

**Skagit County Planning Commission  
Deliberations #2: 2019 CPA Docket  
February 25, 2020**

**Planning**

**Commissioners:**     **Tim Raschko, Chair**  
                                  **Kathy Mitchell, Vice Chair**  
                                  **Mark Lundsten**  
                                  **Annie Lohman**  
                                  **Amy Hughes (absent)**  
                                  **Joe Woodmansee**  
                                  **Tammy Candler**  
                                  **Martha Rose**

**Staff:**

**Hal Hart, Planning Director**  
                                  **Mike Cerbone, Assistant Planning Director**  
                                  **Peter Gill, Long Range Planning Manager**

Chair Tim Raschko: (gavel) Good evening and welcome to the February 25, 2020, meeting of the Skagit County Planning Commission. Are there any desired changes to the agenda?

(silence)

Chair Raschko: No? Okay. We'll have Public Remarks. If anybody wishes to address the Commission in three minutes, but it has to be on a subject other than what the agenda covers tonight.

(silence)

Chair Raschko: Nobody? Okay. So we're turning to our business of the evening, the 2019 Docket Deliberations. First is P-1, Rainwater Catchment, and Mr. Cerbone?

Mike Cerbone: Thank you, Chair. This is a continuation of the deliberations from February 11<sup>th</sup>. We had gone through the other docket items that evening and so tonight we'll be discussing P-1, P-2, and P-4. P-1 is a Rainwater Catchment. Essentially staff's recommendation on this was to deny the request. Staff is proposing to prepare an administrative official interpretation to address some of the items that were in the request and we're in the process of drafting that right now. And that was the recommendation.

Chair Raschko: Okay. Before we begin, I'd just like to make comments about protocol following Robert's Rules. And anybody's welcome to make any motion as soon as they wish or can start discussion. According to Robert's Rules, once you have spoken you cannot speak again until everybody else has had a chance if they wish. Okay?

One other thing I did some research on was calls for the question. And the way that works is if somebody wants to call for the question you have to have unanimous consensus among those people eligible to vote. And if you don't, you immediately hold without debate – you hold a vote on whether you want to go to the vote. And this is designed in order to prevent a single person

from cutting off discussion and it also protects minorities, and so it's used in the Parliament and the United States Congress, and those other things. So I just wanted to be clear on how that would work. Anybody's welcome to call the question whenever they wish, but that's what we have to do first. Okay, any questions/comments?

(silence)

Chair Raschko: Okay. So we're addressing P-1, Rainwater Catchment. The floor's open. Commissioner Lundsten?

Commissioner Mark Lundsten: Mike, have you talked to Guemes Island residents who've submitted proposals for you to work up a template? And have they said the guidelines seem okay and we trust you to work with you and to facilitate this rainwater catchment which they want to pursue?

Mr. Cerbone: So I have had conversations with members of the GIPAC – three specific members, to be specific – and we have talked a little bit about what would be entailed in the guidance document. And the intent of the guidance document really is to provide people a better understanding of what process they would be going through if they were going to be doing a rainwater catchment system on their property; for them to better understand what steps they would be going through and have a lot of the information that would be necessary for them to be able to make that decision all into one tight area. And so that is the intent of that guidance document.

Commissioner Martha Rose: So my question is: Is the reason for the Department recommendation because they're afraid of providing a template where then they might later be sued because maybe they're making a specific recommendation and then maybe somebody runs out of water and then they want to go to the culprit who created the document in the first place? Is that why you're shying away from the template? Because when we started on this project a few years ago everybody in the Department was, Yes, we like this idea of the template. We're going to partner with Western Washington to come up with a baseline and then improve on it and then, you know, really examine it to make sure it's just right. And then it seems like the Department completely backed away from that method, so –

Mr. Cerbone: So I couldn't really comment on how and when that happened, but I could communicate to you that since I've been here there has not been a lot of support for it.

Commissioner Rose: Right. I agree. It's been a couple years since there's been support for it. But I'm just curious about why it's not supporting the template with an engineer's stamp.

Mr. Cerbone: I couldn't comment on that.

Commissioner Rose: Okay.

Mr. Cerbone: I mean, all I can tell you is that since I've been here there has not been a tremendous amount of internal support for that approach.

Commissioner Rose: Okay, thank you.

Commissioner Tammy Candler: Can I do a follow-up question to that?

Chair Raschko: Yes, you may.

Commissioner Candler: In your view then, what is the difference or why do you prefer your plan to the template?

Mr. Cerbone: I wouldn't say I *personally* prefer my plan. You have the recommendation in front of you, which is the Department's recommendation, and that comes from Planning and Development Services.

Commissioner Candler: Do you know why they preferred it, I meant?

Mr. Cerbone: So, you know, the primary difference between, you know, what Commissioner Rose just described and, you know, what we're proposing to do would be, you know, having the ability to have an engineer involved or not involved, you know. Does that make sense? So, you know, having a template where they could have something they could go and then take that and propose to build that without having an engineer involved. I do know that there's concern within our Department – you know, the safety related to that. There is concern because what we're talking about doing is gathering water. We're talking about storing water and we're talking about using that for a potable source. We're not talking about gathering water and watering lilies. So this is going to be the primary drinking water source and so that is a concern that is prevalent within the Department. Having the engineer involved assures that the design and everything is going to be adequate for that specific property and for that specific project, and it does provide another person that is involved, has previously designed those, and that is what has been relayed to me.

Commissioner Candler: Thank you.

Chair Raschko: Commissioner?

Commissioner Joe Woodmansee: My main concern on this is whether the Department just has a position that they really don't want water catchment, rainwater catchment systems, and this is a way to further not allow them to happen. I think that they are very – in particular on Guemes Island, I think that they are very good, that this is a really – maybe a good way to soften the issue of the well contaminations. And so my concern is that we take a direction here that allows this rainwater catchment to move forward in a way that one way or the other gets in front of the appropriate people, that they make a decision that, from my perspective, I think that is in Guemes Island – well, I would say anywhere, but specifically in Guemes Island – that I think this is something that's needed out there. And so my concerns would be along the lines of how do we make sure that this can happen, more so than worrying about – it's not like new technology. It's been in place for a long time. Other counties do have rules and stuff. And so I'm not so afraid of whether somebody – whether the quality of the water is, you know, at some high risk or not. I think the systems that can go into place can take care of that kind of stuff, just as sometimes you've got to filter wells and stuff like that. But – so I would – I'm interested in seeing some way for water catchment to be – from a Comprehensive Plan thing, to me I think it needs to be something that is, you know, as a way forward, I guess is what I'm trying to say.

Chair Raschko: Thank you. Anybody else?

Commissioner Lundsten: If I may for the second time.

Chair Raschko: Sure.

Commissioner Lundsten: I would second what Joe says. I think it's fine that you want to facilitate to a certain level people on Guemes Island, but they're in a crisis. This is nothing less than an aquifer failure that's just about to happen and these are going to be needed. These rainwater systems are going to be needed. They have been needed and they've – fortunately some people have pioneered it and made it work. So they know what to do in that level and it costs a lot of money. They need a template. I'm with Joe. I think that it's – I think that we should be less concerned about our vulnerabilities legally or administratively and should follow the example of – in one way or another – of San Juan County that facilitates and enables this to – *makes* it happen, gets behind it and says, We're with you. We need to be with these people. I think we really do. This is not, Eh, well, we've got to make sure we don't irritate the people in this part of the Department or that part of the Department because they're going to have to change the way they do this or that. Which, you know, with all due respect, I admire the diligence and the perspectives of the whole staff. I just think that on this particular issue we as a planning commission need to think of the citizens who are doing without water and what their alternatives are. This is what they're looking for. They need all the help they can get and we should provide it.

Chair Raschko: Ms. Mitchell?

Commissioner Rose: So I concur with –

Chair Raschko: Excuse me, you'll be next.

Commissioner Rose: Oh, I didn't know that. I didn't see her. I'm sorry.

Vice Chair Kathy Mitchell: Go ahead. You.

Commissioner Rose: No, you.

Vice Chair Mitchell: Okay. Well, we've been through this before and I think we've discussed a number of times that the Planning Commission had put the recommendation forward to have rainwater catchment system, not just for Guemes, because Guemes certainly needs it, but for the whole county because there's other places that at given times they do or they don't. Where I fall back on is I'd be concerned with bucking with the staff and legal recommendation is on it, because we could say whatever we want but it won't go anywhere if it can't be done internally or taken care of that way. If we were to go out on one limb and to say go ahead and do this anyway, that certainly sends one kind of signal and the Board of County Commissioners can do what they will with it. I think because of the legal aspects of it I would fall back on following what legal said and then adding a very strong recommendation – very strongly-worded recommendation – that they *do* find ways to take care of this and to do it. I just don't know what's the best way to do that.

Chair Raschko: Thank you. Commissioner Rose?

Commissioner Rose: So what Mark had to say, I think, is where I sit and what Joe – Commissioner Woodmansee – said. The technology had been around forever. Rainwater harvesting is likely a little bit more expensive than drilling a well. If we can remove the economic barrier of hiring an engineer for each project people will save a few thousand dollars at least on putting in the rainwater harvesting. And I guess I'd like to see us approve the template and then let Guemes Island be the experiment, so to speak, because I'd like to see a countywide initiative to have a template. And that's where we were four years ago and then we fell back, and so – it's simple technology. I mean, why re-create the wheel each time, I guess is what I'm saying.

Commissioner Candler: For the most part, I am absolutely inclined to agree that this is sort of a common sense approach to a very real problem. What is not clear to me is whether or not the Department's position is that the template is not workable in all – like, they *can't* create a template that's workable for everybody. I don't know if that's what the Department's position is. If that's the case, then I'm not sure. I *thought* I heard Mr. Rooks say that the County's – the Department's current position seems to be workable for them, somewhat having some progress made toward this goal. But if a template works for pretty much anybody, I don't really see why people should have to pay for the engineering either. I just don't – I guess I don't have enough information or understand the science about whether or not that can work for everybody.

Chair Raschko: Annie?

Commissioner Annie Lohman: I think I would want to have a little bit of caution about just having a blank check and throwing the engineer out. Because there is a reason for having engineering and having some kind of guidance, because in the middle of August when you run out of water then everybody's going to be asking coulda/woulda/shoulda, and you don't want to be there. Because if this is your potable water supply and you don't have any fallback because it was not designed large enough or just foresee, you know, a fairly dry interval. It's a little more – it's as perilous as your well running dry. And then the other thing is you get the issues of it being the equivalent of surface water, and I know the Health Department when you're talking about potable water supply they really shy away from and really don't like surface water sources for potable drinking water for reasons of contamination. And you think of things like birds landing on your roof and all of that, and there's an awful lot of things that you don't even think about that seem rather benign, but until your family is sick or you have a problem. So I don't want to say don't do it. I'm just saying there is a place for a well-thought out, well-designed plan that engineering offers.

Chair Raschko: Kathy?

Commissioner Candler: The Department's wanting to weigh in as well, I think, but –

Chair Raschko: Go ahead, Kathy, and then we'll –

Vice Chair Mitchell: Maybe this will tag up what you're doing. We've been in that situation where we ran out of water three times, and it's really awful. One time it's because somebody was allowed to blast when they shouldn't have been allowed to blast and all of a sudden that night our alarm goes off and the well's not working anymore. And it cost a whole lot and we were out of water for a very long time before we could get that taken care of. And it was because of the grace of some other people that would allow us to come and get water from them that we could make do until we could get the situation taken care of. So those really are real problems out there for people when we hit dry times and specifically around this part of the country. There tends to be ten-year cycles for wetter/drier, drier/wetter, wetter/drier, drier – you know. You know how it works with El Nino and La Nina. The other thing is is that a lot of people don't think about is that things do have to be addressed for site-specific places. And we were also one of those people that got the notice that said you have to come in for checks for arsenic levels. Sure enough, arsenic levels off the charts. And so there are many, many considerations for what people can and can't do, should and shouldn't do, and, you know, the contamination from \_\_\_\_ bacteria \_\_\_\_ a number of sources are a problem. So this is the reason for the caution for saying that it really is a big deal. And I realize that there are systems that can help take care of those things, but it's not so simple and it's not necessarily inexpensive either. And in that instance, I can understand the abundance of caution between Public Health Department and the County for weighing in on this because this is public health. And if it were such that we had a little cabin out in the middle of nowhere that nobody

cared about and we took that upon ourselves, that would be one thing. That's entirely your doing. This is not that way. So I really feel like we're in a Catch 22 with this. Staff, have you got anything that would help with that?

Mr. Cerbone: I just wanted to offer a point of clarification. Commissioner Lohman brought up some very good points. The quantity, though, is something that we do regulate and we do require them to provide 350 gallons per day for a 90-day period, but we do allow them to go below that provided that they record a covenant. So right now the current system that's in place allows them to actually determine what their sizing needs are for their family or for how they plan on using the structure. And the reason why we require them to record a covenant if they go below our standard is that way when they sell the property whoever's purchasing the property is made aware that the system has been designed to a certain standard, and so they can plan accordingly or understand what they're purchasing.

Commissioner Lohman: For rainwater catchment?

Mr. Cerbone: Yes.

Commissioner Lohman: Thank you for that.

Mr. Cerbone: Mm-hmm. And that was something we plan to clarify in the AOI.

Commissioner Rose: I do have one more comment.

Chair Raschko: Yes?

Commissioner Rose: So Commissioner Mitchell raised some good points about the quality of the water, but it sounds like it's as much of an issue with a well as it could be for rainwater harvesting. And I've witnessed a well-designed rainwater harvesting system that had – a typical well-designed one has three filtering mechanisms, and the third mechanism is ultraviolet light and that kills everything. So I would suggest that an engineer template that included all the latest sophisticated pieces and parts is probably safer than a well. It's certainly not *less* safe. And so – I'm not in on worrying about the safety factor. I do agree that there's always the potential for the system to run dry; however, people that are working off of rainwater harvesting systems tend to be aware of that. They tend to be keenly aware that their water supply is finite and they tend to conserve water like crazy. And so I'm not – you know, I'm going to hold firm with my opinion that we should go for the template that has an engineer's stamp on it. It can be available to anybody as a pathway to get their building permit or simply replace their well or whatever. And if somebody comes in with a big, fat, elaborate house that's really huge and they want to use the template, well, the template can have some sort of metric in it to allow for sizing of the house. I don't even see that as an issue. I really see the whole bottom line issue as a way to allow an easier path to solve the problem that's not less dangerous, that's not onerous – you know, it helps to facilitate and maybe eventually could be used throughout the county but maybe now just on Guemes. At any rate, that's all I have.

Chair Raschko: Joe?

Commissioner Woodmansee: And one thing I just want to point out, that this isn't suggesting that this is not an engineer design system, because it *is* an engineer design system. But it's just suggesting that there's a template. It doesn't preclude from somebody trying to do something different that they couldn't bring another engineer in and add to or expand on the template for

size, or maybe their situations are different enough that they need further engineering. But to me, if we don't start the ball down the road, I don't think it gets taken down the road. That's kind of how I feel.

Chair Raschko: Yes?

Commissioner Lundsten: One more thing I'd like to add. Commissioner Mitchell mentioned that it's a Catch 22, and echoing some of Annie's concerns about the need for an engineer and the various quality issues that you run across. But Martha said it well. Rainwater is no more complicated than a well, as far as safety, for various reasons. And to me the Catch 22 is not for us to figure out which way to go is more sensible. The Catch 22 is for the residents of Guemes. They've got a failing system and we're telling them, But watch out – that rainwater might be dangerous! They don't want to hear that. They know that. They've been living with rainwater and they know how to do it. People there do it. They're just asking for us to facilitate it. That's it.

Vice Chair Mitchell: A question for staff. So at this point in time – today, tomorrow – if somebody out on Guemes needed to get water and they needed to do a rain catchment system, can they do that?

Mr. Cerbone: Yeah, they can. Somebody came in just a couple weeks ago and went through the process, and we got relatively good feedback about their interaction with staff.

Vice Chair Mitchell: Okay. So it's not like there is *not* a choice or an alternative if they need it.

Mr. Cerbone: There is a process in place that it can be used, and they can come in and they can sit down and talk with one of our water folks. They will come out and they will help walk them through the process. What it does require is it does require an engineer's stamp on the design to be able to permit that.

Vice Chair Mitchell: Okay. Thank you.

Mr. Cerbone: Mm-hmm.

Commissioner Woodmansee: I have a question.

Chair Raschko: Joe.

Commissioner Woodmansee: Do you know the statistics of how many systems have been requested and approved or denied?

Mr. Cerbone: I don't have those exact numbers.

Chair Raschko: I'm going to just take my turn to make a comment. I just want to tell an anecdote. When I was much younger we didn't have any money to buy a house so we built our own. And several years later after this thing was somewhat complete, we decided to add a garage, so I planned for the garage to have the exact same trusses as the building did. And I made exact copies. And then I had it condemned. I had to go pay an engineer a whole bunch of money to come out and look at them and put his stamp on them. And there's reasons for that, and that is for people's safety and everything else. To me, that garage was not going to collapse. But I was just reading one of the letters from the people that testified in here, talking about "I know that groundwater loves E.coli. Many wells in northwest \_\_\_\_\_ bird populations can be a

challenge for rainwater collection. Roof materials need to be smooth and not porous and need to be resistant to acid rain and UV chalking. Gutters need to be easy to clean and divert. They also need to be..." I mean, this is really interesting because it's a little ambiguous because he's been arguing that you don't need an engineer. But talking about all these requirements certainly makes me think that somebody's going to go out and design their own and go down to the hardware store and buy a big vat and stuff: It's potentially just not safe. Yes?

Commissioner Lundsten: I was going to ask: One of the proposals by the County is to eliminate the need for drilling a well before you qualify for a rain catchment. Now is that – where does that stand?

Mr. Cerbone: I would say to clarify that there is no need to drill a well. That would be the position the Department would take. But yes, you know, there is not a need – when you're on Guemes Island, because of the seawater intrusion issues there there is not a need to first demonstrate that you have no other potable water source. If you are not within a seawater intrusion area, then typically we do make you look at other alternatives that you would first have to go through before you would be able to use a rainwater catchment system. But because it is in a seawater intrusion area, it is an area where it is not identified as "discouraged," where that type of system would be discouraged elsewhere. Commissioner Lohman really kind of described the thinking behind that quite well in that, you know, the first water source that we want you to go to is a public water source. That is going to be the cleanest, most efficient, safest water source for you and your family. They typically will want you to look at a well next. Then you would go to an alternative water source, and so that would be like a rainwater catchment or a surface water system.

Chair Raschko: Go ahead.

Vice Chair Mitchell: May I? From a well standpoint – wells, geologically speaking, especially in this region the water tends to be cleaner and better with less problems than you would (have) from rain catchment systems or trying to gather from surface water. Would you say that's true?

Mr. Cerbone: That is my understanding. That's been conveyed to me by our staff as well as Department of Ecology. I actually sat in a meeting with the folks from Department of Ecology where we were talking about rainwater catchment systems and, you know, I pointed out, Well, you know, it's coming off the roof. It's pretty clean. It's not like it's water coming off a parking lot with brake dust and things like that. And that is where I was corrected very sharply and communicated to me that, you know, there is fecal matter on that roof, et cetera, et cetera – gutters, a lot of the things that you all have spoken about this evening.

Vice Chair Mitchell: Right, and there's things that blow in and that kind of thing. And we have friends that live on the other side of Oyster Creek and there were some folks over there that do collect their water from surface water. And that's really dicey comparatively for the ones that get their well water. And the difference is oftentimes – most of the time – the water that you just – simply speaking, the water that people draw from the bottom of the well has had a long time for it to percolate through all the forest material and it tends to help clean up a lot of things. You know, minerals can always be a different issues. You know, iron country you have a lot more iron and minerals and other kinds of things. But it's the germs, bacteria, those kinds of things that can be a really big issue. And that is – I can't overstress how important that is, and that's why the public health safety people go as far that direction as they do.

Chair Raschko: Anybody else?



Commissioner Lundsten: I've been waiting for – entertain a motion on this?

Chair Raschko: Let's hear your pleasure.

Commissioner Lundsten: I would move that we adopt revisions to 14.24.38 \_\_\_, the petitioner's preferred alternative to change SCC 14.24.380 to require staff to produce a template for an engineer-designed system for rainwater catchment within 60 days of adoption.

Commissioner Rose: Second.

Chair Raschko: That's been moved and seconded. Discussion?

Commissioner Candler: Does the Department have a position on the 60-day portion of it? Is that a workable number?

Mr. Cerbone: It would probably be a very difficult number to achieve. It is something where, you know, I would comment that what you are potentially considering right now is to actually put text within our development code that then orders the staff to do something within 60 days. And, you know, I guess another way to do that would be to have the Board direct us to do that. If the Board directs staff to do that we are certainly going to carry out the wishes of the Board. I think most planners would have hesitancy to put language like that into the development code for the need to have to actually go back and potentially remove it at some point in the future. So that would be the only thing that staff would share with you. There is a template that we have that we could pull out and take a look at. Sixty days would probably be a tight timeline. I will certainly communicate that because that would have to be reviewed internally. That would certainly have to go through our legal counsel and legal counsel would have to sign off on that before that was operationalized. That would be a fairly tight timeline.

Vice Chair Mitchell: I'll go ahead and say it. As much as I sympathize with the rain catchment system, and I *know* that we need it, I don't think this is the way to do it. If we were to send this message in that strong of terms I don't think that's going to help the situation. I do hope and perhaps think that there may be other ways and better ways to do that to approach this. And this one, I don't think, is it.

Chair Raschko: Would you care to – do you care to amend your motion –

Commissioner Lundsten: I'd be happy to.

Chair Raschko: – along the lines of what staff –

Commissioner Lundsten: I hesitated at 60, which you may have noticed. It seemed like it was onerous to me, too. I wouldn't want to do it in 60 days. But I read what was here.

Mr. Cerbone: I'd be more than happy to do it in 60 days if I was given the resources and that was the only thing in front of me.

Commissioner Lundsten: And I'm sure you could. I'm willing to make it within a reasonable – I would take Michael's advice on this. What would be a reasonable amount of time, should we want to do this?

Mr. Cerbone: I did offer two thoughts for your consideration. One was concern about the timeline and the other was the manner in which the request is made. And so the first one, 120 days perhaps. And then the other one would be whether it's actually written in code or whether perhaps it's a recommendation to the Board to direct staff to develop the template.

Commissioner Candler: So that was going to be my question.

Mr. Cerbone: I apologize if I overstepped bounds.

Commissioner Lundsten: Let's deal with the days first. I'd be willing to go with 120.

Commissioner Candler: Okay, so you've been asked to amend in that vein, but I was going to ask that you consider amending to be consistent with what Michael just said, in terms of not putting it in the – not moving to put that in the – moving to recommend we put that in the code but moving to *make* the code and that there be a directive separate from code. Does that make sense?

Commissioner Lundsten: I think so.

Commissioner Candler: Okay.

Commissioner Lundsten: And, yes, I would. I'm \_\_\_ for both. Yes.

Chair Raschko: So it would be very helpful to be able to see this typed up, if we could, so everybody is very clear on what they're voting.

Mr. Cerbone: Mm-hmm. We've got it ready to go.

Commissioner Lohman: Well, wait. I'm struggling with the 60 days myself because I don't think it's doable, but I'm questioning, Is another 60 days – so 120 days? Because I know that there's other places that we could draw upon that have already done. You know, I don't think we need to reinvent the wheel if there's already a model template from somewhere else that we could copy. But I also am frustrated that it has to be such a crisis. Guemes has got a serious issue. So do some people upriver that don't have beauty in the vicinity to supplement their water. It isn't – so why do we have to wait until things are an absolute burning down barn before we finally decide to do something like rainwater catchment? Because it shouldn't be that you only allow it for right here when there's other places in the county that could absolutely benefit from it. And I think that having – I'm not afraid of an engineer. There's very, very good reason and so I think having the template with an engineering – and so I do not support striking not having an engineer. So having an engineered template, or, you know, with a stamp with some flexibility and some access points for other opinions or emergent stuff, I think, is a great idea. But I'm having problems with the way the wording is of the motion, as it is in the – as you read it, as it already printed. But I'm not against the idea in its concept, and for more than just the reasons that Michael outlined. Because we are only advisory to the Commissioners but we also have to look at the county as a whole, too.

Commissioner Rose: I'm curious about the ideal wording that you would put forth.

Commissioner Lohman: Well, I don't think I would – I think it goes to I don't know what that template's going to look like and I would like it to not be so rigid that we can't have some flexibility in it. And so if you look at the code – so maybe we all need to flip over to the potential code section, which would be 14.24.380. I guess I'm asking, What is it that we're actually changing?

Vice Chair Mitchell: Well, the – have I got the right stuff here, Mike, that says “Policy: Planning and Development Services shall produce a template for an engineer-designed system for rainwater catchment for Guemes within 60 days of adoption of this code amendment”? That was what the code was, right? Okay. My problem with the motion part is the “required.” I think I would – I don’t have a suggestion on the language yet.

Commissioner Lohman: I don’t know where the –

Vice Chair Mitchell: Go ahead. I’m done.

Commissioner Lohman: I’m not sure. How do you insert what we’re asking *in code*?

Mr. Cerbone: So I –

Chair Raschko: Go ahead.

Mr. Cerbone: I could help you do that if you wanted to put it into the code. 14.24.380 is the section of our critical areas ordinance that deals with seawater intrusion. And so I think when we originally looked at this we – when we were doing work sessions on this we talked about potentially adding it in – if you look at 14.24.380 – if Peter pops that up or if you want to bring my screen up I have it up on my screen. There we go. So it’s a little hard to see, but this is where 14.24.380 begins and there’s an applicability section. And so we would just add a new subsection probably right after that, so starting renumbering (2) below that is where we would actually add that text, if you so wanted to add that text, if you still wanted to add that text in. We could also put it at the very end of the section. Because it’s not really – because it’s an interesting way to compel the Department to do the work, it doesn’t really have a natural resting place in the code. So if you wanted to put it into the code, I would suggest you put it at the beginning of the section or at the very end of the section.

Commissioner Lundsten: My intention is to enable people to do this and to have it as a legal regulatory – part of the regulatory framework – that it works, it’s functional. How we get there, I don’t care. If we – I used the petitioner’s language. They’ve been massaging this issue for years, a few decades, so I’m following their lead on that. I’m willing – but we know what they want so I’m willing to adapt this. I want to keep the motion on the table and we can massage it. That’s fine, that’s great, I’m happy to do it. I’d want to make sure that – what I’d like to see is something that comes out (and) establishes a workable template that people can go out and save money and not risk *not* having an engineer – that those options are available using best available technology, and do it in a more cost-effective way.

Mr. Cerbone: Chair, if I may? So again, based on my conversations with the applicant, I’m going to state something I don’t feel like I’m over my skis on. I think if they arrived at that place where they had the engineer template, they would be quite happy.

(laughter)

Mr. Cerbone: So one way to do that would be to operationalize what they’ve requested within the code. That would – we would be, you know, beholden to that and would have to act on that. There would potentially be consequences if somebody wanted to question us as to if we would hit 61 days and we did not have that template. I’m not saying that any of the applicants or the folks on Guemes Island would do that, but that’s certainly a risk that we would run if we put that specific language into the code. As I communicated earlier, if you have the Board direct staff to do that

work, we serve at the pleasure of the Board. My boss serves at the pleasure of the County administrator, the County administrator serves at the pleasure of the Board. We do what we're told to do. So that would be another way to get that work done. Now that would also give us some flexibility in that timeline as well. You could recommend that it be done within 120 days and if for some reason there were internal issues where we couldn't arrive at that within 120 days we would have the flexibility to be able to do the proper job to be able to do the work \_\_\_\_\_.

Chair Raschko: Can I have a turn real quick?

Vice Chair Mitchell: Yes!

Chair Raschko: Okay. Just to clarify, though: I like the idea of having the Board of Commissioners direct the Department to create a template, but what is the mechanism then? Does somehow that still have to be incorporated into the law? Or is it just something that's on the shelf and if somebody wants their system they come in and you give them a copy of it? And I presume then they'd have to have a permit to install it?

Mr. Cerbone: Well, I don't know that there would need to be a – yes, they would definitely need a permit, Chair. Certainly a permit would be required in order to do any development within Skagit County. Yes. Unless it's exempt, and those are \_\_\_ small structures, typically woodsheds and things like that. So in terms of if there was going to need to be a change to the code, this is an alternative water system so I think what we would be offering them is a mechanism in which they could permit their alternative water system. And if they didn't choose that mechanism they could certainly get their own engineered design, but it would be something that the County would agree that we accept that meets the code.

Chair Raschko: Mm-hmm.

Mr. Cerbone: Now if we march down the pathway and we're doing this and for some reason something pops up that staff has not anticipated before this evening, then that is something that we could address, and we could bring a separate code text amendment to this board outside of a docket process for consideration, if that was something that needed to happen.

Chair Raschko: Thank you.

Commissioner Candler: I'm working on some language here so I'll – if somebody else has something –

Vice Chair Mitchell: I've got a question.

Chair Raschko: Commissioner Mitchell?

Vice Chair Mitchell: So if we were to recommend this to the Board, do we have to recommend code or can we leave that to them?

Mr. Cerbone: Again, if you want to direct staff – recommend to the Board that the Board direct staff to develop the template, I don't foresee the need for code at this point in time. But if we arrive at that as we are going through trying to develop or, I would say, implement the template that we have, then we could come and get that addressed. But again, the way that I would look at it – you're asking the question right now. I haven't had the luxury to go back and do the research – the way I would answer that question right now is I believe, again, this is an alternative water

system and so what this template would be would essentially be a mechanism that we would also them to use to permit the system without using an engineer. So we're essentially helping them by providing them part of their application requirements.

Vice Chair Mitchell: Okay, so functionally the reason I asked that question is because we are an advisory group. I really shy away from directing the Board to do anything and I will not okay that kind of language. I can't. And so if we can find some other way to phrase things – because it is the will of the Board of the County Commissioners. The best we can do is to recommend.

Mr. Cerbone: Yeah, and that is the term I would recommend that you use, is that you *recommend* directing staff to do it.

Chair Raschko: Ms. Candler, are you ready?

Commissioner Candler: I am. I don't know if this is going to be acceptable. But my thought is that what we should do is – as we always do – is recommend. "Planning Commission recommends that the Board of County Commissioners direct the Planning Department to remove barriers to rainwater catchment where applicable in the code on Guemes Island and direct them to create an engineer template that can be used in lieu of an engineer-designed system." I mean, I'll take the language out – engineered. A template, which we all know, will have been engineered by somebody in lieu of the current requirement for an engineer-designed system.

Vice Chair Mitchell: Can you pop that language up as you type it for us, Peter? Please.

Commissioner Woodmansee: I just want to clarify. I don't think anybody's advocating that there's *no* engineering involved. Nobody's advocated for that at all. Because this template *is* an engineered document. I don't know if "document" is the right word – but a document that's utilizing engineering to be created. Nobody's suggesting that anybody can do a system without any engineering at all. It's just that whether we have an engineered template that is from an engineer versus each person having to go and hire the same guy to do it over and over again, given the similar circumstances. So it's not – nobody's advocating that the process doesn't have an engineer involved. It's just, from what I understand is the advocacy is that there's a template that was created by an engineer and adopted by the County. It's something that would be able to eliminate that step for future folks.

Vice Chair Mitchell: Does it look like this language is capturing what you mean?

Commissioner Woodmansee: What he's typing now?

Vice Chair Mitchell: Yeah.

Commissioner Woodmansee: No.

Vice Chair Mitchell: Because – and this in lieu of an engineered system so \_\_\_\_.

Commissioner Woodmansee: Yeah.

Chair Raschko: Well, it is Commissioner Lundsten's motion.

Commissioner Lohman: Actually nobody – point of order. Nobody owns the motion once it's –

Vice Chair Mitchell: Right.

Commissioner Lohman: And it hasn't been seconded and not voted on.

Commissioner Lundsten: Good point.

(several Commissioners speaking mostly inaudibly)

Vice Chair Mitchell: Should we say "create an engineered template"? How would you phrase that? To indicate that – the template would have to be from –

Mr. Cerbone: "...and to direct them to create a template that can be" – uh – "a template that is approved by an engineer that can be used in lieu of an independently-designed system." Yeah.

Vice Chair Mitchell: Can you repeat that?!

Mr. Cerbone: Uh, yeah! "...to create an engineered template," or "a template with an engineer's approval." We have enough legislative intent that you guys have talked about that it's pretty clear what the intent to the Board is.

Commissioner Lundsten: Okay.

Vice Chair Mitchell: We don't need a baseball bat.

Mr. Cerbone: Nope.

Chair Raschko: Any further discussion?

Commissioner Lundsten: Grammatical point on the motion, if I may. An "engineered template in lieu of an" – they're not going to create – the staff is not going to create an independently-designed system. They're going to create an engineered template to be used by residents to qualify for a rainwater catchment system in lieu of an independently-designed system. Just a matter of clarity.

Chair Raschko: Well, in addition to that, it doesn't describe what the template's for.

Commissioner Lundsten: Thank you, Mr. Chairman.

Chair Raschko: Yes?

Commissioner Lohman: But we don't want to preclude the option for somebody if they *want* to have something designed \_\_\_\_.

Commissioner Candler: "...which may be used" instead of "to be used."

Commissioner Lohman: So when you say "in lieu," it suggests that –

Commissioner Candler: Right. So we need to say – instead of "to be used to design" it should say "which may be used in lieu."

Commissioner Lundsten: That would do it for that part. Yes.

(several Commissioners commenting about verbiage)

Chair Raschko: Are you done? Okay, it now reads: "The Planning Commission recommends that the Board of County Commissioners direct the Planning Department to remove barriers to rainwater catchment where appropriate in the code on Guemes Island, and to direct them to create an engineered template which may be used to design a rainwater catchment system in lieu of an independently-designed system." You know, the word "design," I mean, it doesn't allow you to *design* a system. It allows you to build a system. Because if you're going to design it that means that *you're* inventing it, not the template.

(mostly inaudible comments about verbiage from several Commissioners)

Commissioner Candler: Now this, I could foresee someone arguing that the second half does not apply only to Guemes Island. Maybe that's a good thing.

Vice Chair Mitchell: So what if we took the Guemes Island thing out of it?

Commissioner Candler: No, I mean I think, if anything – if we don't want this to apply countywide as far as the template, we need to put Guemes Island maybe at the end. But I'm not sure it needs to be.

Chair Raschko: Go ahead.

Commissioner Lohman: Couldn't we in our recommendation say that because this was – we're working with P-1, so we're working with the petitioner's proposal, but really we think that this should be – shouldn't be limited here?

Mr. Cerbone: I was going to say, you know, in the Findings when I went back and historically looked at some of the past years, you know, we include Findings and sometimes you guys also include reasoning in there. And so that could be something that you could communicate in that document as part of the motion. You could certainly include it in your formal recommendation as well.

Commissioner Candler: Just for the record, I personally think I like this because we're removing the barriers to rainwater catchment as appropriate on Guemes, which is the petitioner's request, but then we're also saying if we've got this engineered template we could use it elsewhere. So I like the language myself but I don't know how other people feel. It's not part of the petition.

Commissioner Lohman: But we could say that in our recommendation.

Chair Raschko: We could.

Vice Chair Mitchell: Okay. Before we get any further – Hal walked in. I'm glad you did! We've been massaging a motion that a couple of the Commissioners have started on and the rest of us are working on collectively. While we're still considering it, would you look at that language and see if you see anything that looks off?

Commissioner Lohman: Just a point of order. So did we make a motion to amend the motion to this new language yet?

Chair Raschko: Not to my knowledge.

Commissioner Lohman: Or are we still trying to figure out what the new language is?

Vice Chair Mitchell: I think we're still figuring.

Commissioner Lundsten: I think we're just working on the language, from what I understand.

Commissioner Lohman: Okay, I just wanted to keep track of where we were.

(bad spot on the recording here)

Commissioner Lundsten: Mr. Chairman, is that what we can do?

Chair Raschko: You can do that.

Commissioner Lundsten: I would do so. I would like to withdraw the motion – the original motion in favor of the amended motion, as long as my second agrees, I guess.

Commissioner Rose: Yes, I second that.

Chair Raschko: All right, so we need a new motion.

Commissioner Lohman: You don't have to ask – sorry.

Chair Raschko: Go ahead.

Commissioner Lohman: You don't have to ask permission of your second.

Commissioner Lundsten: Oh, that's okay. Thank you.

Chair Raschko: Okay, just one point of clarification. Can you scroll down just a couple lines there? Great, great, great, great. So is what we are trying to do is to recommend that the Commissioners direct the Planning Department to remove barriers on Guemes Island, and then create a template which could be used anywhere in the county? Is that what we're trying to say?

Vice Chair Mitchell: Well, that's what I'd like – it kind of can read that way. I'd like to see what Hal says.

Chair Raschko: That's what I'm wondering It just needs to be a little more direct in saying that.

Vice Chair Mitchell: You know, that we don't write word things here that create a problem by accident.

Hal Hart: It doesn't specifically say what you said – the last part, that could be used anywhere. I guess we understand your intent, I believe, from this meeting.

Mr. Cerbone: So what was originally docketed was to 14.24.380 which was for, you know, areas that are subject to seawater intrusion. But that doesn't mean that you can't alter this to carry the message that you as a board would like to communicate to the Board of County Commissioners.

Mr. Hart: Exactly.



Commissioner Candler: Well, I don't think it undermines P-1 in that sense. I think this gets the template made and it specifically says remove barriers to rainwater catchment for P-1. So I think it – my reading of it doesn't harm them, their motion or petition.

Chair Raschko: Yes?

Commissioner Lohman: If you put a colon before the end, after "Guemes Island," then maybe that would help clarify it. Kind of a comma splice.

Mr. Cerbone: Chair, if I may?

Chair Raschko: Yes.

Mr. Cerbone: And your discussion, you know, provides context for how this is carried out as well. So this is all audio and video taped and we produce, you know, a written transcript, and so really what you talk about right now is important because that's part of the legislative intent. And so what you're talking about if you want it to be this or to be that, it'll help us, you know, carry this forth and it certainly creates a permanent record that anybody can come back and review and understand what your intentions were.

Commissioner Lohman: Michael, I have a note in my packet that I wrote down "Where else in the code is there a template design?" Is there someplace else?

Mr. Cerbone: Where we have like a standardized template that –

Commissioner Lohman: Like what we're trying to do here.

Mr. Cerbone: I don't know that I'm aware of anywhere specifically in the code where we have a standardized template.

Mr. Hart: Not for something exactly like this, but under – within the building code they have things that apply to – they have simplistic designs that you can approve that don't require an engineer, for example.

Commissioner Lohman: Because when you flip over to the – they talk in the seawater intrusion areas. If you have the full chapter, they talk about referring to alternative water sources. But when you go to that chapter, it is incredibly vague. It really doesn't – it kind of talks pretty vaguely but there's absolutely no specificity. So it doesn't really help you at all.

Mr. Cerbone: And I think – if I may, Chair – I think that was part of the issue that some folks on Guemes are running into, is it is – when you read all the code, it is cyclical, right? It sends you back to one section. 12.48 is an older section of the code. 12.48 is rules and regulations of the Skagit County Board of Health governing individual and public drinking water systems. So that's our drinking water systems section of our code. You know, that's why we as staff believe 14.24.380, where it does not identify these systems as alternative systems, you know, trumps what's written in 12.48 where it says those are discouraged. So it is in need of a refresh, I think. Several people internally have thought that.

Commissioner Lohman: I'm not going – I have trouble following directions. I didn't read 12.48.250 – where they're talking about individual water systems utilizing alternative systems – I didn't read

it as a prohibition or as a we-don't-like-it kind of chapter. I just found it to be extremely vague and really not that helpful.

Mr. Cerbone: It *is* vague, and so, you know, it does – again, interpreted by staff as it's applied.

Commissioner Lohman: 250.

Mr. Cerbone: 12.48.250, Individual water systems utilizing alternative sources. In the first sentence, it says "The Skagit County Public Health Department discourages alternative sources. Before an alternative source will be allowed" Skagit County Public Health Department – the applicant will be required to – and then it gives you a list of things that you need to do in order to permit an alternate system.

Commissioner Lohman: I guess I didn't see that word "discouraged." But there's nothing more maddening when you're in a situation like the Guemes people wherein you are chasing a tail in an endless loop and when you can see by looking around the world and in other counties that have a solution and yet you get so close and you can't touch it. And yet I don't understand why we can't do something.

Chair Raschko: Go ahead.

Commissioner Woodmansee: So in reading this discouragement in the code here and then you have to provide written documentation why either an approved public drinking water system or a drilled well cannot be utilized –

Mr. Cerbone: Mm-hmm?

Commissioner Woodmansee: If you don't have PUD water and you have a moratorium on being able to drill a well on your property, isn't that yes and yes at that point?

Mr. Cerbone: So that is the position of staff. When I discussed this with them in detail, you know, they did say when you're in a seawater intrusion area, you know, you can identify, you know, that public water's not available and you would like to use rainwater catchment. If you were somewhere else in the county and you wanted to use an alternative water system, they would first make you examine as to why you wouldn't be able to drill a well or obtain water somewhere else. But that is part –

Commissioner Candler: I'm sorry, that – I'm sorry; keep going. I didn't mean to interrupt you.

Mr. Cerbone: Okay. But that is – that's part of what we were going to clarify as part of the administrative official interpretation. We were going to clarify that that process did not need to happen because that is something the petitioners communicated pretty clearly to you guys that they were concerned about additional, you know, wells being drilled out there just in order to be able to justify a rainwater catchment system. The other thing they provided you in their testimony was that additional cost, right? So if you've got to go drill a well first to do the rainwater catchment system, you know, that makes that rainwater catchment system that much more expensive. And some people probably won't go past that first step of drilling the well to get to it.

Chair Raschko: Have we finished?

Commissioner Woodmansee: I just would like to follow up one comment, that this particular code isn't related to Guemes. This code is countywide.

Mr. Cerbone: This code is countywide, sir.

Commissioner Woodmansee: So in the county, and there's lots of properties that cannot drill a well today, are in this situation under (a) where they don't have PUD water available and they cannot drill a well by regulation. So doesn't that answer yes and yes? Neither of those are viable options?

Mr. Cerbone: I don't implement this code on a day-to-day basis, and so I know specific answers that I can answer for you in relation to, you know, the 380 – the seawater intrusion area. But, if you like, we could definitely get somebody from our water resources group to come back to a different meeting and we could talk about this on a basis countywide. Or I can get your specific question answered and I can email the Commission.

Commissioner Woodmansee: Well, I think what we know now is that there's lots of people that have been told you can't do rainwater catchment, where they're in that situation where there's a couple basins in Skagit County that you can't drill a well in. So effectively right now they're not – those – if (a) is met via regulation and/or availability, they're still being told no because rainwater catchment is not – hasn't been very well received to this point.

Mr. Cerbone: And I would communicate to you I'm not in a position to affirmatively answer that question, but I'd be more than happy to research that question and bring that answer back to you.

Chair Raschko: Thank you. Yes?

Commissioner Candler: Because you've already – as you indicated, this is all part of the legislative history. I feel like I need to just state the obvious. I mean, when we were talking about removing barriers where applicable in the code, this has been identified, I think, as such a barrier that we're talking about. 12.48.250(a) could either be modified to say "except Guemes Island," or there could be a separate section that says Guemes Island is excepted or exempted from 12.48.250(a) – either way. And I think if other areas are identified, those areas could be added to that section or that sentence. And I think that is basically what we're talking about. And I just don't know what other areas in the code might say similar language that also need to be modified – if that's the only place it applies or not. But the idea, I think, is that all those barriers as relates to Guemes Island be adjusted.

Commissioner Lohman: The challenge is when you start list-writing is who you put on the list and who you left off the list. Because, like you just said, we don't know all the circumstance.

Commissioner Candler: But we know this one.

Commissioner Lohman: I don't know. I just thought that it was interesting that when you read the section on seawater intrusion and they refer to this and it just seems like you can't get off the treadmill.

Chair Raschko: Is this something we need to fix here, or – go ahead.

Mr. Cerbone: So that is the clarity we're proposing to provide as part of that AOI: to clarify that very specifically. The reason why we're not proposing to change 12.48.250 is that is the Public

Health's section of the code. And so we were proposing to clarify that specific situation that you have just talked about in that AOI, that administrative official interpretation, so that it was clear that you did not have to drill that well first in order to be able to permit a rainwater catchment system on Guemes Island. But you can certainly make the recommendation that you as a board believe is the correct one.

Chair Raschko: I'm sorry. I couldn't hear that.

Mr. Cerbone: Oh, I said you can certainly make the recommendation that you as a board believe is the correct one.

Vice Chair Mitchell: Thank you.

Chair Raschko: Okay, so what is the pleasure of the board? I think it's –

Commissioner Lundsten: The motion's –

Chair Raschko: Yes?

Commissioner Lundsten: I like the motion. I think we have other things to do. It's not going to solve everything we want in the code but it's going to get Guemes where they need to go to solve their aquifer problem and their rain catchment – the facility of rain catchment. So that's my perspective on it.

Chair Raschko: Well, does anybody wish to make the motion?

Commissioner Rose: I thought we did.

Commissioner Lundsten: I thought we – did I –

Commissioner Candler: The last I heard we withdrew a motion.

Chair Raschko: We need a motion.

Commissioner Lohman: I thought Tammy made the motion.

Commissioner Candler: I did not.

Vice Chair Mitchell: She just offered the language.

Commissioner Lohman: Okay.

Commissioner Lundsten: I will make a new motion if I may, Mr. Chairman.

Chair Raschko: Yes.

Commissioner Lundsten: I move that the Planning Commission recommends the Board of County Commissioners direct the Planning Department to remove barriers to rainwater catchment where appropriate in the code on Guemes Island and to direct them to create an engineered template which may be used to permit a rainwater catchment system in lieu of an independently-designed system.

Commissioner Rose: Second.

Chair Raschko: It's been moved and seconded. Further discussion?

(silence)

Chair Raschko: All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: That carries. Thank you very much, everybody. Thank you for your help. Okay.

Why don't we move on to P-2. Pardon me? P-2, Guemes Island Wells. Do you have any introductory verbiage?

Mr. Cerbone: Yes, Chair. So the petitioners requested that Skagit County Code 14.24.300 through 14.24.330 and 14.24.380 be amended to require predrilling approval for new wells on Guemes Island. Assessment and consideration of hydrogeologic impacts in the well review and approval process, and clarification that on Guemes Island rainwater catchment systems can be built without first proving that a drilled well is not feasible.

Staff's recommendation was to deny this request, and staff was proposing to clarify some of these aspects within that administrative official interpretation.

Chair Raschko: Okay, the floor's open for discussion or a motion. Yes?

Vice Chair Mitchell: I'd like to make a motion. I move to forward the recommendation to the Board of County Commissioners that docket item P-2 to modify well drilling approval for new wells on Guemes Island be denied.

Chair Raschko: Is there a second?

Commissioner Candler: I'll second.

Chair Raschko: It's moved and seconded. Discussion, please.

Vice Chair Mitchell: The first point was I'm falling back on the reasoning at this point that the reason that staff recommended that it be denied is because the petition was asking for all wells on Guemes to be taken care of that way. And the County only has the jurisdiction to handle things for new development – or for development. Is that correct, Mike?

Mr. Cerbone: That's what we've been informed – that we are limited to reviewing new wells that are part of a development application. We can't regulate all wells prior to drilling.

Vice Chair Mitchell: Right. And so I realize that there's a fine line and a distinction there but there is a distinction, and if the County doesn't have the jurisdiction to do that – and we've asked for

anything else that we could find on something like that and still haven't seen anything else – that'd be the reason for falling back for this motion.

Commissioner Candler: And what I would add is that I think that what we've done hopefully is read what we've done on P-1 serves as a clarification that on Guemes Island rainwater catchment systems can be built without first approving that a well drill is not feasible. I know that the well drilling permitting process is a separate thing, which is why I think the reason for the motion and the reason for the Department's position. But as far as that clarification, hopefully that's done in P-1 – or our recommendation regarding P-1.

Chair Raschko: Commissioner Rose?

Commissioner Rose: It's my understanding also that the Department was going to provide information to all the well drillers on Guemes and the people that live there as well about the issue of the seawater intrusion and perhaps as part of those recommendations or that informational exercise would be to let people know about the new rainwater harvesting rules that offer this alternative pathway, and that hopefully that would solve the problem without the more restrictive permitting requirements for all wells. So can you comment? Would that still be in effect, that educational materials to all the parties involved?

Mr. Cerbone: Well, unless Hal kicks me under the table, we are still intending to issue the AOI. So the AOI would clarify some of these issues that we talked about tonight and provide, you know, some of that certainty that you just communicated. You know, we certainly never shy away from partnering with the community to do education. We have gone out to Guemes within, I believe, the last six months. Our critical areas staff went out there along with natural resource staff from Public Works. So we'd certainly be open to that, and I think trying to spread the news about the new standards when they're in place or the new process when it's in place, it'd certainly be to our benefit.

Commissioner Rose: Thank you.

Mr. Cerbone: Mm-hmm.

Chair Raschko: Commissioner Lundsten?

Commissioner Lundsten: I don't think it's a good idea to just deny this at all. The problem they have on Guemes, it seems to me, is a \_\_\_\_\_ that is not going to be solved by market forces and natural events of people making so-call rational – or irrational – choices. Most of them turn out to be irrational. The common good is being depleted for all the individuals here. There's a drawing that I have that I saw of the lens of water that is the aquifer on Guemes. And it shows the basic – how this all works here, and what happens when the water – this water is, when there's pressure – this dotted line is the aquifer basically. This is saltwater out here and saltwater out there. And there's a different density of the fresh water and the saltwater and there's a little gravity, pressure, and so on. So this interface remains intact and the water keeps flowing out. But if you start putting too many wells in there you break that and this whole thing starts going the other way. And that's seawater intrusion and it's because so many wells are near the beach because that's where everybody wants to live. They don't want to live in the woods; they want to live on the ocean. So there's development there and they build their houses and they possibly deplete the aquifer that way. So to me we *should* have a program to approve wells, or we risk the problem of depleting the whole aquifer. And there have been, you know – in 14.24.020, Aquifer Recharge Areas, make it very clear in the code: "Potable water is an essential life-sustaining element. Much

of Skagit County's drinking water comes from ground water supplies which also provide base flows to protect aquatic resources. Once ground water is contaminated or depleted, it is difficult, costly, and sometimes impossible to clean up or to recharge. It is the purpose of this chapter to prevent contamination and depletion and to avoid exorbitant cleanup costs, hardships, and potential physical harm to people and aquatic resources."

That's exaggerated on Guemes. It's eight square miles. And a lot of people rely on it. I can't – I don't live on Guemes, but if I did this would be – this is red light splashing. This is danger. They could ruin the aquifer. No, it's great. They can collect rainwater now and I applaud us for doing that! It was a good thing to do. But I think we also ought to – we have to mitigate damage on the aquifer, and it's happening. It's been happening for 25 years and more, since this report came out. And they've been talking about it the whole time. We need to establish some sort of permitting system. I was in fisheries for a long time in Alaska and we had wars over common property. Limited entry. Individual quotas. Who gets the fish? Well, here it's who gets the water. It's a little different. It's not money-making. It's life-sustaining, and it's a common property. Nobody's getting rich by having it but people are able to stay there. It's fundamental. So to me we should have – we have to walk in. It's our job. The lawyer says we can't talk about this stuff. They tell us that. Well, we have to. We have to urge the Commissioners to do so. We can only recommend. We know that. They know that. Everybody knows that. But we can recommend that they take this problem for what it is. And it's going to be a limited entry problem. Who can drill a well? How can you do it? How do you get down to enough levels? How many wells can you have? Who decides that? Who plans – everybody's argument against this kind of discussion is, Well, I don't want to play God. Well, we gotta. We gotta work it out. Otherwise everybody's gonna lose everything. We have no alternative. So to me we should follow through on – we should lay into this. We have to or they could lose the aquifer, the whole thing.

Vice Chair Mitchell: The Guemes situation is a very difficult situation with the wells, and I appreciate the fact that we did get to see the graphic. I would remind people when they look at that graphic that is an oversimplification for what the situation is. There are three aquifers out there and the geology of it is not that simple. Yes, there are saltwater intrusion areas. Yes, there are difficult areas. And that is a problem. But to say that it's going to affect – somebody's doing one well in one situation is going to affect everybody else in another situation is overstating the whole problem, in my opinion. I do think that we need to look carefully at this. I do think that the Board needs – the Board of County Commissioners needs to keep aware of this at all times as well; however, we still have what the law says and we still have the situation where the County has jurisdiction and when they do not. What our personal feelings are are different things.

Chair Raschko: I would add that, you know, perhaps this is something that should never have been docketed because it's asking the County to do something, as Commissioner Mitchell said, it doesn't have jurisdiction. And I don't disagree at all with you, Mark. It's just that if a well's not related to a building permit or whatever type of permit, or under the jurisdiction of the Department of Ecology, then something should be done with the Department of Ecology for them to have some oversight on what's happening. Maybe their own permit system or some such thing. But we can't make a recommendation to do something that's contrary to what we can legally do.

Commissioner Lohman: I have a question for Michael or Hal. When you have an administrative – an AOI, an administrative official interpretation, where is that published and is it linked to the code? Because when you flip to the code for proposed language and you've inserted the language saying a well's not required to be drilled in order to permit an alternative water source on Guemes – in lieu of that, where does one even know and where does staff know that there's been an administrative official interpretation?

Mr. Cerbone: It's a *very* good question, Commissioner. We don't have that many of them. I believe we have two that are operational right now. They are things that we keep on file. The way staff is made aware of that is when they come in to the counter, if they interact with our staff at the counter and ask questions they'd be made aware of that. All of our staff are certainly aware of the two that we have that we have operationalized. A lot of these developments would require a predevelopment meeting. And so in a predevelopment meeting, that is when people come in and they meet with all the different staff members from all the different departments and divisions and they talk about their development proposal and what the requirements are. That information would be communicated at that time as well. The way it actually functions it doesn't live in the code but it serves to interpret the code like it states. And so it is not actual code language but it is something that we live by and we implement until such time that it is either overturned by a court of law or the code is amended so that that no longer applies.

So it's like quasi-code for kind of a/maybe a layman's way to describe it. But what it does is it really interprets the actual code and provides certainty for applicants and other people. The way that the process works to issue an administrative official interpretation is it's issued similar to a land use decision where notice is provided; there's the potential for people who disagree with that decision to be able to appeal that; and it goes through the levels that may be required for it to satisfy all the appeal rights and folks that want to appeal it. And at the end of that process, that's where it lives. So staff would draft it, we would issue a notice, that would be able to be appealed, you know, by folks from the Guemes Island or by folks in other parts of the development community or part of the community. If they wanted to appeal our decision, that would go up to the hearings examiner and the hearings examiner or administrative law judge would issue and render that decision. Is that helpful?

Commissioner Lohman: I just didn't want it to be a piece of paper that gets lost in a drawer.

Mr. Cerbone: Agreed. Yes, yes.

Chair Raschko: Any more discussion?

(silence)

Chair Raschko: Okay.

Commissioner Woodmansee: I have another question.

Chair Raschko: All right.

Commissioner Woodmansee: I don't know if it's more important to deny the request or if it is to maybe take the third action in here, which is to request more information be gathered on this. Versus just a flat-out denial, which doesn't approve it, of course, but.... And maybe it's already in the record enough but clearly all through here it talks about staff's intention of clarifying that you don't have to drill a well or prove that you can't drill a well to do – be eligible to do a rainwater catchment system, which is, I think, one of their primary things in here that they want to make sure gets codified some way – or by a letter of understanding or whatever. But maybe we do defer this farther down the road. You know, continue the discussion but not accept or deny a particular position. I was just throwing it out there.

Chair Raschko: Okay. Commissioner Mitchell?



Vice Chair Mitchell: I think we should stick with the motion.

Chair Raschko: We have to.

Vice Chair Mitchell: Yeah, \_\_\_\_\_ deal with it. But it's not that we can't revisit something later, it's just that what was requested can't be met. And I think our discussion has provided a pretty good ground work to where we can interface in finding the reasons for actions. I think that's the place where we can say the things that we wish to say for the Board of County Commissioners to consider for the future.

Chair Raschko: Well, if this motion fails you can make a new motion.

Vice Chair Mitchell: Oh, absolutely.

Chair Raschko: So it's been moved and seconded to forward a recommendation to the Board of County Commissioners docket item P-2 to modify well-drilling approval for new wells on Guemes Island be denied. All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

Commissioner Lundsten: Aye.

Commissioner Rose: No.

Chair Raschko: Okay. So we have one –

Vice Chair Mitchell: We should do a hand count.

Chair Raschko: Let's do a hand count. All in favor, please raise your hand.

All against, please raise your hand.

And no abstentions? Okay. So that passes.

Moving right along...What time do they lock the building up?

Mr. Cerbone: I believe it is 9:30.

Chair Raschko: Okay, P-4, Great Blue Herons, is our next agenda item. We can wade into it or we can spend the rest of the time we have this evening doing the Findings of Fact on the other ones. I personally think it'd be easiest to do this and then the Findings of Fact on everything we've already done. What's everybody's pleasure?

Commissioner Candler: I'm sorry. You're suggesting we do? –

Chair Raschko: We do P-4.

Commissioner Candler: And then do Findings of Facts, maybe at a different meeting?

Chair Raschko: Right.

Commissioner Candler: That would be my preference.

Commissioner Lundsten: Yeah, I agree.

Chair Raschko: So move to P-4. Is there any introduction by staff?

Mr. Cerbone: Yes. Thank you, Chair. The petitioner has requested to update the critical areas ordinance, Skagit County Code 14.24, to increase protections for great blue herons, based on best available science provided by the Washington Department of Fish and Wildlife's Priority Habitat and Species Management Recommendations: Great Blue Heron Report, which can be accessed online. Staff had a recommendation that is before you. It is similar to the petitioner's recommendation. The petitioner's recommendation is also in front of you as well for consideration. And certainly the other options that you have discussed tonight are also there as well.

Chair Raschko: Okay. Yes?

Commissioner Lundsten: I don't \_\_\_\_\_. I apologize. I have a question for Mike – a clarification, though; that's all this is. Can you summarize? Just tell us the intention of – how you see the intention of the staff proposal versus the proponent's proposal? And what you see each one – can you tell me, What's the difference in layman's terms? Not just, you know, enumerating code, but –

Mr. Cerbone: Sure, and I apologize. I fell prey to my own staff report and the way it was developed in that I have to go through to find those different sections to summarize them for you. You know, I'd say just on the surface of things, the two different approaches are similar. One seeks to provide guidance and provide a link to that report which I referenced when I introduced this. The other one seeks to take all of the recommendations in that report and operationalize those in the code. And so staff's recommendation seeks to reference that report and use that report to regulate in the future. And the proposal that was drafted on behalf of the petitioners seeks to actually take all of those recommendations and operationalize those into code so they're spelled out. So the primary difference aside from that is staff's recommendation also proposes to provide notice to conservation agencies that are engaged in protecting the species within 1000 feet so that they're aware if there's development within 1000 feet of those areas. And I think that would be, you know, the way that I would describe the differences between the two. You know, I do know that staff's recommendation was developed – I had the conversation today with our natural resource manager, Betsy Stevenson. I know she developed that in coordination with the petitioner, so she was in contact with them while she was doing that. They're similar. You know, again one approach makes you kind of look at the code and then go back to the report; the other one seeks to just have that information directly within the code.

Commissioner Lundsten: I have one quick follow-up. So basically, if I may: Your provision is to take pretty much what the proponents are suggesting and put it in your documents – your reference documents – for the toolkit for your staff to use in application of anything within that habitat area – that buffer zone and the habitat area.

Mr. Cerbone: Mm-hmm.

Commissioner Lundsten: Does that pretty much summarize it?

Mr. Cerbone: Yes, and –

Commissioner Lundsten: And that's what you're trying to do is basically keep those same elements.

Mr. Cerbone: Yes. So the one that was drafted on behalf of the petitioners really seeks to grab that information and put it clearly into the code so one can open the code and see all those things, whereas the other one, again, references that report. The other – that was a very good question you asked – the other difference that came in my mind while we've been talking is just the way the buffers are established. And so staff's recommendation has, like, a standard thousand-foot buffer in which we would then look at proposed development, and the recommendation from the petitioner operationalizes different buffers based on where that nesting colony is. And so there are a couple of different ways that would actually be beyond that thousand feet potentially. And I think the maps kind of show – Peter's nodding so I think the maps to a certain extent show what I just tried to describe very clumsily to you.

So this map which Peter has up on the screen for you, I believe this shows the recommendation that was drafted on behalf of the petitioner. And so that shows kind of these different buffer areas and how they would directly apply and they would regulate development within those areas. And then the map prior to that shows kind of what I would call a potential impact area, and so that is a thousand-foot buffer off these nesting areas and then anything – proposed development that fell within that would be then subject to the regulations.

Chair Raschko: Anybody else?

(silence)

Vice Chair Mitchell: Okay. I'd like to make a motion.

Chair Raschko: Go ahead.

Vice Chair Mitchell: I move to forward a recommendation to the Board of County Commissioners that docket item P-4 to increase protections for the great blue heron nesting areas be denied.

Chair Raschko: Is there a second?

Commissioner Candler: I'll second.

Chair Raschko: It's moved and seconded. Discussion, please?

Vice Chair Mitchell: Well, I can start on that one, if you like. First of all, we all love the great blue herons. They're a beautiful bird, and I think all of us see them all the time everywhere that we go. I've got a few – if I bring a couple maps over there for you to see can you put them up for me? Thank you.

The first one is a map of the United States that shows the range of the herons. And the yellow part is the summer range; the blue part is winter only; the green part – can you help me read that? I'm upside down.

Mr. Gill: Green is year-round range.

Vice Chair Mitchell: Year-round range and the orange is flyover zones. Okay, so great blue herons are everywhere. They're wonderful birds. And there's also white herons, which I'm sure everybody in the audience knows as well. Okay.

This one, that's a map of Washington state. And, of course, you saw from the other ones that Washington state is an area for the great blue herons. And what the folks did here is they put down their predicted areas for the breeding areas for the great blue herons in the green as predicted areas and the yellow as marginal area, and there's just a little bit of that. It gives you a pretty good idea of where all that is. Okay.

This one is an image, aerial photograph, from one of the Post Point heronry plans. That's up in Fairhaven in Bellingham. The City controls that and they're the ones that are in charge of the plans. And you can see the purple area is the outer limit for the heronry where they've got – can you read it for me? It's 100-foot –

Mr. Gill: The purple is 100-foot non-disturbance buffer.

Vice Chair Mitchell: Right. Is 100-foot non-disturbance buffer. And the whole area for the heronry up there is just like what we have down here with ours. It varies a little bit here and there. And the second photo is an aerial photograph that I made this weekend off of Google. And even though it's stamped for "Google 2020," it is – the last image was from, I believe, 2018. And that's when they built the \_\_ part of the treatment plant. You can see the distances are pretty close. The railroad's on the left-hand side, the treatment on the side, neighborhood off on the southwest side, and the heronry's in the center. Okay.

Here are two. These are buffers that are proposed for heronries down in Olympia. And you'll notice there – so this is urban, and they seem to be attached close to the nearby water and also it looks like the park areas that go with. And down there they requested a 200-foot annual buffer and additional 300-foot seasonal buffer. Keep those images in mind, please.

This one is straight from the Skagit Land Trust's site and the outer area – the green – is the \_\_ for their area. And the place where the heronry is – well, that's kind of the parking area – I drove out there and looked and the nests are really right in this area. I didn't want to jump the fence so I drove back and forth. And you can see the nests through the trees. Okay? This graphic was up through 2014 for bald eagle nesting pairs in the lower 48 states. And we know that the bald eagles have increased greatly, which is fabulous. I think all of us are pleased with that. And the reason I'm showing you this graph in attachment to these others is that they've put into the comments that one of the things that we should consider are the bald eagles' nesting areas and the impacts that they have. And there's plenty of documentation that they're a primary predator for the herons.

So thanks for bearing with that. And he showed you the things other sooner. So the bottom line reasoning is this: You've seen the different places the herons are. You've seen the different buffers that have been requested. And even though the WDFW has a table for urban versus suburban versus rural, what has been requested in this proposal is rather large for the different areas and for all the buffers. And the primary concern that sounded like through the written comments and the oral comments was the concern about noise disturbances caused by humans. Well, herons do fly anywhere and everywhere. They're not essentially an urban versus rural heron. They do go a lot of different places and they nest in different places. Birds will nest where they want to nest. And the best thing that we can do at this point is keep the humans out of the place, try to minimize for people going into those nesting areas when it is nesting season. There's already numerous laws in place. There are national federal bird protection laws that cover wild

birds, which include the herons, include the bald eagles. There's state laws. There's local laws. There's critical area ordinances. And there's laws, laws, laws already on the books. And the other thing when you couple this together, is that the noise ordinances are in place for all those areas already. We have them in Skagit County as well. And it is complaint – generally complaint-driven. So I've got all that information. We can pull it up if we needed to for more discussion, but the general gist is this: Each of those areas are quiet areas and we had much testimony saying that the March Point heronry is very, very quiet at the top for where they are. And I do believe that what has been proposed is an overreach for asking for the buffers for such large zones where they are. Compare it to places like the Post Point heronry up in Fairhaven, where there's the railroad tracks and the trains that go by. There's the treatment plant. That 6<sup>th</sup> thing was built while the herons' nests were there. They were okay. It's not like the birds die. They will choose other places to nest.

And that's pretty much in a nutshell for a beginner.

Chair Raschko: Yes?

Commissioner Lundsten: I appreciate the research you did but I find that your conclusions are non sequiturs, to be frank about it. It doesn't matter about things over which the County doesn't have control, for one thing. But let's step back. We're not asking the railroads to change their schedules. We're asking – well, permit issues and land use issues to be adjusted. What we have with this group is, to me, kind of a model of what we ask people to do to take care of the environment around themselves. They have had a citizens group. They've worked with a large industrial concern, T Bailey. That's no small potatoes. They build tank farms down there. The critical areas ordinance of Anacortes is being adjusted right now and there are provisions that are pretty much what we're looking at that they're going to put in for the top half of that circle that is not in the county but it's in the city. We split March Point with the City of Anacortes. And we've got a slew of these other programs that have all done what you read a lot in the code and in the regulatory documents – cooperation between the agencies, and so on – and they have all these names and they're all kind of similar – the Priority Species of Fish and Wildlife Conservation Areas, the Species of Local Significance. And the herons are one of those and there's a reason. It's also a very significant indicator species. It tells us whether or not the estuaries are healthy. And there's a matter of – and that's big stuff. They're failing in Alaska. Birds, they're – massive die-offs – they're happening in the Bering Sea. It's because the ice is moving away. And there's a lot of plankton depending on ice, and the forage fish depend on the plankton, and the birds depend on the forage fish, and the seagulls depend on those fish. And smelt is down in the last eight years a 98% crash in the northern Bering Sea. Those birds have died off.

So we have a bunch of herons that flew the coop, so to speak if I may, from the Samish heronry and nobody knows what happened to them. And we don't know what the feeding conditions are like. So to me to deny this is to go against all the other agencies that are – and all the other programs – county, state, and local – Anacortes, Skagit County, and the state of Washington and various agencies – who have said, This is a special deal. We need to take care of this. And also go against just a preponderance of evidence that estuary systems have problems right now and those affect *human* habitat, *human* sustainability, not just sea birds, not just – you know – herons and albatrosses and marbled murrelets or whatever they are. But they affect us, and to me it's important that we pay attention to herons because they're part of what we need as well. And the fact it would be a damn shame not to take care of this beautiful creature that makes our lives a little better. Pure and simple. And why would we go against the state of Washington and the County provisions, the designations of this species? Why would we pretend that the Samish Island disappearance of the heronry desertion is insignificant? It's very significant. We don't know

why it happened. This is our way of saying that's important. King salmon populations are down. Orcas are having a hard time. We all know this.

Another thing happened to me when I was fishing. I was a long-liner and we would incidentally catch albatrosses or seabirds – offshore birds no one ever sees – northern \_\_\_\_ and petrels and stuff. You never see them close to the beach. And the short-tailed albatross was down to 800 birds worldwide. And it's a Japanese bird. We didn't cause – fishermen didn't cause it, but they became endangered and if we had killed by by-catch mortality two or four of them in a year or two, that's a fleet of a few thousand boats with observers on them – they would go into what they call the Endangered Species Act goes into what they call – goes into conference with the National Marine Fishery Service and so on, and they could have shut us down.

Chair Raschko: Excuse me. I'm going to call point of order. I mean –

Commissioner Lundsten: If this bird becomes – what I'm saying is if we don't have some sort of – we figured out a way not to kill them. We showed that we did, and the Endangered – the people left us alone. And it was a good thing that happened. What we need – my point is that we do that with this – with – that's a model for how to handle environmental issues, and the Endangered Species Act is not something you want to mess with. That becomes serious. This is very – this is a step in the right direction that is already being handled by T Bailey, the City of Anacortes. Why should we *not* do this? It would serve us well.

Chair Raschko: I'd like to respond and make some comments of my own. First of all, T Bailey, I understand, was sued and brought kicking and screaming to the table. So as much as people want to make this as a great model of cooperation – am I right?

Vice Chair Mitchell: Yeah, they were sued.

Chair Raschko: Yes.

Commissioner Lundsten: I wouldn't say the screaming part was accurate.

Chair Raschko: So anyway, this all was precipitated when the Samish Island birds up and left, which I think is regrettable. And I love the things. I photograph them all the time. I went up there to photograph with my wife and to see this place, and we counted – I mean, it's an even number so it sounds phony but we counted 15 eagles between the turnoff for Edison and Samish Island we also saw herons out when we got to the wildlife refuge. I photographed those. I remember not that many years ago there was a lot of angst because Colony Creek had failing septic systems all up and down. I don't think that ever got fixed. I don't know. I always wondered what *that* did to the estuary and the little fish that the birds feed on.

My point is this. A bunch of birds left. They don't know whether it was the fireworks, which I heard were very noisy. \_\_\_\_\_ an extraordinary amount of noise, I've heard anecdotally. Whether it's the bald eagles, or whether there's a lack of feed fish down in the estuary. We don't know, but what we're going to do is put on a layer of regulations as a feel-better, and nobody'll ever find out the real reason. I agree with you. We need some science to find out what the problem is. I can't see developing land use regulations to mitigate something we don't know what it is.

Any other comments? Yes?

Commissioner Candler: Yes. I liked the way you stated that because that sort of is the gist of my position in terms of the last thing you stated, which is putting in code that is either not directed at the problem, not known to help the problem. I'm not a fan of acting just to act. And in addition to that, we do have some unknown effects on landowners with this very broad proposal. And I will say that I also am a wildlife photographer. I love the heron cranes. They enrich – I think one of the commenters: "Great blue herons' presence greatly enriches my outdoor experience." I agree with that 100%. I like to think we all do. I would like to think most people in this county do and appreciate what we have here. And that is not in dispute, I think, for most of the Planning Commission.

But we did have some comments from some other people in addition to what has been stated. You know, whether the cottonwood trees on Samish Island were beyond maturity. Some other reasons that we don't know might account for that loss, but I think I don't want to miss the point also that it probably wasn't a loss. It was probably a change in location, because I don't catch everything but my understanding was that the March's Point rookery increased and that it is believed that it absorbed some of that, or most or all of that, if not all of it. Some of it.

And the eagles, we can't ignore that with protections for eagles, heron cranes are not equipped to deal with those raptors. We heard some testimony that maybe, you know, when the adults have to fly out the babies are left unprotected, and I can witness based on, you know, videos I've seen on U-Tube, of all things, those heron cranes cannot protect those babies whether they're there or not. The eagle will sit there and eat that baby while the parent squalls in agony. And so, you know, it's awful to watch. But – so I don't accept that as a fact anyway.

And T Bailey was brought up, and I am concerned with how not only enacting ineffectual legislation or legislation that does not appear to address the problem, but also unknown effects for landowners. We know that when we do this – if we do this – there could be potential for monitoring costs for landowners that I think we probably haven't flushed out and can't imagine in terms of noise decibel levels, different times of day decibel levels, activities that they're doing that they're probably going to be asked to pay for studies about, and I don't really have a concept of how much those studies cost except that I think it's probably a lot.

So I'm concerned about neighboring landowners. And I think we're lucky that we have the Land Trust that has protected those core nesting areas in those neighborhoods and I think that that – it *is* the proper way that the herons should be protected. I don't know the financial situation of that and whether or not it's feasible for them to buy the buffer area. Potentially it's not. Maybe that's why these regulations are requested. But I am grateful that they have protected a large core of that. I don't know. I'm concerned about the overbreadth of this in how many locations in the county could be affected this year, next year. I don't know. It only takes – depending on what number the ultimate code picks for what a rookery looks like, or a heronry, I don't know where all those locations are going to be and what it's going to mean for the landowner.

And also, I think that the biggest concern – well, there's two concerns, of course: permitted noise or disturbances – but I don't think this code would be productive in a greater concern, which is all the unpermitted noise. You know, it's not going to do much to affect a lot of stuff that goes on that could potentially be disruptive to the parents that is just coincidental and not permitted. And so I don't really see it doing a lot in that sense. I do think that they are a species of critical importance. I don't doubt that at all. But they are also not currently – their conservation status is low. Not endangered, I don't think at this time. We certainly don't want it to get there. But the proof is sort of in the pudding. I mean, they've been living in that area next to these noises for years, and what I don't know is how much development is left – opportunity development is left in the areas that

we are looking at, which is Barney Lake and March's Point. It seems like those are both pretty settled areas. I don't really know how much actual activity is going to be affected by this.

So those are sort of my initial thoughts. One more thing, though. Also, I think it might be a little overbroad in terms of the length of time, and Commissioner Rose brought this up. The birds are there nesting for a pretty limited time and this is pretty broad. But there has been a demonstrated, I think, tolerance for human activity in those areas where we know they are.

Chair Raschko: Thank you. Commissioner Rose?

Commissioner Rose: So I agree with a little bit of what everybody has said, but where I'm leaning is that it's not the noise. I think it's the water quality that's probably affecting their feed. I mean, that's what makes me more suspicious. Because I did build near a small rookery once in Seattle and there were houses everywhere and, yes, there were some narrow restrictions on certain activities for about three months. But it wasn't a thousand feet. It was a few hundred feet. So I want to protect the herons. I think we owe it to ourselves to protect the herons, but I don't think the decline at that one rookery – I'm less suspicious about noise for that decline than I am about water quality. So I think this proposal is not really addressing – we don't know – like Tim said, we don't really know what the problem is. So it's like a dart board that we're throwing a dart at. So at any rate, that's all.

Chair Raschko: Yes?

Vice Chair Mitchell: I'd like to read a quote. This was in the *Skagit Valley Herald* paper, November 17<sup>th</sup>, 2018, and the title of the article was "Increase in Herons' Nests Seen at March Point." And I pulled three excerpts from it. And Ann Eissinger is the woman that also is the biologist that does all of the annual reports up at the Post Point heronry in Fairhaven that Bellingham City pays for. And I think they are up to something like 15 or 17 annual reports now. And she has also been quoted in the WDFW's recommendations, and you can also tell from all the references that she's part of the British Columbia-Washington state heron experts that discuss all these things. And in this article, she said – the three quotes; I'm going to pull them out – it says "Regional heron expert Ann Eissinger said she's fairly certain the increase in March Point is related to the disappearance of herons on Samish Island. Quote: "Those herons had to go somewhere," Eissinger said. "They didn't just disappear...they usually move somewhere else in the region and not too far. According to the State Department of Fish and Wildlife, herons are known to relocate due to predation, human disturbances, food availability, and may return to a heronry for up to ten years later." And if you go through and read the reports that she's done for the Post Point heronry, and you read her big booklet that she's done – I've got that too – she also thought that they got some of the Samish Island herons up there. So it's not necessarily that they all went to March Point. Some may have gone up to Fairhaven or they could have gone somewhere else. And I think one of the things that disturbs me about this proposal is when people say something that it's a catastrophic thing, that it's a horrible thing if the heronry colonies decrease in size or if they move or if they move the nesting locations, and it's a shame if they move from one place to the other, especially if it's your neighborhood and you love to watch them and see them – I think we all do enjoy that – but moving the nests from one point to another is not a travesty. They're not dying off. And it's really not an urgent, critical thing. It's a moving of one location to the other. And in this case March Point got some and Bellingham got some. That's great. And who knows where else? Some may have gone some other places. But the general gist is it's not a travesty, from that standpoint. I'm not belittling the fact that the herons are a beautiful bird and a great bird to have around. They are.



The other thing that bothered me an awful lot about the proposal is that it was very difficult to tease out what was being asked for and requested for, and staff even had trouble with that at some points with formulating exactly what was requested. And listening to the PowerPoint presentation several times, the original one to the Board of County Commissioners, the one that came back to us, and reading through the materials, I actually went through and made a list of all the contradictions that were said for why something needed to be done or why shouldn't need to be done. And I'm not going to read this off to you for all of them. There is an awful lot of them. For instance, you know, the noise is a problem yet it's so quiet up on the hill. It's contradictions like that that were done left and right. And the thing is is that we each have our own personal observations and views and things like that, and I know from my own personal experience doing a lot of walking and hiking over the years – although not as much likely as it used to be – if I was in a car going past the herons they didn't pay any attention to me. If I come walking up on the trail, they take off. And so knowing that this proposal is really asking for way more than is necessary – the birds *are* protected; there are laws federally; there're nationally, state, local, critical areas, and the noise ordinances to go with for those kinds of protections that are already in place. And all the herons' nesting areas are the same as the ones for the bald eagles. Those are covered as well. It just doesn't make sense to come out and do a huge swath when people still don't know what's being talked about and what they're being asked for. And I think, quite frankly and bluntly, that the County's being asked to bear the burden of the work that the Skagit Land Trust has been doing for years and they have been doing very well. They've been educating people. They've been protecting them. They put the core zones out there. They're getting people out there watching and observing where they need to be when they're protected. And they're trying to keep people out when it's necessary. I think what they do need to do is continue with the educational aspect of it. I think that it's their burden from the standpoint of they're the ones that own the land and the easements, especially for March Point and the Barney Lake. It's their burden to take care of it that way and it's great, because the County does so many educational things that they back people with all over the place, and that seems to be not being talked about. It's really not been talked about on all the costs that this would cost the taxpayers, which are everybody that's in the county. We asked at the beginning back at the very first workshop, I believe, when we listed through everything that the Skagit Land Trust asked for, What were the costs going to be? What was the manpower? What were going to be the teeth? Who was going to be doing the reporting? Who's going to be doing the policing? Who's going to be doing everything down the line? There's a lot of costs that are going to be involved and that's not been talked about either. We've asked for that information and that seems to have been evaporated in the conversation, and it's very important for what we're looking at.

And so when you piece all these things together, the Skagit Land Trusty has been a very good organization. A lot of people like it. A lot of people support it. I think we all do. And that is the burden that they bear. And they have done so valiantly with taking care of that land. But then to go the extra step for trying to take bigger buffers and try to do more regulations on top of that, I think that's where it comes across just way too far, especially when there's so many unanswered things.

Chair Raschko: Yeah?

Commissioner Lundsten: The birds are vulnerable. That's the point that's been made. And they're a valuable species for a lot of reasons. We made – you can see in all the documentation that they've left that they have a lot of – like I've said already, there are a lot of programs that have them as a – that list them as a species of significance and a habitat of significance. The costs are not going to be high. Mike was asked when that was brought up and he said, I don't see how that's going to add up to much. The program that they've designed or the staff has designed

seems like it's a very efficient way to do it. We're not asking – the program is not asking for anything besides what the County is already taking care of – County-controlled activities, whether or not someone who's going to be building something or doing something with their land does in a certain way one part of the year in a certain area or in a different way in another part of the year. The fact is is that this has been a satisfying and productive partnership for the people who have been involved in the heron issue. The City of Anacortes is going to jump on board. The State and the County have already designated the heron in certain ways and their habitat in certain designations. It's not contradictory. We're being contradictory against what other people see as a real natural move to give these birds some sort of acknowledgment and protection around noise, *which is shown to affect them*. And if you were going to be blasting along the other side of Highway 20, you would have to do it a certain time of year. You wouldn't be able to do it another time of year. Most people who are confronted, according to the documentation, with what has to be done for this heron – to protect the herons, are saying Oh, if I had known that I would – you know, that's no big deal; I just need to know what it is. To me it's not – I think that, Kathy, you're overblowing what is being asked for. What is being asked for is really simple and is already being considered and promoted by other agencies and other governments – the City of Anacortes. We're an outlier if we don't do this actually, it seems to me. We're disagreeing. There is a common cause here that is pretty straightforward, very simple, non-invasive to the people who own property, and it would have a result of paying attention to these birds, which do matter, and in more ways than just what the numbers are. They're an indicator for a larger ecosystem.

Chair Raschko: Are you done? I would say if they're an indicator things are pretty good because there's more of these herons out there than you can shake a stick at. Nobody's demonstrating there's a problem with the population. It's been demonstrated is a group of them flew away from one nesting site for some reason that nobody knows. Okay? The whole population isn't falling. As a matter of fact, it's been said by the experts that yeah, they showed up in two other possible sites.

Commissioner Lundsten: Sure.

Chair Raschko: All right. And I totally agree with you: We've got to find out what the problem is. You know, if there's an estuary problem. I mentioned it. I mean, it was in the papers big time. They even talked about the dye they put in people's toilets up by Alger and it showed up down in the bay. And it was a big problem and all the people \_\_\_\_ and everything else and affected the shellfish. Okay, that's *never* been remedied. Okay? So maybe that's the problem. You know, with the spotted owl thing? They found out that the barred owl was moving into their habitat and driving them out, and the Forest Service started shooting barred owls. Now I don't advocate shooting eagles, but the eagle population is huge. And is that an effect? Okay, so you can say, Hey, you know the impact's going to be small on these landowners. You go ask them at T Bailey if that was small impact. I mean, they had to make major changes in what they wanted to do and if you had asked them they'd have rather not. Okay, you don't own those adjacent properties, so it's real easy for us to sit here and talk about, Oh, they're all – you know – Everything's going to go to hell. We've got to do something that's not going to hurt these people. I don't think we have the prerogative of saying that.

Anybody else?

Vice Chair Mitchell: I've got something. I don't know if anybody else has been able to do enough homework to get into this or not, but I do have the documents about what happened with T Bailey. And I know what they had to do and I know what cost it took. They ended up having to bear the brunt for two to four biologists to do the work to do the noise ordinances and to bear with that.

Now the good news is they ended up being a good neighbor and worked with Skagit Land Trust and the City and the Port Authority to where they could work out something really in the long run. And it sounds to me like T Bailey ended up being a very good neighbor, but they had a huge run of costs on them to do this – to monitor – and it affected their business. So one of the things that we need to keep aware of and always as part of our charge for anybody sitting up here and anybody else in the county is to think about how it presents on any proposal, on how it affects everyone that can be involved. And looking at the proposal and knowing what happened in a situation like this and how difficult it was and how expensive it was and what the buffers were – that’s already been taken care of, number one, and one of the biggest things about it that worked: education and partnership. Not new laws, not new codes, not new ordinances. We’ve already got those in place in spades. And part of our charge is to look to see on a proposal like this when it says we would be targeting a minimum of 20 nests for a starting point, and then looking up to the mega-colonies – and somebody picked 200. Both of those numbers seem arbitrary to me. As a scientist, a real scientist, I question why those numbers were done that way. Well, I guess we have to start somewhere. But the interesting thing is that those are arbitrary numbers as well. Are big colonies significant? Of course they’re significant. But when do we start moving the numbers up and down? If we had a designated area for 20 nests and it dropped to 17, what does that do? If it goes up, you know, higher, what does that do to the next people? And the County is charged for taking care of every landowner in every situation all the way around. Knowing that Skagit Land Trust did a good job with getting the easements on those properties, already the heavy lift has been done. Those nests are already protected. They already have buffers and noise ordinances and laws and things like that that are protected. They also have a darn good troop of people that are out there that are bucking for them and helping with education. And I think one of – I’m sorry if it sounds like repeating it, but I think one of the best things that the people can do in this county is to keep going with education, looking to see what the problems are and where they are. Because right now it is just roll the dice on knowing what really happened at any specific place.

The other thing that was in the documents left and right, even with the WDFW documents, was that everything should be site-specific. Our own policy says it should be site-specific, yet what we have before us is not site-specific. It’s stamped, cookie cutter, all of them to be the same. That’s not right either. It also says that there should be management plans for every single site and they should be site-specific. That’s going to be a cost into the burden: Who does those and who pays for them? And how is that maintained? Again, Skagit Land Trust has done a very good job already for the part that they have taken in this. Where I don’t think it’s right is to shift the burden to the County and to the rest of the people, and especially the surrounding landowners.

Chair Raschko: Is there any more discussion?

(silence)

Chair Raschko: Okay, so we have a motion on the floor. It says “I move to forward a recommendation to the Board of County Commissioners that docket item P-4 to increase protections to great blue heron nesting sites be denied.” Can we have a show of hands, please? All those in favor, raise your hands and say “aye.”

Vice Chair Mitchell: Aye.

Chair Raschko: And all opposed?

Commissioner Lundsten: No.

Chair Raschko: Okay, so that carries.

Okay, it's 8:20. Maybe while it's all fresh in our minds we should do Findings of Fact on this issue?

Vice Chair Mitchell: Probably be a good idea.

Chair Raschko: Okay. We're going to take a five-minute recess.

Vice Chair Mitchell: Thank you very much.

(recess)

Chair Raschko: (gavel) Okay, we're back in session. Why don't we address Findings of Fact for P-4?

Commissioner Candler: I made some notes. I don't know if you want to start with me.

Chair Raschko: Sure.

Commissioner Candler: Okay. My preference would be to state the importance of herons, because we do – it *is* a fact and we all do recognize it and I don't want that to be lost in our recommendation. So my preference would be to state that in some form as a Finding of Fact. I would also like – should I go slow? Are you going to do this in real time?

Mr. Cerbone: Yeah.

Commissioner Candler: Okay.

Mr. Cerbone: I apologize. Could you please restate the first one? I was trying to cut and paste.

Commissioner Candler: The first one is I want some kind of an acknowledgment – and I'll try to articulate it – of what a great value and importance the Planning Commission puts on the great blue heron crane population in Skagit County.

My second proposal: I would like it to be a fact, if everyone agrees, that it is not known why the Samish Bay rookery was abandoned – excuse me, Samish Island.

Mr. Cerbone: Two items?

Commissioner Candler: One.

Chair Raschko: Maybe we can do spellcheck later?

Mr. Cerbone: Oh, yeah. No, I'll get it while we're going. I'm a hunter and pecker.

Commissioner Candler: One of the facts mentioned by one of the Commissioners was an acknowledgment of the WACs and critical areas ordinances and various other legislation that is already in place that do exist to try to help protect the populations of birds.

Vice Chair Mitchell: I've got a couple of those if you want them.

Commissioner Candler: Critical areas ordinances and such. I don't know how we want to word it. We can massage the wording of any of this, if Commissioners disagree, but these are my thoughts.

Next I would indicate that there is a lot of – non-permitted activity would not be affected by this. I'm sorry. I will restate. "Non-permitted activity would not be affected by this proposed code."

Commissioner Lohman: I don't think she means unregulated.

Commissioner Candler: I mean "non-permitted."

Vice Chair Mitchell: Unpermitted? Non-permitted? Does it make a difference?

Mr. Cerbone: Yep. It's whatever you want.

Vice Chair Mitchell: Well, what sounds good?

Mr. Cerbone: It depends what you're going for. So, like, I would look at "unpermitted" and I would say that's something that hasn't been permitted. It has the potential that it *should* have been permitted but it wasn't. Right? It also has the potential that it wasn't permitted. I used "unregulated" because I thought you were going for something that we're not envisioning or thinking about within this code could have the potential to also impact that.

Commissioner Candler: You make a very good point. Thank you. I agree.

Commissioner Lohman: Are you thinking more of people that kind of are violating the noise ordinance? That would be unpermitted?

Commissioner Candler: No. I'm talking about – it came up at the petitioner's opportunity to present and it was, you know, activity that people do that makes a lot of noise – chainsaws or whatever – that would not be affected by this because it's –

Commissioner Woodmansee: They don't require.

Commissioner Candler: It doesn't require a permit. So I think that because of that he's right with the use of the term "unregulated." Do you agree?

Commissioner Lohman: I read "unregulated" to mean that something – a different context. That's why I was questioning using –

Vice Chair Mitchell: He's asking how \_\_\_\_.

Commissioner Candler: Yeah, that's fine for now. Can we move on? I would propose that we indicate that heron rookeries exist in populated areas indicating a tolerance for some human activity.

(several Commissioners speaking nearly inaudibly and often at the same time)

Commissioner Candler: My point is just that the rookeries are there where they are.

Vice Chair Mitchell: Okay.

Commissioner Candler: I don't care. I'm just kind of throwing some stuff out there. We can always talk about it.

Mr. Cerbone: Yeah, let's get them down. You guys can wordsmith them

Commissioner Candler: I would propose something that says buffers in some other areas we've seen are more condensed than what was proposed – which actually might be a better Reason for Action. But it's also a fact so I don't care where it goes but it's something I think we should maybe talk about.

Chair Raschko: Can I make a comment on that? If we voted to deny the request, do we really need to get into issues of what the law would have been had we done otherwise?

Commissioner Candler: No. What we need to do is we need to put – I think this might be better for our Reason for Action, our reason for our denying the – our recommendation that it be denied. So I don't mind if we move on to Reasons for Action, but I do think we need to explain our position.

Chair Raschko: Okay.

Commissioner Candler: I don't think we need to – maybe we don't need all these, but I do have some other reasons, the things that I thought were more appropriate for Reasons for Action and things that I thought were more important for Facts.

Commissioner Lohman: I think it's a good idea to just put them down here and then we can just get the thought before we lose the thought.

Chair Raschko: All right.

Commissioner Candler: And I won't be offended if people want to get rid of them. I'm just – since I had some notes, I just thought it would be a good starting point.

Commissioner Lohman: And then we can – that way we're not hung up on Mike's inaccuracy. We can just get it down.

Chair Raschko: Okay. Do you have some?

Commissioner Lohman: No, she does.

Chair Raschko: Oh, you're still going?

Commissioner Candler: So I'm shifting from Facts to Reasons for Action. And I would indicate – I don't know if you were going to put this in a different area, but –

Mr. Cerbone: We have them in the same general – yeah.

Commissioner Candler: Oh, you do. Okay, that might be better. I think there's a – we talked about the potential for extensive monitoring costs for affected landowners?

Mr. Cerbone: What was the term you said before "monitoring costs"?

Commissioner Candler: "...extensive" – "potential for extensive monitoring costs for adjacent landowners." We didn't really use this term but we talked about it, I think, at least tangentially, that it might be a precautionary principle kind of a thing where we don't really know that this legislation is going to actually help the herons in any way. We're just sort of throwing some code at it and we don't support that, I think.

Mr. Cerbone: What was the part you said after "precautionary"?

Vice Chair Mitchell: "Principle."

Mr. Cerbone: Principle.

Commissioner Candler: That's not a magic word. I just want to try to find some way of stating what was stated well by our Chairman, which is that we don't – if there's a problem we should address the problem – like water quality – not some other thing. Another potential Reason for Action would be that, you know, there's a lot of habitat in the county and the birds are going to choose where they nest. We didn't really talk about that, so if people want to leave that out that's fine.

We had the quotes from the *Herald* article from Ann Eissinger that the increase in heron nesting at March's Point was likely due to the Samish Island birds having to go somewhere and probably went there. Something like that. The point being we didn't necessarily lose the birds. We – they moved around – potentially.

Commissioner Lohman: It isn't the newspaper records. They are quoting this biologist, Ann Eissenger.

Chair Raschko: Have you more?

Commissioner Candler: Yeah, a couple more real quick. The Land Trust has provided protections of those core nesting areas from the purchase of the property and easements.

One of the Commissioners indicated that the numbers appeared to be arbitrary as far as proposals.

Chair Raschko: You're talking about buffer –

Commissioner Candler: Numbers of nests. Well, buffers but also numbers of nests.

Chair Raschko: Oh, the nests. Oh, I see. Oh, were those numbers from the Fish and Wildlife?

Vice Chair Mitchell: Yeah. But –

Chair Raschko: But Fish and Wildlife's are arbitrary?

Vice Chair Mitchell: Absolutely they're arbitrary, yeah.

Mr. Cerbone: Do you want me to say "appear" or "are"?

Commissioner Candler: Arbitrary? I don't know.

Mr. Cerbone: We'll do that for now.

Commissioner Candler: And then I don't know if we want a Finding that the conservation –

Commissioner Lohman: Hold on, Tammy, a second. I don't think \_\_\_ is correctly written. I don't think that's what you said.

Commissioner Candler: Yeah, you're right. Thank you, Commissioner. It's not between a colony and a mega-colony, but just a sort of the baseline of how to determine what should be protected.

Vice Chair Mitchell: Why don't you just scratch that and start over?

Commissioner Candler: Well, I think we can just take out the word "between" and say "for the determination of size of a protected colony and mega-colony."

Vice Chair Mitchell: Okay.

Chair Raschko: \_\_\_\_\_. I don't know why the threshold \_\_\_\_\_. It's just the definition of a colony is 20 and a mega-colony is 200.

Commissioner Candler: And then I don't know if we want to add this or not, but there was discussion that the conservation status is low, which means they're not endangered at this time. Those are kind of from the notes I had. I don't know if we want to include concerns about increase of the eagle population or not, but that was also discussed

Chair Raschko: \_\_\_\_\_ recommend that.

Commissioner Candler: Okay, so maybe somewhere in there.

Chair Raschko: Well, the ones I have that don't duplicate your efforts are – first of all, I think the second one – after, you know, acknowledging the importance of the bird – is to just state that the population increased – excuse me; the overall population of herons is not in decline. Does anybody disagree with that?

Vice Chair Mitchell: No, it's true.

Chair Raschko: And this is not verbiage I made up. This was as a quote. I just don't know where it came from, but "the population increase in local bald eagles is well documented." And this is also a direct quote, I believe out of Anne Eissinger, is that "Bald eagles are the prime cause of nesting site abandonment."

Commissioner Candler: So can we put that in as 3?

Chair Raschko: Yeah.

Mr. Cerbone: Do whatever you want.

Chair Raschko: We don't have to. I'm just suggesting these.

Vice Chair Mitchell: Do we need to call out the WACs and the SCCs? We've got those numbers. Or is it okay leaving the generic?



Mr. Cerbone: No. If we have the specific ones, we can put those in there. Let's do it.

Commissioner Candler: WAC 365-

Mr. Cerbone: 365.

Vice Chair Mitchell: dash 190-130. And that one was called out. SCC 14.24.500-1. SCC 14.24.500.

Mr. Cerbone: Yeah, I got that one. And you said 365-190-130?

Vice Chair Mitchell: Oh, heck. 365-190-130.

Mr. Cerbone: Okay.

Vice Chair Mitchell: And have you got 14.24.520?

Mr. Cerbone: Yes, ma'am.

Vice Chair Mitchell: Great. How about SCC 14.24., General?

Mr. Cerbone: We can do that.

Commissioner Candler: Can I ask a question?

Chair Raschko: Okay.

Commissioner Candler: On C, I thought I heard you say that bald eagles are the primary predation for great blue herons, not necessarily the primary reason for nesting site abandonment.

Chair Raschko: Well, you know, maybe we should take \_\_\_. I read that out of one of the studies.

Commissioner Candler: This exact phrase?

Chair Raschko: Yeah.

Commissioner Candler: Okay. Okay, that's fine. I heard you say something about predation so I was confused.

Chair Raschko: Can you put the attribution to number C? I mean, who wrote the study.

Commissioner Lohman: Who said it?

Chair Raschko: You know what? I can dig it out and find it, but just not right now.

Commissioner Lohman: Okay.

Chair Raschko: And if we're going to be revisiting these Facts and Findings anyway for all the other issues that we won't be able to get coverage, so....

Commissioner Lohman: So as long as we acknowledge this is still a draft.

Chair Raschko: Well, I think it should be documented.

Vice Chair Mitchell: Got another WAC, too.

Chair Raschko: It *is* a draft.

Female Commissioner: Okay.

Vice Chair Mitchell: Got another WAC, WAC 232-12-011. Herons are not listed as a sensitive species. I've got the list. I don't think you want the list, but just leave the WAC and I think that's enough.

Chair Raschko: I have one more.

Commissioner Lohman: I don't think you need to go to that level of specificity.

Vice Chair Mitchell: So leave the WACs out?

Commissioner Lohman: Well, because –

Vice Chair Mitchell: Sure, if you want to leave it general.

Commissioner Lohman: I – well –

Mr. Cerbone: Well, I mean, if we know what it is it doesn't hurt to put it in there. But I think Commissioner Lohman's correct: If, you know, if it gets appealed we can put that specific information in there. But if you have it right now, I don't think it hurts to put it in there.

Commissioner Lohman: Oh, okay.

Mr. Cerbone: Because then if there is an appeal, it's much easier to go back and say this is exactly what we were referencing.

Commissioner Lohman: Because none of us have actually seen that WAC. I haven't seen that WAC and I don't think anybody \_\_\_\_\_. I'm always uncomfortable if it hasn't been generally distributed already so that we know what it says. And I'm not doubting your word for it. It's just I don't know what else it says and to know if maybe we *don't* want to put it in there.

Mr. Cerbone: Might I offer a solution, Commissioner? So we could draft this up. Peter and I could probably finalize it in the next day or two and send it back to you guys so you could take a look at it, and then at the next meeting if you guys have final amendments you can make final amendments to it. It's up to you.

Commissioner Lohman: Okay.

Chair Raschko: Can I suggest one more?

Mr. Cerbone: You can, sir.

Chair Raschko: It's just a suggestion, but – unless this is already covered – creating land use restrictions to mitigate an unknown is not judicious planning.

Commissioner Candler: Thank you. That's a good one.

Commissioner Rose: That's my favorite one.

Chair Raschko: Creating land use restrictions to mitigate an unknown is not judicious planning. Or describe it whatever way you want.

Vice Chair Mitchell: I've got Washington state bird law, too – RCWs.

Mr. Cerbone: "...not judicious planning." What was the other one, Commissioner Mitchell?

Vice Chair Mitchell: RCW 77.15.130. It's Washington state law bird laws.

Mr. Cerbone: Is there something specific about it?

Vice Chair Mitchell: It's the protected fish and wildlife.

Commissioner Lohman: Is there a particular paragraph that you're calling out?

Vice Chair Mitchell: I can't find it. Leave it off.

Mr. Cerbone: Okay.

Commissioner Lohman: That's a pretty good chapter.

Vice Chair Mitchell: Yeah.

Commissioner Lohman: Well, it's the one where they talk about –

Vice Chair Mitchell: It's a huge chapter.

Commissioner Lohman: Is that Fish and Wildlife's chapter?

Vice Chair Mitchell: Yep.

Commissioner Candler: I don't want you to get bogged down in the punctuation and all that right now, but I just – the WACs use dashes and the RCWs use dots, so at some point the WACs should be dashed.

Mr. Cerbone: Yep, I will get them right.

Commissioner Candler: Thank you.

Mr. Cerbone: (e) and (f) will be combined together and be much more coherent.

Chair Raschko: Do we want to move on then to Rainwater or Wells?

Commissioner Lohman: I think it's "effect" instead of "affect."

Mr. Cerbone: I need the picture to always tell the difference. Whether the aardvark is being affected by the arrow or the aardvark was affected from the arrow.

Chair Raschko: I think “affect” is a verb.

Mr. Cerbone: I’ll make sure it’s correct.

Chair Raschko: All right. Have we got everything on Herons? Do we want to do Wells?

Commissioner Candler: Do we need to offer the opportunity for anyone to not want one of these, or are we good if \_\_\_\_\_?

Chair Raschko: I thought we’d have heard, but by all means we should.

Commissioner Candler: Okay. Just would anybody object to any one of these if they want to?

(silence)

Commissioner Candler: Okay, now we should move on.

Chair Raschko: Okay.

Commissioner Lohman: And you’re going to email this packet to us?

Mr. Cerbone: Yes, Commissioner.

Commissioner Lohman: Okay.

Chair Raschko: Can I – before everybody is absolutely killed tired – can I just ask one thing? And that’s: I’m out of town the first week of March. Would anybody mind moving the meeting up to next week, the next one?

Commissioner Lundsten: I would.

Chair Raschko: Would you?

Commissioner Lundsten: Yeah, I have to take a trip between now and I’ll be back the 9<sup>th</sup>. It’s family business.

Chair Raschko: Yeah, okay. I understand. Could we move it to the week past?

(brief, barely audible discussion about dates)

Mr. Cerbone: We would just have to check to make sure the *room* is available.

Chair Raschko: That would be March 17. Well, if people can consider it.

Commissioner Woodmansee: It would work for me because I actually can’t be here on the 10<sup>th</sup> either.

Mr. Cerbone: So it would be a special meeting so we’d have to be very careful and make sure the agenda is exactly accurate as to how we want it because we wouldn’t be able to change or notice that, and then we would have some additional requirements for posting the agenda. But we can certainly accommodate that.

Commissioner Lohman: But you have plenty of time, right?

Mr. Cerbone: Yes, ma'am.

Chair Raschko: Okay.

Commissioner Rose: So which is the date that you're suggesting?

Mr. Cerbone: March 17<sup>th</sup>. St. Paddy's Day.

Chair Raschko: Are you back on –

Commissioner Lundsten: I'll be back on the 9<sup>th</sup>, yes.

Commissioner Rose: That actually solves a problem because on the 10<sup>th</sup> I have a SICBA board meeting, so moving it to the 17<sup>th</sup> eliminates the conflict.

Chair Raschko: Okay, so it works for everybody. Okay, thank you. Sorry for the interruption on that. Okay, so we need to move to P-1, Rainwater Catchment.

Commissioner Candler: Reasons for Actions, just that we recognize a very serious seawater intrusion problem on Guemes and would like to address that issue with rainwater catchment. I'm fine with leaving it simple.

Chair Raschko: Okay. Yes?

Commissioner Rose: I guess I would add one along the lines of the technology exists that makes these systems safe. Keep it real simple.

Commissioner Lohman: The rainwater systems.

Commissioner Rose: The rainwater harvesting systems that are available today are very safe.

Commissioner Lohman: I think we should acknowledge that rainwater catchment is a recognized, viable potable water source and it's used frequently around the world.

Vice Chair Mitchell: I think those are three powerful statements right there.

Chair Raschko: Okay, anything else? Yes?

Commissioner Lundsten: Could we look at A? It's not on my screen there. Thank you.

Chair Raschko: You're all right with that?

Commissioner Lohman: I don't –

Commissioner Lundsten: I mean, it's a simple – it's less is more in this case. I think there's a problem, there's a solution, that's what we recommend.

Mr. Cerbone: There is no one in opposition either.

Commissioner Lundsten: Yeah.

Chair Raschko: Commissioner Lohman?

Commissioner Lohman: I think we also recognize that there's other areas in the county that could benefit from having that template. It's not an exclusive template just for – if it works on Guemes, it ought to work up in the upper Skagit or on Samish Island or wherever you want to put it.

Chair Raschko: Yes?

Commissioner Candler: In the past we have indicated, you know, if there was not significant opposition then that would be a reason for action. I don't know if we want to do that here but we could.

Chair Raschko: Could you say that again, please?

Commissioner Candler: Mike Cerbone indicated there wasn't significant opposition to this petition as well, so that could be a Reason for Action.

Chair Raschko: Could we scroll back to A, please, when you're done?

Mr. Cerbone: Yes, sir.

(some mostly inaudible comments from Commissioners)

Commissioner Candler: Is that accurate? There was nothing? We didn't get any comments in –

Mr. Cerbone: I don't believe so. We'll double-check it. I don't believe so. There were several letters in support but I don't recall there being one in opposition.

Commissioner Lohman: Mark? On A, it says there's a serious seawater intrusion problem on Guemes and believes it's important to address the issue. I don't really think the rainwater catchment is doing anything about the seawater intrusion because it's already happening and it's going to continue happening. The rainwater catchment in and of itself is not going to do anything. So I'm questioning the wording of that sentence.

Commissioner Lundsten: I'd say "mitigation" instead of "address."

Vice Chair Mitchell: But it's not mitigation either.

Commissioner Candler: The reason I said that is because I do think that's exactly why the petitioner was here. That started – that was the impetus for this entire movement. And so I don't disagree with what you're saying. I do think it's a Reason to *Act*.

Commissioner Lohman: Let's say that then.

Chair Raschko: Okay, I wonder –

Commissioner Lohman: Because I think the way that's worded, it suggests that this is the solution and it's going to solve the saltwater, and it's not.

Commissioner Candler: So maybe we say the PC finds there's a serious seawater intrusion problem on Guemes Island and rainwater catchment is one –

Commissioner Rose: – one way to mitigate.

Commissioner Candler: – is an alternative water source. I mean, it could be just really simple.

Commissioner Lohman: There you go.

Vice Chair Mitchell: That's nice.

Commissioner Lundsten: That's what the plan is, yes. That's fine.

Chair Raschko: Good catch. Anything else on the rainwater catchment?

(silence)

Chair Raschko: Okay.

Commissioner Rose: The only other thing that I would – I don't know if we'd want to put in in here but just it's really a relatively cost-effective, simple alternative to a well. For example, desalination would be a lot more burdensome than rainwater catchment. So it seems like it's a more economically viable alternative to a well than, say, desalination, which would be the next step if the whole groundwater thing got wrecked.

Chair Raschko: Okay, are we ready to move on to Wells?

Commissioner Candler: I am.

Chair Raschko: Does anybody have anything? I would suggest Skagit County has no jurisdiction over wells not related to a permit, or something along that line.

Vice Chair Mitchell: Was that stated okay, Mike?

Commissioner Lohman: I think we're following legal advice.

Mr. Cerbone: Or Skagit County can only review the location of wells prior to \_\_\_\_\_ in concert with the development application. I mean, that's essentially what it is.

Vice Chair Mitchell: Can you repeat that for us, please?

Mr. Cerbone: Skagit County only has jurisdiction to review the location of proposed wells prior to drilling when in concert with a development application.

Chair Raschko: Okay. Annie, and then Mark.

Commissioner Lohman: We're following legal advice.

Chair Raschko: Okay, Mark?

Commissioner Lundsten: I would say that I have a problem with the first one. It's not a fact to me. It's an opinion. There are opinions opposite that we do have the jurisdiction to do that. In fact, some would say we have the obligation. So that's the argument. To say that if we don't have jurisdiction is to state that opinion. So the second one covers the first one, but I think the second one is what the first one means to say.

Commissioner Candler: But these don't – I'm sorry. Are you done?

Commissioner Lundsten: I'm done.

Commissioner Candler: Can I just respond?

Commissioner Lundsten: Sure.

Commissioner Candler: These don't have to be facts. They can also be Reasons for Actions. So the reason for our denial was that, wasn't it?

Vice Chair Mitchell: Yep.

Commissioner Lundsten: My mistake. I thought it was something that we could say "We know this" and "We know this." But if we know that's why we acted

Commissioner Candler: Would it be facts or reasons for acting?

Commissioner Lundsten: Okay. I stand corrected.

Commissioner Candler: The reason we did it – it could be wrong, but hopefully not, but, I mean, in theory it could be wrong and it still is the reason why we did it.

Commissioner Lundsten: I see.

Mr. Cerbone: How about – did you see what I typed up there? I put the two together.

Commissioner Lundsten: That's accurate.

Chair Raschko: Okay. Thank you. Has anybody anything else on 2?

Commissioner Candler: I preferred it as a Reason for Action rather than finding it as a fact because I –

Vice Chair Mitchell: Same here.

Commissioner Candler: You don't agree it's a fact and some other people might not, so would prefer to say basically the reason we did it is because of this reason, and the reason we think that is because of legal advice, but we didn't really find that per se. We're not saying we know for a fact that's true. Does that make sense?

Mr. Cerbone: Mm-hmm. No, it does. Yeah. There's a difference between a Finding and a Reason. Yep.

Commissioner Candler: So I would like to have it back the way it was.



Mr. Cerbone: Okay.

Commissioner Candler: If that's okay with others.

(sounds of assent from several Commissioners)

Commissioner Lohman: Staff intends to write an AOI which states that wells are not required to be drilled in order to permit an alternative water source on Guemes Island.

Mr. Cerbone: What was the last part, Commissioner?

Commissioner Lohman: That states that wells are not required to be drilled in order to permit an alternative water source on Guemes. Which is really what they were after. They didn't want people just going out and drilling a well for the heck of drilling a well just to satisfy a requirement that, Hey, we don't have good water.

Vice Chair Mitchell: Right, right. Thank you.

Mr. Cerbone: Do you mind if I put "rainwater catchment," because it is specific to rainwater catchment?

Commissioner Lohman: Okay, yes.

Mr. Cerbone: Because surface water is another alternative source.

Commissioner Lohman: The way it got written in the packet, though, was – didn't call it rainwater catchment.

Mr. Cerbone: Okay.

Commissioner Lohman: And our approving of the rainwater catchment almost makes this part moot.

Commissioner Lundsten: Which part? About the drilling the wells part for the rainwater catchment?

Commissioner Lohman: Yeah.

Commissioner Candler: About the requirement of proving that the well's no good.

Commissioner Lohman: Because in the Rainwater Catchment one, staff said that they were going to do an AOI as a part of it, and we asked that they come up with a template that would be engineered. And so it makes a large part of the well petition moot.

Commissioner Woodmansee: Question.

Chair Raschko: Wait, wait. Have we finished that point?

Commissioner Lohman: Yeah.

Chair Raschko: Okay.

Commissioner Woodmansee: It's related to the point. Was the AOI going to actually speak to that you don't have to prove you *can't* drill a well? So the AOI wasn't saying you don't have to. It was saying you don't have to prove you can't. Is that correct?

Mr. Cerbone: It's saying that you don't have to drill a well in order to be able to get a rainwater catchment system. So that's different from what you said, because if I heard you correctly what you said (was) you could potentially prove that you can't drill a well without actually drilling the well. And the concern that the petitioner raised was that they were required to drill a well prior to permitting rainwater catchment systems, so they're paying the money. You know, I could get a hydrogeologist to write an opinion that says you can't drill a well.

Commissioner Woodmansee: Yeah, I just want to make sure that's what it was supposed to say.

Mr. Cerbone: Yeah.

Chair Raschko: Okay, anything else?

Commissioner Candler: I don't mean to belabor it but the language that we had was without first proving that a drilled well is not feasible. Is that not how it was supposed to be?

Mr. Cerbone: Where are you reading that from? Commissioner, you're not belaboring.

Commissioner Candler: Today's working draft – motion worksheet for our commission on page 3, third bullet point.

Mr. Cerbone: And we're on P-2?

Commissioner Candler: Page 3 from today's –

Mr. Cerbone: I'm just going with the staff report because I want to determine if it's the petitioner's language or if it's our specific language.

Commissioner Candler: That's what I'm –

Mr. Cerbone: So that is the petitioner's language, the way they offered it, and my understanding is their concern is not that it be proved that they'd be required. That was their issue, that they were required to drill a well before the alternative could be approved. We can word it however you guys want.

Commissioner Candler: Can we say both? Because I'm confused a little bit about that.

Mr. Cerbone: Sure.

Commissioner Candler: "Drilled or proven unfeasible," or something like that. After "drilled" you could just put "or proven unfeasible."

Mr. Cerbone: Unfeasible, you say?

Commissioner Candler: Infeasible? I don't \_\_\_\_\_. Not feasible? I'm not sure. It's late at night.

Mr. Cerbone: I can certainly make sure it reads correctly before it comes back to you.

Commissioner Candler: Thank you.

Commissioner Lohman: Or “determined not to be feasible.”

Chair Raschko: Annie, nothing more?

Commissioner Lohman: Well, I can’t follow that cursor. You’re going to massage the language a little bit, right?

Mr. Cerbone: Yes, ma’am.

Chair Raschko: How about this end? Anybody have anything else?

Commissioner Lundsten: On A we’ve changed it around now so it’s still – I’d just like the clarification that that’s the – it’s pretty categorical. I’d like to have, say, “The Planning Commission believes that Skagit County can only review the location of proposed wells prior to drilling when in concert with the development.” The Planning – that’s what I would –

Commissioner Candler: The Planning Commission has been advised?

Commissioner Lundsten: Yes. That would work.

(sounds of assent from several Commissioners)

Chair Raschko: Do we need B then?

Commissioner Lundsten: I think B follows nicely, actually. And that’s why we got that A –

Chair Raschko: That clarifies A a little bit. Okay. Yes?

Commissioner Lohman: Mr. Chair, thinking about C, do we need to revisit – when we were talking about asking for the AOI, we were talking about not requiring a well to be drilled. And I didn’t thank you for calling up the petitioner’s language, because I didn’t pick up the nuance of having to prove that it’s not feasible to have that well, that it *is* a different animal. Do we need to make sure that that’s what we mean when we’re asking for that AOI?

Mr. Cerbone: No, because we’re going to be pretty clear that you’re not required to drill a well or prove that a well’s unfeasible, because what the intent of that code section is (is) to actually not make you jump through those hoops. The original code section 12.48, which is the Public Health code section, was in place prior to 14.24.380, which is the Seawater Intrusion Area. And so when we enacted – we, the County – enacted that provision, we knew that provision is in place and we enacted that provision with the intent to modify it and actually have that be the case. And so that’s how we’re going to draft the AOI. But, again, I’ve had a lot of conversations with the petitioner. Their concern is that they have to invest the time and money to drill a well prior to having a rainwater catchment system approved.

Commissioner Candler: And you guys removed that problem?

Mr. Cerbone: We’re *going* to remove that problem and it’ll be in an AOI and, like I said earlier, it can be appealed by anybody who disagrees with it. So we’re going to try and set that in course and correct that.

Vice Chair Mitchell: Thank you.

Chair Raschko: Okay, we've got 25 minutes and we've got a little more to do, so is there anything more on P-2?

Mr. Cerbone: If it's okay with the Commission, I will go through and add the Comp Plan sections and the Countywide Planning Policies and things like I did for the other ones above. I'll add those and send those out to you.

Vice Chair Mitchell: Thank you.

Mr. Cerbone: And those are more just procedural as opposed to, you know, why you actually made your decision.

Commissioner Lohman: Thank you.

Chair Raschko: Thank you much. So are we ready for the staff report?

Commissioner Lohman: Are we on the agenda?

Mr. Cerbone: Do you want to go through C-1? Do you have concerns with any of these other ones? In previous years, there weren't really too many detailed Findings for these, as I could tell. But I thought it was important to document the Comprehensive Plan policies and the Countywide Planning Policies that you considered along the way.

Chair Raschko: My personal opinion is that the – my understanding is that the thing you sent out that had the existing Findings of Facts – you know, the draft. Basically those Findings didn't come from individuals on the Planning Commission but were basically paraphrasing some of the things that were said. And so – is that correct?

Mr. Cerbone: No. So these that I put out, that I sent out to you, you're the only one that saw this before this evening.

Chair Raschko: Yeah.

Mr. Cerbone: So all of these, like A and B, these are actually – so the first time you saw these were in the work session. So in the work session we came through and we identified what we thought – staff thought – were the relevant criteria for reviewing that code amendment, and so all we're doing is going through and we're saying, you know, this proposed amendment is consistent with the Capital Facilities Plan and the Transportation Improvement Program.

Chair Raschko: Yeah. I have no problem with that.

Mr. Cerbone: And then –yeah, and so that's what I was saying. I would do the same exercise for the last three that we talked about this evening. I think they're just findings that support what you guys are doing and just bolsters your recommendation.

Chair Raschko: Okay, but my point is that if you go to some of the other ones where –

Mr. Cerbone: Yes, you're correct, sir. Yes. There are actually detailed ones where Commissioner Candler was very specific that we incorporate those as part of the testimony.

Commissioner Candler: Do you know where those are?

Mr. Cerbone: Yes, I'm going through those right now. I think they're right here. So that is starting with D.

Commissioner Candler: What item? What page? What –

Mr. Cerbone: It's right in front of you. Oh, page 2.

Vice Chair Mitchell: We don't have it in the paper copy.

Commissioner Candler: No, we do.

Vice Chair Mitchell: Okay.

Mr. Cerbone: It should be on page –

Commissioner Lohman: So which one are you on?

Mr. Cerbone: It should be on page 2 under item C-4, Trails in the OSRSI.

Commissioner Candler: Yes. Thank you.

Mr. Cerbone: So I did those kind of like what I would call findings for the Comp Plan, and then below those are the ones at the end. That was the one that we spent a fair amount of time on. Folks that were here last time remember. And at the end it was stated that those were – wanted to also be made sure that they were included, and so I did try and do that. But we can \_\_\_\_\_.

Commissioner Lohman: But we haven't done – we haven't gone through and done –

Vice Chair Mitchell: Right, right.

Commissioner Lohman: So this is just a –

Vice Chair Mitchell: It's a starting point.

Commissioner Lohman: – very, very preliminary rough draft.

Chair Raschko: That was my point. I thought it was incomplete and –

Mr. Cerbone: Yeah. I only – Chair, I only included the specific criteria that we discussed previously throughout the year and then when I was directed to add specific findings as part of that hearing I added those. Or not hearing – deliberation. I did go through and add those. And this is the one that – with my recollection – there were there were specific ones, and I believe Commissioner Woodmansee actually stated that Commissioner Candler was the one that suggested that those be included.

Chair Raschko: Well, I have no problem with that, I think. But I'd like to know people's opinion on whether they think in the next 20 minutes we can do that.

Commissioner Candler: I haven't had a chance to read it. No.

Chair Raschko: So my intent would be to complete that work on Findings of Fact and all that on the rest of the items at our next meeting, and go to the staff report and then the Commissioner –

Mr. Cerbone: So if it's okay with the Commission, I will finish this up this week. I will run it through our legal counsel and then I will send it off to you, because you do have three weeks now in between your next meeting and this evening. Is that all right?

Vice Chair Mitchell: Thank you.

Chair Raschko: Okay, but that's still a draft though.

Mr. Cerbone: That is still a draft.

Chair Raschko: Okay.

Mr. Cerbone: Everything is still a draft until you as a commission make a final motion and vote on it and recommend it.

Chair Raschko: Okay.

Commissioner Candler: Is that consistent – were you going to suggest that we put it as an agenda item on the next docket for just those findings, or do –

Vice Chair Mitchell: The whole thing.

Chair Raschko: The whole thing.

Commissioner Candler: Okay.

Vice Chair Mitchell: Then that gives us latitude if we need to clean anything up.

Chair Raschko: Yeah.

Commissioner Lohman: So do we need to specify – it would be the entire packet then.

Commissioner Candler: Right.

Mr. Cerbone: I have what you've talked about for the ones this evening down below. I'll add in the additional Comp Plan policies and Countywide Planning Policies and stuff for those. I'll run it through our legal counsel. And then I will send it out to you. You will be able to take a look at it and then you'll be able to come with all of your homework done to the next meeting and be able to finalize the document. And if you vote to approve it, I will just detain Mr. Raschko for a little bit to print out a final copy and have him sign it and we would be off to the races.

Chair Raschko: Sounds good. Okay, so why don't we move to the staff report, if there is one?

Mr. Cerbone: It's actually Planning Commission Comments and Announcements.

Commissioner Candler: I have something.

Chair Raschko: Well. Yes?

Commissioner Candler: Tonight we had Peter up there helping and jumping around and trying to put the statute on the screen that we were deliberating about, or that was being discussed, and I really appreciated that. So my comment, as it were, is that we – if we're going to reference a statute and someone's up there trying to help us be able to look at it, just slow down enough to let them find it before we discuss it, because it's helpful to have it on the screen.

Several Commissioners: Mm-hmm.

Vice Chair Mitchell: Good point.

Commissioner Lohman: I agree.

Chair Raschko: Okay, we'll do Commissioner Comments. Have you got anything, Mark?

Commissioner Lundsten: I was wondering – oh. Okay. The meeting on the 10<sup>th</sup> has been moved to the 17<sup>th</sup>. Anacortes School District has a spring break the first week of April and I'm going to be gone for that, and there's some – so I don't know if we want to – if we can – and Joe can't make that meeting either. I just thought I'd throw another one in the hopper and talk about it. We exchanged a few emails. Is there an alternative to that or I'm just going to miss the meeting? I guess I'm asking for everyone. Is there a – doesn't look like you want to change two meetings. I'm talking about the April 7<sup>th</sup>. That's all.

(some inaudible comments)

Commissioner Lundsten: And the reason I asked is just it seems to me that I missed a meeting – I was sick in December – and it was just – I could read the – you know, I watched the video and read the transcript and I was – I didn't miss anything. This is a deliberation on the schedule. It says here that there was \_\_\_ for Countywide Planning Policies. If we could switch the subject when two of us are going to be gone –

Mr. Cerbone: It was a placeholder. We weren't sure how long deliberations were going to take.

Mr. Gill: We're still on track if we can discuss some of – introduce those things at the next meeting, we are on track to potentially do that on the 7<sup>th</sup>.

Commissioner Lundsten: Okay, well...

Chair Raschko: We should be able to finish deliberations next week.

Mr. Cerbone: Well, this is deliberations on the Countywide Planning Policies, so on a separate topic.

Mr. Gill: A separate topic, and so we're hoping to at the next meeting introduce the Countywide Planning Policies as well as some changes to the flood code.

Chair Raschko: Okay.

Commissioner Lundsten: Well, just bring it up. Thank you for your consideration.

Commissioner Woodmansee: And I'm gone the 7<sup>th</sup> also, okay? But those sound like subjects I'd really like to hear about. I'm also gone on the 14<sup>th</sup>, unfortunately.

Mr. Cerbone: But you'll still get an email with all the information.

Commissioner Woodmansee: Yeah.

Mr. Cerbone: But we will need to make sure that we have a quorum.

Commissioner Lundsten: Well, maybe we can talk further about this – if I may – on the 17<sup>th</sup>, if we need to.

Chair Raschko: Commissioner Rose, do you have anything?

Commissioner Rose: I don't.

Chair Raschko: Tammy, anything?

Commissioner Candler: Nothing else.

Chair Raschko: Joe?

Commissioner Woodmansee: Could you clarify what you're planning on talking about on the 7<sup>th</sup> of April?

Mr. Gill: On April 7<sup>th</sup>, we hopefully will be done with the Findings here at the next meeting, and at that next meeting we hope to introduce some flood code changes to the Flood Code Prevention Program, as well as some changes – or some Countywide Planning Policies – just an early introduction, as well as you'll have a staff report to look at. I hope to send (it) out in the next week or so. And then after that we will have a hearing. And so the hearing potentially could be on the 7<sup>th</sup>.

Commissioner Woodmansee: Of?

Mr. Gill: April.

Commissioner Woodmansee: So when you're introducing that flood code stuff, what meeting?

Mr. Cerbone: So that would be next meeting, which would be March 17<sup>th</sup>.

Commissioner Lohman: But –

Mr. Gill: And then we have another one scheduled for the 24<sup>th</sup> of March.

Commissioner Lohman: But it can't be March 17<sup>th</sup> because we're doing deliberations.

Mr. Cerbone: Well, we were optimistic that we would get through deliberations probably within less than an hour and we would still have your captive attention to be able to go through some other items.

Commissioner Lohman: Okay.

Chair Raschko: Okay. Annie, do you have anything? Okay. Have we a staff report?



Mr. Cerbone: Director's Update?

Mr. Hart: Yeah. You won't see it on the screen this evening so I'll just speak directly to you. I have a few key items that should just take a couple of minutes.

The first item, and I'll preface this. This is a list of other things that are going on right now and we are trying to schedule with both through the Commissioners' office and County manager. So the first one is Tourism and Ag Study. We know that that's very important so we're trying to fit that into our work program this year. Part of what we do here, though, dictates when that kicks off. So the sooner we can get these things accomplished that are in front of you now the more that we'll have staff time to take on some other tasks. We were planning to use a consultant on that.

We continue to work on housing. It's really the County Commissioners' number one objective. We're doing that in a number of ways. One, we're busy working with the Parks Department. We're working with the City of Mount Vernon. We're in fact, identifying other funders this last week that could fund housing, including – the specific kind of funding we're looking at is work force housing this week. And even though I'm on jury duty, I was out afterwards visiting work force housing all around Snohomish County, using my evenings trying to understand who's doing what and where the money and how the financing was put together. We're also working with that, and on our team is the Community Development arm. George Kosovich is from the Health Department and he packages those for our county now. So he's also part of the team that does that and we're coordinating with that. So that's kind of our team here, is the Commissioners' office, our office, with the Health Department, looking at housing issues and especially right now in work force housing issues, and where the funding is coming from – that is, funding on both counties on either side of us right now. So that's important. We're also kind of meshing that up to what those simply amazing growth numbers on either side of us are showing us right now, so both employment forecasts and housing forecasts. They need to be kind of – under Growth Management, they need to be about – they need to at least be similar.

We are also working on other projects. We're looking at cell tower issues right now – that's one of the things – and possibly funding consultants for that.

We're continuing to work with the Town of Hamilton. So the Town of Hamilton is a small town, as everybody knows. It has 222 housing units. They put out for a CDBG, Community Development Block Grant, but unlike the old days, they only got 25,000 for it. In the old days, have the City and County work together to get 40,000. So they're a little bit short. So we're looking at: How can we coordinate funding to look at basic utilities there? Do they have enough water? We think they do. But what is the sewer going to look like for the Town of Hamilton in the future? So they need some basic infrastructure help. And so it's the Town of Hamilton, it's Forterra, it's the County working together with a new mayor up there right now. So I was just back in the back office checking to see what emails have come in on that project.

The DOE – we might remember that – water is the next issue. So the main stem, the DOE. A lot of folks were caught in the old water battles, and so the Department of Ecology has some ideas of how to make that up to 390 owners of – people that had wanted to move forward with their developments at one point and got caught in that battle. And so we're taking steps working with the Department of Ecology on that and trying to make up for the past there and give people the ability to go ahead and start their projects in the future. But there's a lot of questions that are out and so the Commissioners are still looking at those questions, and we hope to have that resolved shortly.

And then the last one – I think I may have mentioned this before, and that is the PCA Inventory Project. So protected critical areas. Part of our critical area ordinance was \_\_\_\_\_ you're supposed to make sure – we've done all this protection. What's happened since we started that in the '90s? And so this year we have two interns and I'm going to try and put one of those interns on gathering that information, but also working with our GIS office. And so they can report back to you and to the public, Hey, what have we done? What has Skagit County done through the years for critical areas? What's the acreage? Where are they generally located? Are there invasive species all over those wetlands that have grown up? What's the general state of those PCAs? Now this came about because Commissioners were going, Why do we make the residents of this county go through these hoops in terms of protecting critical areas? I said, Well, that's a really good reason – you know, that's a good question. Let's see if we can answer part of that question. Why do we take all that information in and what do we do with that information? This is the first small piece of that puzzle to say, Okay, what *have* we been doing with that information, or what has actually gone on? So we've protected that. We've taken that down to the courthouse and we designated that as protected ground. What does that actually mean? So we hope to have a better – by the end of this year, we'll hope to have to have some inkling of what that means and bring that back before this group and other groups to say, Okay, here's what we found. Can we do a better job? Do we have to monitor these? You know, what do you want us to do going forward? I'm kind of excited about that because it's the first look we've had.

Mr. Cerbone: If I could just add a couple more. We did hire a new employee. We hired from within so we hired one of our permit counter technicians and they'll be joining our natural resource group. The intent of that additional staff member was to assist us in speeding up our critical area review and shoreline review process. Brannan has been here for a little over a year and I know Betsy's very excited to have him start on her team on March 9<sup>th</sup>. So that means we will be advertising for a position for a new permit counter technician, and then we also have a (sic) intern position currently open that we're accepting applications for.

Chair Raschko: Any questions for staff?

Vice Chair Mitchell: I've got one. So we're anticipating doing the Countywide Policies soon? Can you send us out the existing one so we can look at that ahead of time?

Mr. Cerbone: You bet.

Vice Chair Mitchell: I'm thinking between now and then. Thank you.

Chair Raschko: Anything else?

(silence)

Chair Raschko: Great. Okay, we stand adjourned (gavel).