

Skagit County Planning Commission
Workshop: Updates to Preliminary Subdivisions Code
Workshop: Updates to Stormwater Management Code
December 5, 2017

Planning

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

Staff: Ryan Walters, Assistant Planning Director
Stacie Pratschner, Senior Planner

Public Remarks

Commenters: Carol Ehlers

Public Questioners/

Commenters: Ellen Bynum, Friends of Skagit County
Carol Ehlers

Chair Tim Raschko: (gavel) Good evening. I'd like to call to order this December 5th, 2017, meeting of the Skagit County Planning Commission. I presume everybody's seen the agenda and I'd like to address the agenda in one way. Tonight what we'd like to do is have public comment at the beginning. That comment could be for whatever, as is usual, but there'd be a second opportunity on each of the two workshops. What we'd like to do is offer – after staff is done making the presentation, offer the public the opportunity to comment on those particular subjects, so and then we will deliberate. So if you have comments regarding items 3 or 4 on the agenda, please wait until we're at that part of the meeting to make those comments.

Are there any other issues with the agenda?

(silence)

Chair Raschko: Just one other note: I asked to sit this way tonight and I'd like people's feelings on whether it would be acceptable going forward at general meetings. My own feeling on it is that it's really a meeting of the Commissioners – is that what we're called? – the Planning Commissioners, and I feel it's a meeting in which we're supposed to be talking to each other. I find it difficult to sit there and have to look 20 feet, 90 degrees to the right or the left to talk to somebody, and it feels more like you're talking not to your fellow Commissioners. And if nobody

objects to it, I don't mind going forward this way for general meetings as well. Is there any opinions on that?

Tammy Candler: You mean other than public hearings?

Chair Raschko: Other than public hearings.

Ms. Candler: I have no objection.

Chair Raschko: Okay. Thank you. So we'll have Public Remarks.

Carol Ehlers: If someone could turn the machine on. Thank you. Carol Ehlers, West Fidalgo Island. I agree with your desire to talk to each other very much. It's difficult to sit up there. But please remember that anyone that's sitting *there* has trouble hearing because this room is dead. The room is designed for the television. It's not designed for anyone sitting in it, as you know, because you've sat in it at one point or another too. So that wasn't what I intended to comment on, but thank you.

Now in everything I'm reading lately I see something really big that seems to be left out, and that applies to discussion about land and drainage and geology. There was an article in the paper the other day about a rain garden on Bayview, in which it said the rain garden captured all the water. Well, it did, but it focused the water to go into the ground at one spot. There is a tendency on the part of many documents, especially from the Department of Ecology in the stormwater management, to think that when you capture the water it stays there. But it goes somewhere, and the problem is where. Now there are people who think – road engineers think that the aquifer's about 12 to 15 feet deep, but here's an example on West Fidalgo Island which is not uncommon where the internal part of the island is 400 feet elevation. This is sea level. This was Jones Canyon. There's a development up here. And as you see, there's layers. Each glacial movement that moves south and then thawed north – moved south, thawed north; there were six of them here – left a different arrangement of sand, gravel, rock, and peat plants. It's not predictable. It's not in layers that are like a well-cut layer cake. If you ever saw a layer cake done by a beginner who didn't know how to cut the layers level, it's much more like that. You can have water in one place. There's a story up there where one family has more water than they know what to do with. The chap next door wants some of that water and wanted the well drillers to drill into *their* property for *his* well, but that's not legal. He can't do anything with his property because he –

(sound of bell)

Ms. Ehlers: – doesn't have water. So it's layering, it's unpredictability, and it can be very dangerous. This canyon blew out in 1990.

Chair Raschko: Thank you. Does anybody else wish to speak?

(silence)

Chair Raschko: Okay, so I'll move on to agenda item 3, Workshop to discuss updates to Skagit County Code chapter 14.18, Land Divisions.

Stacie Pratschner: Thank you, Commissioner. This first workshop item this evening is a proposal to provide additional time for short plats and plats to reach final approval that are

currently not able to obtain legal access to water, and this would be pursuant to the *Swinomish Tribe v. the Department of Ecology* Supreme Court ruling in 2013. This is the ruling that held that Ecology did not have the authority to reserve out-of-stream year water use that would impair the minimum instream flows that were set in 2001.

This 2013 ruling has affected two subdivision projects. The first is the Theodoratus short subdivision, which is a four-lot short plat in the RRv zone, and then the Madalyn Estate subdivision. This is an 11-lot plat in the Rural Village Residential zone. Both plats were granted preliminary approval with water that had been verified. I would like to note for the Theodoratus short plat: You see there's a table on the second page of the staff report that gives a snapshot status of each project. That project came in in March of 1997 and then was issued what was called a status letter in April 1997. In the late '90s the status letter was the County's equivalent of a preliminary plat approval. The applicant at that time after April '97 continued to work on the project, installing the public improvements that were required, but then was informed by the County in 2013 that the project, in fact, had expired. That decision was appealed and the County then granted a preliminary approval – in essence, a second preliminary approval – in 2014.

Madalyn Estates has already been granted the five extensions that are currently allowed by the current construction in the code, and so that means that both of these projects are going to be set to expire within the next about four months.

The Department at the request of the Board would propose a code amendment that would permit projects affected by that *Swinomish* ruling a total of up to 10 extensions, and that would grant these folks more time to work with Ecology to get legal access to water so that they can then reach final plat and finish up these projects.

Included is Attachment 1 in the staff report – is the draft work schedule that we've put together for the amendment. We would be looking at targeting a date of early February 2018 for adoption of this code amendment. That way we're not bumping up too close to that March deadline for these projects.

That's my very brief introduction. I'm happy to answer any questions and start discussion with the Planning Commission.

Chair Raschko: Okay. Before doing that –

Ms. Pratschner: Thank you.

Chair Raschko: – does anybody wish to speak to the subject?

Ellen Bynum: Ellen Bynum, Friends of Skagit County. I haven't looked at the details of both of those projects but I – somewhere in the back of my mind I remember that we did an appeal where there was a ruling that ties the original permitted project to the code and laws at the time the project is implemented. So I would ask that you, as Planning Commissioners, get information from your legal and also staff on whether that still applies depending on what changes you make to this code.

The second thing I want to say is, with regard to this, obviously we're going to have some other changes that are upcoming and I still want to make the plea to have the Planning Commission

either organize themselves in some kind of work groups – smaller work groups – by topic or by – possibly by part of the code, and work with the staff to have a little more in-depth discussion and understanding before you come in to do your workshop. Thanks.

Chair Raschko: Thank you. Okay, we'll open this up to discussion.

Kathy Mitchell: Oh, hold it. Carol's there.

Chair Raschko: I'm sorry.

Ms. Ehlers: To follow up on that, please find out when he started that plat because back in 1994 there was a session, a statewide session, dealing with water and George was taking the lead in a lawsuit to try to get predictability. As is typical, no builder in this state bothered to back him. They didn't understand the significance. There is a document, a collection of documents, that I gave Lisa Janicki almost a year ago that came from that session. And so there is a history of his – I don't know if it's exactly *this* plat, but there's a history of him trying to do things all the way back in 1990, and I think there ought to be an opportunity to get something finished if it fits with what Ellen is talking about.

Chair Raschko: Thank you.

Ms. Pratschner: Commissioner, I believe I can answer the first part of the question that was posed by Ms. Ehlers. This project – Mr. Theodoratus applied for this short plat in March of 1997, and I understand from the records and the file that he then began to install improvements after that status letter was issued, yeah, in April. And so at this point on the plat, the roadway and detention facilities are complete to serve the four lots. Thank you.

Chair Raschko: So we'll open this up to discussion. Has anybody anything to add?

Annie Lohman: I have a question. Besides these two, are there any others that would benefit from this extension?

Ms. Pratschner: We ran a report using our permit tracking system and as far as we could find, these are the only two projects that would be affected.

Ms. Mitchell: I'd like to make a comment. I don't see any downsides to doing the extension unless you guys could explain if there are any.

Ryan Walters: There are *some* downsides, and thank you for asking because it's important to examine the alternative points of view. Generally we want a limited time of approval for subdivisions because we – and *all* permit applications – because we have a set of standards today and those standards evolve over time. As you recall in the process that we had for adoption of marijuana regulations, there was a prior set of regulations, then you wanted to develop a different set of regulations and there was some concern over the fact that people were operating under prior sets of regulations that wouldn't be touched by the new set of regulations. So we generally want a limited time of approval – and State law sets out limited times of approval for especially subdivisions – so that you apply for, receive approval under a set of regulations, and in some limited amount of time complete the subdivision and are able to sell the lots.

A couple of years ago – maybe five years ago – the Board of County Commissioners expressed a lot of concern about the fact that we had a large number of old subdivisions that no one had ever done anything with after receiving preliminary approval. And preliminary approval was very informal 10 or so more years ago.

Ms. Pratschner: The status letter.

Mr. Walters: Yeah, just a status letter instead of the formal process that we have now. So the Board directed us to create a code provision, which we ultimately did, that allowed us to expire because there was no way to expire those old applications. And we did that with almost all of them; I think the Theodoratus subdivision is one of the only remaining ones from that era – because we recognized that the public expects subdivisions that occur today to basically be approved under today's rules or rules from two, three years ago, not rules from 20 years ago. On the other hand – to argue the other side again – this subdivision is complete (and) would be finally approved except for the fact that it has lost access to drinking water. And the Board of County Commissioners feels like that's an unfair situation and would like to extend the time to give it one more chance to get legal access to drinking water. Now we don't know what the likelihood of success is there, but by –

Ms. Mitchell: At least they'd have a time slot to try.

Mr. Walters: They'd have additional time.

Ms. Mitchell: Thank you.

Mark Lundsten: What is the plan –

Chair Raschko: You just turned it off.

Mr. Lundsten: I did?

Several Commissioners: Yes.

Mr. Walters: I actually don't think the buttons do anything.

Mr. Lundsten: This refers to the *Hirst* decision, right?

Ms. Pratschner: This is pre-*Hirst*.

Mr. Lundsten: But I mean the *Hirst* decision has caused the problem with the permit with the plats. Is that right?

Mr. Walters: Actually no. Do you want to take this? The *Hirst* decision affected the entire state.

Mr. Lundsten: Mm-hmm.

Mr. Walters: It affected Skagit County just as it affected the rest of the state but, in effect, Skagit County was already in the position that the *Hirst* decision brought the rest of the state to because of the 2013 *Swinomish v. Ecology* decision.

Mr. Lundsten: Okay. Okay.

Mr. Walters: It's a different –

Mr. Lundsten: It's a different legal, but it's a – it's a legal decision –

Mr. Walters: Yes.

Mr. Lundsten: – that has caused these permits to be in jeopardy basically. And you – is that – that's –

Mr. Walters: Only because they don't have a legal source of water as a result of that decision.

Mr. Lundsten: Gotcha. So it's – what are you – what is the plan to figure out what to do with this? Is this – what is the staff going to do? What is the County or the State going to do with this that affects what we will decide in three years, two years? What's the timetable and what is it that's going to be done?

Mr. Walters: That's a very good question.

Mr. Lundsten: Good.

Mr. Walters: I anticipate within the next five years that the County will amend its water code, which may offer some opportunity to fix this problem. But amendments to the water code are not going to make more legal water available. What could be a real solution to at least one of these plats is mitigation measures that the Department of Ecology is supporting and attempting to get into place. I'm not sure that they would be available for the Theodoratus plat, just based on what I know about the location and ____ availability of these measures.

Ms. Pratschner: I do understand the applicant is in discussions with Ecology right now looking at options. But your point is taken that we don't have – we don't have a solution yet at the State level.

Mr. Lundsten: Or at the County level obviously.

Mr. Walters: Right.

Mr. Lundsten: So we're buying time.

Mr. Walters: Yes.

Mr. Lundsten: This is buying time and we don't know what's going to happen, and we're just hoping we can figure something out. Right?

Mr. Walters: Yes.

Mr. Lundsten: Okay.

Josh Axthelm: So why do we give 10 years instead of just five years?

Mr. Walters: This would double the number of extensions they have now, and five years is still a long time. We just thought that that was a sort of reasonable yet somewhat arbitrary number.

Ms. Candler: And why is the cutoff April 1st, 2014, as far as submission?

Mr. Walters: Those dates isolate these two plats. They're sort of a complicated date scheme in the code right now and those dates help us address these two plats.

Hollie Del Vecchio: Are there other projects that are close to the time – that timeframe? Or –

Mr. Walters: There are other projects –

Ms. Del Vecchio: – folks that are now – no. They've expired, but how many folks would have the argument, though, that, Well, had this been in place before, I wouldn't have expired? And therefore we should – we pull them back out of –

Mr. Walters: Right. We're trying to not affect expired plats, because ones that are expired –

Ms. Del Vecchio: Okay, but I want to – how many are going to be really upset because they missed the deadline by months or days or –

Mr. Walters: Those plats that expired didn't do the work to build the infrastructure – weren't caught by the water problem.

Ms. Del Vecchio: Okay.

Mr. Walters: You know, they just – they didn't pursue their plat.

Ms. Del Vecchio: Okay.

Mr. Walters: Then there are other plats that got all the way through to final approval – so the subdivision application is done; it's been finalized – but now they subsequently lost access to water. And then there are people that built houses and subsequently – subsequent to legally permitting houses lost access to water. So there are a lot of people caught in the water trap. This is only one subset of those applicants.

Ms. Del Vecchio: No, I'm just thinking sticking to this subset – you know, these types of applicants – is there anybody that was – they just – I think what you're saying is that no, other than these two they expired for other reasons.

Mr. Walters: Right.

Ms. Del Vecchio: Okay.

Mr. Walters: Yeah, there're other plats that have preliminary approval but they are not going to expire soon and we don't anticipate they're going to have this water problem.

Ms. Del Vecchio: Okay.

Mr. Axthelm: So what infrastructure is in in these and what issues do you see with that?

Ms. Pratschner: The Theodoratus short plat, the roadway and the stormwater detention facilities have been installed. For Madalyn Estates, that's 11 lots. They have access to lots 10 and 11 partially complete. There hasn't been any infrastructure completed for lots 1 through 9 yet. As far as problems for them, certainly the water and we don't see an ultimate solution at this point. So I think is – we've been discussing this is a way to buy these applicants time to get to that solution and then hopefully to finish installation of improvements. Theodoratus is very close, though. Thank you.

Mr. Axthelm: The concern I would have like with the detention facilities, the science has come a long ways for that and there's been a lot of upgrades as far as detention and retaining the water onsite. So even though they're grandfathered in, how long do you extend that and give them the option to have that detention facility that potentially could hurt?

Mr. Walters: So that is a good example of one of the reasons we don't want these plats to be extended forever.

Mr. Axthelm: Yeah.

Mr. Walters: And under our NPDES permit – and I don't think this is an NPDES area – but under our NPDES permit we are limited on how long we can extend plats and other types of applications like building permit applications. I think the date is 2022. If they haven't started construction, we have to apply the new rules. So there's a recognition sort of statewide that we need to be applying somewhat current stormwater thinking to these applications. However, for the Theodoratus plat, which is the oldest one, there's only four lots so it – and that they're on five-acre parcels – so it's a – they will have a lot of room on their parcel to site each building, each residence, that occurs there, and each residence will comply with the current stormwater rules.

Ms. Mitchell: When it says here you guys are looking for feedback from us, are you looking for a straw poll or just the questions at this point?

Mr. Walters: No, we're looking for feedback so that we can construct the proposal.

Ms. Candler: Are there – I mean, I assume the answer's no, but are there other avenues for relief for these applicants? Like, can you resubmit an application but you just have to be under the guidelines much, much later? How does that work? Is there another option?

Ms. Pratschner: Well, there was the interim ordinance that was put into play, and that was for the benefit of the Theodoratus and subdivisions that had been affected like that. But we did consider re-upping an ordinance every year, but I think we landed that that wouldn't be appropriate.

Mr. Walters: But I think Commissioner Candler's question is, Could they resubmit a new preliminary approval? And on Theodoratus the answer is no because that plat is done with five-acre lots, which is not available today. You can't do a five-acre lot subdivision. You can do a 10-acre lot subdivision in Rural Reserve – it's Rural Reserve, right? – or you can do a CaRD with maximum one-acre lots. They could get more density actually if they submitted a new application today, but they couldn't do five-acre lots and then the infrastructure they've built to those lots – roads, et cetera – wouldn't really work because they don't go to the one-acre lots you'd have to design today. So that one can't. The other one, I think, could submit a new

application. I don't know of any bar to doing that. But they wouldn't – it'd sort of just be a paperwork exercise, an additional process, because they'd be right back where they are today. They might not actually even be able to achieve preliminary approval because we'd be looking for water before preliminary approval.

Ms. Candler: So it sounds like for both, under the current rules, they'd be declined and – for one for the water, and the other would be – have to be reworked in terms of the infrastructure in order to be approved. Is that accurate?

Mr. Walters: Let me rephrase it. If both expired and then water appeared tomorrow, the Theodoratus application could not be resubmitted in its current form because you can't do the five-acre lots. The other plat, I believe, could but they'd have to go through the process again. But the logical outcome of the process would be the same approval that they have today. So we don't want to make them go through that process if it doesn't add any value.

Ms. Mitchell: And if I remember right, I've – not too long ago, the Board of County Commissioners on other things said that they would like to streamline processes to make them easier rather than doing unnecessary paperwork. Is that correct?

Mr. Walters: As a general matter.

Ms. Mitchell: Right, in a general – okay.

Ms. Lohman: I have a question. Sorry about the cough. I didn't cough for a long time until I got here! My question was, You mentioned that one solution would be to amend the water code, so what do you envision there?

Mr. Walters: I don't know that that actually will be a solution. What I envision is that in the next five years we will amend the water code because the water code is very out of date. It doesn't take into account any of these recent Supreme Court decisions or other events, and arguably is not internally consistent. But unless some other intervening event occurs, I'm not sure that us updating the water code fixes the problem. All I'm saying is that we know that will get updated in the next five years so things could happen in that vein to help fix these problems.

Ms. Lohman: And that five-year is a drop-dead date, so if the legislative wheels are turning but they're not completed then, they're out of luck. If they expire –

Mr. Walters: We could do this again.

Ms. Lohman: But these two applicants – say they expire but the legislative wheels are just turning kind of too slow and it hasn't reached the end zone yet but it's progressing, what happens then?

Mr. Walters: If they are expired – if they ever expire, we would consider them dead. We would not be rejuvenating –

Ms. Lohman: That's regardless of what's going on.

Mr. Walters: Yes, however –

Ms. Lohman: It's a hard date?

Mr. Walters: This process – well, it's the date that is in the proposal.

Ms. Lohman: But it's a hard date.

Mr. Walters: Yes. It's five extensions. Yes.

Ms. Lohman: With a hard date.

Mr. Walters: What meaning do you –

Ms. Lohman: Well, I've never seen the legislature operate in a timely manner, if you will. They take their time and it's a roll of the dice whether anything happens. So I could see where something might be – you know, it's just taking too long to get there but it's progressing towards a solution?

Mr. Walters: Yeah. So if in five years from now we think we are on the cusp of some water breakthrough, these plats would be on a course to expire but the Board of County Commissioners could extend them further through legislative action. Once this proposal is adopted, no further legislative action from the Board would be required to get them those five extensions. They would just have to request them each year.

Ms. Lohman: Okay.

Mr. Walters: But then there would be that public process associated with the legislative action.

Ms. Del Vecchio: So you mentioned – this was my earlier question – this is a subset, obviously, of the folks who are being affected by the water situation. I mean, this is – we know there's a lot more than two, right? So what is the justification for providing some extra leeway for these folks when we're not making special provisions for everybody else?

Mr. Walters: Well, take, for example, the – I think it's 485 households that were caught between the 2006 instream flow rule and the 2013 Supreme Court decision that revoked the 2006 instream flow rule. That period saw these 485 households within the instream flow rule area apply for, receive legitimately approval under the laws that were in place at the time – approval for their wells that went in. Now, as a result of the Supreme Court decision, they do not have a legal source of drinking water; however, neither the County nor the Department of Ecology nor anyone else, including the litigants in the Supreme Court case – no one is saying that they have to quit drinking the water out of the well. And the Department of Ecology is working for solutions that involve mitigation, that involve no cost to these 485 households to try to fix that problem, because there is some realization that those people, through no fault of their own, are caught in the bite. So I wouldn't say that this thing that we're doing here is a very special case. We are trying to treat everyone who was caught in that situation with as much fairness as we can provide because we recognize the unfairness of the situation that we're caught in.

Now there's a whole bunch of different groups. Those building permit applicants who built and got legal sources of water. There are other applicants who built prior to that period of time who maybe built on somewhat questionable sources of water – not drilled wells, but dug wells, you know, or other surface water sources – maybe didn't have water rights. There are people who

owned property who didn't build who thought they would be able to build who now can't. And so each one of them we are looking for – there's a different set of solutions for each one of those groups. And this group is a very small group because it's only two subdivisions that fit into this group. As I mentioned before, there's another group of subdivisions that have received final approval and they have lots that they can sell, but each lot doesn't have water. And we're trying to find solutions for each one of those, but the solutions all look different. So I don't think it's a question of these are receiving special treatment. They're receiving different treatment because they're a different class of entity that were affected by the lawsuits and the instream flow rules. But we're trying to work on all of them.

Ms. Del Vecchio: Thank you.

Ms. Mitchell: If you want to add to your feedback, I think you guys are – the County's trying to do the best they can and I think that's the right thing to do.

Chair Raschko: Anybody else?

(silence)

Chair Raschko: So is there any next steps?

Mr. Walters: I think Stacie can address the next steps. As you saw, though, the code proposal is very short. We think that this can be addressed in one paragraph. And it only affects two subdivisions. And, based on your comments, we'll go back, you know, and look again to make sure that no other subdivisions are in our records that we should be thinking about. Otherwise, we do have some deadlines and a schedule to make this work and making sure it works for these applicants.

Ms. Pratschner: Yeah, what I've got scheduled at this point is for the Department to work on the release package, SEPA, Commerce, and the draft code, and then come back with a public hearing in front of the Planning Commission in late January.

Chair Raschko: Okay.

Mr. Walters: And your deliberations would also be in late January.

Ms. Pratschner: Thank you. Yeah, a week follow-up to have deliberations after that public hearing.

Mr. Walters: If there are substantial public comments, we might not be prepared for the following week but otherwise we would hope to move it forward the following week because it is only one paragraph and only affects two applicants. Because we do have a drop-dead date for one of them.

Ms. Pratschner: Both of them are early March.

Mr. Walters: Both of them are early March?

Ms. Pratschner: Correct.

Chair Raschko: I'd like to agree with what Kathy said. I think It's heartening that the County is doing what they can to help these people. I just hope that equal effort goes into all of the other people who are affected by the same issue but in different ways. Anybody else?

(silence)

Chair Raschko: Okay. Are we ready then to move on to item 4? Okay. Item 4 is a workshop to discuss updates to Skagit County Code chapter 14.32, Stormwater Management.

Ms. Pratschner: Thank you again, Commissioner. We've held two previous workshops on the proposed updates to the Stormwater Management chapter. Those were in August and September, so I guess it's been a little while since we've discussed some of these. At that time we had discussed the regulatory framework for the County's NPDES permit – that's our municipal stormwater permit – and also how the purpose and the reason for these code amendments is to provide some prescriptive stormwater standards for developments that are outside those NPDES Phase II permit areas. And you can see from the quick map we put together in the staff report that that's a lot of the county that is not in those NPDES Phase II areas to provide some prescriptive elements since they aren't necessarily subject to the strict requirements of the 2012 Stormwater Management Manual.

With this package this evening, what we're proposing is to take out the updates or to take out the land disturbance chapter that we're writing – take that out of the rural forestry initiative and the adoption of the Class IV Forest Practices-General – we had a workshop on those way back in June – to separate out the land disturbance updates from that suite of legislative amendments and to have it go with the stormwater amendments instead. There's a couple of reasons for that. We anticipate that the stormwater amendments may move a little quicker through the process than the rural forestry initiative and the adoption of the Class IV-Gs, and also because the Stormwater Management chapter updates involve references to that land disturbance chapter. So we thought we would propose having both of them go together and ideally be adopted together at the same time. So the staff report has a draft – the most updated draft of the land disturbance chapter and then also the stormwater management updates.

Mr. Walters: And to tag onto that, also we got feedback from the Forestry Advisory Board that they didn't like the idea of land disturbance –

Ms. Pratschner: Thank you.

Mr. Walters: – moving forward as the same time as forestry, although it has to in order to get the Class IV-General thing – jurisdiction – changed. And when we presented this – the last time we presented to the Forest Advisory Board about the rural forestry amendments, we told them that we were planning to take it out and put it into stormwater and they said, you know, great. It has to happen. It has to happen either before or at the same time as the other but they'd rather it not get bound up with the discussion about rural forestry.

Ms. Pratschner: Yeah. Thank you, Ryan. The land disturbance chapter – what was also included with the package is – the purpose and intent of that chapter is not to create a whole suite of new regulations or a new permit requirement. The land disturbance chapter – the creation of these clearing and grading ordinances will hopefully harmonize the requirements that people are already required to meet in code. And so you have critical areas requirements through chapter 14.24. You have floodplain management requirements. You have stormwater

requirements. You have the requirement for a grading permit which is administered pursuant to Appendix J of the building code right now. But having one holistic clearing and grading ordinance, one land disturbance chapter will create one permit pathway to cover all those requirements for any land-disturbing clearing, grading, grubbing activities that do meet the thresholds for requiring a permit.

With the Stormwater Management chapter, you'll see that we have proposed to take away the table that we were originally designing to provide some of those more prescriptive elements where people did not have to meet the strict requirements of the Stormwater Management Manual. The table was becoming unwieldy, we thought, and so we have gone ahead and just listed the code requirements and not included that table.

That's my introduction for this particular workshop item. Happy to hear comments from the Commissioners. Thanks.

Mr. Walters: And if I could tag on just one other thing: We anticipate as a result of this proposal to be able to get rid of the separate flood permit requirement that we currently have because this permit would apply to all places the flood permit would apply. And right now the flood permit doesn't capture everything it's supposed to capture and in some cases is just a paperwork exercise that doesn't really serve a purpose. So we think we can be more effective with this permit and then get rid of a separate permit basically by supplanting it with this. And we're planning on flood code updates during 2018.

Chair Raschko: Can you describe this flood permit?

Mr. Walters: We are required under the National Flood Insurance Program to have a permit process for all development – and development for the Flood Insurance Program is defined very broadly – that occurs within the floodplain. So right now we charge 100 bucks for this permit. That permit, I think, it captures a lot of the things that occur in the floodplain. It captures more than just the buildings. If we were only concerned about buildings, we already have building permits and we could integrate the flood requirements just into the building permits. But other things that happen within the floodplain, including clearing, are supposed to be captured by the flood permit. And it's not currently really serving that purpose but it needs to. And one of the reasons it needs to is because subsequent to us adopting the flood permit and implementing that requirement of the National Flood Insurance Program we got the FEMA – or the NMFS, the National Marine Fisheries Service biological opinion that said that the National Flood Insurance Program isn't protecting endangered species the way it should and is, in fact, incentivizing the destruction of endangered species. That led to a round of flood code updates a couple of years ago to try to deal with that.

We achieved through that update something called "Door 3," which is one of the three possible avenues that we can take to comply with the National Marine Fisheries Service, the NOAA Fisheries biological opinion. We may or may not be satisfied with Door 3, but the Department of Ecology, which implements the FEMA flood insurance program, would like us to make further changes to our flood code so we need to do that next year anyway. At the same time as that's occurring – you can see there are a lot of moving parts here – at the same time as that is occurring, we are undergoing this large permitting effort to streamline permitting that Commissioner Mitchell mentioned earlier. And we've identified the flood permit as a permit that by itself doesn't really provide the value. The value that is provided is provided through the critical areas review that includes a habitat assessment within the floodplain, as required by the biological opinion. What we would prefer to have instead of the flood permit is the clearing

permit because that clearing permit captures everything that the flood permit is required to, but it also makes more sense to people: What are you doing? Clearing. So you need to do that. And then the building permits would capture everything else. So we think we can eliminate the flood permit, replace it with building permit review and clearing permit review, and have it be very clear what the expectations are.

Also when you get a permit you have a license to do a thing. And right now you're required to get critical areas review anytime you're affecting a critical area, but when you get that review done you don't have a permit at the end of the day. All you have is a review, a letter that says, you know, we looked and there's no critical area right now. So there's some value in having a permit process that incorporates those reviews but is also much more straightforward and gets you a permit at the end of the day – a time-limited permit, but a permit to do a thing. So you have more certainty about what you can do.

Chair Raschko: Thank you. So we have public comment. Okay. Would anybody wish to speak?

Ms. Ehlers: I used to understand all this. I used to have to apply it out on Fidalgo Island and elsewhere. You have just managed to completely confuse my understanding of what I have to pay attention to when the people who are uphill from me whose actions have the potential of destroying my neighborhood, my subdivision, my house. We have to understand, and when you're finished you have to make this clear enough that we can find our way through so that we understand what is being proposed by someone and where the difficulties may or may not be. You don't want us buying problems that aren't there, which is what we do now because most of the time they *are* there. They lurk. But this group decided – was it last year? – that you weren't going to destroy anyone downhill by drainage. Please do it again. It's a matter of clarity, I think, Ryan – the terminology. Some kind of an organization that gets us from step one to step two to step three. Because until Oso forestry had no obligation to protect private property at any time. But when Grandy Creek got fined 10 million for what happened at Oso it looks to me like in case law forestry activities no longer have a carte blanche to destroy whom they wish.

East side of Fidalgo Island – Ryan can go back and pick it up – there was 40 acres cleared on the east side of Fidalgo Island and the guy downhill from it came to the Planning Commission again and again and again with a tale of woe of what was happening to his septic field. He was all right personally because he was on rock, but the forestry permits which normally require replanting don't require replanting when you're out on Fidalgo because it isn't a forestry zone. It's the lack of clarity that I think's basic. So good luck on that one.

Ms. Bynum: Ellen Bynum, Friends of Skagit County. At the risk of repeating what I was saying before, it may be that you will have to retain the flood permit title because of the way the federal law is written about NPDES. So don't – I was just going to admonish the staff and also the Commissioners to investigate whether you can actually have another kind of permit that doesn't say "flood permit" and still qualify for that insurance. And it sounds like kind of a silly semantic game but I can tell you that if the feds decide that you don't have a thing titled "flood permit" you will be made to get one quickly. So that kind of detail on how it interacts with the NPDES – I don't know if someone who's had a lot of experience with NPDES, like John Doyle in La Conner or someone else, could advise you on that. And then maybe you need to go up the chain to see about that.

I certainly – I know that it's a hard thing to look at what you have now because what we have now is all put together piecemeal, and I appreciate that you're attempting to look at, you know,

how to make that work better, but I always want to say, Please back up a little bit and see how the things that are outside of the County interact, because that was where the County didn't do the best work early on in the planning, you know. That was why Friends had to appeal much of what it appealed – because the County sort of decided what they wanted and then didn't go back and reference outside the GMA and other regulations. So it's really important to do that. It takes more time and it's really boring, you know, to some people. So thanks.

Chair Raschko: Thank you.

Mr. Walters: So a couple comments: First of all, the NFIP program is distinct from the NPDES regulations.

Voice in the audience: I'm sorry. I meant ____.

Mr. Walters: Yeah, I think that's what Ellen meant is the NFIP program. Here we're not talking about either of them. I offered that as a preview of what we'll hopefully be bringing forward next year, is the elimination of the flood permit as part of the floodplain management update. That's only if *this* permit effectively supplants the need for the flood permit. And we have looked at the NFIP manual and it describes the need for a permit requirement. It doesn't describe the need for anything called specifically a "flood permit." But we are also contracting with an engineering firm that has an expert on the NFIP program – the National Flood Insurance Program – to help us prepare our reports that we are required to provide to Ecology, who is the manager of the FEMA Flood Insurance Program for us. So we do have some expertise in that area particularly that will be available to us during our code update process next year.

We also – a couple of years ago when we updated the stormwater code we added the line "Runoff from development may not cause a significant adverse impact to downgradient properties," and we're planning to retain that going forward. It gets moved in this code out of the conveyance section to a section just called "General Stormwater Management Standards," but it's the same line and it's still there. And then I think I promised Stacie that she could describe the new prescriptive standard in section 14.32.040. It's a modification to the Stormwater Management Manual that would apply outside the NPDES area. Inside the NPDES area we have to apply the Stormwater Management Manual as written. Outside we have more flexibility, and so we've inserted a section about the fifth section of the manual – the Minimum Requirement number 5 for onsite stormwater management.

Ms. Lohman: Where is that in our –

Mr. Walters: That's page 19 of the packet.

Ms. Pratschner: Yeah, page 19.

Mr. Walters: So do you want to describe that?

Ms. Pratschner: Yeah, certainly. This is the section of code I had mentioned in the introduction where originally we had a table that was becoming pretty messy, we thought. Visually it was hard to understand. We've gone back to text. So in MR4 – Minimum Requirement number 5 – and that's language that comes directly from the Stormwater Management Manual – looking at "...prescriptive onsite stormwater management methods promulgated by the Department," there is also with the County what's called the South Fidalgo Island Stormwater Management Plan,

and these are designated areas where infiltration needs to be avoided to mitigate landslide concerns. So we've listed out those areas. Those include Quiet Cove, Yokeko Point, Salmon Beach, Jura Lane, north end of Gibraltar Road, areas Rosario Road south of Marine Drive, east of Marine Drive, and then south of Biz Point Road as well.

Ms. Ehlers: Thank you!

Ms. Pratschner: Thank you for bringing it to our attention.

Ms. Lohman: Are you going to leave it as "MR" for – instead of "Minimum Requirement"? Are you going to use those acronyms? I mean, I hate acronyms personally.

Mr. Walters: Possibly. Yeah, we'll look at that. We call it "Minimum Requirements" throughout, but generally what we're trying to do is get the term set up so that when it appears in the online version of the code there's the underline. But this is a rough draft.

Ms. Lohman: Right.

Mr. Walters: So I don't know where it will land. Originally we had it set as "MR" because it needed to kind of fit in the table. The table's gone now so we have more flexibility. And we definitely found that the table was really not working for us. The table was a recommendation of our stormwater consultant that we had when we'd updated the code last time. Since then – well, we don't have that consultant anymore but we also have other, different people doing the stormwater review who are in our department rather than in a different department, so we have closer collaboration with them. And, for instance, MR5, Onsite Stormwater Management, is not required at all under the table in the existing code for low land use intensity uses. And those include single-family residential, and that is problematic. We really cannot have *no* onsite stormwater management. We need to have something.

If you look in the Manual today – and we are not quite finished with our stormwater management handout for applicants, but when we are – and we should be finished by the time we bring the proposal forward to you – you'll be able to see what is required inside the NPDES area in just a couple pages of this handout. And I think that'll make it very clear what it is we're talking about. But it is fairly onerous for people to go through the Stormwater Management Manual and demonstrate their compliance with Minimum Requirement number 5. Now we don't really have any choice inside the NPDES area, but outside the NPDES area we do and we think it can be really simplified in most areas. But what you'll see here under MR5 – that paragraph (f) – is that it says "...the applicant may use the prescriptive onsite stormwater management methods promulgated by the Department." What we want to do is give the Department authority to draw up those prescriptive methods. At one point we thought, well, maybe we could draw them up and put them into the code, but that is probably not something that we can really get done and insert into the code and have it be flexible enough to really work. The Stormwater Management Manual is 1000 pages. We're shooting for something quite a bit shorter than that for these prescriptive methods, but I don't think it's going to fit here in the code. So this provision would give the Department authority to prescribe those methods, just like we have prescriptive methods in the building code for how you tie things together. There's a lot of handouts in our kiosk out here in the lobby. You can look at those handouts. We'd have handouts like that for prescriptive methods for onsite stormwater management. We find that a lot of people would like to do sort of the time-honored method of managing their stormwater onsite, which is to run your gutters to downspouts to go into infiltration trenches in the ground. And where that is functional

we would like to continue doing that. And we want to do that without having applicants have to submit pages and pages of documentation about why it is they're choosing that method.

Chair Raschko: Okay. I'd like to make one comment based on the public comment, and that's that the forest practice rules and regulations do require the replanting of trees no matter where the property is. It doesn't have to be in the forestland unless it's a conversion. So if it's on Fidalgo Island, trees still need to be planted. Okay.

Ms. Ehlers: That's interesting because it's never been planted.

Chair Raschko: Well, then that's just a compliance issue. I'll open this up for discussion now. Pardon me?

Ms. Mitchell: Hollie.

Chair Raschko: Oh, Hollie? Thank you.

Ms. Del Vecchio: I mostly just I wondered if it hasn't happened already I would – I know Commissioner Rose is not here this evening, but – and I don't know if she's had further communications with you about these revisions since our last meeting – but I would love it if we could reach out to her specifically to see if she has any written feedback.

Chair Raschko: Okay.

Ms. Del Vecchio: Or verbal. _____. It doesn't have to be _____. You know what I mean.

Ms. Pratschner: Yeah!

Mr. Walters: We'll probably meet with her.

Ms. Del Vecchio: Okay.

Mr. Walters: She has a lot of experience actually doing this on the ground.

Ms. Del Vecchio: Exactly. She has experience applying this where it's easy for me to read through – I'm like, Oh sure. That sounds great! I'm not actually putting it to use. So I think that would be very valuable.

Ms. Pratschner: And she has experience in looking at creative solutions to stormwater experimental best management practices, and that's something we want to be able to consider as well in these non-NPDES areas. So, yeah, thank you for – thank you for bringing that up.

Ms. Del Vecchio: Yeah. Thanks.

Chair Raschko: Annie?

Ms. Lohman: My concern is back to the land disturbance chapter, and I spoke with Stacie today.

Ms. Pratschner: Yes.

Ms. Lohman: And I've spoke to Ryan about it, too. And my concern is you said in your preamble about that it's not the intention that this becomes a new set of regulations but basically it's a – you said you want to harmonize what was already there and gather it up. But yet that's not what it reads, if you read it straight. And I'm thinking more in particular to the agriculture drainage infrastructure and all of that, because you listed in there – and I'm thinking that we need to respect that we already have a robust Ag-CAO and the still yet-to-be-adopted Shoreline Master Plan, plus we have the stormwater, plus – we need to recognize that we have drainage districts that have gone to great lengths with the drainage fish initiative and the tide-gate fish initiative, and they are heavily consulted by virtually all the agencies as well as the County, and they have an annual review. And we need to not create something that causes basically a confusion in what's already in code. And I think we just – like you and I mentioned that we need maybe some clarification and some better language that doesn't make this appear to be an additional set of regulations.

Mr. Walters: So I think to flesh that out it would be very helpful to have specific examples of what activities you don't want to be covered.

Ms. Lohman: Well, like you talk about ditch cleaning.

Ms. Pratschner: Right. We had talked about the –

Ms. Lohman: Roadside ditch cleaning.

Mr. Walters: Yes, Stacie mentioned that to me and we explored that a little bit. That section, which is 14.22.030(2)(b) on page 10 – so subsection (2)(b) is a *permit* exemption. It's not an exemption from the requirements of the chapter but it's an exemption from the requirement to obtain a permit under the chapter. It only applies to activities conducted by Skagit County. There is a wholesale exemption at the very top of that page from the entire chapter, so not just the permit requirement but all the standards within it as well. There really aren't very many standards because they're just cross-references to other parts of code. "For maintenance or repair of existing commercial agricultural facilities including drainage facilities, drainage ditches, and ponds." I think that's the place where you would want to put the exemption, and I think that's fairly broad as it is but maybe there are other things that you might also want to include. But I think our thinking was that actually captured it to begin with.

Ms. Lohman: Well, I'm not sure that it does because that's only if they're not in a critical area or their associated buffer. Because the exemption –

Mr. Walters: No, not that section. That's –

Ms. Lohman: Applicability?

Mr. Walters: That is 14.22.020, Applicability.

Ms. Lohman: Right, (2).

Mr. Walters: It's under subsection (2), Exemption. Looking at (d)(ii) at the top of page 10.

Ms. Lohman: Right, but the exemption – the line at the very top where it says “Exemption,” when they – it says: “Exemption. The following activities are exempt from the requirements of this chapter, when they occur outside”...“the critical areas and/or their associated” buffer.

Mr. Walters: Oh, I see your point. Okay.

Ms. Lohman: That’s the issue.

Mr. Walters: Okay. So let’s highlight that. Let’s highlight that section because we can probably address that. Because yeah, as Stacie says, it’s repeated below. So yeah, let’s capture that and maybe it moves and then we can clearly articulate that drainage facility exemption.

Ms. Lohman: And my reason too is because now when you jump over to the Stormwater Management section under the Applicability, new development includes land disturbing activities and redevelopment also includes land disturbing activities. So I wanted to make sure that we are not dragging in our existing drainage infrastructure that we don’t intend to.

Mr. Walters: Yeah, and those definitions come from the stormwater permit or manual, and they’re not new.

Ms. Lohman: No, they’re not new but our land disturbance section *is* new.

Mr. Walters: Yeah.

Ms. Lohman: And I don’t want to make it sound like the drainage districts are *not* regulated. They are *heavily* regulated and there’s a whole bevy of permits required, so it’s not that we’re getting a, you know, just scot-free here.

Mr. Walters: So we’ll also look at whether those definitions capture things we don’t want it to, like the drainage district activities.

Ms. Mitchell: Thanks for bringing up that point.

Chair Raschko: Anybody else?

Mr. Lundsten: I request that we have a – before the next discussion or in the interim between now and then – that we have a simple flow chart, as much as you could, of the various jurisdictions that we’re dealing with, because I haven’t known about the agricultural regulations. And that’s – I was so, What about the farmers? What about those ditches I see in the fields? I don’t dig them myself so I don’t know what it takes to get one. But I thought, Well, what about those? And I’d like to know what – I know there’s a Department of Agriculture and it enforces farm things and it enforces forest things and it’s huge. Lots of regulations. And there’s a State level of control of a lot of stuff, and I’d just like to know where we fit in the stormwater – which is kind of a sloppy, amorphous thing to try to hang onto anyway – how it fits into a general framework of other jurisdictions – federal, State. And, you know, that could be a 100-page paper. I’m just – Can you put it on a page? Could you – I mean, I know the more we get into this the more I realize that there’s – I mean, there’s the NOAA Fisheries talking about the – I mean, I know it’s really, really dense, but if it could be boiled down to just some elements like the agricultural permit system to drain water off of cultivated fields. What does that take? I don’t

know. It would be great for us in the discussion to have that level of information just kind of laid out a little bit.

Mr. Walters: So we could probably provide that background probably not as a flow chart but in narrative – sort of a statutory –

Ms. Lohman: Well, and we'd have to reference Title 85 and 86 – RCW 85 and 86.

Mr. Walters: Well, for the purpose of stormwater regulation, I think we don't really get there.

Ms. Lohman: Right. No, but as the authority for the drainage districts.

Mr. Walters: Right.

Ms. Lohman: And dike districts.

Mr. Walters: Yeah.

Ms. Pratschner: Yeah, I think about like Commissioner Lohman was talking about which I think gets to your comment. You know, you could be dealing with – you know, you're dealing with the feds through the Army Corps for a permit from them. You're dealing with the State. Maybe you need an HPA or – I don't know if the JARP is around anymore – another acronym – that application. You'd be looking at local permits. So, yes, there is a lot of layers.

Mr. Walters: It's always easier to talk about in a context of, like, a sample activity.

Mr. Lundsten: That's what I was just going to say.

Ms. Pratschner: A particular project?

Mr. Walters: Because then you can apply it without writing the whole book.

Mr. Lundsten: Right.

Mr. Walters: But we can also provide some background just generally.

Ms. Mitchell: What I'm thinking – tagging on to what you're saying; I'm with you on that –

Mr. Lundsten: Good.

Ms. Mitchell: Before we came in, I was thinking a little bit differently. I was thinking – instead of thinking that way, I was thinking this way, as in when Betsy took us back with the shoreline stuff and said the one layer is this, the next layer is this, the next layer is this. And that's what I wanted to know is how this – is this the big umbrella? Is it a lower rung? That kind of thing. And that understanding I can't – even reading through this several times I'm still not figuring it out, so if you can help show how this fits in –

Ms. Pratschner: Sure.

Ms. Mitchell: – that'd be ___.

Ms. Lohman: But it's also pretty vital infrastructure during flood events for our mainline cities. So, I mean, the ag drainage infrastructure is kind of serving a whole bevy of needs besides just agriculture drainage.

Mr. Lundsten: Yeah. Yeah.

Ms. Lohman: It's also County road runoff.

Ms. Mitchell: So you can see we're still struggling.

Ms. Pratschner: Well, and things are – they keep changing so keeping up's a challenge. Yeah, we can certainly provide. Yeah.

Mr. Walters: As long as we fully understand the question, which is not just the – maybe the framework for regulation of stormwater from development, but stormwater more generally, including agricultural drainage. Is that the question?

Ms. Mitchell: That's part of the question.

Mr. Walters: Part of the question? There's some more question?

Ms. Mitchell: Yeah. Yes. That's part of my question, but the other part is you put this layer in. What supersedes what for some of this code?

Mr. Lundsten: Right.

Ms. Del Vecchio: What supersedes what in the context of stormwater for – I mean, I think you're saying the same thing.

Ms. Mitchell: Yes. Give us an example. Show us how it fits in –

Ms. Pratschner: How the land disturbance permit –

Ms. Mitchell: – fits in the hierarchy.

Mr. Walters: Ah. Okay, so that might go back to something like what Carol was talking about.

Ms. Pratschner: Yes.

Ms. Mitchell: Yes.

Mr. Walters: You're clearing land for development.

Ms. Pratschner: Yep.

Mr. Walters: Right now we don't have jurisdiction over that because we haven't taken jurisdiction for conversions. But even if you were doing something that didn't create – that didn't constitute a forest practice. If it also doesn't require a building permit, there is no regulation – there's no permit requirement that kicks in for stormwater. So there's nobody looking at the stormwater that is caused by your moving a bunch of dirt around, unless it qualifies for the

threshold for our grading permit which is fairly high. No one is looking at the stormwater impacts of that. Arguably, we have regulation of that, and if there were some really substantial stormwater impact I guess we could try to apply it, but there's no permit requirement and that is problematic for people because people call in and they want to know, Can I do this? Can I do that? Do I need a permit? And if the answer is no then they feel like they can go, you know, do almost whatever. And you can up to a point, but then you cross a threshold that you're not aware of because you didn't get a permit and it becomes really problematic. So sort of like critical areas. You can – you can't negatively affect a critical area, but unless you went and got critical area review you don't necessarily know where that critical area is. Some critical areas are more obvious than others, like streams. You sort of know where a stream is but not always. And wetlands you know where the wetland is but you don't know what the extent of the buffer is.

Ms. Mitchell: You're backing into exactly what I was talking about without knowing how to ask. Thank you!

Ms. Pratschner: Yes.

Ms. Mitchell: Thank you.

Mr. Walters: So we'll just try to provide a lot of narrative background and try to hit all of these bases, and maybe that'll be sort of the background part of the staff report.

Ms. Pratschner: Yeah. We can make clear here's fed level, state level, local level, and how they all _____.

Ms. Lohman: But even local level –

(several people talking at the same time)

Ms. Lohman: But you also have to sort of in a way touch on some of the specifics for here.

Ms. Pratschner: Yes.

Ms. Lohman: Because we have gone to great lengths to come up with these drainage fish initiative and these drainage maintenance plans, and they are very dense and they're annually reviewed by all the agencies as well as the County is a party to that review on an annual basis, and I believe it happens in February. And so those are – I just don't want to lose that we have gone to that great deal of work and have it seem like – I just wanted to clarify that this wasn't more.

Mr. Walters: Yeah. Well, we are, I think, trying pretty hard to keep those separate. You know, you've got your traditional development – building houses, building roads, that kind of thing. There're a bunch of different definitions of development but call it that. You know, building houses and roads and factories and barns and that kind of stuff – the structures and the stormwater that comes from that. And then there's the agricultural drainage infrastructure that we do not want to be layering regulation on top of. It doesn't meet the traditional – the sort of stereotypical definition of development. We want that to remain separate. They have their separate TFI/DFI initiatives and those kinds of things, and different sets of rules.

We also want the development that is occurring over here to not negatively affect this infrastructure, and it's sometimes not – I guess not always obvious where the water is always going, which is sort of why the basic concept that when you can you should manage your stormwater on the site is pretty helpful. But that's not always possible. You know, we laid out some of these areas on South Fidalgo where it may be possible but it's undesirable. There are other areas like Bayview Ridge where it's really not possible. It doesn't infiltrate there. So we try to write the general rule, then we try to write exceptions, you know, based on topography and geography and geology. But I guess the most important point is we're trying to keep it separate from the agriculture drainage infrastructure question. We don't want to be layering on top of that one.

Ms. Mitchell: And just to be clear, you've already stated that it does not touch the forest practices either, right?

Mr. Walters: Right. Forest practices in the – for the forest ordinance that we're bringing forward, there's a lengthy section talking about jurisdiction and how that is all addressed. Here we just have a single line that says forest practices that we don't have jurisdiction over are exempt.

Chair Raschko: So why are not the ones over which you do have jurisdiction?

Mr. Walters: Right now we don't have any jurisdiction.

Chair Raschko: I know, but I – the only thing I can read into this is that you're anticipating the time that you will or you wouldn't mention it.

Mr. Walters: We will.

Chair Raschko: Yeah.

Mr. Walters: When we do the forest package – that code amendment – we'll have jurisdiction over conversions.

Chair Raschko: Okay. Now I had one big thing jump out at me. It says in here that you're exempt if you have a permit to build a house. Why would that be?

Mr. Walters: Because you're getting that permit.

Chair Raschko: Okay. So now the same thing on forest practices: You're getting a permit to do that, so why do you need this permit when you're doing forest practices? And you don't need one for agriculture when you're doing agriculture.

Mr. Walters: If you're doing a forest practice that's not a conversion, this would not apply.

Chair Raschko: I don't understand still why it would if you are because –

Mr. Walters: Okay, if you are doing a conversion then you are doing development, sort of by definition.

Chair Raschko: Okay, so do you then need to lay out all your plans for your development and all the stuff having to do with that at the same time?

Mr. Walters: What we encourage applicants to do even now is not to do their clearing until they identify where they want to build their house and where they're going to do everything else on their site so that they take into account how they're going to manage their stormwater and all the other aspects of their site development. They do the planning before they do the clearing, I guess. We have a handout on this. Did we include that in the packet?

Ms. Pratschner: We did.

Mr. Walters: That handout describes what we recommend people do now. If you're doing clearing for development, we anticipate that you're not growing trees back and that you are creating stormwater impacts at that point.

Chair Raschko: How's that?

Mr. Walters: Because you're clearing the land, not – you're not retaining trees, and the stormwater that is falling is likely being channelized by the roads you're putting in or something like that. Because you're putting in a road ostensibly, I guess, in a place that you can later use that road for your development.

Chair Raschko: And I agree with you at that. I mean, most of the runoff problems associated with timber harvest – I'd say 98% of them are related to the roads, and those are mitigated by the forest practice application. So this is another layering. And I dug a little deeper into this thing and I got out the entire code, and in 14.06.060 it says "The County shall consolidate the development application approval process unless applicant requests otherwise." So now does this then, when it says on the top of page 2, "The land disturbance chapter requires" – no, no, I've got the wrong place. 14.22, the second paragraph, it says, "...one permit with no new requirements..." Well, there *is* a new requirement and that's this new permit. I'm wondering if – and you have this thing where you're going to harmonize and have one permit for everything. That takes away then that option that the applicant has stated in 14.06.060 where you might request and do otherwise and have everything in one permit. And I'll state some cases where it might help, like you might want to buy 20 acres and when you value timberland, probably 95% of the value's in the trees and you might want to regain your investment by taking the trees off – and you have a six-year moratorium – or you do a conversion option in which time then you can build a house but you may not have your plans together, you may not want to do it now. You might do it at a later time. But you might have to put all that upfront money. What you're talking about is all the upfront planning money on the property, you know, before you've got any cashflow whatsoever. And the other thing that happens is people will buy it contingent on a permit and, you know, it just makes it really impractical for a lot of small people who are not really well-funded then to do this sort of thing when they have these double requirements put on them right up front.

Mr. Walter: I think I understand your point. You wouldn't be required – if you're planning on building a house, you could get a land disturbance permit. This is in lieu of a forest practice conversion because this – assuming that we adopted the rural forestry thing and have jurisdiction over forest practice conversions. You can do a land disturbance application and clear the site, harvest the timber. You can do all that. You don't *have* to do that in concert with your future house construction plans. I think a relevant example here is the grading permit that Stacie talked about is issued pursuant to the building code. It's part of the building code. The grading – a grading permit is essentially a building permit. If you apply for a building permit, we don't make you get a separate grading permit because you just show your grading work as part

of your building permit, and so you get one permit that covers both of those things. If – so similarly here if you're applying for a building permit and it covers the grading and the land disturbance, you're getting critical areas review as part of that, you're getting stormwater review as part of that. If you want to integrate it all you can. Right now you sort of can't accomplish that now. You have to apply for a building permit separate from a special use permit or those other types of permits. You can integrate a bunch of those together in one process, although you have to apply for all the permits. But you can integrate those into one process but this would allow you to also integrate the building permit.

Chair Raschko: Mm-hmm.

Mr. Walters: So it preserves the option, I think. I don't think it forecloses the option.

Chair Raschko: I see.

Mr. Walters: It lets you do what you want to do.

Chair Raschko: I think it's still the double-layering because, as you say, if you buy a piece of property and you clear the land for a future house, when you say the housing permit, we'll give you the grading thing that takes care of the stormwater at that time and the stormwater associated with the forest practice is well taken care of in the forest practice application and that approval. And then you have your critical areas laid on top of that as well. And so it just seems to me to be redundant.

Mr. Walters: Well, but if this occurs after we have assumed jurisdiction for a Class IV – for the conversion, then the forest practice – this *is* the forest practice application.

Chair Raschko: No, you still have to fill out the State form.

Mr. Walters: But then you get here.

Chair Raschko: Right. What you do is you submit everything and it's got all of the information they're going to want, as if it was a regular forest practice. The only thing is when you have the package is complete then they turn it over to you and you can go put your critical areas on it and everything else.

Mr. Walters: Right.

Chair Raschko: But all of those things *are* addressed.

Mr. Walters: So I don't think this layers it much. You'd be – the permit you'd be getting from us would be called the Land Disturbance Permit, but we'd be receiving that package and we would be applying our standards.

Ms. Pratschner: Can I ask a clarification question from the Commissioner – I suppose for you as well, Ryan? So is it – am I understanding that once we have authority to review an issue – the Class IV-Gs, the conversion – that applicants would still be going to the DNR and then coming to us for a land disturbance permit?

Mr. Walters: I understood they have to go to DNR to –

Chair Raschko: They go to the DNR and the DNR's the one that classifies it, and if they classify it as Class IV-Special, which is a conversion, then they turn it over to the State. I mean, not to the State – I'm sorry. To the County!

Ms. Pratschner: Okay.

Chair Raschko: So, yeah, all of the due diligence necessary to go through the regular channels on the forest practice are handled. And the forest practice for, you know, Class I through III, it's a 30-day approval –

Ms. Pratschner: Yep.

Chair Raschko: – and everything else. But if they turn it over to the Class IV-Special, the SEPA exemption goes away and it has to get SEPA approval, and the 30-day window goes away. I mean, it's open-ended. Everybody gets their shot at it. I mean, it's much, much more rigorous than usual. And so and all, like I say, you know, any soil disturbance – roads, culverts, and all of that – still has to pass the forest practice standards, as well as what the County wants to layer on. I just think it's unfair then to add a new layer.

Mr. Walters: You're saying DNR is applying their standards ____ conversion?

Chair Raschko: They won't even accept the thing and – oh, yeah. I mean, if it doesn't meet the minimum standards to pass the forest practices Class I to III.

Mr. Walters: For the conversion application.

Chair Raschko: Yeah. They don't accept it.

Mr. Walters: Because the State law is all about having the County apply *its* standards to those.

Chair Raschko: If it's a Class IV-Special.

Mr. Walters: Well, if it's –

Chair Raschko: Which is a conversion that's part of a Class IV-Special.

Ms. Pratschner: I thought the Class IV-Gs were a conversion.

Chair Raschko: I'm sorry. It is a G, yeah. It's a General.

Ms. Pratschner: I was just making sure I ____.

Mr. Walters: Those ones that we have jurisdiction over – the conversions. The statute talks about us taking over jurisdiction on those, but also applying our development standards. Like that's – my understanding – the whole point of the whole thing. Because you're doing development so you apply our standards.

Chair Raschko: Right, those standards presumably over and above what the State asks.

Ms. Del Vecchio: (unintelligible)

Chair Raschko: Yeah.

Ms. Del Vecchio: I mean, they're just different. It seems to me like the State standards are not designed to deal with the conversions so it's not –

Mr. Walters: And you're no longer managing the _____.

Ms. Del Vecchio: Yeah, it's just that you're doing something totally different now and so you need a different set of standards to evaluate those by, and the County –

Mr. Walters: I am interested in this point that DNR would also require *their* standards on that?

Chair Raschko: Well, to be accepted the application has to.

Mr. Walters: Even though it's then coming to us?

Chair Raschko: Yeah. Yeah, they don't just look at it and go, Oh, it's a conversion, and turn it away.

Mr. Lundsten: So what you're saying is that if you build a house you have one set of standards, and if you have forestland and you convert it you have a more onerous set of standards. _____ basically build a house _____.

Chair Raschko: Not necessarily. What I'm saying is that when you build a house you get your grading permits, which takes care of the water thing. When you have the forest practice part of it, that part of it is taken care of there. So I don't see the need to lay on another – what do you call it? – land disturbance set of rules.

Mr. Lundsten: Requirement. I see.

Ms. Lohman: It's redundant.

Chair Raschko: The other issue is that a conversion to agriculture also needs this. And I'd say again that you have all those forest practice standards as far as road construction and how the trees are harvested, but you're going to do something with the land that's exempt.

Mr. Walters: Well, it's not *wholly* exempt. If you're converting a piece of – a property to anything, I guess – I mean, converting it to development, converting it to agriculture, converting it from ongoing forestry – we need to review for, number one, critical areas. We need to apply our current critical areas standards.

Chair Raschko: And that's fine.

Mr. Walters: And this is the permit requirement that is the hook for that. Otherwise there's no permit requirement for critical areas, unless you're doing development. Now there's a substantive requirement to do critical areas but there's no permit associated with it, so there's just sort of this line in the code that says that you're supposed to do this review but you don't get a permit as a result of the review.

Chair Raschko: Well, the way I understand this happens is that if you want to convert to agriculture the County would take their critical areas ordinance and apply it to how the timber's harvested.

Mr. Walters: Yes, that's _____.

Chair Raschko: Which is absolutely the right thing to do.

Mr. Walters: (unintelligible)

Chair Raschko: Right, but I think then, though, that layering on then this other permit is unnecessary, particularly when what you're going to do with the land after you finish the timber harvest is going to be the same as a use that is already exempt.

Mr. Walters: I don't think it's optional, though.

Ms. Lohman: But I need to clarify: If you're going to convert the timberland to agriculture, it does not get regulated under the ongoing Ag-CAO. It gets regulated under the general CAO.

Mr. Walters: Correct.

Ms. Lohman: And that's a very big distinction. And I don't believe that there's protection under the Shoreline Management Plan either. It's a way different deal if you bring in new land to be ag – for *new* ag, not existing.

Chair Raschko: Would you not use the Ag-CAO in your evaluation?

Mr. Walters: No.

Ms. Lohman: No, you can't.

Mr. Walters: The critical areas ordinance is what we would apply. There's a section in the critical areas ordinance for regulation of the fish and wildlife habitat conservation areas, but it only applies not just to ag generally or conversion to ag. It applies only to ongoing agriculture, which has a specific definition and basically has to be preexisting.

Chair Raschko: Mm-hmm.

Mr. Walters: But I understood the DNR required us to have this permit requirement –

Ms. Pratschner: Yes, they do.

Mr. Walters: – as part of the transfer of jurisdiction.

Ms. Pratschner: Sounds like we need to have a conversation before we come back for another meeting together – that we need to talk to the DNR.

Mr. Walters: Well, and we can circle back.

Ms. Pratschner: Yeah, and –

Chair Raschko: Okay, I'd appreciate that.

Ms. Pratschner: – and circle back and –

Mr. Walters: Make sure we're all on the same page there.

Ms. Lohman: I have kind of question. Do you guys call out the County in any other sections of the code like you did here? And I'm referring to 14.22.030 on page 10, number (2), where you're talking about the exemptions.

Mr. Walters: I think that is true sometimes. I couldn't tell you exactly where. We used to have a broad exemption from the stormwater regs for County work, but we either eliminated that exemption or narrowed it substantially the last time we updated the stormwater regs.

Ms. Del Vecchio: Is there a different process that is – it would be – the exemption there is because it's being monitored elsewhere, or –

Mr. Walters: Stacie, you should feel free to jump in, but I think the idea is its right-of-way is very linear so it crosses thresholds really quickly and it's something that has to be done. I think this section, 14.22.030(2)(b), has to do with right-of-way, and I think we have similar exemptions in the stormwater code, like pavement maintenance and that kind of thing. Because it's linear so, you know, if you have a square footage threshold you hit that very quickly. And it's just a *permit* exemption. It's not an exemption from the *requirements*. It's just an exemption from the requirement to get the *permit*.

Ms. Pratschner: Not an exemption from the performance standards.

Mr. Walters: Yeah.

Ms. Del Vecchio: But there's no mechanism for ____, but there's no permit requirement. Who's reviewing anything? Nobody, and how do you enforce anything? And if it's rights-of-way it can be much wider than the actual infrastructure, right? It doesn't mean that we're just maintaining existing roadways. Rights-of-way can be double. That's not an indicator necessarily of how wide the road is. That just means –

Mr. Walters: Right.

Ms. Del Vecchio: So that could be – you could fill, in my mind – and I'm not a – there might be a very valid reason to have the exemption there. I just want to make sure we're clear as to why we're providing it and that it's achieving – not creating another problem.

Ms. Pratschner: Sure.

Mr. Walters: And that example might be something that maybe should have a permit, like we require permits for other things that are *new*. Although for maintenance, I don't think we want to require maintenance.

Ms. Pratschner: No.

Ms. Del Vecchio: But this includes public improvements.

Mr. Walters: Yeah.

Ms. Del Vecchio: I mean, it's not limited to maintenance. To me that means you could be expanding the road – widening the road.

Mr. Walters: But then all the examples are maintenance, so maybe that's not ____.

Ms. Del Vecchio: Could we just take out the words “public improvements”?

Mr. Walters: Maybe. Maybe, yeah.

Ms. Del Vecchio: Okay.

Mr. Walters: Sometimes “public improvements” does not mean the act of improving but the thing that already exists, but that's kind of some weird term of art that we don't need to use.

Ms. Pratschner: Yeah.

Ms. Del Vecchio: Right. Yeah, I just want to make sure if we're expanding the roads within the existing right-of-way, there should be some kind of a –

Mr. Walters: I think if we just drop those words it will be clearer.

Ms. Pratschner: Yeah, I think it would be too. Yeah, and certainly – yeah, it's not carte blanche for the Public Works Department to realign a stream or – you know, expand the –

Ms. Del Vecchio: We laugh but really, I mean, we really don't want that happening!

Ms. Pratschner: We've been in those – absolutely! – or putting new sand in the beach ____.

Chair Raschko: Are there more comments?

(silence)

Chair Raschko: I'd like to go back just for a second. I would feel a lot better about this thing if there was stated in here what the limitations were going to be on what that holistic permit's going to look like in a conversion so that – I mean, I can understand this part, although I do think it's unnecessary, but to protect somebody from, okay, we want to, you know, build a four-house subdivision so we want to see the whole thing.

Mr. Walters: I think we wouldn't require that.

Chair Raschko: Yeah, you're saying that but it doesn't say that.

Mr. Walters: Well, if you're only applying for a specific activity, that's the only thing that would be reviewed at that time. We encourage people to do planning ahead, but I think it's – we don't require it and we don't require it for the reasons that you identified. You know, sometimes people can only afford to do this part or they need the money from that part before they can proceed with the rest. So, yeah, it doesn't say that but it also doesn't say the opposite. You know, like, this is sort of how the code is written.

So if you're applying for a certain activity, we would only review that activity. If you're applying for an activity to do clearing, for example, you're probably not going to meet the impervious surface thresholds in the stormwater code because you're not really creating impervious surface unless you're creating roads, in which case that's the thing that we'd be reviewing for the stormwater – ___ the stormwater regs. On the other hand, we're going to be looking at the whole thing for critical areas. Every piece you're touching we're going to be looking to avoid impacts to critical areas. What are the other pieces here? You see under the section 14.22.050 for Development Standards, which starts on page 11, we really don't articulate any new standards. What we say is the permit requirement is the hook to make sure that you're complying with the existing chapters – the critical areas chapter, the shorelines chapter, the stormwater management chapter, the flood chapter, Public Works standards, and then the building code – that's 15.04 – and SEPA. Public Works standards being the standards for creation of public infrastructure. So I guess I don't have the same concern that you do because of the way I envision this working. But I think we do need to talk more about the – that question of the contents of the application goes to DNR before it comes to us, because I don't know that that's something that we anticipated.

Chair Raschko: Okay. One other thought is with regards to RFI. I wasn't clear on the fact that we're not going to incorporate in the RFI anymore. But RFI would – that would involve a forest practice on a piece of land that is already non-forestry because it was where you wanted to take the timber off a part of your property that's already got a home.

Mr. Walters: Not necessarily already has a home. You could be doing a land division –

Chair Raschko: Okay.

Mr. Walters: – for the purpose of _____.

Chair Raschko: So this'll apply to that anyway.

Mr. Walters: This would not apply to the timber portion, the Os-F portion of the CaRD.

Ms. Pratschner: No, not in the way we've envisioned it.

Chair Raschko: Because it's not a conversion.

Mr. Walters: Right.

Ms. Pratschner: Yeah, exactly.

Mr. Walters: It would – yeah, that was the whole point of that effort, is to make it clear that remains under DRN's jurisdiction.

Chair Raschko: All right. Thank you.

Mr. Walters: Yeah.

Ms. Pratschner: Right.

Chair Raschko: All right.

Ms. Mitchell: My brain's fried.

Chair Raschko: Okay. Public comment time is over. I'm sorry.

Ms. Ehlers: Two suggestions, if I may.

Chair Raschko: Well, is it for the record?

Ms. Ehlers: Thank you for the chance to say something else. There was a project that I think this code would cover up on Mount Erie a year or so ago – the Harkness one. Look to see when you're done with this how it would affect something like that, which – it's done. It was a nightmare because the drainage was four houses on 40 acres – straightforward. But the drainage pond was a huge one to be located at the bottom edge of a hill right above an individual's house, well, and septic field and the man was beside himself with worry. And John Cooper kept saying to me, Carol, I can't protect his well. I can't protect his septic system. The code won't let me protect the guy downhill. So take a look at it and see how all of this faces with that because it's a specific example. I don't think it'll affect him but it might help someone else.

The other point: The reason there's a problem with water when you've cut the trees is that the trees aren't drinking it anymore. And particularly if you have a hillside full of cedars and big-leaf maples you have a lot of water that's left. And we tend to forget that. Thank you.

Chair Raschko: I'd just like to address that point to clarify. Trees don't have a tank that holds the water. There's a process called transpiration and transpiration is triggered by differentials in water pressure, okay? So in the heat of the summer the water fresh in the ground goes up through the only live layer of the tree trunk, which is the cambium. And it goes up and it is sweated out through pores called stomata, okay? Now the stomata actually transfer the carbon dioxide and the moisture to the atmosphere. Now when leaves fall off the trees there's no stomata, and basically in winter trees go dormant and they basically use very little water. Now conifer trees don't lose their needles. They still have their stomata. Anticipating this discussion tonight, I looked up some studies and basically about 99% of the transpiration and conifers does not occur in the winter. So when trees are really sucking water it's when it's hot and you have that huge differential between the water available in the soil and the dry air and the heat, and so they come up with a specific ___ of water. It takes the heat out of the leaves and helps to cool the tree. In the winter when it's raining like crazy (and) you really need the trees sucking water, they don't. They don't. Okay.

Mr. Walters: I understand they also made some impact – you know, if you're doing clearing for the purpose of development, you may be scraping away the top layer of soil.

Chair Raschko: Yep. Most of the impact there is raindrop impact, which breaks up the soil structure. And that can be problematic. Fortunately on farmland it's flat. You know, steep, steep hillsides with timber harvest the way it is done today is very low impact. You have the ground vegetation, you have the limbs and everything else.

Mr. Walters: But in this instance you'd be pulling stumps and –

Chair Raschko: You would. You would.

Ms. Mitchell: But it would be a big area, too.

Chair Raschko: Yeah.

Mr. Walters: Yeah. I guess it just gets back to the difference between harvesting for ongoing timber and harvesting for development.

Chair Raschko: Yes, but – I don't know. Four houses on 40 acres. But anyway, the point is that – and there is a lot of mistaken notions about what trees do as far as preventing runoff in the winter.

Ms. Candler: And reforestry is not equal to old forestry either in terms of groundwater. You know what I mean? Root systems and such – which is not a conversion.

Chair Raschko: Wait a minutes. I don't understand.

Ms. Candler: You know, if you have to replant new trees you're not going to have the root system that the old trees had. It's not equal.

Chair Raschko: No, and there's that problem with root strength, and you cut the trees you've got the roots to hold the soil, and we're talking about a steeper slope now. And as those roots rot, you know, there's less holding the soil. They figure it's about a 10-year lag, studies have shown, where – before the new trees to have sufficient intertwining of roots to reestablish what they call root strength. Anybody else want to know anything else about forestry?

(laughter)

Chair Raschko: I apologize to the bird watchers! Is there anything else on the subject at hand?

Mr. Walters: In terms of schedule – can we talk about schedule on this one?

Ms. Pratschner: Sure. With the stormwater, we will probably need to come back for at least one more workshop, I anticipate. I have an e-mail from our stormwater engineer over in Planning, a two-page e-mail about –

Mr. Walters: Our Stormwater Tech.

Ms. Pratschner: – our Stormwater Tech – excuse me – of some changes he wants to see in the code. So I'll be bringing back some more edits to you on that, so I'll anticipate one more workshop.

Ms. Lohman: One?

Ms. Pratschner: We can definitely have more if we need more.

Mr. Lundsten: January?

Ms. Pratschner: Yes, we will see you guys again in January.

Mr. Lundsten: I mean, for the – the next workshop would be in January?

Ms. Pratschner: Yes. Yeah, exactly. Yeah, this'll actually be our last Planning Commission meeting for 2017.

Mr. Walters: You already had your last one with Dale, by the way.

Chair Raschko: Okay, anything else?

(silence)

Chair Raschko: So that will bring that workshop to a close. And have we a Department Update?

Mr. Walters: Not much of a Department Update except for the fact that Dale Pernula has retired so our acting Director is Tim Holloran, the County Administrator, and we expect to have a new Director maybe in the next three to six weeks. We'll let you know when that's figured out.

Ms. Mitchell: So we probably won't see Tim.

Mr. Walters: Oh, no. He is definitely not coming to any Planning Commission meetings!

(laughter)

Mr. Walters: He's playing a fairly minor role, just signing the important documents that we need a Planning Director to sign.

Ms. Pratschner: He told us don't cause too much mischief while he is interim Director.

Mr. Walters: Otherwise, yeah, you won't have any more Planning Commission meetings during the month of December. I don't know when the first one in January is, although we do have a schedule for 2018. Has that been distributed?

Ms. Pratschner: We do. Kathy Jewell is working on that.

Mr. Walters: Okay, so not distributed yet.

Ms. Mitchell: She e-mailed it to –

Ms. Pratschner: Has it been distributed?

Ms. Mitchell: Yes.

Ms. Pratschner: Thank you.

Mr. Walters: I think it's on the website then, if it's gone out to you. We just tried to avoid the major holidays, avoided the whole month of August for regular meetings, and I think maybe the last two weeks of December.

Ms. Pratschner: Correct.

Mr. Walters: So just tried to articulate a schedule that works for everybody. It's, I think, every two weeks but, as you saw, we don't always schedule all of those meetings. But when they do occur they're regular meetings so we don't have to publish special notices and that kind of thing.

Ms. Lohman: Do you have a date for that January meeting?

Mr. Walters: The first meeting in January is probably the first Tuesday in January. It's on the website.

Chair Raschko: There was a schedule that was e-mailed.

Ms. Lohman: I saw it but I can't remember what –

Ms. Pratschner: I think it's on the 9th.

Mr. Axthelm: Do you want to see it?

Ms. Mitchell: Yes. Could you read it out? Just the first date.

Mr. Axthelm: January 9th.

Mr. Walters: Okay, yeah. Yeah, we moved a couple of them around a little bit to avoid the day after New Year's for those that are still recovering, and also to equalize it out a little bit because there, I think, is a holiday sometime in March or something – I don't know when – when we tried to move a date around to make sure there was more like two weeks between meetings. Because if you get them back-to-back, we are more limited in our ability to get memos out the door or to make them on time for the next meeting.

Ms. Lohman: I'm going to be gone that January date, just to let you know in advance.

Mr. Walters: And just to let you know, the first meeting in January is the elections meeting by your bylaws, so that'll happen first and then I suppose we'll maybe have a stormwater workshop.

Ms. Del Vecchio: Is there an opportunity – or maybe there was and I missed it – for the Commissioners to be involved with the hiring process at all? Or is that all done?

Mr. Walters: I don't have any input into the hiring process. The hiring process is not complete. But I'm not aware of any such opportunity.

Ms. Del Vecchio: Okay.

Ms. Mitchell: That's a good question.

Chair Raschko: I was going to bring that up. Can we move on to our Planning Commissioner Comments if we're done with the staff report?

Mr. Walters: I don't have anything else.

Chair Raschko: Okay, I was going to bring that up. I was told by Mr. Dahlstedt when he appointed me that he expects us to be the eyes and the ears of the Commissioners. And I think in this instance I think our eyes and ears could be valuable in helping them make a decision and I think it's appropriate. Others may not. But I feel fairly strong about it to the point where I'd almost ask for a resolution to go to the Commissioners that we be given that opportunity. Anybody else have any thoughts on that?

Ms. Mitchell: I do. The Planning Director's role is so important, so many things, as you guys already well know. In our little world a lot relies on you guys and certainly our Director. As a matter of fact, the interviewing for Planning Commission members for most times when it works out the Planning Director was there asking questions and things. And it's important to have a good understanding and two-way and all that kind of thing. So it's a coin – in my mind, it's a coin with two sides to it. It could be looked at as, Why bother? You know, you guys really don't affect – except for the fact that we are the interface with the public. I do think it'd be helpful if at least the Chair were able to sit in on those sessions and get a feel for them, or be able to ask some questions from the Planning Commission's perspective because the Planning Director has a huge role in this County. That's for sure, but this is a pretty good important slice, too. So I don't know how anybody else feels.

Ms. Del Vecchio: I think it would be nice to have some input, but I don't know what that – what exactly that would look like and it might be a little late in the game for *this* hiring process. I don't know where it's at. But if we were down to the six- to eight-week mark the processes are all laid out, the candidates know what to expect, and so it would be – if there's any room for some kind of involvement – it would be – to me, it'd be greatly appreciated. I think it does make sense. But I also, on the flip side, I understand if the request is just coming a little late in the game and it's just not feasible.

Ms. Mitchell: Yeah, and if – I don't know if this is true or not. You hear the rumor mill. So what I could be saying now could be really wrong. I don't know. In the rumor mill, I've heard that we're down to – we, the royal we, meaning the Board of County Commissioners are down to four candidates. Is that true? I don't know, but that's the rumor.

Mr. Walters: I don't know either.

Ms. Pratschner: I'm sorry, I don't know either.

Ms. Mitchell: Okay. So much for the rumor mill!

Mr. Walters: I do know that the Board of County Commissioners received a communication from a member of the public that made the suggestion that the Planning Commission be involved in the hiring process some time ago. And I –

Ms. Mitchell: What did they think?

Mr. Walters: I don't know. I'm not privy to the hiring process. But I know that they received the suggestion.

Ms. Del Vecchio: Could you let them know on our behalf that we would second that if there is any role?

Mr. Walters: I'll let Stacie handle that.

Ms. Del Vecchio: Thank you.

Chair Raschko: Do you think it should be stronger than that, though? Like a resolution would be a direct request.

Ms. Del Vecchio: I'm fine with it. I'm not going to request a resolution. I'm fine with it not being stronger than that at this point, but that's just me. I'm just one person.

Ms. Lohman: I would personally not want to get involved in personnel. I mean, I love working on policy and working on future – you know, like this. But I just – I don't know. I'm not sure that we want to go there. That's just my thought.

Chair Raschko: Anybody else?

Mr. Axthelm: Well, the biggest thing I could say is just making sure that the candidate is somebody that wants to work with the Planning Commission. And that if we are the eyes and ears of the Commissioners that it gives us – just that communication is real important to have. You know, I appreciated that with Dale and with the previous ones when I was working with them, and it's great to have it because then our work comes a whole lot easier when that communication happens. So that's it.

Chair Raschko: Nobody else? Are there any other issues anybody wishes to bring up? Yes?

Ms. Lohman: I just wanted to thank Stacie for these really in-depth memos that you've put out.

Several Commissioners: Yes.

Ms. Pratschner: Thank you.

Ms. Lohman: And, Ryan, your memos too – all the staff memos. These were – I read every single word and I learned a lot reading them. I felt like, wow, and I thought we should say thank you for the effort and that it's not for nothing.

Ms. Mitchell: It's true and it's actually a compliment when that begs more information because you're stimulating the questions and things like that. So these are really good. Thank you.

Ms. Pratschner: Thank you so much for those comments. I really appreciate it. I hope that the information presented makes our jobs a little easier, or if not easier that it leads to good policy. Even if it's not easy sometimes, that it leads to good policy. Thank you. And, as always, if there's things that don't work for you, let me know.

Ms. Mitchell: I've got a question for our senior, experienced Planning Commission members. So it's probably Annie, Josh, and Tammy mostly. In the past when we used to have workshops – and I think it may have been way back when you were either Planning Commission Chairs or even before that, Annie. There were some workshops – I remember sitting in the back of the room where there was some public comment at the end, and I realize that was different. That was when you made public remarks. But here's the thought process for why that moved to the front, and so I wanted to know if – when we do workshops, I think it's different than just the

general public remarks where somebody's coming in and saying, Hey, I've got some ideas. I want to come before you and tell you something. From having sat in the back watching workshops and things like that, if I were back there after the workshop I'd be saying you guys just generated this thought, that question, this thought, that question, and I'd like to address it before it goes away and you guys go into your next thing. So the process question to you guys: Having seen this before and done different workshops before, do you think it'd be more advantageous if we were to set it up for the public to let them ask the questions or make their remarks at the end rather than the beginning when we do a public workshop?

Ms. Candler: The workshops, it seems like, have taken different forms and have – Dale particularly was kind of trying to work with us, I think, in trying to figure out what we liked best, what worked best. There's – you know, some of the workshops we've had have been broken into small groups where people had input basically the entire meeting. Those, I don't know that they were more or less productive, but I just – for our deliberations, I think it's helpful to hear the comments at the front, but maybe people differ.

Ms. Mitchell: But the question would be if we were going to be deliberating at that point. But if we were to have a different one where it's like this one, this kind of workshop where there's no deliberations, what do you think? Because it is a different format for a different reason and for a different purpose.

Ms. Candler: If there were no deliberations, there would be staff input and then public input and then we would move on to another topic, right? So there wouldn't be a before or after. There would just be one.

Ms. Mitchell: Well, and this is – we had public remarks before each part of the workshop and that's before we went through information, so – the reason I'm asking – the reason I'm asking this is in an ideal world the public that was interested would have read the same materials that we did so we'd be coming in on equal footing. The workshop itself generates different understandings and knowledge base, and if their – if the staff's purpose at this point is to take feedback to develop the next set, I would think that allowing the questions, the comments to come from the public then, since it is a workshop, would be more beneficial as a package as a whole when you're taking the input to then go to your next phase. That was just a thought process. I didn't know if that would be helpful or not.

Mr. Axthelm: I could see where that would be appropriate when you have, like, somebody come in and present something, who's taking their time and they aren't going to be coming back. That would give the opportunity for the public to ask some questions.

Ms. Mitchell: Yeah. So just food for thought, because we've said so many times how important it is, and Stacie's great at gathering information. So is Ryan. If we're giving them everything we can to run with the next phase then maybe something would come out of it that way.

Ms. Del Vecchio: Can I – I'm not a seasoned – that question was not addressed to me, but, really, the workshops – the workshops seem to be less attended generally than the hearing – where we're actually deliberating on something. I mean, so I – to me, it might be worth considering having comments up front *and* at the end. I mean, sometimes it's helpful to get those comments at the beginning so we can include them in our own discussion but then I agree you're sitting here to us jabber on for an hour-and-a-half. And something else probably came up to ___ and I would like to hear that as well. The cycle that I would not want to see

happen is okay, now we have new public remarks. Now we must discuss those for another hour-and-a-half, and which leads to another – not that I don't want to be here until 8 a.m. but that's –

Ms. Mitchell: Perpetual meeting!

Ms. Del Vecchio: Yes!

Ms. Lohman: The never-ending meeting.

Ms. Del Vecchio: I mean, there's got to be a point – so I don't know the right answer to that but it seems like there's a place for both. Just, again, we usually don't have that many people.

Ms. Mitchell: Maybe to stop that then, for what you're saying – because I agree with you and understand – is understanding that if you gather those comments at the end it's really not directed at the Planning Commission. At that point it's directed to staff. The goal at that point is to help you take what you've gotten in whole from both parties – all parties that are public, because we're all public – to take with. So I just want to tee that up for an idea if we do workshops somewhere in the future?

Mr. Walters: From the staff perspective, if we're going to be taking public input during the workshops, yes, it would be, I think, useful to have that input towards the end. What I've seen in other jurisdictions and other settings as well is that there's a staff presentation, there's a discussion amongst this group. So this group gets the first crack at it.

Ms. Mitchell: Right.

Mr. Walters: And then there's public comment to fill in the gaps of what this group, which is supposed to be the ones that, you know, are most familiar with the topic and can help fill in some of the pieces and really need to have their questions answered first. But then you have that public comment maybe more toward the end, and maybe at multiple times during the workshop, but definitely toward the end so that you get those gaps filled in. Because that's what we're trying to do.

Ms. Mitchell: Yep.

Mr. Walters: We have some mission that the Board of County Commissioners has set us on; we have some proposal in our minds for trying to achieve that mission; and then we need input as to what we're missing or what we didn't anticipate or what's wrong. So the end is probably the most important time.

Ms. Mitchell: Good. I'm glad to hear you say that because what I was seeing from in the past and seeing now – because I thought this was really valuable – I can't help but thinking some more folks back there could add it in – it would be the time value for right now. You could take it. It takes another 10, 15 minutes. Take it, run, and then you move on, and I think that would be helpful. So if that's the case, I would only suggest – it's always your call, Stacie, on how you wanted to conduct that – that maybe we could work that into the future? The group would be agreeable?

Mr. Axthelm: You know, I look at it – is it – we have our questions and if the public has questions to go along with it, that would be a good opportunity after we ask our questions: Is there any questions from the public? But let's say 50 people show up and every one of them wants to say a word. We don't necessarily have the time for that. But they still have the opportunity to ask their questions and to – by writing it in. So it's just that sometimes with the workshops I would like to open it up as much as we can and get those questions answered but it's – there's a limitation on time sometimes, too.

Ms. Pratschner: I'll echo what Ryan said. My experience in the city was also of taking some additional comment at the end as well. So, yeah, we can look at changing the format a little bit. I mean, it's the Planning Commission's meeting so I want to make sure what we're doing works – works for you guys.

Mr. Axthelm: Mark, did you – you had something?

Mr. Lundsten: I was – you've basically covered what I was going to talk about. It's a two – it could be a two-edged sword but it's for the staff – if it's for the staff, I think we should follow their lead on how they feel it would be most effective – the information would be most effectively given. I was just going to bring up that they can – anyone can write in for another period after the meeting too.

Mr. Walters: Yeah, to address Commissioner Axthelm's point, you know, it should be fairly time-limited, especially if you've got a lot of people, because the idea is to ask a question or make a brief point – not to provide a lecture on a point but, you know, to highlight that item and then for other detail we can follow up separately.

Mr. Axthelm: You know, perhaps that's a situation similar to when we have the public comment. There's a statement above the public comment – that with a workshop situation, make a statement that way as well.

Mr. Walters: Yeah, if we could include that right on the agenda, you mean?

Mr. Axthelm: Yep.

Mr. Walters: Nail down sort of the format and then articulate it on the agenda?

Ms. Pratschner: That's a good idea.

Mr. Walters: Yeah.

Ms. Lohman: Because there used to not be any public input at any of the Planning Commissions until fairly recently.

Ms. Mitchell: And I'd like to state that it was Annie that initiated it.

Ms. Lohman: You had to be quiet. You had to sit there unless you were called upon by the Planning Commission. Because I remember being here as a farmer and just about jumping out of my seat and you had to be called on.

Mr. Walters: And I would anticipate that would still be the case, but you would have an opportunity to be called on.

Ms. Mitchell: Right.

Mr. Walters: But you wouldn't be jumping out of your seat on your own.

Ms. Lohman: That was a figure of speech.

Chair Raschko: Anything else?

(silence)

Chair Raschko: With that, we're adjourned. Thank you.

Mr. Walters: Thank you.

Ms. Pratschner: Thank you.