other option. At least they're going to improve what's happening on their property at that site. So we said if other methods have been proven infeasible. So you could go through the list and say, Well, there isn't any of this other stuff there or close to here so how are we supposed to – how are we supposed to do any of these other things? And it still gives you an opportunity on your own property and on your own site to do something.

Ms. Candler: I have a question.

Chair Axthelm: Okay.

Ms. Candler: Subsection (d) says “In-kind measures are preferred over out-of-kind measures when consistent with the objective of compensating for adverse impacts to ecological function.” That’s already in there, right? So what kind of teeth does that have for the Department to work with and already – I mean, it says they’re preferred. What does that mean in the process?

Mr. Walters: I think what that means if there was some obvious in-kind mitigation that could be done, require that instead of something else.

Ms. Candler: Okay, thank you.

Ms. Lohman: I think the tripping point for me is all, the word “all.”

Mr. Walters: Where?

Ms. Lohman: In the proposed RC-2.

Mr. Walters: Yeah, keeping in mind that the RCs are not code language so...

Ms. Lohman: Right.

Mr. Walters: Yeah.

Ms. Lohman: So I just have a problem when you have to go to the ends of the earth before you can use a tool.

Ms. Stevenson: Yeah, that’s a good point.

Ms. Mitchell: It’s nice to have the different options because things are so different from place to place.

Ms. Lohman: Well, and as you said, the difference between low bank and an extremely shallow beach that goes out a long ways is a different scenario than maybe high bank and deep waters, and marine and freshwater, and even when the Lake Cavanaugh people pointed out how significantly different their lake is compared to other lakes. So I guess I’m struggling with striking out the option of being able to use riparian at all in a list because it all depends on where you’re located.

Mr. Walters: Well, and it wouldn’t be entirely eliminating the option. It would be deemphasizing it.

Ms. Lohman: Right.

Mr. Walters: I imagine that when we go to make the code change, if we were to make this change, probably what we would do is pull it out of number (iii) and put it at the end of the list with that proviso that it’s the last option in the list, although the list isn’t introduced by anything that says that that’s in order of preference. Or we might put it underneath (d). I’m not – I don’t –

Ms. Lohman: Because something brand-spanking new isn’t going to have some of those options of fixing something used up or something obsolete or replacing the planking with that

grating stuff. Because the tricky words are – you’re talking about “new” but you’re also talking about “replacing.” So it depends on what lane you’re in.

Chair Axthelm: Could it be changed to say – although this is not the code language; I understand – but “mitigation for overwater structures only when all other in-kind mitigation options are not proven – are proven infeasible”? So that it then puts it – it puts it into a – how’d you state it? a preference – is that you use the other options first and then if the other options aren’t available.

Mr. Walters: I sort of think that may be what we meant.

Ms. Stevenson: Yeah, I think that’s what we were trying to do so I’m not exactly sure. Are you saying add that?

Ms. Lohman: But remember your motion is that you don’t want to – you want to not do the proposal.

Chair Axthelm: I know, because –

Ms. Lohman: So you’ve got to keep track of the motion.

Chair Axthelm: I did that because I wanted to discuss it! But –

Ms. Mitchell: Well, we could vote it down and then reword it, too.

Chair Axthelm: Exactly. But as part of the discussion, I think that would satisfy me more instead of –

Ms. Stevenson: So repeat what you said. I’m sorry. Which one – were you talking about (d) or were you talking about under _____?

Chair Axthelm: RC-2.

Ms. Stevenson: Okay.

Chair Axthelm: So reading down the second line: Mitigation for overwater structures only when all other in-kind – so insert “in-kind” – mitigation options are proven infeasible.

Ms. Lohman: But then you get that “all” still.

Ms. Stevenson: She still doesn’t want the “all.”

Ms. Mitchell: What if we leave out the “all”?

Mr. Walters: It doesn’t really need “all.”

Ms. Mitchell: Does that still get what you want?

Chair Axthelm: It’s saying all other in-kind, so –

Ms. Stevenson: But it could just be one in-kind –

Tim Raschko: It's not in-kind.

Ms. Lohman: No.

Chair Axthelm: Only when other in-kind mitigation. So strike "all."

Dale Pernula: Strike "all."

Ms. Mitchell: Could you guys get your microphones a little bit closer? It's really hard to hear.

Ms. Stevenson: Okay.

Ms. Mitchell: That was much better. Dale, what did you say?

Mr. Pernula: Just repeating what you were saying. Strike "all" and add "in-kind" after "other."

Ms. Mitchell: Does that sound better?

Chair Axthelm: That sounds better.

Ms. Mitchell: So we would have to address the motion and then re-do.

Chair Axthelm: Since we had the motion, I could – I mean, I could withdraw the motion.

Ms. Lohman: Well, you could amend the motion.

Ms. Candler: I could comment.

Chair Axthelm: Yes?

Ms. Candler: I guess I'm still wondering why any of this is necessary when it already says that basically in the language. Does anyone think it's still necessary?

Ms. Lohman: See and I see that too.

Ms. Mitchell: Can you throw that back up there for us?

Ms. Lohman: Because your (d) makes it optional.

Mr. Walters: I think the reason it matters is because (c) explicitly says that the following list is appropriate. (d) then articulates the preference but arguably (c) makes it for sure appropriate.

Ms. Lohman: But it could be appropriate, though, to plant some riparian.

Mr. Walters: Yes. I think because what we're saying is that it would be less preferred, and, thus, we need to reword (c) to make it clear that it is less preferable than these other measures. But frequently these other measures may not be available so we want to provide for _____.

Ms. Lohman: Well, maybe you could accomplish that by the ordering of the list, too.

Mr. Walters: Well, I was thinking that that might help, except that the rest of the list is not necessarily in a preferential order and I'm not sure that we care that much –

Ms. Stevenson: Right.

Mr. Walters: – between the other options. It's just this one is clearly not quite as good as the other options.

Ms. Lohman: Because if you even further look down in the list, (vii), Participation in approved mitigation program. Well, what does *that* mean?

Mr. Walters: I'm not aware of a situation, but there could be one where there's some particular mitigation program out there.

Ms. Rose: Yeah, like Salmon Safe, for example.

Ms. Stevenson: Or if you're going to be impacting some eelgrass. You know, if there's – we are trying to gain an increase in density of eelgrass statewide. If there's a program where they're trying to seed and replant and do some of that, maybe you get involved. But it just becomes a little tougher to send a single-family landowner looking for some of those things. We just try to give them as many options as possible.

Chair Axthelm: So the statement I had made was to not approve RC-2 as stated. All those in favor of not approving RC-2 as stated, say "aye."

Multiple Commissioners: Aye.

Chair Axthelm: Okay. All those opposed, say "no."

Ms. Lohman: No.

Ms. Rose: Oh, no. I want a no.

Chair Axthelm: Okay, anybody else? So did you all vote? And it was aye? Okay, so one, two, three, four. The ayes would have it in that case – to not approve it. That doesn't mean we can't change it now.

Ms. Candler: Can I just make a comment?

Chair Axthelm: Okay.

Ms. Candler: The problem, I think, is that – I mean, we can recommend how the language should read, but we're not writing the code. I think the Department's mentioned that a few times. So we can nit-pick the language here or we could specify how we would recommend it read, but that's not – we're not actually writing the code. So that's my concern with our picking the exact language we want. That's not necessarily going to be what's adopted. I just wanted to throw that out there.

Chair Axthelm: Mm-hmm. I wasn't necessarily trying to say no. I was just trying to get the discussion so that we could actually discuss the points of how do we move it forward. Okay. So do we have another motion on it?

Several Commissioners: No.

Ms. Lohman: You didn't want to consider the – as it's written? So the effect of the motion would be – as voted on – would be that it would just stay as it is.

Ms. Mitchell: Correct.

Ms. Candler: We would not make a recommendation –

Mr. Walters: Well, the motion –

Chair Axthelm: No, no, no, no. No, this was –

Mr. Walters: – really had no effect because it was –

Ms. Lohman: Okay. The language in the draft SMP would stay as it is, right?

Mr. Walters: Yeah.

Ms. Lohman: Okay. And if staff –

Mr. Walters: Negative motions like this just –

Ms. Mitchell: Yeah, they do only go away.

Mr. Walters: If you vote them yes, they have no effect. If you vote them no, they have no effect.

Chair Axthelm: Okay.

Mr. Walters: Maybe in the future if you want to make a negative motion like that maybe a better motion would be – except you made it for the purpose of discussion so that's different.

Chair Axthelm: Yes.

Mr. Walters: But if you just want to move on, you could move to move on.

Chair Axthelm: And see ideally I'd like to see it more like this.

Ms. Lohman: You could make a motion.

Chair Axthelm: Like it's stated. So now I'd make the motion that we approve as stated onscreen or as changed. So to modify the proposed SCC 14.26.420(5)(c)(iii) allowing planting of riparian vegetation as mitigation for overwater structures only when in-kind mitigation options are proven infeasible.

Kathi Jett: Second.

Chair Axthelm: Okay, it's been moved and seconded. Any discussion?

Mr. Raschko: I'd ask a question: Is there an assumption that any dock automatically has to have mitigation because, getting to what Kathy was saying, it's a bad thing? But, you know, if you can't find any car bodies or oil drums and there's no hardened shoreline and you haven't hit any eelgrass with the piling and everything else, it sounds like you still have to – I mean, what are you mitigating if you damage nothing?

Ms. Mitchell: Right.

Mr. Raschko: And that's what I'm struggling with – this concept that, by God, you're going to do something. And you're going to look at all the hard ones first and if you can't find any then we'll let you plant some trees.

Chair Axthelm: And that's what this allows you to do.

Ms. Mitchell: Well, I agree with Tim. I still think that's on the outset saying that all docks are bad no matter what, and I don't think that's true.

Mr. Walters: But I think that's pretty commonly accepted in the scientific community.

Mr. Raschko: That docks are bad? But what are you mitigating? If you're going to mitigate something you have to be able to put your finger on what it is, and that's why in-kind. I mean, in-kind with what? Now we found a car body. Well, we didn't put more car bodies down there so that's not in-kind, you know?

Mr. Walters: It's not very precisely in-kind.

Mr. Raschko: Exactly.

Mr. Walters: It's not like (if) you put in a dock you've got to find somebody else's dock to take out. We're not talking about that.

Chair Axthelm: Kathy?

Ms. Mitchell: It's easy to say the scientific community says whatever it is, but there's usually a full span of what they think. It may depend on what the flavor of today is and that I'll agree with. I mean, this year it might be that docks are bad because of x, y, z. But there's still a lot of places where docks are not bad. That's just the same as having any – you know, a gazebo here or something there. Just because it's there doesn't mean it's necessarily bad or creates harmful impacts. So it comes back to where things are dependent on locations, situations, what people do with them. If somebody's going to use a dock and, you know, keep throwing oil drums off the side, yes, that's bad. But there's other places where that's not a situation. The currents may not be an issue. So there's a lot of what-ifs. And I am scientifically trained. There's other people that are scientifically trained. And when you do that you look at a wide variety of things and impacts and things, and that's why it's not always a cut and dry, easy thing. So from that standpoint, it's a lot better when examples are used and situations are stated with facts to go with them instead of consensus says, because consensus isn't always correct. Sometimes it is. A lot of times it's not. And, you know, whether this is or isn't is just – if we're trying to do language that's going to fit a little of everything, I'd prefer to have some wiggle room for people. But just automatically come out of their **chutes** and say that all docks are bad, I don't think that's true.

Chair Axthelm: Anymore? Martha?

Ms. Rose: So I don't think this is a statement that all docks are bad. I hear it more as that there's an impact. In other words, it's not a black and white, bad and good. It's more of a, like you were saying, gray area. There's a lot of room for gray, which is how I see the list of mitigation allows for acknowledging that there might be a tiny impact but there is always an impact, because as you build a dock and you invite people out there it's just the way it is. If it was a pristine shoreline and nobody went near it, there's – we're not impacting it. But the minute we show up – people show up – there are impacts whether we want to acknowledge it or not. It doesn't mean it's bad. It just means we do change the way the character of the shoreline is or – you know, maybe you have a party out there and people are throwing stuff in the water. You don't know. And it doesn't seem like the list of mitigation options is that onerous. It's not like other things in my world that I'm used to having to mitigate. So at any rate, I guess I would just urge you to look at it not as a bad or good thing. It's just – it's just what it is and it does have an impact. So nobody's coming out and saying it's bad. They're just saying let's do something to compensate for the impact. At any rate, that's just my thoughts.

Mr. Walters: What's on your screen right now is chapter 12 of the SMP handbook that Ecology puts out and it provides some references to some research materials and papers, and also some summaries. This is chapter 12 on docks but there's a chapter on everything in the SMP Handbook, so if you're curious you can find a lot of this information in the SMP Handbook. And just to give you some flavor, it says, for example, changes to light affect the behavior of salmon. Salmon fry have been seen avoiding travel under docks and piers during daylight hours. As they move away from the shore, they become subject to attack by larger predators. The amount of light also affects salmon feeding. With less light, they eat less. With less light, there're fewer small species that salmon eat. Food is less available. Reductions in light affect the growth of sea grasses. So there's a lot of light impacts. And then following this they've got recommendations to reduce impacts. For instance, increasing the pier height allows more light. So if you can identify some of the impacts, you can reduce those impacts by just changing the design somewhat. This section goes on for a while so there's a lot of stuff in here, but they do attempt to explain the reason that we want to treat docks and other types of overwater structures with some sensitivity because of the impacts that have been observed.

Chair Axthelm: Thank you. Any other discussion on the – let's go back to the motion – any other discussion on the motion?

Ms. Mitchell: Was that actually made a motion?

Ms. Lohman: We have to call for the question.

Chair Axthelm: We just did – yeah, call for the question. Okay, so all those in favor of modifying – I guess it would be RC-2 as shown onscreen, say “aye.”

Multiple Commissioners: Aye.

Chair Axthelm: All those opposed, say “no.”

Two Commissioners: No.

Chair Axthelm: Okay, the ayes have it.

Ms. Lohman: Mr. Chair?

Chair Axthelm: Yes?

Ms. Lohman: Jumping back to the RC-1 a little bit: There's a lot of the dimensional standards in the table, but you also have in the written section that precedes it some dimensional standards. Are you going to leave those or were you going to just take the corresponding ones from the table and strike them out of that part as well? Because it has in there where you talk about the width.

Mr. Walters: Yeah, we would remove anything that's addressed by the WAC.

Ms. Lohman: So you would drastically shorten that section? And maybe in that written area reference to the WAC again? Or just do it all encompassing? Because you only refer that you're going to take out the table because you're going to default to the WAC.

Mr. Walters: Right.

Ms. Lohman: But there's some other stuff – trailing dimensional standards that you have in the rest of it.

Mr. Walters: Where do you see those?

Ms. Lohman: Like –

Mr. Walters: Like for pilings?

Ms. Lohman: No, it's before that. I saw a reference to six feet.

Mr. Walters: Well, we would go through and scour it.

Ms. Stevenson: There're some height things in there.

Ms. Lohman: Well, there was the height one that's also the 1½ feet above the ordinary high –

Mr. Walters: And I'm pretty sure that one is addressed by the WAC.

Ms. Lohman: Yes, it is.

Chair Axthelm: So do we need to change that recommendation there? _____.

Ms. Lohman: I was just asking if that was going to happen as well. I can't get the one I saw to pop out.

Chair Axthelm: Because I could see that we could address it just by – because he has replace the table, and then you could have “and associated text.”

Ms. Lohman: Okay. Could we do that?

Ms. Mitchell: Make an amendment?

Chair Axthelm: Just say something like –

Mr. Walters: Something like “and other numeric dimensional” or “dimensional” or “related” – something like that?

Ms. Lohman: Mm-hmm.

Chair Axthelm: ___ in the text or does that take care of it good enough? Is everybody okay with that change? Any objection to that change?

Mr. Walters: In the narrative?

Chair Axthelm: To add –

Mr. Walters: In the narrative maybe helps.

Chair Axthelm: “...and related dimensional standards in the narrative.”

Ms. Mitchell: You okay with that?

Chair Axthelm: Okay. All right. You got the change? Okay.

Ms. Candler: Mr. Chair? Not to interrupt – if we’re finished with that I would move that we adopt RC-3, “Add definitions of ‘dock’ (already defined in Boating Facilities but not in Part VIII) and ‘pier,’ ‘ramp,’ and ‘float’ from WAC 220-660-140(1) to Part VIII and the applicability subsection in Boating Facilities and move Figure 14.26.420-1 illustrating dock components, into the applicability” section. “Add cross-references to Part VIII, Definitions, for the definitions contained in SCC 14.26.420.”

Two female Commissioners: Second.

Chair Axthelm: Okay, it’s been moved and seconded to adopt RC-3 – to adopt RC-3 – or *approve* RC-3. Any comments? Discussion?

(silence)

Chair Axthelm: Okay. Is everybody all right with that statement then?

(sounds of assent)

Chair Axthelm: Good. Okay, Lake Cavanaugh Buffers. Let’s see. I guess we don’t really have any recommendations on that. Do we have any comments or discussions regarding that section?

Ms. Candler: I do have a question.

Chair Axthelm: Okay.

Ms. Candler: Oh, are we – wait. Are you just looking at P-1 or also P-2?

Chair Axthelm: The whole section, as far as I’m concerned, unless you have something specific.

Ms. Candler: I guess I just wanted maybe Betsy to elaborate a little bit on the last bullet point, which is “Finally, this issue is not specific to Lake Cavanaugh,” because I’ve been struggling with this myself and I know you met with – you’ve looked at this a lot more than probably anybody else. Do you have anything else you want to add to that or to supplement for purposes of our discussion?

Ms. Stevenson: No, just to bring up that they are very active. They had a lot of people who are interested, got involved, and wrote a lot of comment letters, so we addressed it based on the requests of the folks at Lake Cavanaugh. But I think it was just to note that there are a lot of other places that we have to review and look at, and would this be something that we wanted to specifically have at Lake Cavanaugh or would it be applying other places as well.

Mr. Walters: It’s really, I think – Betsy, you can jump in here – pretty common that you have a lot that doesn’t – you just can’t make work, so you get a variance.

Ms. Stevenson: Yeah.

Mr. Walters: But you don’t get a variance under the critical areas code, at least, because other people are close. You get a variance because the circumstances of your lot doesn’t work.

Ms. Candler: And there’s already provisions for that, as is pointed out in the memo. Okay. Thank you.

Chair Axthelm: My comment is that, you know, it’s hard when there’s restrictions, especially on lands – existing lots and stuff, and situations when so many residences are – they’re closer to the shore or their septic systems are close to the shore. But it seems I hear all too often so many septic – about issues with septic systems leaking into shorelines, and it just seems like I’d rather go on the safe side in that situation because that seems to shut everything down when septic systems leak into the shoreline. But it still gives a way around it and still is an option, so I think I’m fine with that.

Female Commissioner: Right _____.

Ms. Rose: So also this seems like an improvement for landowners because of the combined – you know, there’s only one process proposed instead of the two. So it’s actually simplifying what a property owner has to go through to get an exception. So I think that’s good. And for that reason –

Ms. Stevenson: That’s what we were hoping for. Yeah, that was our intention.

Mr. Walters: That is one of the most exciting things about the shoreline _____.

Ms. Rose: I’m excited about it and I don’t even own land on a lake. So this is a good thing!

Ms. Stevenson: The other thing that’s a little bit different is because our critical areas ordinance as we described in there in terms of the administrative buffer reductions that we allow, we’re proposing that to the state and that’s not something that they’ve done before. And they are on board with some of that. And they’re okay. They’re going to want to approve some of them but I think they’re going to let us do them, some of them administratively as well. Now they see all of them for shorelines. So I was shocked.

Ms. Rose: Yeah, that's awesome. Yeah.

Ms. Stevenson: Yeah. And it's not over yet, but so far it's been pretty positive.

Chair Axthelm: Annie?

Ms. Lohman: I was under the impression when – I think his name was Dan – the consultant was here and we talked about – and I was visualizing Samish Island, which is marine – but your Residential – Shoreline Residential area where maybe there is an undeveloped lot in and amongst a bunch that are already developed that they weren't going to be penalized and have to be – have a giant buffer kind of out of character with the rest of the lots. Is that still what we're anticipating in the Lake Cavanaugh scenario, or is that a different thing?

Ms. Stevenson: It would be the same regardless of its location, so they would still – you would apply the buffer that would be required and then you would work within our parameters to figure out if they're going to need a variance or, you know, where the septic system's going to be located, if you've got steep slopes – whatever you're looking at – or you're trying to protect a stand of trees and you want some flexibility as far as where your development goes. So we look at all those things. You can always ask to be as close as everybody else, and then it just depends on how close they already are, how much of the buffer reduction you're asking for, and whether you can justify it through the process that we would have, whether it would be an administrative process or whether it would be a full-blown variance to get really, really close like everybody else is, just to fit everything else on your lot and make it work. Sometimes that's the best option: getting closer to the lake, like you said – keeping your septic system away from the water can be the best option sometimes. It may mean – but that's what variance processes are for, too. It just gives the landowner and the County a bit more flexibility to work with the constraints of your property and determine what's best for everybody basically.

Chair Axthelm: Any other comments on the Lake Cavanaugh buffers, P-1 through P-3?

(silence)

Chair Axthelm: Okay. Follow Up Issues – Eastward extent of Rural Conservancy-Skagit Floodway. Let's see here.

Mr. Walters: Do you want a summary of what this one is?

Chair Axthelm: Yeah, please.

Mr. Walters: So as you recall, we have these shoreline environment designations covering each of the shorelines, Rural Conservancy being a pretty popular one. Where Rural Conservancy intersects with the Skagit floodway, we created another environment designation simply called Rural Conservancy-hyphen-Skagit Floodway just so it would be another color on the map. It has exactly the same rules as Rural Conservancy under the Shoreline Program but it provides some notice that you're also subject to our floodway rules which are pre-existing. They don't come from the Shoreline Program. We received one public comment that said, Hey, it looks like your RC-SF zone stops at the confluence of the Skagit and the Sauk. Why doesn't it keep going? And we looked at our designation criteria and found the designation criteria also say stop at the confluence. But we talked to the consultant and we did some other thinking about it, and we can't really find any real reason for it to stop there. It may simply be that that's

where we had a particular map and that's where it stopped – that map stopped. So we would agree that we should keep coloring it differently wherever there's floodway to provide that heads-up. Because otherwise you provide less effective heads-up if you're trying to convey that it's floodway with a particular color on the map and then you stop doing it in one particular area. That's really no good.

Chair Axthelm: So the question I have of that is that there are areas that were under the Rural Conservancy that were only *part* of the floodway, so would this now make that everything that's in floodway under Rural Conservancy-Skagit Floodway? So it would enlarge that area –

Mr. Walters: No. You might have a Natural designation that's also in the floodway. That just appears Natural because you can't do very much in Natural anyway. So this just – any Rural Conservancy that's east of the confluence of the Skagit and the Sauk would get changed color where it's in the floodway to the floodway color.

Chair Axthelm: Okay.

Ms. Lohman: Do you have a map that you can show us (an) example?

Mr. Walters: Not that I –

Ms. Lohman: I don't know that area of the county as well as my own neighborhood, so –

Mr. Walters: You may very many fewer friends there because there are very few people that live there.

(laughter)

Mr. Walters: Well, there are. It is much less populous. But –

Ms. Lohman: But you still have property owners that want to know. I mean, so I don't think we should –

Mr. Walters: Oh, yeah. That's why we think we should make this color change.

Mr. Pernula: Providing additional information to the property owner. That's really what it's doing. It's already in the floodway and restricted that way.

Mr. Walters: It has no change in regulatory effect.

Ms. Stevenson: It's just kind of misleading if they read through the Rural Conservancy and say, Oh, my property's Rural Conservancy. Look at all these things that we can do – without looking at a flood map or without even knowing that they would need to do that. So it is like Ryan said. It's just a heads-up. Yes, you're in the Rural Conservancy shoreline designation but you've got an overlay of the floodway. You need to look into that as well. And when we put that together and we were looking at it through the Advisory Committee we were looking at the middle reach of the Skagit and that is probably why it stopped where it did. But there isn't any reason to include everything that's part of the Skagit floodway that's also within shoreline jurisdiction that's Rural Conservancy in the same thing. So we would continue that on the map.

Ms. Candler: So I'm having an issue with semantics. We're not actually extending the designation. We're just extending –

Ms. Stevenson: Right.

Mr. Pernula: You're right.

Ms. Candler: – the appearance of a designation –

Ms. Stevenson: Right, we're just putting it where it isn't right now.

Ms. Candler: – in a location.

Ms. Stevenson: Exactly.

Mr. Pernula: You're right.

Ms. Stevenson: Exactly.

Ms. Mitchell: Do you want to adjust that language?

Ms. Candler: I would like to. I know I just said we don't have to get into the nitty-gritty on the language, but where it actually changes a meaning I think we should.

Ms. Stevenson: Yes.

Ms. Candler: I would move that we adopt – or that we adopt a recommendation similar to RC-4: Extend the Rural Conservancy-Skagit Floodway designation on the map to cover – or all Rural Conservancy upstream on the Sauk River and on the upper Skagit River to the limit of the FEMA floodway, and make the designation criteria (policy 6B-5.1) consistent.

Chair Axthelm: So you're asking for "on the map" to be added as part of your motion?

Ms. Candler: Yes.

Ms. Mitchell: Dale, is that clear for it?

Mr. Pernula: It's clear to me.

Chair Axthelm: Do we have a second on that?

Several Commissioners: Second.

Chair Axthelm: Okay. Discussion?

Ms. Rose: He already seconded it.

Chair Axthelm: Yeah, I know. Discussion.

Ms. Rose: Oh, discussion.

Chair Axthelm: Discussion after the second.

Ms. Lohman: Wouldn't it be all affected Rural Conservancy?

Ms. Rose: No, it seems like a good move to clarify the map. That's important so that if people buy a piece of property and it's flood zone they know just at a glance of the map.

Mr. Walters: And it says change the Rural Conservancy that's upstream to the limit of the FEMA floodway. So we're not changing all Rural Conservancy. *Within* the floodway.

Chair Axthelm: Annie?

Ms. Lohman: I just want to make sure that that – we don't stop at – that we read the entire sentence when you make it into code language.

Mr. Walters: Well, actually we're not going to –

Ms. Stevenson: This would just be a map change.

Mr. Walters: Yeah, we're going to change the policy but the policy would change simply by deleting the words "west of the confluence with the Sauk." And there wouldn't be any code change. It would just be map coloring.

Chair Axthelm: All those in favor of the – I guess RC-4 as amended onscreen, say "aye."

Multiple Commissioners: Aye.

Chair Axthelm: Opposed, say "no."

(silence)

Chair Axthelm: Okay, good. Utilities in the River Below Scour Depth. Any comments?

(silence)

Chair Axthelm: Okay. Definitions of Environmental Designation.

Ms. Lohman: I could give you the name. It says "one Planning Commissioner."

Chair Axthelm: Oh!

(laughter)

Chair Axthelm: Would you like to address it? The one Planning Commissioner?

Ms. Mitchell: If only we knew!

Ms. Lohman: I think it's pretty – you guys have heard me talk about it before and I think that this recommendation is – captures what I was asking for, which is in the recommendations, so I'll move that we add definitions for each of the shoreline environmental designations that

reference the SMP Part – that are referenced in SMP Part II, the Shoreline Environmental Designation.

Ms. Mitchell: Second.

Chair Axthelm: Seconded. Discussion?

Ms. Lohman: I just think that if you're going to – the original proposal, they were kind of in there as a placeholder and then the second proposal was well, we don't need these. And then it was – I thought about that a lot and it's we refer to all of those designations throughout the body of the code and if you don't have the anchor, which is the definition or the explanation, you're kind of leaping into the deep end without knowing how to swim.

Mr. Raschko: Is that – did you add words to what's written there?

Ms. Lohman: I cleaned it up till I could say it!

Mr. Raschko: So that reads the way you intend, though?

Ms. Candler: I think you said "that are referenced." Is that what you meant to say?

Mr. Raschko: That's what I thought I heard you say.

Ms. Candler: Did you want – how do you want it to read?

Ms. Lohman: Aren't they referenced in Part II?

Mr. Walters: They're described in Part II. What we were suggesting here is that we add definitions in Part VIII for each of the shoreline environment designations –

Ms. Lohman: You were lacking a verb so I gave you one.

Mr. Walters: – that cross-reference, or maybe that include cross-references to Part II. I think that – so you would find – you see the term somewhere in the document and the definition in Part VIII would say "Rural Conservancy is fully defined in SMP Part II," and then you would be able to get to there.

Ms. Lohman: And there again, we're not writing code language. We're just writing a direction that we want you to do. So I need a second.

Ms. Mitchell: Second – well, as it's written now?

Ms. Lohman: Yes.

Ms. Mitchell: Okay, second.

Ms. Lohman: Thank you.

Chair Axthelm: Do we have any further discussion?

(silence)

Chair Axthelm: Okay. Is anybody opposed to this statement as shown onscreen?

(silence)

Chair Axthelm: Good. All right. So you're good, Ryan, unless you have something else. Okay, Prohibition of Off-Premises Advertising. Oh, okay. Nothing. Any other comments on that one?

(silence)

Chair Axthelm: No? And Ratio of Dock Slip to Dwelling Units. Oh, yes.

Ms. Stevenson: We forgot that one for a long time.

Chair Axthelm: Yep.

Ms. Lohman: We didn't.

Ms. Candler: I will move – I will definitely move that we adopt RC-6, Revise proposed SCC 14.26.420(4)(b)(iv) regarding community docks to allow a 1:1 ratio of boats to residential units.

Several Commissioners: Second.

Chair Axthelm: Okay. Any discussion on that – further? Okay, is everybody all right with it, or anybody in opposition to that?

(silence)

Chair Axthelm: No? Okay. Good. There we go. That's the end of the staff report.

Ms. Lohman: So we support it?

Chair Axthelm: Yes, we support it. If nobody's opposed, then we support it.

Mr. Walters: So that brings us to the end of what we are aware of in terms of all the issues that you wanted to review. So what we had identified, we've gone through all of it. Unless you have other issues you wanted to talk about, it would be time to craft some findings, reasons for action.

Ms. Lohman: I have several.

Ms. Stevenson: So if you didn't get a chance to look – while you're looking for that, Annie – if you didn't get a chance to look at the rest of the recorded motion, I think Ryan did a really good job of capturing a lot of the other comments that you have made over the course of the meetings before we actually started the deliberations. Because I was kind of like, Oh, yeah, where's this and where's that? And I wasn't sure until I read through it today. So a lot of it is here so if you're still not finding things that we talked about, that would be good to know as well.

Mr. Walters: I'm not really sure what you're referring to, Betsy. In the recitals?

Ms. Stevenson: No, just a lot of the other – there's a lot of things that are here in the recorded motion that don't show up as recommendations out of the deliberations that came from conversations with the Planning Commission earlier as far as languages that they wanted changed and different things that they wanted to have happen.

Mr. Walters: I actually think *all* of them came from the deliberations.

Ms. Lohman: Well, there was quite a bit of comment and you had it from a dike commissioner and a dike owner with concerns that it could get swept up into maybe the wrong chapter, and we wanted to make sure that dikes and levees were in the flood hazard ordinance, and potentially in that shoreline stabilization section that we referenced that to tie that back together.

Mr. Walters: Number 14.

Ms. Stevenson: Right.

Ms. Lohman: Yes, the very end.

Mr. Walters: Yeah.

Ms. Lohman: And I know we talked about it but when you don't see it – we wanted – I just wanted to make sure, and I talked to Betsy about it earlier that I wanted to make sure it didn't get lost.

Mr. Walters: It's number 14.

Ms. Stevenson: And _____ it's number 14 in there. That's what I found afterwards and I thought, Oh, here it is.

Ms. Lohman: Yeah, and I saw it, too, at the very end. But sometimes a little due diligence makes...

Mr. Walters: And there are some changes tracked in number 1 here because I did change it from how we had written it on the screen when we did the recorded motion – when we did the very first item in the recorded motion – because we just said something like "See the letter." But I fleshed out the map changes that were identified in that letter here. And then the idea is we would attach that map from that comment that has all the numbers that correspond to this. So that's why you see the track changes there, because I fleshed that out for the final version.

Oh, yes. Oh, also Commissioner Hughes and Betsy and I met Monday and came up with one other recommended change which we e-mailed you yesterday. And it's on the screen here. And that is in the Shoreline Habitat Natural Systems Enhancement Projects section we propose to add a requirement that an applicant hold a pre-application neighborhood meeting, and we would include requirements on timing and notifications and that kind of stuff, and also a requirement that projects may not have significant negative effects on neighboring properties. And we would put this pre-application neighborhood meeting thing into Skagit County Code chapter 14.06, which is our permit procedures section, so that we could then use it for other types of permits unrelated to shorelines later. But it's a procedural thing so we would throw it in 14.06 rather than in the shoreline code itself. But the hook that requires the neighborhood meeting would be in the Shoreline Program in the shoreline habitat section.

Ms. Lohman: Could we – I’m struggling with that it has to – with “significant,” because I almost feel like “significant” is somewhat ambiguous. I think you should strike “significant.”

Mr. Walters: There’s, I think, already a line in there that says “significant,” and it says “properties” but not “neighboring properties,” so that’s the line that we were going to add “neighboring” to. I don’t think – I think by striking “significant” you’re not necessarily saying all negative effects, but you probably wouldn’t want to say that because then any kind of negative effect would be a prohibition and we don’t – we try to avoid something like that because you can always find *some* negative effect. You want to have some threshold. It *is* ambiguous, but it would be –

Ms. Lohman: Yeah, but keeping me wet until June, the middle of June, may be significant to me but may not rise above to somebody else. And so that’s why I’m tripping on that.

Mr. Walters: Yeah. I guess I’m just saying there’s lots of ambiguity in lots of things, especially in the Shoreline Plan.

Ms. Rose: So I’ve had to go through these types of meetings where the neighbors – before you even submit. And actually they’re really helpful because then those things that are significant to you for that site get out there at the front before even the plans are finalized. Like you’ll have a concept and then call the meeting with everybody and you’ll find out what the issues are for all the neighbors and try to address what those significant issues are, or – you know what I’m saying?

Ms. Lohman: But why can’t you just say you can’t have a negative impact on your neighbor?

Ms. Rose: But if you don’t know what it is, how do you know?

Ms. Lohman: Well, you’ll know by going to the neighborhood meeting, but –

Ms. Rose: Right. Well, isn’t that –

Ms. Lohman: I don’t think you should condition the negative.

Ms. Rose: Okay, maybe I’m not understanding then. Because the way I read this, there’s the pre-application neighborhood meeting to identify what may be a significant impact that you’re – you know, where you present your project. And if a red flag goes up for you and you say, Oh, my gosh. That’s going to be a negative for me – I’m your next-door neighbor – then you have a chance to put it out there and it gets in the record and then the person proposing the project –

Ms. Lohman: But it shouldn’t have to be significant negative. It should be negative, period, by itself.

Ms. Rose: Well, I think what Ryan said is that if you don’t put the word “significant” in there, you’re going to get down to needling, like too nit-picky. It’s going to get down into the weeds too much, you know?

Chair Axthelm: Amy?

Amy Hughes: I would propose that we delete “significant” because you might not be able to be aware of the project and its impact on you. But there still should be latitude that any project that

is manmade that can have an effect on a neighbor, that project needs to be held responsible. The neighborhood meetings are excellent as far as getting the conversation going. But still these projects aren't just simply taking down a manmade structure and allowing Mother Nature to come in and fill in the void. These projects are actually construction projects with heavy equipment and there's a lot of unforeseen that could happen to a neighboring property. I feel that this is the core of planning and what the GMA was all about, even if it has to do with shoreline, and that neighbors need to be protected, especially when we are talking about rural grounds and, as Commissioner Lohman pointed out, there's a short period of time to get in and plant a field and if something that has occurred brings the water closer to a neighboring property and that field now is wet that's significant, but to somebody else, it may have been something we just overlooked. And so again it's wordage, and "significant" makes me uncomfortable.

Chair Axthelm: You know, one thing that concerns me on this is I've had a property before where I've had a neighbor that faced my property, and where she could have faced a different direction but she faced it towards my property. And I put my house right in the way and there was a huge objection. But, you know, a neighboring meeting – a neighborhood meeting wouldn't have changed that. I still would have put my house where I wanted it because that's – it was logical for me. But so I think my concern with this is that neighbors can object to things, but if you're within the law and you're within the restrictions I really have a hard time with objecting if you're within that. Outside of, like, the water issue, I understand that. I'm saying if you're within the law, like on a view situation, you know, you have a lot of neighbors that will totally fight it if you cut down trees, but if you're within the law to cut down the trees...

Mr. Walters: Well, and the purpose and the effect of the pre-application neighborhood meeting is not to provide neighbors any additional means to stop a project, but to provide neighbors a required opportunity to have input into the design of a project. Especially in these types of projects there may be a lot of community knowledge in the neighborhood that the project proponent may benefit from – may result in a better project. The standard by which the project is judged is not the neighborhood meeting. It's the other development standards that are in this section – the requirement to not have negative effects – those types of things. But the meeting is just to get the conversation going.

Chair Axthelm: Okay.

Ms. Rose: I would like to give my example – it was very helpful – which was the neighborhood meeting turned up that that particular neighborhood had an issue with water drainage – water. And so that was good to know for me at the front end because then I could provide extra – we were doing low impact development, which is a good way to mitigate water issues, stormwater issues. But we went out of our way to provide more storage capacity, knowing that the neighbors had standing water on their property during a heavy rain to make sure that we didn't aggravate it, you see? So that's my example. So these types of meetings – and that would have been – if we had aggravated it where they would end up with twice as much water, then that would be a problem. In our case, we were able to mitigate it and cause them to have less water by doing a really good job with our storm system. So that's what I see the purpose of this type of meeting would be for, is to identify a weakness or a concern or – you know what I'm saying? Like your concern that you brought up.

Ms. Lohman: But –

Chair Axthelm: Annie.

Ms. Lohman: I guess to kind of dovetail back to Amy a little bit is we have had – quote/unquote – neighborhood meetings during the public comment period, and some of these significant negative impact potentials have been brought up and marginalized. So when you put in the word “significant,” you’re conditioning how bad it has to be before then it gets recognized. And I’m saying that there’s things that some of the local lore knows: Well, if you mess with the dynamic of something over here, we believe, in our experience of living and working in this environment, that it’s going to have an impact over here. And the experts and the engineers that haven’t been there overrule you, they build the project, and sure enough. But you know what? You have no leg to stand on. And so I’m struggling with conditioning it, because to me when you say “significant impacts” that means it has to be huge, when it doesn’t necessarily have to be gigantic. And I’m not complaining about the color of paint somebody might use. We’re talking about hydraulic systems that make it whether you can use a piece of property or drain a piece of property successfully or not. And it’s all in context for the chapter that you’re talking about this language going in.

Chair Axthelm: Tammy?

Ms. Candler: I completely hear what you’re saying, but I have a similar concern about having zero threshold because anybody can allege a negative effect. I think at minimum it has to be an *objective* negative effect or something, because a subjective effect could be just literally anything, and not having any limitations on it, I think, is going to end up being problematic also. I don’t know what to think.

Chair Axthelm: Kathy?

Ms. Mitchell: I agree with both of you! I’ve seen way too many situations, and I don’t know what language can be used to rectify this, but it’s a question of who decides on what’s significant or not. And it may not be significant to somebody else that my house is the one that gets flooded or my property gets squashed or something or other, or three of us out of 700 – who cares? And that’s the thing, is where does significant come through and who makes those judgments? I realize we have to trust people at some point or other, but I would look to you guys for better language. It’s not like this is the first time you’ve run into something like this where you say what tips something for being important to listen to.

Mr. Walters: Well, I think Commissioner Jett had her hand up over there, but –

Ms. Jett: I was going to suggest a different word such as “adverse” or something, if “significant” bothers people. Because, like you say, “significant” is – it can be defined many ways. But somebody could say, Well, I don’t want them to do this because I enjoy the forest on their property and I don’t want them to cut their trees because that’ll – I mean, that will adversely impact my property. But that’s not – I mean, I don’t think that’s – I don’t think they can really say legally that that adversely impacts their property. It may – you know – I don’t know how I’m trying to say it but can we choose a different word? You’re good with words. Choose something different.

Mr. Walters: We had proposed “significant” because we thought basically it was above the threshold of not an insignificant effect.

Ms. Jett: How about “substantive”?

Mr. Walters: If we wanted to make it a requirement that there has to be a *huge* negative effect, we probably would have used the word “substantial.” But we chose “significant,” not “substantial,” because – at least in my mind – “significant” means not insignificant.

Ms. Mitchell: Where in Planningspeak is substantial versus significant?

Mr. Walters: I think it’s just English.

Ms. Mitchell: Okay.

Mr. Walters: I don’t think we have definitions, nor could it be very easy to maybe craft those definitions in anything other than their normal English definitions. But, you know, if it makes more sense we could say “not insignificant,” or just taking the word “significant” out, I think, provides latitude to figure this out. If we remove “significant” and inserted the word “any negative effect,” I think that that would be pretty clearly you can’t have anything. And that doesn’t make sense, I think, as several of you suggested.

Ms. Rose: I have one more question.

Chair Axthelm: Martha?

Ms. Rose: So I saw a map of a bunch of projects that the Army Corps of Engineer has planned for this area, and that would fall under this Natural Systems Enhancements category, I believe. And I believe that they don’t even have to go through a permit process with the County. Is that true? It’s true, right? They just can do whatever they want, right? Do I understand –

Ms. Lohman: Who?

Ms. Rose: The Army Corps of Engineers.

Ms. Mitchell: You’re getting a stony look. Is that –

Ms. Rose: I just want to get it out there that this is in the pipeline. There’s these projects that are going to have lots of impact on people and it won’t go through this process because they’re feds.

Ms. Stevenson: Only if it’s on federal land, which most of those are proposed – I understand, Carol. Most of it’s proposed for private property so – at least the ones that I’m looking at.

Ms. Rose: Okay. So how does that –

Ms. Stevenson: So I don’t agree with that statement. As far as I’m concerned, they’re going to need permits, but I don’t think they’re going to get that far, at least for the one I’m thinking of.

Ms. Rose: Okay. Okay, so –

Ms. Stevenson: They haven’t even talked to the landowners.

Ms. Rose: So it’s a – I don’t know what that part of the process – how that part of the process works, but I have only a sliver of knowledge about how the federal government works with permits like that, and they usually don’t have to abide by local rules. And so, you know, we’re

fussing about the word “significant” but the reality is is that they can come in and do things and not get input that could have extreme, you know, impacts on neighboring property. So just to keep everything in perspective. That’s my thing. It’s like – it seem unjust that they can come in and not have to go through a process.

Mr. Walters: We do have some statements about this – not that they really regulate this area but they explain this area. Toward the beginning of the plan in the Jurisdiction section under Applicability indicate that “this SMP applies to land subject to non-federal ownership. Even though such lands may fall within the external boundaries of federal ownership, the following subsections guide the determination of the applicability of this plan on federal lands.”

Now this – what you’re talking about is not even federal lands. But on federal lands, federal development on land owned or leased by the federal government is not subject to these rules. But non-federal development on land that is owned by the federal government is subject to this SMP.

Ms. Rose: So that would be a good example of where this little paragraph would come in handy. They would have to have this meeting, right?

Ms. Stevenson: Yeah.

Mr. Walters: Yeah. This section does not talk about the precise situation you’re talking about, which is the reverse where it’s a federal development on non-federal land –

Ms. Rose: You’re saying that *would* fall under this Shoreline Master Plan.

Mr. Walters: Well, right. If the SMP applies to the project then, yes, the County – all of those requirements that are in it would apply.

Chair Axthelm: Okay.

Ms. Rose: Okay, thank you for clarifying.

Mr. Walters: I hope that was a clarification.

Ms. Rose: No, that helped a lot. That helped clarify.

Chair Axthelm: So with that previous comment or motion, do we need to make a change to that? There was a proposal on that to make a change.

Ms. Lohman: To strike “significant.”

Chair Axthelm: To strike “significant.”

Mr. Walters: Did anyone actually –

Ms. Mitchell: I move that we strike “significant” out of that.

Mr. Walters: But did anyone move to put it in?

Ms. Mitchell: It wasn’t already in?

Mr. Walters: Well, no. No, because this is a new proposal.

Ms. Lohman: I will. Or, Amy, do you want to?

Ms. Mitchell: Go ahead.

Ms. Lohman: How about Amy?

Ms. Hughes: In proposed SCC 14.26.475, Shoreline Habitat and Natural Systems Enhancement Projects, add a requirement to hold a pre-application neighborhood meeting, with details about timing and notifications, and a requirement that projects may not have negative effects on neighboring properties. I move that we add this.

Ms. Mitchell: Second.

Ms. Lohman: Second.

Chair Axthelm: Okay, it's been moved and seconded to adopt or to approve – or to add the statement as shown onscreen. Discussion? Amy?

Ms. Hughes: I think by having this in our SMP it shows the value that we put on local stewardship. And in 1990 when our river systems in Skagit County were identified as being positive places for these kind of restoration projects, at that time Skagit County was looked at as being great stewards of our ground. And it was our rural emphasis, it was our agriculture emphasis. And I think when these projects come into a community they need to come in softly, they need to talk to the local people, and they need to hear their impact before they begin. And if you wait until the Hearing Examiner meeting, too much has gone – too much water's gone under the bridge. Sorry, Ryan. I had to say it. And so it needs to happen earlier in the process and it gives our community just time to be part of the process, and that's what this is all about.

Chair Axthelm: Can you remember that ___ for the finding of fact?

Ms. Mitchell: I wrote it down to help – I wrote it down to help you.

Ms. Rose: Can I get one more question or comment?

Chair Axthelm: Yeah, I'd like to comment. Yes, Martha?

Ms. Rose: It doesn't say in here, neighborhood – what distance out that is. But is that addressed somewhere else in the code? Like who defines –

Mr. Walters: None of this is written yet. We would write a whole section.

Ms. Rose: But would you talk about that, like where the written notice is sent to? All the neighbors that are with x-number of feet of the boundaries of the project or whatever?

Mr. Walters: Yes.

Ms. Rose: Because it's one thing to publish it somewhere but if you're direct – really close to it, you should have a mailed notice.

Mr. Walters: And I actually already have a code section written on this – I was working on it for another jurisdiction – and it has quite a bit of detail.

Ms. Lohman: Is that the 14.06 that you referenced?

Mr. Walters: The 14.06, yeah.

Ms. Rose: Thanks.

Chair Axthelm: Anymore discussion?

(silence)

Chair Axthelm: Okay. Are there any opposed to the statement as shown?

Ms. Candler: No.

Chair Axthelm: Okay. Add it.

Ms. Lohman: Can I make a motion?

Chair Axthelm: Yeah.

Ms. Lohman: I move that we *do* insert the details of the pre-application neighborhood meetings directly into Skagit County chapter 14.06 – that you *do* do the next step. If you look on your –

Chair Axthelm: And would like to answer.

Mr. Walters: Can we just add that language here?

Ms. Mitchell: Is that okay with everybody?

Chair Axthelm: Just wait till he gets it in there. Okay.

Ms. Lohman: That's not –

Chair Axthelm: Is that what you're intending?

Ms. Lohman: Well, the chapter 14.06 is all the details on how to do that notification, right?

Mr. Walters: That's where we would put it because that's where other processing-type stuff goes.

Chair Axthelm: Are you asking for something else?

Ms. Lohman: No.

Chair Axthelm: Okay.

Ms. Lohman: I just wanted to finish what we were asked.

Chair Axthelm: Okay. Is there anybody opposed to that?

(silence)

Chair Axthelm: Okay. Let's see.

Ms. Candler: I would move that we add a finding that addresses that and includes in the language that Amy just made, and I would ask for assistance with that because I don't remember exactly how she said it, but I do think we need a finding.

Ms. Mitchell: Second.

Mr. Walters: On community meetings?

Ms. Candler: No, no. Sorry.

Chair Axthelm: Local stewardship.

Ms. Candler: Yeah, reflect –

Ms. Mitchell: She said it reflects the values we put on local stewardship.

Ms. Hughes: Want me to try it again?

Ms. Mitchell: If you don't mind.

Ms. Hughes: I'll try it.

Chair Axthelm: And if you can type fast.

Ms. Hughes: You can add, too, if –

Chair Axthelm: We can edit it after we get it in the –

Ms. Hughes: "In the early 1990s, Skagit County's rivers were identified as prime habitat sites due to Skagit County's agriculture and rural nature."

Ms. Mitchell: See, this is where those transcripts come in handy!

Mr. Walters: "...as prime habitat sites." Read a little slower.

Ms. Hughes: Okay. "...due to Skagit County's agriculture and rural nature."

Mr. Walters: Okay.

Ms. Hughes: "Local stewardship of natural resources was respected and viewed positively." And now where would somebody like to take it? I'll add one more: "Property owners know best the nuances of their properties and the effect neighboring properties have on them." But I think that goes more into the specific of the one.

Chair Axthelm: You made a statement somewhere.

Ms. Hughes: Pardon me?

Chair Axthelm: I think you made a statement when you made that first statement that was very good. It was something added to that. I can't remember what it was.

Ms. Hughes: Okay.

Ms. Candler: I think that is where that "reflects the value that we put on our local stewardship" comes in.

Ms. Hughes: Okay, I'll let you then follow through. You were listening.

Chair Axthelm: Tammy, did you –

Ms. Candler: I think –

Ms. Lohman: But it isn't just their own property. It's where their –

Chair Axthelm: Well, you stated local stewardship is important.

Ms. Candler: I think that's repetitive, though, from the property owners know the best nuances, so I think it's _____.

Ms. Hughes: And I like "local stewardship" better anyway myself, so delete that one – that second line – and let's go back to "local stewardship."

Ms. Mitchell: And part of that, I believe that when you made the point was you were saying that the whole purpose for doing this community meeting was because it was reflecting the importance of the local stewardship. At least that's what I thought you meant. Something like that.

Ms. Hughes: I would have to ask whoever dictates what was said. I'm not going to be able to come word-for-word.

Ms. Mitchell: Those transcripts are great, you know.

Mr. Walters: Well, we're not going to have the transcript for weeks so...

Ms. Mitchell: I know.

Mr. Pernula: We want to try to get it out tonight.

Mr. Walters: Pre-application neighborhood meetings for habitat enhancement projects because that's the only thing we're requiring this for – "reflect the value of local stewardship and local knowledge?"

Ms. Candler: Well, we mentioned local stewardship up above, so I'm not – I think we're getting redundant.

Mr. Walters: You know what? There are worse things.

Ms. Mitchell: Yeah, we can still clean it up.

Chair Axthelm: This was just getting our point across to the Commissioners. So it really isn't writing the code. It's just saying this is our reasoning for actions.

Mr. Walters: Commissioner Hughes said something about deleting the second line. Was that the line you wanted to delete?

Ms. Lohman: Can we not delete anything just yet because it's holding a thought?

Mr. Walters: I got lost right about here when I wrote something something.

Ms. Lohman: But it's also the local experience that that neighborhood – it's the local experience on the land that – it's like why you can't dig a deep hole out in the Samish basin because you'll have problems.

Chair Axthelm: I think that was "neighboring projects."

Ms. Candler: Yeah, "neighboring projects" or "large-scale projects" or something like that.

Ms. Mitchell: And I've got a piece where you were talking about the reflection of – reflect the value. She said "we" and I believe she meant the county. Is that correct – when you said "we"? The big royal county "we"?

Ms. Hughes: Skagit County?

Ms. Mitchell: Mm-hmm. Because it – that reflected the – you could say Skagit County, places on local stewardship and local knowledge. And that's true. We've done an awful lot of stewardship-type programs and place a lot of value on that.

Ms. Hughes: Yeah, I like that.

Ms. Lohman: Can you put at the very end "local knowledge and experience"? Because it isn't just the brain stuff.

Chair Axthelm: So we don't have to wordsmith it too much. Is that all right? Does it look good to everybody? Any objection?

Ms. Mitchell: Hang on a second. Okay.

Chair Axthelm: Okay. Good.

Ms. Candler: Ryan, I don't understand what 3 –

Mr. Walters: 3 and 4 are just notes that I had jotted down when you were speaking in the past several weeks. Obviously they can't stay there by themselves because they're just a couple of words. I think that number 3 referred to something that Commissioner Hughes was talking about related to how the river fills in the bay. It actually creates eventually shoreline. It doesn't just

erode shoreline. DE-rosion not being a real word but just a concept I tried to jot down _____ . Accretion.

Ms. Lohman: I think that we should put that in there, because it is a good point how our beaches are made here compared to other – the other side of the continent.

Chair Axthelm: So these other – you have these red items here. Those are ones that we haven't covered yet, right?

Mr. Walters: Yeah, so if we want to, we can accept number 3 there.

Chair Axthelm: Yes.

Ms. Lohman: What's the asterisks?

Mr. Walters: I think it was just, Hey, we need to fix that.

Chair Axthelm: It was just an out – something about erosion and DE-rosion.

Ms. Candler: Okay, I move that we accept the first one as shown on the screen: "The Shoreline Master Program should enhance the balance" – or excuse me – "should balance environmental protection, aesthetic values, and private property rights." I think that adequately reflects what we are looking at.

Chair Axthelm: I'd like just something else added to that – would be to reflect allowing usage of the shoreline or enjoyment of it. I'm trying to think of the wording for it.

Ms. Mitchell: Well, the state places a large value on recreation and that comes back to docks and everything else. There's a reason we're allowing to have these and continue to have these because we – we, the state – believes that recreation's a good thing.

Mr. Walters: Like that, or recreational?

Chair Axthelm: I'd say recreation specifically.

Mr. Walters: Now although I jotted this down based on things that you have been saying over your deliberations, it's not consistent with what the statute and the rules say. The rules say you shall protect ecological functions.

Chair Axthelm: But the state law and part of the reasoning also mentions recreational and private property rights.

Mr. Walters: Oh, yes. That's one of the many shoreline values.

Ms. Lohman: And property rights.

Ms. Candler: And I think listing it explains why we haven't gone further and said, No docks! You know, I think it's a good finding to make because of that.

Ms. Stevenson: Can I ask you to make a consideration on this one? The word "balance."

Female Commissioner: Oh.

Ms. Mitchell: Not good.

Chair Axthelm: What would you suggest?

Ms. Stevenson: Rewriting it so that it really actually reflects the purpose of the Act. It doesn't talk about balancing those things. You consider them and do some other stuff.

Ms. Candler: Maybe instead of "balance" just "consider"?

Ms. Stevenson: I mean, because you can pull out whatever things that you think are important out of the Act. I'm fine with you representing the ones that you feel are most important based on everything you've heard, but the word "balance" just – that's not really what it's about.

Ms. Candler: Right. So I propose moving – taking out "balance" and inserting "consider."

Chair Axthelm: I thought – hmm.

Mr. Walters: Maybe "protect"?

Chair Axthelm: Okay.

Ms. Candler: Well, that's not what we're ____.

Ms. Stevenson: Now you're changing the meaning, but it's not a balancing thing, you know. There's a lot of things that you have to do.

Ms. Candler: I understand it's not a balancing thing. So take "balance" out. We have to replace it with something. "Consider" for a placeholder, please. Why not?

Carol Ehlers: Because then you don't have private property rights. We shall consider whether we're going to get rid of them.

Ms. Candler: No, I think that that's exactly what we're doing every time we make a regulation that says, Your dock can be this narrow. That is to protect the environment but it's also to consider recreational enjoyment and private property rights. So I think "consider" is the right word. Does anybody have anything else?

Ms. Mitchell: How about "acknowledge"? Consider's a component but there's definitely acknowledge that they exist and should exist – co-exist. Balance!

Chair Axthelm: I still like "balance." Reading the state documents I thought that that's part of it, is that they specifically talked about – they're protecting the shoreline and that's one of the major goals of it, but with that they also have to consider – consider! – but they're balancing that with property rights and recreation.

Ms. Mitchell: Do we need to see what it says at the beginning?

Chair Axthelm: And in a lot of cases, that balance is off so it needs to be balanced better one way or the other.

Ms. Mitchell: Right. This is – we are lay people. But it is a big balancing act. You can't go so far on one side for environmental protection that you can't allow somebody to breathe.

Ms. Rose: Value?

Ms. Mitchell: "Value" is good.

Mr. Raschko: The concept of – how about a concept of shared risk?

Ms. Candler: How would that read?

Mr. Raschko: I have no idea.

Ms. Rose: I have an idea. Why don't we reword it to say the Shoreline Master Program shall protect the environment while ensuring aesthetic features and private property rights? So you're protecting the environment but you're ensuring private property rights.

Mr. Raschko: Can you always do that?

Ms. Candler: Yeah, I don't think that's what it does.

Chair Axthelm: How about "consider and value"? Take out "Acknowledge" but put "consider and value" environmental protection.

Ms. Candler: I would actually agree. We could even take out "consider" and leave just "value." I'm fine with that.

Ms. Mitchell: "Value" would work.

Chair Axthelm: Everybody okay with that – taking out "value" – or take – sorry – leaving only "value"?

Ms. Candler: And then I think we have to take out "values" and the next couple of words.

Mr. Raschko: "Aesthetics."

Ms. Candler: "Aesthetics."

Ms. Lohman: What about "integrate"?

Ms. Rose: Okay, with your idea about "value" you could say "should value environmental protection, aesthetics, and private property rights."

Mr. Walters: What was that?

Ms. Rose: Just "should value environmental protection, aesthetics, and private property rights."

Ms. Mitchell: I still like the recreational component.

Ms. Rose: Okay, throw that in there too. But, in other words –

Mr. Walters: As on the screen?

Several Commissioners: As onscreen.

Ms. Stevenson: The purpose of the document has a lot of good information if you want to steal that. It's on page 52.

Chair Axthelm: And this is just something to give to the Commissioners anyway. It's, I mean, our reasons.

Ms. Lohman: Yeah, but we want them to be tight. We don't want them to be flaky.

Mr. Walters: "Provide for," "promote" – other options.

Ms. Mitchell: I missed what Betsy said entirely.

Ms. Stevenson: The purpose of the Shoreline Program that's on page 52 – that might give you some ideas.

Mr. Walters: Which is from the statute.

Chair Axthelm: Can you go to it?

Ms. Stevenson: 14.26.120.

Chair Axthelm: And that's from the state statute?

Mr. Walters: Yeah.

Ms. Mitchell: Well, the state gets to promote it all.

Ms. Stevenson: And I'm not saying you have to put it in there verbatim. Pick what you think is important but...

Ms. Mitchell: Would "promote" work?

Ms. Candler: A finding should be stated as a fact and it should support what our recommendations are, but I think it can be in our words, and I think it's fine the way it is.

Mr. Walters: Well, you have "value." Do you want to accept that one?

Chair Axthelm: Is there any objection to as shown onscreen?

Mr. Raschko: My only point with the shared risk – and that comes from the Forest Practices Act – is that you are sometimes going to have conflicts. You're not going to have private property rights and fully protected environmental things or aesthetics. And so the idea is not to become extreme and share the risks so that if a certain proposal or whatever, if something might not be perfect you don't have to go to that extreme.

Ms. Mitchell: So what you're saying is you're helping us with another side of what we were trying to get through with "balance" before with "shared risk."

Mr. Raschko: Right.

Ms. Candler: And my thought would be unless you disagree with 1, we could add that as a 2.

Ms. Mitchell: Why don't we add that as a 2, as a separate concept?

Chair Axthelm: Okay.

Female Commissioner: It's a good concept.

Chair Axthelm: Why don't we just jump to that and try that first and then see, and then get back and see if it works?

Ms. Candler: And it could even be, I think, as simple as "not all uses can be reconciled amongst those concerns" – something along those lines.

Ms. Mitchell: And then the factor of the shared risk, as you –

Chair Axthelm: Tim, would you like to wordsmith something here to put in number 2? Is that what you were intending or do you see another way?

Mr. Raschko: Well, that's a good start. Say something – not all risk can be reconciled amongst those concerns, and yet an element of shared risk – I don't know – might allow –

Ms. Mitchell: I know, because that follows – your thoughts with the shared risk on how you're describing it this way also goes back to when you guys were talking to us about the environmental designations. Some of those things work out. Sometimes they don't work out. And you find these things out over time, just like when we were doing the stormwater management. Although we were putting these programs in place and these projects in place, sometimes later you find out sometimes they work and sometimes they don't, and you do acknowledge that. You find out things over time.

Chair Axthelm: So, Ryan, you were specifically saying something about shared risk. Is this an element of shared risk you said? I'm not sure how that would go from there.

Mr. Raschko: Well, okay.

Chair Axthelm: That was what you said a few minutes ago. It's an element of shared risk.

Mr. Raschko: Let me think for a second.

Ms. Rose: Is sometimes necessary? Is that – it's not always there. I mean, some things are so simple there's no shared risk. But is it sometimes necessary to acknowledge? I mean, what – I'm not sure –

Mr. Walters: Is it easier to express the concept if we don't say "shared risk"? If we say "risk should be shared" or something? I'm not really following so I can't help very much here.

Ms. Mitchell: What if we stopped with the first part of the sentence?

Chair Axthelm: Well, no, he was – the reason I was – because he specifically said “shared risk.”

Mr. Raschko: What the real concept is is that when sometimes you’re not going to have a clear outcome, like you say, or not clear predictability, the human tendency is to go to the extreme on the safe side. And not that you should throw caution to the wind or do things that are inappropriate, but at times you can temper what you do with that sense of I’ll share that risk with you a little bit and come to a common ground, if that makes sense.

Ms. Rose: Tim, who is sharing the risk?

Mr. Raschko: Well, in this instance it would be all of the stakeholders which could be a property owner. It could be an environmental group. It could be the County. Good point.

Ms. Jett: There should be an element of shared risk for all involved or all –

Mr. Walters: How about that? “Costs and benefits of shoreline uses and activities should be shared among shoreline stakeholders.”

Chair Axthelm: And users.

Ms. Lohman: I don’t think so. I’m struggling with costs and benefits.

Ms. Mitchell: Well, and just the stakeholders because there could be stakeholders that anybody being affected by whatever’s done. It’d be stakeholders and those affected.

Ms. Hughes: Could we have Kathy put her thought back on the table?

Chair Axthelm: Kathy?

Ms. Mitchell: I think she means Kathi Jett.

Ms. Jett: There should be an element of shared risk amongst all _____.

Chair Axthelm: You need to approach the mic – Kathi, you need to approach the microphone.

Ms. Jett: Oh, sorry. There should be an element of shared risk amongst all the – I don’t know if you want to say stakeholders, or all involved or – amongst everyone. Maybe just say amongst everyone.

Ms. Mitchell: I think that sounds good. I just want to caution again on stakeholders, because there’s been plenty of situations where stakeholders were invited as participants to a meeting yet nobody that’s affected is a stakeholder.

Ms. Jett: Yeah, I don’t care about – you’re right. I mean, other words are fine with me.

Ms. Mitchell: Yes, if we can just add “and those affected.”

Ms. Jett: Yeah.

Ms. Mitchell: Is that okay?

Ms. Jett: Sure.

Ms. Rose: That statement scares me because I think – well, I guess I'm not clear about what it – if I'm a neighbor of a proposed project, that tells me that if there's something that goes wrong on the project I'm supposed to share the risk or the – I'm somehow culpable? I mean, I don't know if that's what that means or not, but that's the feeling it gives me.

Mr. Walters: What's fortunate is it's just a finding, so it _____ regulatory _____.

Ms. Lohman: I think we're in a rabbit hole and it's not what we're trying to do. And I almost think we should strike everything up to "concerns." Just keep the very first sentence because costs and benefits – I mean, we've created a debate in our finding of fact and I don't think that's what we're intending to do.

Ms. Mitchell: I agree.

Ms. Jett: Is it concerns or concern? Plural or past tense?

Chair Axthelm: That statement, unless you understand what we're talking about, doesn't seem to quite read right.

Mr. Walters: The statement – the first sentence in number 2 could maybe be a second sentence in number 1 and maybe "concerns" could be "values."

Ms. Lohman: I think that's –

Ms. Mitchell: Are you okay with that?

Mr. Raschko: But where does that lead you then? If these can't be reconciled, what happens?

Ms. Lohman: I don't think you want number 2 at all. Because I think we're – I almost feel like we're questioning all this work that we've done for all these years and all these months then.

Chair Axthelm: Remember we are working on the findings of facts and reasons for action.

Ms. Lohman: I know and I don't think it's a finding or a fact. I think it's commentary.

Mr. Walters: It's definitely not a fact, but it could be a reason, but also you could take it out and we could go to something else.

Ms. Lohman: I would move we strike number 2.

Ms. Rose: Second.

Chair Axthelm: Moved and seconded to strike number 2.

Ms. Candler: I'm fine with that.

Ms. Lohman: Okay.

Chair Axthelm: Everybody all right with that?

Mr. Raschko: Why do we have number 1?

Ms. Lohman: Because it's our reason for action.

Mr. Walters: We could come back to this concept if someone's able to generate a sentence that...

Chair Axthelm: Okay, can you leave it red then? So going back to number 1, is that statement all right? Now that we've put number 2 in there is there anything that you want to pull out of number 2 to put into number 1, or accept number 1 as is?

Ms. Lohman: I think we should leave number 1 the way it is.

Ms. Mitchell: Mm-hmm.

Chair Axthelm: Okay.

Ms. Mitchell: I do, too.

Chair Axthelm: So all those in favor of leaving number 1 as is?

Multiple Commissioners: Aye.

Chair Axthelm: Good. Okay, number 3.

Ms. Lohman: Why don't we just say "Notices" – start the sentence with "Notices will be sent"? I don't think you need to say "Staff have indicated that."

Mr. Walters: The reason we said that is because that's your reason.

Chair Axthelm: Because you indicated it? Because it's not written in the ____.

Ms. Mitchell: Yeah, we're not telling staff to do that. We could ask them.

Ms. Candler: We're not saying it's already happening. I think we're saying that that's the idea.

Mr. Walters: We have promised to do it.

Chair Axthelm: We reiterated that we – or we said we want to make sure this happens.

Mr. Walters: You're relying on our representation that we're going to do it.

Ms. Mitchell: You're making us trust you again.

Ms. Candler: No, not the way he wrote it.

Chair Axthelm: Any objection to number 3?

Ms. Stevenson: I have an objection. We're changing all the designations so we said we would send notifications to those that were going to a more restrictive designation.

Mr. Walters: No. This says owners of property that would receive *new* designations as a result of this recorded motion. So the ones – so not everybody, but the ones that are changing as a result.

Ms. Lohman: Like those folks that all of a sudden are Natural?

Mr. Walters: No, a result of this recorded motion, not of the original proposal.

Ms. Lohman: Wait, wait. Because we talked about the folks that were in the Natural designation that they were going to get a notice and then when we discussed the Guemes thing there was some of those folks on Guemes were going to be converted the Natural and so then the conversation went, Well, we should notify all the people that were going to be designated Natural.

Ms. Stevenson: Right.

Mr. Walters: That's why we're writing it down. What we are – what we put down here and what I understood was that we would be notifying people that are changing to another designation from the original proposal.

Chair Axthelm: Could we put that in here?

Mr. Walters: Please.

Chair Axthelm: Could we put that in here?

Mr. Walters: Put what?

Chair Axthelm: That statement you just said.

Mr. Walters: Well, I tried to express that in the "as a result of this recorded motion."

Ms. Stevenson: I did agree to go further than that, though. You're right.

Chair Axthelm: Differing – ____ recorded motion differing from the –

Mr. Walters: From the original proposal.

Chair Axthelm: Yeah. Just to put that statement in there.

Ms. Lohman: But the whole thing is new is my argument. The whole thing is new and –

Chair Axthelm: Yes, but they've already been notified.

Ms. Lohman: No. Nobody's been notified.

Ms. Ehlers: Nobody!

Ms. Lohman: Did you get a postcard?

Chair Axthelm: I thought you were saying –

Mr. Walters: Do you want to step outside? All shoreline property owners are affected by the Shoreline Master Program Update and we've had many years of notifications about this. We have not sent individualized postcards saying your property was that and now will be this, but what we were proposing is that changes that might occur since the original public release draft proposal that those property owners would get notices.

Ms. Lohman: No, that's not what we discussed.

Chair Axthelm: Okay.

Mr. Walters: Well, that's why we wrote it down so that we get on the same page with what it is we're going to do. So what do you think?

Chair Axthelm: Carol, I'm sorry. You need to refrain from public comment. So we are trying to consider it, but please. Annie?

Ms. Lohman: I recall the conversation being that those folks that are going to become designated as Natural would be notified, regardless of where they are.

Mr. Walters: Just not everybody.

Ms. Lohman: Because that's the most restrictive designation.

Chair Axthelm: Could we strike the "new" and put in shoreline environment designations and have that go – is that what's going to happen? It's going to go out to everybody?

Mr. Walters: Not everybody.

Chair Axthelm: That is part of – that is in one of these shorelines in the environment designations.

Mr. Walters: We could add another notification – we could add another item here to hit everybody newly going to Natural as a result of the Update.

Ms. Mitchell: Yep.

Mr. Walters: Maybe that captures it? Because so there're some people that are going from – as a result of the recorded motion, largely on Guemes here where we have some recommended changes. So there're some people going from Rural Conservancy to Shoreline Residential. We would notify all of those people because those are changes since the original proposal, and then if we added another one we could also notify – specially notify – everybody going to Natural as a result of the Update at all.

Ms. Mitchell: That captures both areas.

Mr. Walters: Do you want me to type that so you can see?

Ms. Mitchell: Would you? Then people can look at that. Does that fit what you recall, Annie?

Ms. Lohman: Well, I don't think it's as a result of this recorded motion. I think it's a result of the Update.

Mr. Walters: Well, what we're not going to do is specially notify everybody who gets a new designation as part of the Update because that is a lot of notifications and we've already done a lot of notification of the fact that the Update is coming. That's almost every shoreline property owner because –

Ms. Lohman: So by leaving (a), does that mean the folks that are going to be Rural Conservancy-Skagit Floodway further east than that confluence of the Sauk are going to be getting a notification? Because that is a result of this recorded motion.

Mr. Walters: Well, when we drafted this we weren't anticipating that change, but we did put in recommendation number 1 in parentheses there. There's no regulatory effect of the RC-SF designation difference from RC. I suppose we could notify those people but I don't know what that number is.

Ms. Lohman: Well, I'm sure they don't know either, which is the whole reason for saying something – because they're in a different scenario than they were before we did this Update.

Mr. Walters: Well, there're many people that will be in different designations as a result of the Update, but we've been also talking about the Update for five or six years and there have been several ways that people have been notified. The RC-SF, the change from RC to RC-SF, has no regulatory effect because it's still just RC and you were still already in the floodway. So I wouldn't propose that we send special notifications to those properties because there's not really a significant _____. It's a color on the map.

Ms. Lohman: What other new shoreline environmental designations were made by this recorded motion, is what I'm getting at.

Mr. Walters: I don't think that there were any other than the ones listed here in recommendation 1, which were all Guemes.

Ms. Lohman: But I would argue that, Were some of those other Natural designations new because of the Update?

Mr. Walters: Because of the Update, yes.

Ms. Lohman: Yes.

Mr. Walters: Which are addressed by (b) –

Ms. Lohman: Okay.

Mr. Walters: – if we add (b).

Ms. Lohman: I wanted to catch everybody regardless of whether they were on Guemes.

Mr. Walters: Well, (b) captures everybody regardless of whether they're on Guemes, but only if they're switching to Natural.

Chair Axthelm: So right now any updates – or sorry. We have the original Update, the original proposal that was published. After that, if any changes were made, those people received notifications to say we're changing it to that. Right?

Mr. Walters: Well, very specifically the ones that would receive notification are the Guemes map issues here and then anyone who under the current program doesn't have Natural but would receive Natural under the new program.

Chair Axthelm: Mm-hmm. Thank you.

Ms. Lohman: Wait.

Mr. Walters: Anyone going to Natural under the new program.

Ms. Lohman: That's better.

Chair Axthelm: Okay. That makes sense. So are we okay on that now, on number 3? Any objection to number 3?

Female Commissioner: No.

Chair Axthelm: Okay, number 3's fine. Thank you.

Ms. Candler: Does anyone want to propose a finding regarding erosion and – what was the word?

Chair Axthelm: I'm sorry. So these other ones – never mind. Are you addressing the erosion and DE-rosion thing?

Mr. Walters: Brainstorming.

Ms. Stevenson: Sorry.

Chair Axthelm: Looking at that, you know, I'm right on the Skagit River and that's what happens with us all the time – is we'll have our – our bank will erode away and then the next year – or in the process of the year, it'll build way back up again and then it'll go – and it's just a natural process. My kids will play down in the sand and but it doesn't really have much of an effect but still the next day you come back and it's gone.

Ms. Hughes: And beaches do that also with wave action.

Chair Axthelm: Albeit we've lost a lot of shoreline when the natives are doing their fishing with their boats back and forth. It undercut our – and just because of the wave action from the boats, it undercut our beach about six feet. So I couldn't let my kids play down there because the way it would – it would dig way down in back behind so at a point where if you stood on it you'd drop in the water.

Ms. Lohman: But I remember Amy telling us about how the glaciers are depositing quite a bit of material in the river and carrying it downstream.

Ms. Hughes: So I wrote some notes. If you wanted to, we could put something that encompasses – “Skagit County encompasses a diverse environmental ecosystem.” Are you going to write all this before we edit it? Okay. “Rivers and streams originate at the crest of the North Cascades from north of the Canadian border to south of Glacier Peak in Snohomish County. These vibrant river and stream systems cascade through Skagit County and into marine habitats to the west.” Now I’m not saying we have to put all of that in, but it might get to why our river system is more dynamic than other river systems.

Ms. Candler: Does this apply to any particular recommendation?

Ms. Hughes: Good point.

Ms. Candler: Does any of it? I mean, does it? That’s my concern.

Ms. Lohman: I just think it points out that it’s not static.

Ms. Hughes: And absolute. I think that kind of works with number 5, so it kind of introduces the concept of number 5 if we’re going to go to erosion. It describes that.

Mr. Walters: Moving that before number 5 then?

Ms. Hughes: Yeah, or part of number 5 – all of it. It introduces the erosion issue.

Mr. Walters: All right. Well, pretend that I –

Ms. Hughes: And the growth issue of the habitat – both.

Chair Axthelm: Because I kind of like them separate statements. But that first statement you could put something at the end like it’s important to us, the Planning Commission. Just a statement.

Ms. Candler: Does anyone have a motion?

Ms. Rose: I like it and I think we should go with it, number 5.

Chair Axthelm: Okay. Any objection to number 5 as written?

(silence)

Chair Axthelm: Okay, there we go.

Mr. Walters: When we say the first part –

Chair Axthelm: I’m sorry. The one we’re on right now – the first number 5.

Mr. Walters: Well, I’ll accept the change and then we’ll see what the numbering – what happens to the numbering.

Chair Axthelm: What happened? It didn't work. There we go.

Ms. Candler: I would move that we accept number 6 as written.

Ms. Mitchell: Second.

Chair Axthelm: Any opposed to that?

(silence)

Chair Axthelm: Okay. Number 6 stands. Aquaculture expansion.

Mr. Walters: I don't really remember what that one was about.

Chair Axthelm: Was that allowing for aquaculture that we – is there anything that way that we were make – that we wanted aquaculture to –

Ms. Lohman: Well, we had some –

Chair Axthelm: – to be allowed, not restricted?

Ms. Rose: Wasn't there a percentage – in other words, we wanted to consider our successful aquaculture industries around here and there was allowance for expansion of that up to a certain percentage. I don't remember if it was 50% – right? So it's just acknowledging that that's an important – that entered into our thinking, right? This is – at least that's the way I read it.

Chair Axthelm: So how would you suggest a statement then to reflect our reasons for actions and findings of fact?

Mr. Walters: What we said in the draft is that expansion of existing aquaculture is permitted when it was – is – a permit for it is required when the activity expands more than 10% or one acre beyond what they already were permitted. It's a little more detailed than that. Whichever is less, 10% or one acre, whichever is less, beyond the area cultivated on the effective date of this SMP, or when the expansion creates unmitigated impacts to native plant and animal populations.

Chair Axthelm: Is that something we specifically added or addressed or was it something – was it still – was in the state information?

Mr. Walters: No, I think this was all worked out in the aquaculture subcommittee of the Shoreline Advisory Committee.

Ms. Mitchell: What if we simply said encourage aquaculture?

Mr. Walters: We like aquaculture? We like geoducks?

(several sounds of assent)

Chair Axthelm: Well, it's an important part of Skagit County. So perhaps: Aquaculture's an important part of –

Ms. Lohman: You're talking over Kathi.

Chair Axthelm: Sorry, Kathi. Go ahead.

Ms. Jett: ____ what is included in aquaculture? Like netpens and oyster beds and – because I have concerns about netpens and whether or not they're properly maintained and inspected for, you know, holes that the fish being raised in the netpen can escape and get into our wild salmon or wild whatever.

Chair Axthelm: Yeah, all of the above.

Mr. Walters: Aquaculture does include netpens. It includes oysters, geoducks.

Ms. Mitchell: How about "Encourage responsible aquaculture"?

Ms. Lohman: But you had "aquaculture expansion," and that's the part that I'm –

Ms. Jett: Yeah, I don't like that.

Chair Axthelm: What I was saying is aquaculture's an important part of Skagit County and – how do you put that? – in our culture, what we do here.

Ms. Rose: Could we go back to where it's part of our economic viability?

Ms. Hughes: Go back to what? I was just thinking go back to the section and review what was in there so it ties.

Mr. Walters: It's lengthy.

Ms. Hughes: Yeah. Of course. Just highlight the introduction or something so we can wrap our minds around it.

Ms. Lohman: But you could say that of all of our NRL industries, too. I think you just maybe list them all.

Chair Axthelm: Well, we're specifically addressing shoreline.

Ms. Lohman: Right, but ag's in the shoreline, timber's in the shoreline.

Chair Axthelm: Yep, yep.

Ms. Lohman: Aquaculture and fishing.

Chair Axthelm: So then could we put aquaculture – do aquaculture, agriculture. What things are affected by the shoreline? Just as a statement as far as our – as far as our reasons for actions and findings of fact.

Ms. Lohman: We could just leave it like that.

Chair Axthelm: Does that work? Okay. I didn't put the beginning statement in there. I just was trying to address the little bullet.

Mr. Raschko: _____ this thing – aquaculture expansion, and so obviously aquaculture expansion was an issue at some point in time we were going to address later and take it. Nobody can remember what it was so is it really appropriate to be adding this nice little sentence about aquaculture?

Ms. Lohman: Yes, because it's in our finding and we have a separate section for – we have a separate section for aquaculture, we have a separate section for agriculture, and we have a separate section for timber.

Mr. Raschko: But we don't have all those here.

Chair Axthelm: So what we were just addressing, the aquaculture expansion, we weren't – but here it's just saying we want to continue this. So –

Mr. Raschko: That's fine.

Ms. Lohman: It's semi-generic.

Ms. Candler: It must apply to our recommendation number 8 or something, but I don't think it needs to be huge or a huge part of our findings.

Chair Axthelm: Okay. Do we want to strike the statement?

Ms. Mitchell: I don't think we need it.

Chair Axthelm: Considering that it's taken care of otherwise.

Mr. Raschko: I really don't feel strongly about it. I was just wondering. It just seemed like we were filling a void with something because nobody could remember what the issue was.

Ms. Mitchell: I don't think we need it.

Chair Axthelm: Okay, just strike it. I guess we've got enough in there already.

Mr. Walters: You want to strike 7?

Female Commissioner: Yeah.

Mr. Raschko: But if you want to leave it, that's fine, too.

Mr. Walters: Oh, boy.

Chair Axthelm: Any objections to striking it? Annie?

Ms. Lohman: I think we need to leave it because the Shoreline Act itself has some pretty robust language and we're not addressing any of that in our findings, and this kind of does in a very generic way.

Chair Axthelm: So could we add a statement to the effect of keeping these industries viable or keeping these industries – it's important?

Ms. Lohman: I think you said that.

Ms. Mitchell: Do you guys remember back in number 1 where we said “recreational” blah-blah-blah-blah-blah – there’s other things that we listed? It could turn into a long list but you could just add aquaculture there and take care of it. If you guys want to address –

Ms. Lohman: But there’s a heck of a lot more in the shoreline than just the shoreline.

Ms. Candler: I don’t think anyone feels strongly about it being taken out if you want to just leave it. Does anyone object to leaving it?

Ms. Rose: I like it being there.

Mr. Raschko: Why don’t we make it more generic and have the sentence start with the word “Natural”?

Ms. Lohman: I guess I don’t want to be a generic.

Ms. Mitchell: Well, you could say “Natural resource industries like aquaculture are important parts of Skagit County’s – “

Mr. Raschko: If you feel really strong about it, I’m fine with it the way it is.

Ms. Lohman: I feel really strong about it because the shoreline designation is not just necessarily on the riverbank or on the beach. I mean, you’ve got all those other areas, and agriculture in particular went on the mat multiple years ago to have protection so that we could still do ag and protect our shoreline as well. So I don’t think it’s a minor event.

Chair Axthelm: So I need a motion here.

Ms. Candler: I move that we adopt 7 as written.

Ms. Lohman: Second.

Chair Axthelm: It’s been moved and seconded to adopt 7 as written: “Aquaculture and other natural resource industries are an important part of Skagit County’s economy and culture.” Any further discussion?

(silence)

Chair Axthelm: All those in favor of the statement as shown onscreen?

Multiple Commissioners: Aye.

Chair Axthelm: All those opposed, say “no.”

(silence)

Chair Axthelm: Okay. Do we have any other findings of fact or reasons for actions we wish to be added?

(silence)

Chair Axthelm: Okay.

Ms. Lohman: We can come back.

Chair Axthelm: At the top we had one that we hadn't finished addressing, I believe – number 2. Or did we already complete that? Do we want to address this one now or go back down to the recommendations and then come back to it?

Ms. Mitchell: Why don't we just get this over with?

Ms. Lohman: I think we should strike –

Ms. Mitchell: Yeah. As soon as we get into the costs and benefits that's going to hang everything up.

Chair Axthelm: Let's do it as a motion so we can get through faster.

Ms. Mitchell: I move that we strike everything after the word "concerns."

Ms. Jett: Second.

Chair Axthelm: Moved and seconded to strike everything after the word "concerns," so it'll state – number 2 states "Not all users can be reconciled amongst those concerns." Discussion?

Ms. Candler: There was some debate whether that was a statement of fact. I guess it could – Ryan indicated it could still be a reason for action. But I wouldn't be opposed to it not being there at all unless somebody feels strongly about it.

Chair Axthelm: Okay.

Ms. Lohman: I kind of agree with Tammy. I would move to strike the whole thing.

Ms. Mitchell: I'm fine with that.

Ms. Candler: I'll second that motion.

Chair Axthelm: Any other discussion?

Ms. Rose: I'm okay with striking it. I can go either way.

Chair Axthelm: Okay. So the motion was to – we'll just keep it easy. Just make a new motion, unless there's any further discussion. It sounds like everybody wants to strike it so far.

Ms. Lohman: Call the question.

Chair Axthelm: Okay. So all those in favor of striking the number 2, say "aye."

Multiple Commissioners: Aye.

Chair Axthelm: All those opposed, say “no.”

Mr. Raschko: No.

Chair Axthelm: Okay. Perhaps it’s not the perfect way to do it. Okay, so now we are at the recommendations.

Mr. Walters: So I would propose we accept my edits here which reflect just a consolidation of what it is we said before. Before it said something like 1, 4, 6, 8, and 9 from the letter, and I fleshed it out a little bit more. And then we’ll attach the map rather than referencing the letter so it’ll be all expressed here in the recorded motion.

Ms. Candler: I would move that we accept number 1 as written.

Ms. Lohman: Second.

Chair Axthelm: Moved and seconded to accept number 1 as written and shown with the edits onscreen. Discussion?

(silence)

Chair Axthelm: No discussion? Is there any objection to that – to the – to number 1?

(silence)

Chair Axthelm: Okay. Accept it.

Ms. Lohman: I move that we delete Skagit County Code 14.26.370, paren 4. This was regarding the Shoreline Public Access Plan that we don’t have.

Ms. Candler: Second.

Mr. Walters: Well, now wait a minute. What are you doing now?

Chair Axthelm: No, no. We’ve already –

Ms. Lohman: No. We’re agreeing that we want to do that.

Mr. Walters: Yes, but you already added all of this.

Ms. Lohman: Oh, oh. We’re only looking for the red ones? I have a black and white printer.

Ms. Candler: I move we accept the new numbering scheme.

Chair Axthelm: Can you roll back up to the top?

Mr. Walters: I don’t think there are any other –

Chair Axthelm: Has everybody had a chance to review the rest of them?

Ms. Lohman: Sorry.

Chair Axthelm: Or do we have any other additional recommendations to be added?

Ms. Hughes: Could we just quickly look at the findings of fact and reasons for action and see if we like the ordering of it, if it reads well, and doesn't kind of bounce around?

Mr. Walters: I can't fit it all on the screen but there are the first four.

Ms. Hughes: Okay.

Ms. Mitchell: Thank you.

Ms. Lohman: I think we should move the very last one to number 2.

Chair Axthelm: Mm-hmm.

Ms. Hughes: Okay.

Mr. Walters: Number 6?

Ms. Lohman: Yes.

Mr. Walters: We all want to do that – number 6 to number – moved up to be second?

Ms. Mitchell: That's fine.

Ms. Candler: That's fine with me.

Chair Axthelm: Any objection to that?

(silence)

Mr. Walters: Betsy has her hand up.

Chair Axthelm: Betsy, yes?

Ms. Stevenson: Just for consideration, do you want to say why you're doing this? That came up a lot: Why are we doing this? Is that something that you want to include?

Ms. Candler: Why are we doing –

Female Commissioner: Because they told us to?

Ms. Stevenson: Because the state's making us. And why are we updating our Master Program? Do you want to make reference to any of that?

Ms. Lohman: I think we should.

Ms. Candler: That might be a good number 1.

Ms. Lohman: That might be a good number 1.

Ms. Stevenson: You don't have to. I'm just asking.

Ms. Lohman: Yeah, I think that's a good point because there was a lot of comment and confusion on why we had to do this.

Mr. Pernula: Yeah, I was just looking at some of the state documents and basically what it said was the main reason is that the Shoreline Master Program that we adopted in 1976 was 40 years ago and there's been a very large body of scientific knowledge that's been produced since that time, and therefore, you know, we can come up with a much better Shoreline Master Program now than what our current one was. The second thing is that there's a lot of changes in the state statutes and regulations that we have to conform with. So I think those are two big reasons.

Mr. Walters: Also the shorelines have changed themselves. Also regulations should be updated at least once every 40 years, hopefully more frequently.

Chair Axthelm: Why should – should we be saying why we are doing this? Because really what we're doing is saying why we're making the edits that we are, or why we're – it's not –

Mr. Walters: Well, one of the elements of your recorded motion is a recommendation to adopt the plan, so it could be broader than just the reasons for that. Another reason to adopt the plan is that we will be streamlining permitting as a result. You will not have to get critical areas – a critical areas variance and a shoreline. You'll have one process. We will have some administrative processes to streamline, some permitting instead of Hearing Examiner processes. When are our other _____?

Chair Axthelm: So that should be added for a reason for action.

Ms. Lohman: Yeah, that's two.

Mr. Walters: It *could* be. I'm not saying it needs to be.

Ms. Candler: I think – my preference would be –

Ms. Stevenson: Your public process? I don't know.

Ms. Candler: My preference would be to just indicate the reason we're doing it is because it's required – however you want to word that – by the –

Ms. Stevenson: We can give you the RCW.

Ms. Candler: Yeah. I think it would be a good addition to just keep it very simple as to why it has to be done at all, and really simple. There's a lot of reasons – we might all have different ones – as to why we do the specifics, but it seems like a good idea to just say that we have to.

Ms. Mitchell: Right, especially considering the staff's going to follow up with their report after this when the transmittal goes to the Board of County Commissioners anyway, because what staff's going to do that's more meaningful to what the County has to do at that level is really

more their bailiwick than our reasons for doing it, although we acknowledge that they're there. I think Tammy's statement about keeping it short and sweet and about the RCW is a good idea.

Ms. Rose: I like the short and sweet but I think that maybe we make a reference to required but also because to make it more relevant for today. You know, because 40 years later it's not relevant. So that would encompass the science. That would encompass the changing shoreline. That would encompass changing values of people.

Ms. Candler: But it's a finding of fact and I think that assumes a lot, and I'm concerned about that. I'm going to make a motion at this point and then we can have discussion, I guess. But I'm going to move that we adopt this as finding number 1: The state of Washington requires the Shoreline Master Program originally adopted in 1976 to be updated consistent with current law.

Ms. Mitchell: Second.

Chair Axthelm: Moved and seconded. Discussion? I should say it's been moved and seconded to accept the statement number 1 as shown on the screen. Discussion.

Ms. Lohman: Can you just strike the 2 in front of the blue underlined?

Chair Axthelm: Mm-hmm. Any other comments?

(silence)

Chair Axthelm: Are there any objections to the statement as currently shown and edited?

(silence)

Chair Axthelm: Nope? Okay, accept it. Any other findings of fact?

Ms. Lohman: So, Tammy, you didn't want to get into the talking about the streamlining of the permits and variances and kind of harmonizing it with the critical areas?

Ms. Candler: I think all of those things were affected, fortunately, by this, but that's not the main impetus for why we're doing it and I just think it's a little bit superfluous. I don't think we need it.

Ms. Lohman: Can we go back to our list of recommendations, because I have a question? We referenced – and I went back and I read every single staff report before I came – and we referenced correcting the cite for the mitigation sequencing. And just for my own self, are we referring to the mitigation sequencing in the critical areas ordinance then? Is that what we mean by that – fixing that cite?

Mr. Walters: There was a – there was in some prior draft of the Shoreline Plan a mitigation sequencing section but we deleted that because there is already a mitigation sequencing section in the critical areas ordinance. But there were all these references to that section that doesn't exist anymore. So we are going to go through the plan and double-check every cross-reference anyway, but one of the comments pointed that out so that's why we highlighted that and why you added that recommendation.

Ms. Lohman: Because I actually went and looked for it. So it *is* the one in the critical areas, right?

Mr. Walters: Right. That's the only mitigation sequencing that's left.

Ms. Lohman: Okay.

Ms. Hughes: This is small, but should we put number 4 someplace else just because it is more of an action – this is what staff will do, rather than –

Mr. Walters: Maybe at the bottom of this list?

Ms. Hughes: Yeah, just so it reads smoother because we kind of are breaking up the thought process.

Chair Axthelm: Mm-hmm. Any other recommendations? Or – sorry – changes to the findings of fact or reasons for actions?

(silence)

Chair Axthelm: Okay. Have you had a chance to review the recommendations on your own? Is everybody okay with those? Or any further additions?

Ms. Lohman: The one Commissioner Hughes – is it – can you scroll slowly through our list – recommendations, rather?

Chair Axthelm: Do we need to make a recommendation to have this added to the Comprehensive Plan or does that just happen?

Mr. Walters: No, that's part of the proposal.

Chair Axthelm: Okay.

Ms. Mitchell: And when would that happen? In the future, as in – not retro but –

Mr. Walters: No. When it is adopted by the Board.

Ms. Mitchell: Okay.

Mr. Walters: The policies go into the Comp Plan and the code goes into the code.

Ms. Lohman: So are we really at the end?

Mr. Pernula: You're at the end.

Ms. Stevenson: The beginning of the end.

Chair Axthelm: No, because it still has to go back through – what's the process from here?

Mr. Pernula: It's got to go to the state.

Ms. Stevenson: It'll go to the County Commissioners and then they'll kind of provide a letter of this-is-an-intention-to-adopt-somehow, and then we will send it to the state. I mean, they'll look

at your recommendations and consider things. I don't know in terms of process what – I haven't talked to them how they necessarily want to –

Chair Axthelm: So we could have a little back and forth still.

Mr. Walters: Well, I think what we anticipate is taking your recorded motion to the Board; having the Board tell us, Go make all the changes to the plan that are in the recorded motion. We will also proofread the whole thing and then we will bring it to them. They will adopt it by resolution, which will have no effect except to say, Yes, this is the one we like. And we'll send it off to the state. When it comes back from the state, they will assumedly have changes. We'll have to work those out. We will probably also have to have another comment period and then ultimately the Board will adopt it by ordinance.

Chair Axthelm: With the Commissioners, not with us, so we'll be done with it. Or does it come back to us again?

Mr. Walters: They could send it back to you but unless there are major changes I'm assuming they won't. And the Board's adoption of it by ordinance is not effective until Ecology then formally approves it.

Ms. Lohman: So would Ecology have comments, too, or just Skagit County somehow have a comment period?

Mr. Walters: Oh, will Ecology also have a co – yeah, Ecology also has a comment period, I think after the Board adopts. Is that right, Betsy? I think so.

Ms. Lohman: Can you guys find that out and send us kind of a map on how this is going to go?

Ms. Stevenson: It will be after they adopt. I just wanted to make sure.

Mr. Walters: Yeah, we'll include it to the memo to the Board.

Ms. Mitchell: Do you guys anticipate that the Board of County Commissioners will have their own pieces that they'll add when they send it to Ecology?

Mr. Walters: Other than what you – your rec –

Ms. Mitchell: Yeah.

Mr. Walters: No.

Ms. Mitchell: Okay.

Mr. Walters: I think that's what they rely on you for.

Ms. Mitchell: Okay. So is there any advantage for us having added the pieces like streamlining the permits and those kinds of things?

Mr. Pernula: The Board will understand that. We'll let them know.

Ms. Mitchell: Okay.

Mr. Walters: Oh, you mean the recitals. Oh, yeah. We will draft up a whole bunch of recitals for the Board.

Ms. Mitchell: Well, I figured you would because you know everything in and out that's going to be advantageous. So okay.

Chair Axthelm: Okay. Any further comments?

Ms. Mitchell: I've got one little comment.

Chair Axthelm: Okay. As far as findings of fact and recommendations?

Ms. Mitchell: Yeah, the finding of fact is I'm really proud of all the new kids for jumping in and putting as much as they could into this right at the beginning of this, because this is a big, big project.

Chair Axthelm: Okay. So all those in favor in the recorded motion as we have edited this evening –

Mr. Walters: We need a roll call vote on that one.

Chair Axthelm: Okay. I'll try to remember. It's been a while.

Mr. Walters: We could roll up from the bottom here.

Chair Axthelm: So as a roll call vote –

Mr. Walters: Would you like me to call the roll?

Chair Axthelm: Yeah, okay let's start – yeah, start with Martha on the bottom of the list.

Ms. Rose: I support.

Chair Axthelm: Support?

Ms. Rose: Yes.

Chair Axthelm: Okay. Tim?

Mr. Raschko: Support.

Chair Axthelm: Kathy?

Ms. Mitchell: Support.

Chair Axthelm: Kathi Jett?

Ms. Jett: Support.

Chair Axthelm: Amy Hughes?

Ms. Hughes: Support.

Chair Axthelm: Hollie Del Vecchio is absent. Tammy Chandler?

Ms. Candler: Candler. Support.

Chair Axthelm: Candler – sorry. Annie Lohman?

Ms. Lohman: Support.

Chair Axthelm: Josh Axthelm – support. We have it. Recorded motion approved.

Ms. Hughes: Do I see a smile on Betsy's face?

(laughter)

Ms. Stevenson: I can't believe it! Good work, you guys. Thank you for sticking with it and sticking with us to get it done.

Chair Axthelm: Thank you for listening to us.

Ms. Mitchell: Thank you for helping us through.

Ms. Stevenson: Of course. It's actually been a pleasure.

Ms. Mitchell: Especially when you were having to repeat things for us, thank you again.

Ms. Stevenson: And vice-versa.

Chair Axthelm: So next item on the agenda is Department Update.

Mr. Pernula: I don't have much to say. First of all, this is really a big deal. You know, as I mentioned earlier, this has been in effect – the current plan – since 1976, with a few modifications but mostly intact since 1976 – 40 years. I looked to see when the Update was initiated, and the notices went out in May of 2011 and there was probably some work before that, so it's been like 5½ years. That's a big effort. It's gone through three complete reviews by the Planning Commission, including the last one. Finally you're done. It's a pretty big deal, particularly when you had the Comprehensive Plan simultaneously at the end. That's pretty good. But you all know that you've been very, very busy for the last six months. This is going to be your only meeting this month. We don't have anything right away to go to the Planning Commission yet for late this summer or early fall, so we will let you know when we're ready to present something to the Planning Commission. So you had a big body of work and now you can have some time off, I think.

Ms. Lohman: Dale, a while ago you sent out an inquiry of whether we wanted to meet with the Commissioners, and I never heard anything back.

Mr. Pernula: That's right.

Ms. Mitchell: Yeah. And we're eager to.

Mr. Pernula: Okay.

Ms. Rose: I didn't hear any of that. What'd you say?

Ms. Lohman: Dale had sent out an inquiry if we were going to meet with the Commissioners.

Ms. Rose: Oh, okay.

Ms. Lohman: But we never heard anything back.

Mr. Pernula: We'll work on scheduling that.

Ms. Mitchell: Thank you.

Mr. Walters: The next project that you'll be seeing is the CFP, the annual CFP update. That will come out before your next meeting, I think, in the first week of September, and you will have a red line version from the previous version. And it will be significantly shorter than before because in the Comp Plan Update we picked up all the narrative from the annual document and put it into the Comp Plan itself. So you should only see in these annual documents now the stuff that changes. But just FYI –

Mr. Pernula: Do we have a hearing date on that?

Mr. Walters: No, but it will happen, I think, before your next meeting. It will go out for public comment.

Ms. Mitchell: Boy, September comes around fast.

Chair Axthelm: Anything else?

Mr. Walters: But take the rest of the month off!

Chair Axthelm: Anything else from the Commission – or from the Department?

Mr. Pernula: No. I've been looking for some Short Courses locally, but none have been scheduled. The closest ones are south of Seattle. That's all I've got.

Chair Axthelm: Planning Commissioner Comments/Announcements?

Ms. Rose: I just want to reconfirm something you told me last time we met, Josh, which is that the typical meetings are the first and third –

Chair Axthelm: Yes.

Ms. Rose: – of the month – weeks.

Chair Axthelm: Well, typical is the first and then if we have to do an additional we usually do it on the third.

Ms. Rose: So usually it's once a month instead of three or four times? Nice!

Chair Axthelm: That's what it's supposed to be is once a month.

Ms. Rose: Okay, because I made a commitment for the second Tuesday of every month and I just wanted to confirm that I don't get hit – you know, that that's not a conflict.

Ms. Mitchell: And congratulation on your commitment.

Chair Axthelm: Occasionally, like this one, we have to reschedule and – things happen.

Ms. Rose: So that'll just have – yeah.

Chair Axthelm: The ideal is to have one! Okay. Good. Anything else?

Ms. Lohman: On Planning Commission comments?

Chair Axthelm: Yes.

Ms. Lohman: This has nothing to do with anything we've done, but we just completed our Skagit County Fair and I just wanted to put a shout-out to Parks & Rec – those people are awesome – and all the volunteers that they had: parents, community volunteers, all the kids. It takes a *huge* team effort. And if you didn't go, you really missed something a lot of fun.

Chair Axthelm: And I'll echo that. My – I had six kids at the fair. From my family we had, let's see, seven goats, 17 chickens, and two horse – well, a pony and a horse. So a very, very busy fair! But it ran smoothly and I really appreciate what went into it.

All right. So with that, I guess – any objections to adjourning? No?

Mr. Raschko: Go for it.

Chair Axthelm: (gavel) Meeting adjourned.