

Skagit County Planning Commission
Deliberations: Guemes Island Seawater Intrusion Amendment
June 11, 2024

Planning

Commissioners: **Kathy Mitchell, District 1 (absent)**
 Vince Henley, District 1
 Angela Day, District 1
 Amy Hughes, District 2
 Tim Raschko, Chair, District 2
 Joe Woodmansee, District 2
 Tammy Candler, Vice Chair, District 3
 Martha Rose, District 3 (absent)
 Jen Hutchison, District 3

PDS Staff: **Jack Moore, Director**
 Robby Eckroth, Senior Planner
 Tara Satushek, Senior Planner

Chair Tim Raschko: (gavel) Good evening, everybody. Welcome to the June 11th, 2024, meeting of the Skagit County Planning Commission. We are missing tonight Commissioners Mitchell and Rose. We have everybody else? I think so. Okay. I'd ask for a motion to approve the minutes of May 28th.

Commissioner Angela Day: I move to approve.

Chair Raschko: Thank you. Is there a second?

Commissioner Joe Woodmansee: I'll second.

Chair Raschko: It's been moved and seconded to approve the minutes. Any discussion of the minutes?

(silence)

Chair Raschko: If not, all in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: Okay, so that's approved. Director Moore has an announcement.

Jack Moore: Thank you, Chair. I wanted to make sure the Commission was aware that the Board of County Commissioners will be having a discussion, taking public comment, and having possible action on a resolution remanding the recently proposed agritourism code changes – remanding

those back to the Planning Commission. So there will be a meeting on Monday, June 24, at 2:30 and the Commission or the public is welcome to attend in person or via Zoom, and the link can be found on the Commissioners' webpage.

Chair Raschko: Great. Thank you. We'll turn to Public Remarks. This time on the agenda is an opportunity for anyone to speak to the Planning Commission about any topic except items that have had a public hearing and are still under Planning Commission deliberations. So that would include tonight's deliberations on Guemes Island Intrusion Amendment.

Public Remarks, which is *not* part of the formal public participation process for any development regulation or Comprehensive Plan amendment projects, is limited to three minutes per speaker and 15 minutes total. Is there anybody who would like to address the Planning Commission?

(silence)

Chair Raschko: Is there anybody Zooming?

Tara Satushek: There is. There's one person. If you are on Zoom, if you would like to make a public comment, please unmute yourself.

Unidentified Speaker on Zoom: (inaudible)

Chair Raschko: Okay, I take this as a no.

Robby Eckroth: Yeah, he said there was no public comment.

Chair Raschko: Okay. So we'll close Public Remarks and turn to deliberations on the Guemes Island Seawater Intrusion Amendment. Mr. Eckroth, please.

Mr. Eckroth: Good evening, Commissioners. Thank you. My name is Robby Eckroth. I'm a senior long range planner at Skagit County Planning and Development Services. Tonight the Planning Commission will be deliberating on the Guemes Island Seawater Intrusion Amendment. So before we hold deliberations, I have a presentation. I will go over comments received during the public comment period and some follow-up information to address questions raised by the Planning Commission.

So first I'm going to quickly summarize the existing code and then the proposed amendment. Currently Skagit County Code 14.24.380(2) requires an application proposing use of a well to include the following information as part of the critical aquifer recharge area review, and that includes:

- A site plan, including inland well site location;
- Estimated depth of the well;
- Estimated land elevation of the well;
- Depth and chloride levels of surrounding wells;
- Drilling plan; and
- Applicable fees.

So current code is only applicable when the well is planned to be utilized for future use. As a result, a well can be drilled without any County review if it is not associated with a development

permit. Then later when a development permit is requested, because the well is not new there's no review required. So again, this is current code language.

The proposed language would require an applicant who wishes to drill a well in a sole source aquifer, which Guemes Island is the *only* sole source aquifer in Skagit County, to submit an application regardless if there is a development application.

So Commissioner Day requested further information on the County's regulatory authority pertaining to this amendment. So this slide summarizes the regulatory authority of the County to review for impacts to critical areas, and the June 4 staff report that was provided to the Planning Commission summarizes it in more detail.

The Growth Management Act requires designation and protection of critical areas using best available science, and also requires that each County and City planning under the Growth Management Act develop regulations that protect critical areas. RCW 36.70A.030(11) includes "areas with a critical recharging effect on aquifer(s) used for potable water" in their critical areas definition.

So that means that critical aquifer recharge areas are considered critical areas and that the County is required to designate and protect critical aquifer recharge areas through development regulations. And RCW 36.70.345 states that the failure to protect critical areas, including critical aquifer recharge areas, can result in sanctions from the state against the County.

And just to note, review of environmental impacts to groundwater, including potential impacts to seawater intrusion, are unrelated to water rights, which are regulated by the Department of Ecology.

So there have been concerns from some members of the Planning Commission that a well could be prevented from being approved if neighbors choose not to provide depth and chloride levels of their well, so I just wanted to provide you all with some additional information that explains that there are ways that the County can help the applicant through the process. So Skagit County Code 14.24.380(2)(a)(i)(D) does not specify the number of surrounding wells that applicants must obtain depth and chloride information on. Furthermore, Skagit County Code 14.24.080(4) – which applies to all critical areas, not *just* aquifer recharge areas – that section states that if the applicant, together with assistance from the Administrative Official, cannot obtain permission for access to properties within 300 feet of the project area, then the site assessment may also be limited accordingly. So therefore, if neighboring property owners refuse to provide depth and chloride levels of their wells, the assessment can be limited and the inability to access others' property does not necessarily prevent the installation of the well. If the applicant can provide the depth and chloride information of neighboring wells, this allows the Department to estimate the proposed well's impact to chloride levels and add a condition limiting the maximum pump rate of the well.

So this map shows the chloride levels in drinking water wells on Guemes Island from 2006. The different colors corresponds with the level of chloride found in those wells. As you can see, there are a number of wells on Guemes Island experiencing higher chloride levels.

So this slide summarizes how the information collected from surrounding wells is utilized by the Department. Collecting chloride levels and depth information from surrounding wells allows the Department to determine if drilling a well would bring potential risk to the aquifer and estimate the maximum pump rate of their well. The data will also allow the applicant to make an informed decision as to whether an informed water source, such as a rainwater catchment system, may be

a better option. The well depth and chloride data is also tracked by the County to develop a better understanding of the Guemes Island aquifer.

And I did confirm with our water resource planners that they are utilizing the data collected under the existing code to just – to get a better idea of where there are areas on the island that are experiencing seawater intrusion.

So now I'm going to move into the summary of the public comments received during the public comment period and the public hearing. The public comment period started on May 2nd and ended on May 30th. During the public comment period, we received seven public comments – six in support of the amendment and one in opposition – and there was a public hearing on May 28th and we received public testimony from three participants. The full comments can be found on the Seawater Intrusion website, which I'll provide at the end of this slide deck, and then also on the Planning Commission website, if people are interested in seeing the full comments. But the next few slides and the staff report just summarizes those comments.

So the comments made in opposition made arguments that the proposed study elements do nothing to prevent or identify seawater intrusion or aquifer contamination, and that seawater intrusion is not well documented. One commenter stated that the Guemes Island sole source aquifers do not need protection as dirt, sand, and rocks filter rainwater and the island receives a lot of rainfall. There was a concern raised that the information could lead to Planning and Development Services denying wells if data on surrounding wells cannot be obtained. And the Department would like to just respond to one of those comments and remind everyone that the amendment and existing language in the critical areas ordinance does not allow the Planning and Development Services Department to deny a well. The Public Health Department does have the authority if contaminants exceed levels specified in the drinking water code in Skagit County Code 12.48. And that includes chloride levels.

The comments in support made arguments that seawater intrusion is an ongoing problem on Guemes Island. The amendment changes the timing of the gathering and submission of information so all wells are included. The language is necessary to address the ongoing problem of well-drilling on Guemes without regard to the cumulative impact of wells exacerbating the problem of seawater intrusion. And one comment claimed that the amendment is not about – is about protecting the senior water right holders of Guemes Island, not limiting the development on a new lot – or of a lot. Sorry.

So the Department would like to remind everyone that Skagit County does not control or regulate water rights. The proposed amendment only analyzes the potential impact of the well related to seawater intrusion, and there is no transfer of senior water rights to junior water rights in this proposed code amendment. The update does not in any way pertain to water rights.

So staff's recommendation is to approve the proposed amendment, as it meets the consistency of criteria listed in Skagit County Code 14.08.

And next steps moving forward: The Board of County Commissioners will be holding two meetings, the first one on July 1st at 10 a.m. in this room. And they'll be holding a work session. And then July 23rd at 10 a.m. the Board of County Commissioners will be holding deliberations. And for anyone watching, supporting documents that are mentioned in this presentation can be found on the link listed on the slide.

So thank you, Commissioners. I'm available for any questions before we move into deliberations.

Chair Raschko: Can you go back to that map showing the well locations?

Mr. Eckroth: Yeah.

Chair Raschko: Okay. It has the different densities of saltwater, I guess, per liter. Can you define where it becomes a problem?

Mr. Eckroth: I know that the Health Department will deny a well if it exceeds 250 milligrams per liter where it becomes a problem. I think that's our threshold from the Health Department's perspective, at least where they can actually deny a well.

Chair Raschko: Okay. So all the ones on the map then meet the Health Department standard?

Mr. Eckroth: So the red ones could potentially be denied if they were applied for today if they exceeded the 250 milligram per liter threshold.

Chair Raschko: What if – okay, so some of them might, yes.

Mr. Eckroth: Yeah.

Chair Raschko: Okay. Thank you.

Vice Chair Tammy Candler: Can I have a follow-up to that?

Chair Raschko: Yes.

Vice Chair Candler: What stage is the Public Health Department coming in to make that assessment and denial potential – denial?

Mr. Eckroth: So the application that we're talking about where we're asking for information about surrounding wells is prior to the Health Department's review where the well's actually drilled.

Vice Chair Candler: Right, but right now currently how does that apply? You're saying that Public Health can already deny these wells. At what stage?

Mr. Eckroth: When they apply for their water permit and the Health Department reviews it. Do you have anything to add to that, Jack?

Mr. Moore: Possibly. So currently they would get their permission to drill a well from Department of Ecology and then they would go ahead and do the drilling, pull a water sample, and then have it tested and submitted for review.

Vice Chair Candler: And that's part of the building application typically, but it could be something else, I suppose, correct?

Mr. Moore: Correct. Prior to development permits.

Vice Chair Candler: And – and – okay, that's what I was wondering.

Commissioner Woodmansee: So if I could follow up in that vein, I think what we're saying is that before you can submit for your development permit you have to have potable water, and the

process for that in a well is getting the Health Department to sign off on it. So you can't submit your development permit until you have the water signed off. Correct?

Mr. Moore: You could submit those concurrently but you would not receive an approved permit to begin any construction prior to the water review being approved.

Commissioner Woodmansee: So to follow up on that, we're saying you have to – you have to – okay. So if you fail the test at the Health Department, you're not going to submit permits or anything because you're going to be told – short of changing your method – you're not going to be able to submit a permit because you don't have potable water. And so it brings me back to you have to drill a well to find out if you can submit your permit. I feel like it's a circle.

Commissioner Jen Hutchison: You're bringing me to the thought of rainwater catchment systems. Is there anything that's already available for someone who, say, can't drill? To say, Here's an approved rainwater catchment system plan. You can choose from a, b, or c and you don't have to spend money to go do that. Is there – what does that look like?

Mr. Eckroth: Jack, I think you're better informed than I am on this.

Mr. Moore: Okay. Yeah, I'm happy to help. Currently the applicant or the property owner could hire their own designer/engineer to design the rainwater catchment system, and that could get reviewed and approved by the County. It *is* – the Commissioners *have* asked Public Health to come up with some prescriptive type systems or at least guidance to make that process easier. So they asked Public Health to work on that this year and try to come up with a – if possible, some kind of a stock, select-your-own system based on the average rainfall in the area and the number of gallons that would need to be stored over the course of the dry season.

Commissioner Hutchison: That would be permissible pending approval. There is a backup plan.

Mr. Moore: Mm-hmm, yes.

Commissioner Hutchison: Thank you.

Commissioner Day: What is the source of the data that you're showing there on that map, Robby?

Mr. Eckroth: That is data collected from the Skagit Health – Public Health Department and from Skagit County Public Works. Two different data sets from 2006 and 2010.

Commissioner Day: Is that the only existing data set that the – that Skagit County has or is there – are there other characterizations of the groundwater on Guemes?

Mr. Eckroth: I believe that the USGS is currently working on an updated study. They did a study back in the '90s. So that study will be coming, but I believe that this is the more current data set that was collected that's officially published.

Commissioner Day: Thanks.

Commissioner Woodmansee: _____ the red locations? It says greater than 200. Do we know of those red locations how many are actually over 250?

Mr. Eckroth: I do not. That's a great question, though.

Commissioner Woodmansee: It seems like that the break in that level should be 250, because there could be zero that are actually not able to be – in this study – that actually hit the threshold. So I think that it would be nice – and they must have the criteria somewhere. It'd be nice to know if it's zero or if it's, you know, all of those.

Mr. Eckroth: Right.

Commissioner Woodmansee: It seems like if there's a new study done, if that's the criteria line that's where the break line should be. You know, below this line it does work and above this line it does not work.

Mr. Eckroth: That makes sense.

Chair Raschko: Vince?

Commissioner Vince Henley: It seems to me that there are really two problems here. The first problem is the problem of siting a new well and the second problem is the intrusion of seawater in continuous pumping from already existing wells. And I would submit to you that there's nothing in any of this changing that's going to stop that and I don't see any way of doing it other than preauthorizing catchment systems or – probably the best possible solution would be to run a pipeline from Anacortes under the channel to Guemes Island. Now that's going to be very expensive but I think eventually you're going to have to do something very similar to that if not that exactly.

Chair Raschko: Amy?

Commissioner Amy Hughes: My question's very simple. Do these catchment systems take water away from the aquifer in that the water does not soak down into the ground until it's been used and then put in organically by the house?

Mr. Eckroth: I would say yes, in theory, I believe, because if it doesn't go through the soil then it's not going to reach the aquifer if it's being collected. So, yeah, a little bit would not be recharging the aquifer.

Commissioner Hughes: Okay.

Mr. Eckroth: My understanding, though, is that rain isn't regulated until it hits the ground, though, so if it's collected then it's – it is not regulated.

Chair Raschko: That – just to comment on your question, I spent my afternoon reading in the 87-page government report and the 1992, and I think they say that where the house sits – I was quite impressed. I can't remember the numbers exactly but there was 25 inches of rain a year on Guemes Island. The bulk of it is either evaporated or – I should know the term but I can't remember it; I was a forester! Trans – anyway. It does from the trees up into the atmosphere again. So where the house is sited, it takes the trees away. So in all the evaporation I would think that the water collection system would have almost a meaningless effect on groundwater recharge. I think the number was between 6 and 10 inches a year the rain actually goes into the ground. It was a great report. Anybody else?

(silence)

Chair Raschko: Okay. Thank you.

Vice Chair Candler: Can we leave the map up while we discuss?

Chair Raschko: All right. Thank you.

Mr. Eckroth: Thank you.

Chair Raschko: The floor is open. Commissioner Day?

Commissioner Day: I move that we recommend adoption of the Seawater Intrusion Amendment that's been proposed by the staff.

Chair Raschko: Is there a second?

Commissioner Hutchison: (inaudible)

Chair Raschko: It's been moved and seconded to recommend adoption, so and the floor is now open for a discussion. Joe?

Commissioner Woodmansee: I'm still trying to grasp at what we're actually changing other than words on a piece of paper. Because as I understand it, the County's position is they can't stop a well from going in if the DOE says you can drill a well, and that we don't regulate well drilling. I guess we regulate wells once they are not *successfully* drilled and they don't meet health criteria. At that point we can deny the use of a well. And so I'm still having a hard time figuring out what we're really changing here. I mean, to me it feels like we're changing something just to change something and that there's no practical real effect of what we're doing other than costing people money.

Commissioner Henley: I think what we're changing is protecting senior water rights. At least that's what one of the documents says.

Chair Raschko: Joe, were you done?

Commissioner Woodmansee: No.

Chair Raschko: Okay.

Commissioner Woodmansee: And so I'm having a hard time with supporting something that I don't see a real change. The only change that I see is that it requires more information upfront even before you know what you're going to do in your land development side of things. Now maybe if the County gets a catchment system prescriptive system in place, now somebody could apply for their building permits and all that, knowing that no matter what they're either going to have catchment or they're going to do a well. But either way the permit's going to be processed and they can move forward with their development plans. I guess that puts us in a position where at least they know they can get a building permit. I don't see any teeth to what it says in here, like what the effect of doing this is actually going to do. I just don't see it and so....

Commissioner Hutchison: I'll respond to that, if I may, Joe. I believe this is more just the process of providing education to that lot holder. It's beneficial to the applicant both by helping them assess the risk to the aquifer – informing them in the first place about the fact that it's a sole source

aquifer, and really helping them to gauge that and understand the community that they are now planning to occupy. But it also can potentially support them knowing what their pump rate would be so they can look at comparison plans if they wanted to prefer maybe rainwater catchment. It's more of a process of education and then also information for the County just to know that that well is present before it's present.

Chair Raschko: To know that it's what?

Commissioner Hutchison: To know that the intention is there, perhaps, before it's actually drilled. It's just information.

Commissioner Woodmansee: Yeah, but if we can't stop them from drilling a well – so let's say we're handing them information. The information, where does it come from? It comes from the well drillers. The well drillers know these seven wells are drilled over here, they average 95 feet deep, and the DOE paperwork says that the average flows were x – whatever it is. I mean, that's where the information comes from as far as well drilling in a particular area. And every well driller's going to tell you, I can't guarantee you anything, that I'm going to get you water in this hole. And so the only thing that's changing – correct me if I'm wrong – the only thing that's changing is the same information that you have to provide if you're going to bring a full application in, it's going to be required before you do that if all you want to do is drill a well. That's the only thing that's changing, right?

So what's *really* changing? Let's say you provide that information and now you want to go drill your well. What's going to change that stops you from doing that well? Is it just we're saying that because we force them to go through the County to get this information – which the County's going to say they don't have! You have to go talk to your neighbor to find out this information. I just don't – I'm having a hard time with that part of it. It's, you know, it's not really changing anything, except it's a change in the timing mechanism, which I suppose could cause somebody to not drill a well. But my experience is if you're going to consider drilling a well, you go to all the local well drillers, you find out all their – nobody knows more than the well drillers as far as what's happening in the well drilling in the area. And you do that and then they'll tell you in that area you've got a 20% chance of getting the well you need. Or they'll tell you in this area I can get you a well all day long. And that's my experience in the well drilling world. I'm not a well driller, but...

So it seems like the County could just have this information available and then somebody could get the information from the County and say, Okay, there's the information. I still want to drill my well. Go to the DOE and get a well permit. Because I don't see anyway – what we've been told, that this won't stop somebody from drilling a well. It's just going to give them information ahead of time. They can still choose to go to the DOE, get a well drilling permit, and drill a well without an actual development permit. Is that true? They go through this process. It's not thumbs up or down from the Health Department yet because the well's not drilled yet so that process hasn't happened yet. And so it doesn't say, like, if the County gets this information it doesn't really say what the County's going to do back after receiving that information. And so what's the County giving back to the people that pay the money to do this and submit this information? What are they getting in return for doing this ahead of time when they're not doing a land development?

Chair Raschko: Okay.

Vice Chair Candler: Can I go?

Chair Raschko: Commissioner Candler?

Vice Chair Candler: Following up with this conversation, it seems to me that the County and the petitioner are not on the same page with what is happening here. We're getting incongruous information. On the one hand, the County is saying this will not prevent the well from being drilled. It's going to be this opportunity for a person to get an earlier look at what they really maybe would prefer to be doing or what's going to be more successful for them on that lot. And we're going to catch that early and we're going to give them this information and then they can make choices and maybe rainwater catchment would be better and all of that. And they're basically saying they're not going to be denying wells based on this information. It seems to me that that's what's being said. And the petitioners are clearly, or at least a proponent of the petitioner are clearly not saying that – referencing public comment that indicates “C23 is a way to stop this egregious subversion of water rights.” Well, is it educational or is it a way to stop this egregious subversion of water rights? And maybe those aren't completely in conflict but it seems to me that maybe people aren't on the same page. And the language as proposed is definitely not consistent with what the Department is saying it's going to do. The language is saying this is an application and it may – you know, if you cannot provide this information, your application *may* be limited, meaning you *might* not have to go ahead and provide it to be approved, but that seems pretty questionable. I'm still not certain what's going to happen. I'm really unclear with what's going to happen with this language and that is concerning to me. Furthermore, apparently 14.24.380(2)(a)(i)(D) does not specify the number of wells required, which I think is a weird defense against our concerns that people aren't going to be able to provide this information. It's like, well, since it's not clear enough in the code anyway, we should go ahead and add some more code. It doesn't even make sense as an argument to me, honestly. And I'm not trying to offend anybody but I have concerns about that.

We have been asking for where this data is publicly available for a long time and now we're seeing that there's this data available through the Public Health Department and it's from June of '06, which is coming up on 20 years old, and there's some data from 2010, which is coming up on 15 years old. I don't know whether things have significantly changed over those years. I just don't have that information. But apparently it *is* available, which does alleviate one of my concerns, but I don't know if – it doesn't specify the number of wells and it doesn't specify the timeframe for which that chloride level would have had to have been taken. So is the County going to accept – and I'm not saying *you guys*; I'm saying County employees change all the time. Who knows what the next employee who reads this language to be doing – are they going to say, Well, that information is old. You're going to need up-to-date data? I'm still concerned about that, in a sense. I also – looking at this map, I don't think that the language is narrowly tailored enough to address the specific critical area of concern. I'm not denying that it looks like there's a critical area of concern that might need to be addressed, but this language covers an entire island, the majority of which does not appear to be of concern, in a sense.

So those are some of my concerns.

Chair Raschko: Thank you. Anybody else? Okay, I haven't spoken yet.

Commissioner Day: Well, I first want to thank everyone who came and testified at the public hearing and wrote comments. I think public input is really important and I also appreciate the staff response to my questions that I had after listening to comments from the members of the public. So one of my questions, as Mr. Eckroth mentioned during his presentation, was – my question was about regulatory authority. And I also had a question which I think you're raising, Commissioner Candler, about what will the County do with the information that it receives as a result of these applications? And what I think, based on the presentation that we've been given

tonight and the staff report dated June 4th, is that just what you're describing, Commissioner Woodmansee, is the idea of what would happen, and that is that the County would gather data such as this. I think it's important to have a characterization of that aquifer as a sole source aquifer. And so having that characterization can provide helpful information to an applicant who might not otherwise think to come to the County before going to the Department of Ecology to get a permit to drill a well. I know that would not cross *my* mind. But if you're required to do that and you can't be denied that right, as you're saying, to go drill a well, but you can be given the information – like you're saying – that a well driller might provide, or might not, that you have a potential for not having a potable well that's usable if you drill in this area. A person might not know that. So I think they can be given that information but not denied the right if they want to push forward.

And the second thing that I think is that it will create greater certainty for an applicant to recognize if they're going to waste their money drilling a well, which we know is expensive, and if they have an alternative such as a catchment system or, you know, some other mechanism, they have a more economical path forward to receiving a building permit. So I've had the same struggles that you guys have all had and that you're discussing and I think that where I've landed is I'm convinced that the County has a mechanism to gather that data and has an obligation to gather that data, like it said in the attached Growth Management Hearings Board decision, and has the regulatory authority to regulate groundwater quality, which is not an issue of water rights. So that's why I'm supporting this amendment.

Chair Raschko: According to Robert's Rules – I'm sorry, a technicality – but everybody should have an opportunity to speak before a person speaks again. But what I'm thinking is that you probably have a response to that comment, so why don't you go ahead?

Vice Chair Candler: Yes, I do. My response is that if education is the purpose of the code, then the code should say that. That is my – that is 100% nailed it, as far as what my concern is. That's not what this says. So why are we all saying, Oh, this is about education? If the code wanted to say it was about education, it could say that. It could say, We want you to – We are requiring you to talk to us and get educated before you go to Ecology. It could say something, you know. It should say what it means and I think that's the problem. It says something that means something and we're being told it doesn't mean that. It should say what it means.

Chair Raschko: I'm next and then we'll start again, okay? Mr. Eckroth, I wonder if you could be so kind as to put these up? This one first – and north up – and then this one. And please observe on the map on our monitors around the screen that most of the problem wells are located on that northeast shore. If you would kindly put the first one up. I don't see it. Can anybody see that? That might do.

That map was submitted by one of the member(s) of the public and is public comment. And it shows with the arrows and the little boxes the various wells that we know of that have seawater intrusion problems in their wells. I don't know if that's an exhaustive list but I presume it's representing the bulk of the problem in people's minds.

So if you'd put the second one up, please. This one's got some really small numbers on it but if you look at the same area on the map, which is the upper right, it gives the depth of the well relative to sea level. They're minus 2, minus 12, minus 4, 2 feet above, 6 feet above, minus 4, minus 5, and 21 feet above sea level. To me that indicates that it's not a sea level rise. I mean, they're drilled down into the, you know, the level that is below sea level. And so one concern I have is that this is an all-encompassing regulation proposal that would cover any place on Guemes Island. If there really is a problem like that, perhaps this should be – proposal should be

redone to perhaps have it limited to more of a certain geographic locations (sic) – say, within – I’m just throwing a number out – 20 feet above sea level, whatever. But to require this of the people – if you look at the very first map of all those green ones out there – to require everybody on the entire island to do this because the bulk of the problem wells are below sea level and have a problem. It just doesn’t make sense to me.

Next, please.

Commissioner Hutchison: Thank you. While this is educational for the County to have the information. I feel like the effort is also there to protect the critical area, which is the entire island because it’s a sole source aquifer. So the aquifer is the true concern here and even though somebody might be drilling in that green zone it could still have an impact later on folks that are on outerlying areas. That’s my understanding. So the impact of any well being drilled is concerning considering that the entire island is basically a critical area to be protected. So, I mean, if it’s just an information gathering, I don’t find harm in it. I feel that it’s the County caring to make sure that we’re aware of what’s happening. It’s just a report. If you’re going to drill, you ought to have this information, in my opinion. Thank you.

Chair Raschko: Any other comments? Joe?

Commissioner Woodmansee: So I don’t think it’s the public’s responsibility to be the information-gatherer for the County. I shouldn’t have to spend money because I want to do a well to gather all this information so that the information gets provided to the County so that they can then disperse it out – necessarily. So I don’t think that – see, I don’t think that this is – I don’t think that this is about information. I think it’s the foot in the door to about *regulation* and eventually you can’t drill a well here. That’s my opinion. Because it’s vague. I think it’s really vague. When we add (D) for wells in a sole source area and then they have to do the same thing you have to do if you’re not there if you’re going to do a land action, it doesn’t say anything past that. What’s the County going to do once they get the information? Now if it’s just to collect the information, I think it’s what it should say: We’re just – the sole purpose of this change in the code is to collect information. If it’s not just to collect information and it’s the door into some other action or regulation in the future or whatever, then we should know what that is, Because as I read this, okay, so you got the information sooner, *now* I’m going to go drill my well. Nothing changed! You’re still drilling your well if you want to drill your well. And so I just – I don’t understand what’s changing. I think I’m asking the same question again here, but I’d like to know the answer to it. What’s really going to change, or is it just an information collection tool?

Chair Raschko: Vince?

Commissioner Henley: It seems to me that this, in order to be effective in any way, it needs to be regulatory in nature. In other words, you have to have some consequence for complying and a consequence for non-complying. Otherwise, it seems, based on the wording of some of the documents in here, to be nothing more (than) a case of NIMBYism where the senior rights of people who have already established wells and now they’re in danger are trying to protect their use of a well, their use of the aquifer – all right? – from the later newcomers. So I don’t think, I don’t buy the educational aspect of this in any way. I think it either has to be regulatory or you shouldn’t have it at all.

Chair Raschko: Nobody else? Commissioner Day.

Commissioner Day: A couple of thoughts. One is about Commissioner Candler's concern about saying how the information will be used in the ordinance. And I'm not certain – I'd have to go look, but I'm not sure that other ordinances have that kind of certainty build into it. So to me that's more of a permit procedures question: What is the County's standard operating procedures for reviewing something is not usually outlined in an ordinance. You know, for example, if you have a building permit they don't tell you how they're going to analyze your building permit in the ordinance. So that's, I think, one comparison in, you know, trying to think how that would be handled.

But a second thing, I think, I've had some similar concerns that Commissioner Woodmansee's raising, which is, Is this a slippery slope into regulation, into denying a permit for a well? And what I think is that that's partly handled through our Findings of Fact in this ordinance. I know when, you know, in a legal context, if someone challenges something they go back and look at the Findings of Fact on a piece of legislation to find out what the intent was. And so I think it's – if we recommend approval of this, we have to – maybe this is not correct, but my thought is we have to be mindful of what we include as Findings of Fact that we recommend to support this.

Chair Raschko: Thank you.

Vice Chair Candler: I think the first thing that you would look at is the plain language of the code. And nowhere in this code – if I'm not – I haven't looked at it – just right this second – but is the word "information" or any indication whatsoever that this is about education and information. This is an application that can be – that requires things and ostensibly can be denied without them. That's what the language says so all this discussion about education, to me, is, Where's that in what we're – and we make any findings we want! Once the language says what it says, I don't think people are going to go much further than that. Yeah. I don't disagree with you, though, on the fact that the procedures aren't there. The procedures aren't usually there but that's beyond – way beyond what I'm saying. I'm saying the language does not do what we're being told it's intended to do. It's just not the same thing.

Commissioner Day: May I respond?

Chair Raschko: You may.

Commissioner Day: Thank you. It strikes me that this language already exists in the code for wells. We are only adding in the sole source aquifer that you have to provide this information that is prior to a development permit. So you would still have to provide all the same language if you were proposing a building permit or some other development or some other, you know, land activity. So this is not changing it. This is changing the timing – is my understanding.

Vice Chair Candler: May I respond? The major thing that this changes, though, is that it – you know, this has always been within the purview of the state, the Department of Ecology, and that, at least by the language of what's being proposed, changes that. And that's major. So I understand what you're saying – this is just a timing thing – but I feel like if we're going to take this out of the purview of Department of Ecology that's a big deal. And we're not taking it away from them. They still have it. But we are adding our – sorry.

Commissioner Hutchison: _____ that it elevates risk to existing owners if they have a well fail, that they're not able to just go drill their new well and replace the one that failed. They also then have to come in and go through this process without actually doing a development permit, so it might also impact existing residents on the island in that way. Since you brought it up.

Chair Raschko: Any more discussion?

Commissioner Day: I think I just have one more point, if I could. It says in the staff report that the County *cannot* deny a permit for a well and it makes a distinction in my mind by my read – that’s in the – I believe that’s in the responses in the June 4th memo where it specifically says the County cannot deny a permit. So in my mind, the regulatory authority here is based on the critical areas ordinance, the critical areas regulation of aquifer recharge areas. And I think also in response to the Chair’s concern, I think we have to have a way of defining the area of concern, so I feel like defining parts of an island or potential areas of concern and more difficult to implement and less clear for citizens who would come in for a permit. I understand what you’re saying, but I also understand that those particular problem points could change over time. And I think that having an ordinance that makes an easily recognizable definition and is open to changing conditions over time would be helpful in this case.

Chair Raschko: Okay, can I clarify?

Commissioner Day: Yeah.

Chair Raschko: Were you saying that under the Department of Ecology they *can* deny a permit?

Commissioner Day: The Department of Ecology?

Chair Raschko: Well, okay. You said that here the County cannot deny the well.

Commissioner Day: Right. Yes.

Chair Raschko: But somebody else can. No.

Commissioner Day: I don’t know how Department of Ecology – what their reasoning would be.

Chair Raschko: Okay. My point would be, though, that if they cannot deny the permit then the only purpose of this is to gather the information. And as ____ said, why should the public be the ones to have to investigate and get data for the County? To me, if it’s really not a decision thing – you know, an approval or a denial – why go through the exercise?

Anybody else?

Commissioner Day: I would – could I respond to that?

Chair Raschko: Please do.

Commissioner Day: I do actually think this is a place to house information and it’s not just citizens collecting this information that would contribute to a store of information. But it’s like it said in the Growth Management Board’s hearing decision that was attached to the – on the Planning Commission’s website: There is a matter of characterization of the seawater intrusion areas that the County should understand where they are. And citizen information gathering is only part of this. There is an ongoing – as Robby just said – study by USGS; the EPA has obviously declared it a sole source aquifer, so there’s some information there; Department of Public Health has information. So this is a way to house in a central location and characterize that aquifer, and then to share that with people who would come in and they would be able to – well, they would be compelled to provide an application and then they would have an opportunity to receive

information that might be cost-saving and very relevant to their project before they drill it instead of drilling it and then coming in with a permit application to build a home and finding out my well is actually unworkable. It doesn't support a building permit. To me this is actually a way to save an applicant potentially money and time in the process.

Chair Raschko: Anybody else?

Commissioner Woodmansee: I have a question for staff. Is it true that the County could not or is not proposing to have the authority to deny wells?

Mr. Eckroth: Public Health has the authority, based on water quality.

Commissioner Woodmansee: The drilling of a well. Just the drilling of a well.

Mr. Eckroth: If there's no use, then it is Department of Ecology. We start regulating once there's a use.

Commissioner Woodmansee: So if there *is* a use, the County can deny somebody drilling a well?

Mr. Eckroth: Public Health Department can.

Commissioner Woodmansee: They can deny – based on what?

Mr. Eckroth: Contaminant levels. So if the chloride exceeds the levels I was discussing earlier, 250 milligrams per liter, then they can do that.

Commissioner Woodmansee: That's after the well's drilled.

Mr. Eckroth: Correct.

Commissioner Woodmansee: So my question is, Can they – can the County stop a well from being drilled?

Mr. Eckroth: So I see what you're saying. So because the well is already drilled because it's there, they're doing that to collect the information. Then I would suppose no, in that case, because this is just collecting information beforehand. This ordinance – it's both the current code and the proposed ordinance – doesn't allow you to deny. Well, there's nothing in code that would allow you to do that then. I suppose not.

Commissioner Woodmansee: So then this ordinance should say nothing in this ordinance should be construed to stop somebody from drilling a well that the DOE otherwise approves. Because now it's in the ordinance and not in the summary. It's not in the staff report. It's actually in the ordinance. It says that's basically saying that is not the purpose of this ordinance to keep somebody from drilling a well. I think we're back to the purpose of the ordinance is information. And it's just how you get the information.

So I have another question about information. When you go to the Health Department and say, The neighbor four lots down drilled their well three years ago and they turned in their reports and all that, now does that become public information at that point?

Mr. Eckroth: Anything that's in an application is public information.

Commissioner Woodmansee: Okay. So every well that's been drilled – at least in the more recent time; maybe the oldest ones maybe there's not information for – but every well that's been drilled in the – let's just call it the modern era – that information's already at the County from drilling time. Theoretically.

Mr. Eckroth: Correct.

Commissioner Woodmansee: Okay. It's already available to the point that at the time of which – and obviously conditions change, and there's nothing in our Health Department or in the County code that requires well owners to annually or biannually or – I guess that wouldn't work, but every five years do a new well test to prove that they still have potable water?

Mr. Eckroth: Jack, do you know that?

Mr. Moore: I'm not certain of the Health Department regulation on that. In practice, I do know that that is – they often – homeowners who have wells often go an extended period of time without demonstrating that to the County, and they're often asked for it at time of some development permit.

Commissioner Woodmansee: Or typically if somebody's trying to sell their house, the lender might require – or *will* require a well report. When a well report gets done, does the County have an ordinance that requires that information to be registered with the County?

Mr. Moore: I think we'd have to check with the Health Department to verify what those rules are.

Commissioner Woodmansee: Well, that would be one way that you could get more current information. As properties sell, you could be tracking what the reports are saying down the road and you'd be able to see that. You know, if a septic repair person goes out and works on a septic system, I believe they have to report to the County. Hey, Joe's septic blew up again and we're here for the fourth time this month and I think you might need to send him a letter. Right? So I feel like that you could get better use out of a reporting requirement on wells – which would create a huge problem for wells that don't meet the criteria, but...

Chair Raschko: Commissioner Henley?

Commissioner Henley: It seems to me that we lack a clear focus of what we want this code change to actually accomplish. I don't hear a clear direction in anywhere, and I don't think that we have it sufficiently well defined in order to deliberate it. I mean, if it were the right time for making a move, I would tender a motion to table this until we do understand what we're trying to accomplish and what we need to do to get there. So, I mean, I think I would ask my fellow Commissioners to think about this because from what I've been hearing here for all evening, I don't see a clear definition of what it is we're trying to accomplish and how we're going to get there. And education isn't it.

Mr. Eckroth: Maybe staff had something. I don't know if the Planning Department has any more information to provide on this matter. And also, based on the schedule for the rest of the year, in order to have further meetings on this we probably have to schedule some more special meetings in order to accommodate further discussion on this. So I just wanted to note that.

Chair Raschko: Thank you. Commissioner Day.

Commissioner Day: I have two questions. One is a question; one is a comment. The third response in your staff report, Robby, dated June 4th, it states – the third response down – that this amendment – and it cites the code – does not grant Skagit County Planning and Development Services the authority to deny or approve a well. And I think that is because Department of Ecology regulates wells. So there doesn't need to be anything in the ordinance that says that you can't deny a well because it's already known that that is the purview of Department of Ecology. Is that correct?

Mr. Eckroth: That is correct and that is something that our legal counsel also brought to my attention when reviewing the staff report.

Commissioner Day: Okay, thank you. And the second thing is, I guess, a comment, and that is related to Commissioner Henley's comment. And I think that the purpose of this is outlined in your slide that says "Regulatory Authority," which is that Skagit County *is* required to regulate critical areas that determine the water quality, especially for drinking water. That is the County's obligation under the critical areas ordinances and the Growth Management Act. So I think that is what we're trying to address here and we're defining that as the sole source aquifer that is Guemes Island – to protect the drinking water in the sole source aquifer. I think that's the problem that we're trying to solve and that the County is trying to address within its regulatory authority. And also to provide greater certainty and information to people who would come in and apply for a well permit, which they would do anyway if they're going to use it, before they drill it to give them that information.

Chair Raschko: Please – Commissioner Hutchison.

Commissioner Hutchison: I would agree with Commissioner Day on that purpose. I have legal documentation from Port Townsend that was included in our packet – that I will admit I didn't read the entire thing yet and it makes me concerned as to what its point was. But I also want to note that Joe made a really great example of other opportunities if it is just data that we're looking for versus education. That the time of transfer is an amazing opportunity to capture information like that. And I appreciate that your thoughts are there, but I feel like there's more to it as far as educating the user and perhaps saving them a lot of money. But could you elaborate on what this inclusion really was meant to share?

Mr. Eckroth: Yeah. So Jefferson County went before the Growth Management Hearings Board and lost their case because they were found to not be properly addressing seawater intrusion through their critical aquifer recharge area ordinance. So they had to go back and revise their ordinance, based on certain conditions outlined by the Growth Management Hearings Board.

Commissioner Hutchison: Do you know when that was?

Mr. Eckroth: I believe it was mid-2000s, if I remember correctly. I think it is dated on the first page.

Commissioner Hutchison: Okay. 2001. Okay.

Chair Raschko: We'll have Commissioner Candler, then Commissioner Woodmansee.

Vice Chair Candler: I guess one thing that has come up, and I don't know how realistic this is as a concern, but to address Commissioner Day's comment that the staff has made a – in the staff report that they can't deny wells. The way we spoke about it earlier is a concern, I think, that by

deeming an application incomplete or something that could be a sort of a denial. I'm not suggesting the Department's planning on doing that, but that was a concern, I guess. And I'm also not sure what's going on with the – so we've got the conversation which I was tracking – I think Commissioner Hutchison saying that when you have a – can you put the map of the island back up? – when you're looking at an area on the island that is not – doesn't have a red dot by it on this map – it's not an intrusion concern at this time. Then you drill, then, you know, you could be affecting those other wells. And I think that's something to consider and that's why I think you're proposing that this is an entire critical area. But then I heard Commissioner Day saying that, you know, when you make this application and you check your chloride levels and then, you know, you're not a concern. Those two things don't match, because if you're up in the hill there in these green areas you're not going to show a problem with your well. And yet you may or may not. I don't know the science exactly whether that's going to affect these wells down on the coast on the upper northeast side. I know this is designated as a sole source. I've also been told that there is more than one aquifer, so I assume that it might not. I don't know. But the two arguments that I'm hearing aren't meshing completely. So I just wanted to point that out.

Chair Raschko: Commissioner Woodmansee?

Commissioner Woodmansee: My question's about this information we were given and the change that's being proposed by staff. Is it staff's position if we change this one little paragraph that we've become in compliance with all this?

Mr. Eckroth: No, not necessarily.

Commissioner Woodmansee: So that's – is this actually related to what we're doing?

Mr. Eckroth: I'm just showing you that – and this is something I was recommended from our legal counsel just to let you know that when critical areas aren't protected that it can become something that gets appealed to the Growth Management Hearings Board. So that was just a broad point that staff was trying to make.

Commissioner Woodmansee: So – I'm sorry.

Chair Raschko: No, go ahead. Finish.

Commissioner Woodmansee: So to *me* – just being honest – that feels like a, If you don't pass this, you're going to be here. And if that's what the purpose was, I don't really appreciate that.

Mr. Eckroth: If I may, I just – that wasn't our intent. It was just more so to show you that there's a reason that we're proposing this and that we regulate aquifers in the first place, I guess is the point that we were trying to make.

Commissioner Woodmansee: If I may follow up on that? I don't see that this is regulating anything. This is just getting some information. It's not regulating it. It's just – it's an information gathering tool.

Chair Raschko: Can I take my turn? So required under critical areas to protect them. I don't see how this protects anything, and I'd ask, protect from what? And if you go back then again to the reason that this was brought forward by members of the public, there was some question about whether it was to preserve their water rights, which is counter to everything else we're trying to do. We're either going to protect the aquifer or protect water rights. I'm unclear on which one we're

really trying to do. And I'll just say again: I don't see how getting this information is going to protect a critical area in any way. Go ahead, please.

Mr. Eckroth: Yeah, I just wanted to remind everyone collecting the data is one piece of this, but if there's risk that someone drilling a well could impact an aquifer, this is a time that we can have that discussion with the applicant.

Chair Raschko: I'm sorry – could do *what* to an aquifer?

Mr. Eckroth: Create risk to the aquifer. Create seawater intrusion issues. So I can't get into detail about what that means just based on my limited understanding, but talking to our senior water resource planner: If someone's asking to drill a well and applies for this permit and we're reviewing this application and we see oh, that there's risk, we can let them know that and let them know that also you might end up having a lot of seawater intrusion if you were to drill here. So I just wanted to reiterate, based on this slide that I presented, that it's not just data collection. That's one piece of it. It is to be able to inform and have that discussion in an attempt to protect the aquifer.

Chair Raschko: Commissioner Candler?

Vice Chair Candler: It's just more of the same, what people were saying. If this language of the code doesn't do something, then it's not really addressing this – which is the Jefferson County lawsuit – either. That's one others have already mentioned.

Chair Raschko: Commissioner Day?

Commissioner Day: I appreciate having the Growth Management Hearings Board decision because I feel like a lot of times things come before the Planning Commission that have a legal reason and I appreciate knowing what that legal reason is. I don't feel that it's compelling us to take action necessarily. I appreciate knowing some of the logic behind things that are brought to us. But I do have a question. What – part of – and I'd have to go back and read it again now following this discussion, but I did read the decision, and part of it is that there's a responsibility of the County to have this characterization of seawater intrusion, and so that's part of why I think this is a data gathering – the data gathering is part of the purpose of the ordinance. But I guess the question is, What else did Jefferson County do in response to this decision?

Mr. Eckroth: All I know is what's outlined in that case, which I believe is at the bottom in the Conclusions.

Commissioner Day: I don't think it said what Jefferson – I think it just said, you know, not having enough resources is not a reason to not be tracking and considering seawater intrusion as part of your regulation of critical areas. It didn't – you know, that's, to me, a mandate to Jefferson County to go back and incorporate data collection and seawater intrusion considerations into your critical areas ordinance. But it doesn't really say at the bottom of a court decision how they responded to it. So I just wondered if you knew that.

Mr. Eckroth: Oh, I see. Yeah, I do not know that.

Commissioner Day: Okay.

Chair Raschko: Has anybody anything different? I'm sorry – Amy, please?

Commissioner Hughes: Well, this would be different! Upon reading all of this information – and it's the third time since I've sat on Planning Commission that this has come in front of us – when I got to the end, my thought was in line with a letter that was written, and it was titled "Guemes Island Saltwater Intrusion Prevention" and we have not talked about that. And my thought was we've got the Comprehensive Plan Update going on right around the corner. We have had these same discussions over ten years three times. And would it be possible for us to take a deep dive into this during the Comp Plan review for Guemes Island to get their whole community together? We have advocacy groups come to us but the whole Guemes Island. That means letters going out to all property owners and come up with what could be a complete package. What could be a complete plan to prevent saltwater intrusion in their aquifer? The science, the legalities, and look at the whole big issue. And it could be as simple as, quote, "If everyone on the island relied on our ample rainwater, it would be a large step towards protecting the aquifer." Getting the island to work together to come up with the solution, and then we have the code to protect it. That just was my wrap-it-up-real-quickly thought on this.

Chair Raschko: Thank you. Are we ready for a vote?

Commissioner Day: May I make an amendment, Mr. Chair?

Chair Raschko: Please.

Commissioner Day: I think part of my concern and perhaps Commissioner Woodmansee's concern – I don't know if this is responsive – but to me it would clarify if we changed the order of this amendment. This is – it says – this is the Applicability – it says "for wells," and then you go down and there's "Land Division Activities" and then you go down and it says "For Sole Source Aquifers" this is your requirements. And to me, if I'm a citizen reading the code and it says "For Wells" and I read it and then I come to the next thing that's unrelated, I'm going to move on and think that I've met the requirements, that I understand them. So I would like to amend the motion to move this particular addition from number (2)(d) to number (2)(b).

Chair Raschko: (2)(d) to (2)(b)?

Commissioner Day: Yes. (d) here, and move it up under (a) where it says "For Wells." Then it would say "For Wells Under a Sole Source Aquifer," and then it would move on to whatever the next items are – (c), (b) and (c).

Chair Raschko: Okay. So the second has to agree?

Commissioner Hutchison: I would accept.

Chair Raschko: Okay. I don't know how to read that back. Okay, so your motion is to recommend approval of whatever the number is with an amendment to the proposed code to move –

Commissioner Day: I would move it from (2)(d) to (2)(b) so that it –

Chair Raschko: Move what from (2)(d) to (2)(b)?

Commissioner Day: The proposed new language related to wells in a sole source aquifer. It's currently listed as number (2)(d) so I would amend it to move that to (2)(b); so the amended motion to approve it, with moving the language from (2)(d) to (2)(b) where it goes with – it follows the other language regarding wells.

Chair Raschko: Is there any discussion on that?

Vice Chair Candler: I think that if I were to – I think that your addition makes sense. We could also do it as a recommendation – we could recommend approval of that and then suggest the language movement as a finding or reason for action or something else – an additional recommendation. I understand some of the difficulty that the people on Guemes are dealing with, especially on that northeast side, and I know that they have worked on this long and hard and I think they're probably exhausted about it. I don't think that – I'm not in support of it and so I'm – even though I agree with your modification if it were to be in effect, that's not going to be a factor for me probably tonight. I would not be opposed to some help and relief for people and for the Department to do what they need to do based on the critical area and Jefferson. I don't think this language does it, and that's where I'm at.

Chair Raschko: Commissioner Hutchison?

Commissioner Hutchison: It would be really interesting to learn more from Jefferson County's experience and see what changes they have adopted ____.

Chair Raschko: Okay. So on to vote. All those in favor of the motion, please raise your hand.

Commissioner Hughes: The motion to amend or the –

Commissioner Henley: (unintelligible)

Chair Raschko: Well, we've amended it.

Commissioner Day: I think we technically didn't vote on the amendment.

Chair Raschko: Do we vote on the amendment? Okay, we're going to vote on the amendment. All those in favor of the amendment, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: And opposed?

Commissioner Henley: Nay.

Commissioner ____: Nay.

Chair Raschko: Two nays. So the motion is amended. Now all those in favor of the motion, let's have a show of hands. We have two opposed, please? Okay, so that goes down by two so the floor's still open.

Commissioner Hutchison: Can we get information from Jefferson County? Obviously not now, but it seems like there's a consensus that this is not going to answer the need.

Vice Chair Candler: I have a motion.

Chair Raschko: Please go ahead.

Vice Chair Candler: I'm going to move that we recommend that the Board of County Commissioners deny C23-1; however, recommend that the Board of County Commissioners encourage the Department to continue working with Guemes for language that will protect the critical areas.

Chair Raschko: Is there a second?

(silence)

Chair Raschko: Okay, that one's –

Vice Chair Candler: – dead.

Chair Raschko: – dead. Yes?

Commissioner Day: I think the County's hands are somewhat tied in terms of how they might protect the critical areas as you suggested, Commissioner Candler, if not through an ordinance similar to this. I think the only other choices might be something like Commissioner Hughes is recommending, which would be Comp Plan changes that limits development rights, which I don't get the sense that anyone on the Commission would support. So if you're not limiting development rights and you don't have the regulatory authority to deny use of the water there, I really don't know what the other options are for the County Commissioners.

Commissioner Hughes: We need clarification.

Commissioner Day: Yeah.

Commissioner Hughes: And my education, please: Is that what the Comp Plan is all for, is just development going forward? Can it be used to do a deep dive on issues within the County?

Mr. Eckroth: We don't have the resources to get into a deep dive on Guemes Island specifically and bring the whole County to – we have a big list of things we have to do to meet legislative requirements related to housing and climate. So this is something that *maybe* staff could do on a future work plan, but I don't know if our long range planning division could handle that at the moment.

Commissioner Hughes: Okay, thank you for clarification.

Mr. Eckroth: Yeah.

Commissioner Hughes: I appreciate that. Thank you.

Chair Raschko: Just speaking to your motion, have you any vision of what that effort might entail to work with the people of Guemes Island?

Vice Chair Candler: One of the things that it might do is follow up with what Commissioner Hutchison was saying would be to figure out what Jefferson County is doing to be in compliance with the requirements of that and bring something to us if they ___ workable. Another thing is potentially expand options for rainwater – not *options* but expand – I don't really want to make a petition for someone, but, you know, it seems to me that rainwater catchment could be used in certain areas of the island or at least there could be more to encourage that maybe? I'm just

throwing that out there. I don't want to draft any particular language but I just had something like that in mind. Some language that – or this, if what the County wants to do about it and they think it's in compliance with Jefferson to make it an informational thing, if the language said that this was, "An applicant must see the Department and have a meeting to discuss information and education." That would be something I would probably be supporting right now. So maybe develop language that says what they're claiming that they're – what the Department is telling us they want to do. If the language matched that, I'd be supportive of it, I think. Does that make sense?

Commissioner Day: I have a question about that.

Chair Raschko: Please.

Commissioner Day: Probably, Commissioner Woodmansee, you might be able to answer this, or staff. Is there currently an option or an obligation to have a preapplication meeting or site plan review? I think we discussed that during the permit procedures revisions. If there's something akin to that, is that what Commissioner Candler might be thinking of as a path forward?

Commissioner Woodmansee: Are you talking about for the sole purpose of drilling a well?

Commissioner Day: No, I'm just talking about general – in general now, before you even submit a development permit application or a building permit application. There's an opportunity for a prehearing or – there used to be a *requirement* for a prehearing and now, I think – and correct me if I'm wrong. There was something in the new permit procedures where you can submit a site plan ahead of time and get a response to that. Could this be something like that? A type of ordinance where you can submit something ahead of time? Maybe the language is more palatable where you can – prior to developing your property you can submit something like this. Maybe if that language if there's something analogous to that?

Commissioner Woodmansee: That's a staff question.

Commissioner Day: Okay.

Mr. Moore: Currently there's no requirement for a residential project to come in for a predevelopment, and commercial projects are required but they are often waived if they are simple. As far as the permit procedures, the draft permit procedures that are on the table, it does include, as you point out, some provisions at the applicant's – per their choice, they could come in for a site plan review, a site planning process. We will offer that as a service if the ordinance is ultimately passed. We will also offer a land development permit if they want to do phased approvals. So they could get – if they so chose, they could come in for a site planning process, a land development process, and then bring in their construction plans for their building. They are not required to do that. They could do it all in one. It's just a service that will be offered. So certainly if someone chose to do that, which I think maybe we foresee that homeowners who may not be as familiar with development may choose to go that route because it provides more certainty for them and guides them along the process. And we certainly would talk to them about it at that time, We would be informing them of all the aspects of development and what options there may be.

Commissioner Day: Is there an opportunity in the permit procedures ordinance to include some kind of language about drilling in a sole course aquifer, providing an opportunity in advance of drilling a well to come and have a review of the County, an opportunity? I don't know if that language would help or if that could be included at this kind of late date in your permit procedures.

Just trying to find a way for the County to continue its data gathering but make it more of a non – you don't have to put in a permit. Where it's more of a service.

Mr. Moore: I'd have to look at the permit procedures section, especially the site plan review process, to see if there would be a place for that to be referenced. There are a number of reviews referenced in that process. I don't know that it specifically calls out sole source aquifer. I'm sure it calls out, you know, legal source of water. It calls out critical areas. But I don't know that it gets that specific. Currently.

Commissioner Day: Well, perhaps if Commissioner Candler wanted to entertain a different motion, the staff consider incorporating something voluntary into the permit procedures language under that section that's already outlining those things, that could be a motion that could be supported.

Vice Chair Candler: More specific, you mean? Be more specific?

Commissioner Day: Recommend that to the Board of Commissioners, because I think that's the motion that you made before, that consideration of providing an opportunity for an applicant who wants to drill a well in a sole source aquifer to come in in advance of doing that to gather information in that section of the new permit procedures ordinance that we'll soon be deliberating. If that could be incorporated as an opportunity in there along with other critical areas. If you wanted to recommend –

Vice Chair Candler: That was one of the ideas that I was thinking of, but I – you know.

Commissioner Day: Well, I'll make the motion if you think that's a good idea.

Vice Chair Candler: I do. I don't know if I would want it to be limited to – that would be the only explored, you know, thing, but that would address my concerns. But largely, yes.

Commissioner Day: I'm not sure that this is completely responsive to the County's obligations either, under the Growth Management Act. But as a step forward, I would like to move that we recommend – do I recommend to staff or to the Board of County Commissioners? – I move that the Planning Commission recommend consideration of incorporating an opportunity for people to come in in advance of drilling a well in a sole source aquifer and that that language be incorporated into the new permit procedures ordinance, similar to other considerations like critical areas. That we – I'm not doing a good job here!

Mr. Eckroth: May I offer some advice?

Commissioner Day: Yes, please.

Mr. Eckroth: Maybe a way to go about this is to make a motion on this specific amendment and then when the permit procedures come up you can make a recommendation based on what comes before you with that. Jack, what do you think about that?

Mr. Moore: That's pretty much what I was thinking. Thank you, Robby. You know, as that deliberations for the permit procedures is coming before the Commission here –

Commissioner Day: Yes.

Mr. Moore: – very soon, that might be an opportune time for you all to kind of read it, look at it, carefully consider where – if and where it might fit in the permit procedures. It may – I'm not sure of the value of making a separate motion to the County Commissioners if it's something that this Commission will be considering in the next few weeks and then ultimately making a larger recommendation forward. But that is certainly up to you.

Vice Chair Candler: Can I say something about that?

Chair Raschko: Please.

Vice Chair Candler: I don't know how helpful it is, but in the past we've been advised, I guess, or told that we can make a motion, like we could move to recommend the Board of County Commissioners deny C23-1, but we can also ask that the Board of County Commissioners direct the Department to do this – the application meeting. You said it better than I'm trying to say it right now.

Commissioner Day: I'm not sure of that!

Vice Chair Candler: But I don't know what that does. I mean, it's not meant as an insult to direct the Planning Department to do that, but I think maybe it serves as a placeholder that that's the direction that we want this to go, and helps you remember – or people remember when those permit processes come in front of us that we had kind of action idea or memo on that. And it allows, I think, to be vetted with the Commissioners if that's something they're interested in as well. That, to me, it would still have value if we were to say I move to deny C23-1 with – and then that could be it and that could be the motion, and then we could as part of our findings and reasons make additional recommendations or we could say, I further move after we vote on that that we're going to recommend that the Board of County Commissioners, you know, discuss this with the Department, or direct the Department to look into this. So I think it can be accomplished and I don't think there's anything wrong with that, but if the Department doesn't agree – it's different personnel than I'm referring to when we've had these conversations prior. So if that doesn't work, educate me.

Mr. Eckroth: I think that's the cleanest way to do it, if you make a motion on the amendment itself and then in your findings of fact have a recommendation there.

Vice Chair Candler: That makes sense.

Chair Raschko: Commissioner Day.

Commissioner Day: I think that is the way to go, because I think the Board of Commissioners is going to be considering this ordinance soon. And so if we just pulled off and wait until a permit procedures ordinance comes before us, they might not be aware that we have an idea for an alternate set of language.

Chair Raschko: How would you feel if we voted to recommend that this be rejected, and then what you want doesn't get approved? Would that be a bad outcome?

Commissioner Day: Well, we did reject the proposed amendment, so are you saying just vote again?

Chair Raschko: No, what I'm saying is this. We kind of separated the two things. What we're

saying is just make a motion and we'll vote to recommend rejection of Guemes Island Seawater Intrusion Amendment, and then put in Findings of Fact, a recommendation that when considering the - I'm getting old ____ sort of thing! When going through the permit process isn't all that, and then we all adjust this thing there, but what if that doesn't make a – if that's not approved to do that? Then you've voted this down without getting what you really want.

Commissioner Day: Right. Well, I think your solution is a good one – that we entertain a motion to reject this with a Finding of Fact to send to the Board of Commissioners.

Chair Raschko: I guess what I'm saying is if we combine the two in the motion then they're glued together.

Commissioner Day: Yeah.

Chair Raschko: And the one can't be done without the other.

Commissioner [REDACTED]: I'll support your motion.

Chair Raschko: Does somebody else want to do it?

Commissioner Hughes: I'll amend the motion.

Commissioner Day: There is no motion on the table, I don't think, yet.

Chair Raschko: Commissioner Hutchison?

Commissioner Hutchison: I really appreciate these conversations and the insight that you typically bring. And as I'm sitting here I just keep rereading the very first line of this content where we're at, 14.24.380, Seawater Intrusion Areas, and the Applicability literally states that this section applies to *wells* and to applications for building permits, and that it all is the entirety of Guemes. And so "for wells" is already – I mean, as I read that language, this is already here. So to be adding it in separately later as a sole source aquifer – I'm now even stepping back wondering, like, where is the confusion in the code in the first place because it already does apply to wells and applications for building permits. So, like, separate *from* the application of permits. So I'm almost confused as to why this hasn't been just recognized as already existing, as I'm sitting here reading it again. Does the well *have* to be tied to the application for a building permit? Like that's what it's been explained to me so far, but as I'm reading it it doesn't say that. It just says wells and applications for building permits. So to me they're two separate things and it's already there. It already –

Mr. Eckroth: It says here in the existing language, an application proposing use of a well must include all of the following. So amended or the addition of subsection (d) would add that "for wells in a sole source aquifer prior to drilling any well in an area designated a sole source aquifer, the information set forth in 2(a)" – which I just had above – "must be submitted to the Department." So it says "for wells" _____.

Commissioner Hutchison: Okay, so it must be submitted. Because this is for *any* new well *anyway* across the entirety of Guemes.

Commissioner Day: It's use versus drilling it.

Commissioner Hutchison: Okay. Forgive me. Thank you. It's just that I'm sitting here pondering and I'm like, wait.

Commissioner Day: Yeah, I'm scratched my head over it too.

Chair Raschko: Okay, I move that we recommend to the Board of Commissioners that they reject the Guemes Island Seawater Intrusion Amendment.

Vice Chair Candler: Second.

Chair Raschko: Is there discussion?

(silence)

Chair Raschko: No discussion. All those in favor, please raise your hand.

(silence)

Chair Raschko: Opposed?

(silence)

Chair Raschko: Okay.

Vice Chair Candler: Now we get to do the fun part.

Chair Raschko: Okay, so we'll move on to –

Commissioner Day: So did the motion carry?

Chair Raschko: The motion carried!

Commissioner Day: So now we have to have some findings?

Chair Raschko: Yes, we do.

Commissioner Day: Okay.

Chair Raschko: Now, Mr. Eckroth, you had a draft?

Mr. Eckroth: I am working on it right now.

Chair Raschko: You've got that. Okay, great.

Mr. Eckroth: So I have here that the Planning Commission recommends to the Board of County Commissioners to deny the Seawater Intrusion Area Amendment for wells in sole source aquifers. And I have here – I'm just getting your vote down. Everyone present supported denial, with the exception of Commissioner Henley. And now we can move on to Findings of Fact, Reasons for Action.

Chair Raschko: Who would like to begin?

Vice Chair Candler: Well, I could try to.

Chair Raschko: Go ahead, please.

Vice Chair Candler: Let's address Commissioner Day's concern first maybe. "The purported" – or something along these lines – "The purported purpose of the proposed code was for education."

Commissioner Day: Is it just for education on the part of the applicant, you mean?

Vice Chair Candler: Nah, I don't – see that's – that's where I'm having the trouble! Okay, sorry. Can you just – I'm not sure about this. "One purported purpose of the proposed code" – right? – "was for education" – it "was for education of applicants regarding seawater intrusion concerns on Guemes Island. The Planning Commission did not see that language in the proposed code."

Chair Raschko: Okay, should we continue and then go back and decide whether we want to change or reject or –

Vice Chair Candler: I'm still working on this.

Chair Raschko: You're still working on it?

Vice Chair Candler: I want to just add a line, if we can, that addresses the Planning Commission would recommend instead that the County – can you jump in, Commissioner Day, about what you're saying about permits, how you'd like to see this read as far as – "The Planning Commission would recommend instead that this be addressed in the permitting sections that are going to be coming up..."

Commissioner Day: Permit procedures?

Vice Chair Candler: Yeah. Excuse me, permit procedures.

Commissioner Day: So I was just looking at the link on the website for the new permit procedures ordinance. There's a preapplication conference, which I think Director Moore just said is not required. Could you put "require a preapplication conference" –

Vice Chair Candler: "...for a sole source aquifer..."

Commissioner Day: "...for a sole source aquifer well drilling."

Vice Chair Candler: Okay, so if I can – if you can help with this. The Planning Commission would recommend instead that a preapplication meeting or conference be considered in upcoming discussions of permit procedures" – or how do we want to word it?

Commissioner Day: – "...the new proposed permit procedures ordinance."

Vice Chair Candler: Yeah.

Commissioner Day: I guess I would ask for help where the other section was that Director Moore was referencing the site plan review. Because I see the preapplication conference section. I see it's not required but we could make it required. But it seemed like there was another voluntary

review of, like, a site plan but I don't see where that is. I guess we don't need to cite that specific thing. We could just say a voluntary review similar to a site plan conference.

Vice Chair Candler: This is confusing so I need to add a couple words, I think.

Commissioner Day: Okay.

Vice Chair Candler: "The Planning Commission would recommend instead that a preapplication meeting requirement be added..."

Commissioner Day: "...before drilling a well."

Chair Raschko: But if we just voted this thing down so there is no application – we just voted down –

Commissioner Day: You're right about that.

Chair Raschko: Yeah, we just voted down the –

Commissioner Day: Yeah, you're right about that. It doesn't work.

Vice Chair Candler: Okay, delete everything after "Guemes Island."

(laughter)

Vice Chair Candler: Thank you.

Commissioner Day: If we don't want people to have to apply for a well, because we don't know what's going to happen after that point ostensibly, then you're right: There's no preapplication conference.

Chair Raschko: So what are we trying to do here?

Commissioner Woodmansee: Can I ask a question?

Chair Raschko: Please, Joe.

Commissioner Woodmansee: This is for Director Moore. Are we trying to create a code that people have to get approval from the County to drill a well? If we require a preapplication to drill a well,, it would assume, to me, that the County has the authority to say yes, no, whatever. So the purpose of this isn't to regulate whether a well gets drilled or not.

Mr. Moore: Preapplication meetings are primarily informative. They let people know what regulations may apply to their proposal. Sometimes we'll provide, you know, alternate options if we see some roadblocks or difficulties complying with code.

Commissioner Woodmansee: Or if somebody just literally brings something in that you can't do somewhere.

Mr. Moore: Mm-hmm.

Commissioner Woodmansee: Educational from that perspective.

Mr. Moore: Sure.

Commissioner Day: I guess this is a question: If we don't want – if the Commissioners who did not want – did not support the motion to pass this ordinance don't want to see there be an application to drill a well, what is the mechanism for a voluntary review?

Commissioner Woodmansee: Well, that door's open any day right now. If you want to come into the County and, Hey, what can you tell me about this area? That's an existing condition already so you could find a Finding of Fact that the voluntary – the public has a right to meet with the County and to discuss whatever the County knows about this particular well-drilling area and whatever. Staff's going to say, Well, you know, you need to go down to the Health Department and they're going to take out whatever records there are on file down there and – you know, basically that's probably what people are going to be told.

Commissioner Day: So if you want people to come in before they spend money to drill a well, do you agree that's a good idea?

Commissioner Woodmansee: Yeah. I think you do it through education, like a public education thing, like you promote it on a radio clip or you, you know, you talk to the paper and you have them do a write-up on Hey, these are things you should look at if you're going to drill a well on Guemes Island, and stuff like that. It's just like getting the information out to the public rather than have the public bring you piece by piece. Because I think the general basic information is already at the Health Department. And it's going to be outdated because you don't have to update your information, but that is the only information that's out there and that is, you know, in 19 – let's get in the 2000s! – in 2015 I drilled a well on my lot; I turned all the paperwork in; you have a friendly neighbor, he tells you what it says; if you don't, you've got to go to the County and search the information from the County.

So just an awareness that there's this process and that information *is there at the County*. You know, it could be a flier on the wall coming into the County offices here that's Guemes Island aquifer information. And to me, I mean, that's how you get the information to people. You can do a little public service announcement in the paper or on the radio – local radios and stuff. Whatever. Just – you know.

Commissioner Day: So far Finding of Fact: Would we say something like, The majority of the Planning Commission believes that an opportunity or an obligation – pick the word – to do due diligence prior to drilling a well is a good idea.

Commissioner Woodmansee: Well, it's a good idea but it's the responsibility of the one who wants to drill a well.

Commissioner Day: So – however, we could not agree – the Planning Commissioners – a majority of the Planning Commissioners could not agree about the mechanism.

Vice Chair Candler: No. Usually what happens is you want to make your Findings and Fact and Reason for Action in support of – how you acted, not necessarily a recitation of all the varying arguments and maybe some of them that did not support the majority action. So why did we not want to use this code is what needs to go here.

Commissioner Day: Right. So that's what I was trying to capture. I was probably not doing it artfully.

Vice Chair Candler: Right.

Commissioner Day: I think everybody agrees that due diligence should be done by a person drilling a well. Is that –

Vice Chair Candler: That's *not* a reason why you would deny C23-1. It's maybe true, but we need to focus on why we don't think this language is what we want it to say.

Commissioner Day: Right. So the reason is we can't agree on the mechanism for compelling that due diligence. We don't agree on the mechanism. I don't know. We don't agree on –

Vice Chair Candler: I think I see what you're saying.

Commissioner Day: – the code language, you know. We don't agree on the mechanism for encouraging that due diligence.

Vice Chair Candler: So one option might be to make a second sentence here that says, you know, the Planning Commission did not find that this language was a mechanism for that. The proposed language, or whatever, for education. Or the best mechanism for education. I don't know how you guys want to word it.

Can you put – instead of saying “this language,” could you put “the proposed language”? Just trying to – yeah, thank you.

And I would – myself – it's hard because if I propose something I don't know that I'm speaking for everyone, but I think it actually went a completely different direction than education. It was kind of stepping on the purview of the Department of Ecology, or at least by its plain language. So I'm struggling with how to word that.

Commissioner Hutchison: I'd like to change my vote.

Commissioner Day: Me too!

Commissioner Hutchison: I thought we had this figured out that we were going to make recommendations here that were going to persuade towards an obvious outcome, and it doesn't feel that way now.

Vice Chair Candler: You should propose what you want it to say in terms of, like, do you want to say the Planning Commission further recommends something, and if people agree then we can agree.

Commissioner Hutchison: Well, I may think that we could still do further research to be more diligent in protecting that aquifer, but, quite honestly, they have the language here and you made it clear that this is verse in use pertaining against the idea of drilling, so thank you for that clarity because, yes. I do believe that it's there. It's a simple action that – like we all say, due diligence is great. Everybody's going, Oh, let's educate. Let's put posters out. That's a great idea. I love it. But in the meantime, let's make sure the new drillers are coming in. Like, I think that this was well done in the first place and I'm surprised it's not already part of our active code.

Vice Chair Candler: I have another proposed reason. Number 2 – or where are we at? A, B – what is it? Under B, The County doesn't regulate well drilling, but can deny use if the chloride level –

Commissioner Woodmansee: ... based on water quality...

Vice Chair Candler: ... based on water quality through the Health Department.

Does anybody else have a reason that's not reflected there?

Commissioner Woodmansee: One of my reasons – if I may, Chair – one of my reasons for denial would be that it's not clear to me what the process would be once the information is provided, and what's going to be done with the information and how it would affect the proponent to drill a well. It's not clear to me what we're going to do with the information and where you go from there.

Vice Chair Candler: It is not clear how this information will be used...

Commissioner Woodmansee: ...in determining the ability to drill a well. It's vague to me. It's –

Vice Chair Candler: Yeah, the language where –

Commissioner Woodmansee: We're having a hard time doing these because it's – in my opinion.

Vice Chair Candler: Yeah. I think that's _____.

Commissioner Henley: I think one of the reasons we're having a hard time is that there's nothing in this ordinance that will prevent so much as one drop of seawater from intruding anywhere.

Vice Chair Candler: That's number D, I think, right? Can we put that as D?

Chair Raschko: Well, that's what I was going to say but wasn't – how is getting information and providing education when there's, you know, no denial? How does that protect the aquifer?

Vice Chair Candler: My guess is it wouldn't, because what's going to happen is someone is going to say, You might affect someone's well four miles over that way, so you should put in a \$95,000 catchment system instead, or you could drill this \$10,000 well but your neighbor's going to be mad at you. What is a person going to pay?! I don't know, that's just one scenario, I think.

Chair Raschko: I'm still not convinced there's a problem. I mean, we're all trying to figure out how to save this thing, but does it need saving?

Vice Chair Candler: I think there's a problem. I just don't think this is the solution because of exactly what you just said! Like, okay!

Chair Raschko: I think that it's a localized problem. But okay.

Commissioner Day: Okay. So I have a Finding that I think we can all agree on.

Chair Raschko: All right.

Commissioner Day: I think we – tell me if this is not right – I think we recognize the obligation to protect a sole source aquifer under the Growth Management Act, but we’re not certain that this ordinance is responsive to that obligation.

Vice Chair Candler: Yes.

Chair Raschko: I’d go for that.

Commissioner Woodmansee: I’d go for that.

Chair Raschko: Okay.

Mr. Eckroth: Would you mind repeating that?

Commissioner Day: We agree that Skagit County has an obligation to protect – I think this is what I said – sole source aquifer under the Growth Management Act but we’re not certain that this ordinance meets that obligation.

Vice Chair Candler: I’ll take the certainty thing. I think we’re – my preference would be that we say, but we’re not seeing how this addresses that at all. It’s not a(n) oh-almost-certain, but it doesn’t address it at all to me. So I would prefer a different language there.

Mr. Eckroth: Do you mind if I add – change “we” to “the Planning Commission”?

Commissioner Day: Yeah.

Vice Chair Candler: Can we just take the word “certainty” part out? Just say, but we do not –

Chair Raschko: Do not believe this accomplished –

Vice Chair Candler: Do not believe this accomplished _____.

Commissioner Day: I don’t agree with that. I think it might; I just don’t know. I’m not certain. It could partly satisfy it based on the Growth Management Hearings Board decision, that part of the issue is you have to regulate these things under your critical areas ordinances and that you have to work to characterize seawater intrusion.

Vice Chair Candler: You’re not convinced?

Commissioner Day: Okay, yeah. It might partly answer it.

Vice Chair Candler: ...but are not convinced that the proposed language will accomplish protection. Because that’s kind of what Vince said basically, right? He said it much more –

Commissioner Henley: I said that nothing in this ordinance will prevent so much as one drop of seawater intrusion. That’s what I said.

Chair Raschko: That’s kind of the same thing.

Commissioner Henley: I’m not going to suggest that you put it on the list but – that’s the reality of it! You’ve given this thing a name but it doesn’t do what its name implies.

Commissioner Woodmansee: The plain language of this ordinance doesn't achieve that.

Commissioner Henley: It doesn't.

Vice Chair Candler: We are not convinced the proposed language will accomplish the protection of (the) aquifer. So it's similar. I think that that works. Anybody else have any reasons that they want it on here?

Commissioner Day? How about you? Do you have any additions, Jen?

Commissioner Hutchison: I'm having a hard time here. There's a typo in A, though. "Purported purpose."

Mr. Eckroth: Oh. Thank you.

Commissioner Hutchison: It's a lot of proposed and stuff. Thank you.

Chair Raschko: Well, I'm going to ask. Is it only me that is not convinced there's a problem?

Vice Chair Candler: I'm not sure exactly what you mean by that. I know there's not a – I feel that there's not a problem on the entire island, but I think – I guess I would ask for you to elaborate what you mean by that.

Chair Raschko: Well, I said earlier that if the ordinance was restricted to areas that make absolute sense where there might be a problem it'd be a lot easier. To cover 95% of the island that probably does not. To me (it) just seems unreasonable.

Vice Chair Candler: Okay. Can we add then a reason that says, We do not – The Planning Commission does not think this language is narrowly tailored to address the specific area of concern?

Commissioner Woodmansee: It could be that it's just too – it's too broad in the scope.

Vice Chair Candler: Too broad?

Commissioner Hutchison: Yeah.

Vice Chair Candler: Too broad? Would you rather have it that way? That the language was too broad?

Commissioner Woodmansee: That's Tim's part.

Vice Chair Candler: (unintelligible)

Commissioner Woodmansee: Yeah.

Vice Chair Candler: The Planning Commission does not think this language – or let's not put it in the negative. The Planning Commission thinks this language is too broad.

Chair Raschko: Or it's not necessarily the language. It's an application, a geographic application.

Vice Chair Candler: The geographic application is too broad. There, I like that.

Chair Raschko: You know, I got – never mind.

Vice Chair Candler: Does that address what you were saying, though?

Chair Raschko: Yes. But I just have a rhetorical question. Okay, I have a house on the water. I have saltwater in my – I have chloride in my water and the reason is that my well's below sea level. Okay? Now somebody wants to drill next door to me and they drill. Is that going to make my water saltier?

Vice Chair Candler: I wouldn't think so, but I'm not a scientist! I don't know.

Chair Raschko: Sorry, that was sort of a diversion. Anything else?

Vice Chair Candler: I see your point. That's what you're asking.

Commissioner Day: Could I try one?

Chair Raschko: Sure.

Commissioner Day: The Planning Commission believes that a voluntary consultation could accomplish the same goal that's in the proposed ordinance. Is that a fair way to represent the discussion, or the Findings?

Vice Chair Candler: The same goal...

Commissioner Woodmansee: What was that about?

Chair Raschko: What was the goal?

Commissioner Hutchison: Education.

Chair Raschko: Education.

Commissioner Day: The goal of education.

Commissioner Henley: Do we actually believe that?

Vice Chair Candler: It depends. Whose goal? The Planning Department or the petitioner? I don't think they're the same. Do you?

Chair Raschko: Would you say it again, please?

Vice Chair Candler: That was rhetorical, too.

(laughter)

Mr. Eckroth: Just a reminder: Staff wrote this.

Commissioner Hutchison: Yeah.

Mr. Eckroth: It is something that was of interest of certain people on Guemes Island; however, this was written by the Department, which is why it wasn't brought as a – or was brought as a County initiative.

Commissioner Day: So the applicant – education of the applicant could be achieved through a voluntary mechanism rather than the proposed ordinance. How would that – would that work?

Commissioner Hutchison: So just add the word “applicant” before education?

Vice Chair Candler: The Planning Commission believes that a voluntary consultation with an applicant would achieve the goal of education. So take out __ also. I would agree with that. Do you agree with that?

Commissioner Woodmansee: It's ____ line. I go back to we should create a little information sheet that states this fact and that fact about Guemes Island, and it's readily available. Somebody comes in and says, Hey, I'm looking at a piece of property on Guemes Island. I want to know what I need to know about wells. Well, here's what we have – you know, this report and that report and you reference them by wherever they can get them at. At that point, you know, if they choose not to go to the Health Department and look at the information then that's their problem. But at least they're told, You can go to the Health Department and get this information. Here's this – whatever that map was – here's the results of that – although I think that needs to get updated.

Commissioner Day: And perhaps in addition to a voluntary consultation, it could also be achieved by making the data publicly available on our website where people can find the information themselves.

Commissioner Henley: “Voluntary” means nothing. All right? I mean, the reality is if it's voluntary that basically means you don't have to do it. And given a pathway where people don't have to do something, they usually take it.

Commissioner Day: Mm-hmm, I agree.

Commissioner Woodmansee: I don't think so in this world. Not when it comes to you're going to spend hundreds of thousands of dollars to do something. I think most people will take the step to, you know, reach out to the County and say, Hey, I'm thinking about doing this. What do I have to do to get a permit? And the County can be all prepared with it: Well, by the way, you're on Guemes Island. There're some special conditions out here. Here's this information at this website or hard copy in the foyer or whatever.

Vice Chair Candler: Or link it to the code section. When they start looking, it shows sole source aquifer has special concerns; please see this map. Or – I don't know. There's got to be some ways to get information out there.

Commissioner Woodmansee: I mean, you could have – maybe I'm getting in the weeds here, but you could have a link on the summary page of when you're looking up your property ownership, that it says “recorded documents, and excise tax, and – you could have a button on there for the Guemes Island properties that's literally a link to, Here's just what you need to know about well drilling in this area, even. There's a lot of ways you can get the information out.

Chair Raschko: Would it be more appropriate just to recommend the Planning Department come up with the ways rather than us try to invent them here?

Commissioner Woodmansee: That might be a good recommendation!

Chair Raschko: Okay! Do we need to say something then about –

Vice Chair Candler: I'm done with that.

Chair Raschko: You're done with that one?

Vice Chair Candler: I don't have any more that I think we need to add, myself.

Chair Raschko: Has anybody else any more recommendations?

(silence)

Chair Raschko: Shall we go through these one last time now?

(silence)

Chair Raschko: How about A?

Mr. Eckroth: Do you want me to read them?

Chair Raschko: Go ahead.

Commissioner Day: Yes, please.

Mr. Eckroth: One purported purpose of the proposed code is for education of applicants regarding seawater intrusion concerns on Guemes Island. The Planning Commission did not find that the proposed language is the best mechanism for education.

Commissioner Day: Can we finesse that "purported"?

Vice Chair Candler: Just one purpose.

Commissioner Day: Yeah, can we just take out "purported"?

Commissioner Woodmansee: Yeah, "one purpose" sounds good to me.

Commissioner Day: Thank you.

Chair Raschko: Okay, but using the word "applicants" – I'd like it if it said something like "for education of applicants under the code." Because right now there are no applicants.

Commissioner Woodmansee: _____ well drillers. Tim just said.

Chair Raschko: Or am I making a big deal of that?

Commissioner Woodmansee: I think the problem is is in the well situation is you don't have an applicant, unless they're doing a land use, and that's the crux of the whole thing here. You don't see the well process unless there's a land use involved. If you're just drilling a well, they don't come to the County.

Vice Chair Candler: Developers?

Commissioner Day: But this was a proposed ordinance that we *would* have – a driller *would* have to come to the County so there *would* be an applicant. That's why we're rejecting this.

Commissioner Woodmansee: Yeah, okay. I'm good with that.

Commissioner Day: Yeah.

Chair Raschko: All right. Are we all okay with that? Okay, so we have consensus. All right, B, please.

Mr. Eckroth: The County doesn't regulate well drilling but can deny use based on water quality through the Public Health Department.

Chair Raschko: Everybody all right on that?

(silence)

Chair Raschko: Okay, C.

Mr. Eckroth: It is not clear how this information will be used in determining the ability to drill a well.

Chair Raschko: Everybody's onboard with that one?

(silence)

Chair Raschko: All right.

Mr. Raschko: The Planning Commission agrees that Skagit County has an obligation to protect a sole source aquifer under the Growth Management Act but are not convinced that the proposed language will accomplish protection of the aquifer.

Chair Raschko: Anybody have anything on that?

(silence)

Mr. Eckroth: E. The Planning Commission thinks the geographic application is too broad.

(silence)

Mr. Eckroth: F. The Planning Commission believes that a voluntary consultation with an applicant could achieve the same goal of education.

Chair Raschko: It doesn't say "same" on here.

Mr. Eckroth: Oh, thank you. I'll repeat that. The Planning Commission believes that a voluntary consultation with an applicant could achieve the goal of education.

Commissioner Day: Would it make sense to move that up under A?

Commissioner Hutchison: May I suggest that D becomes number A?

Chair Raschko: I have a – this is a problem with D. It – I infer from it that there is an established, bona fide, documented problem. Did anybody else read it that way?

Vice Chair Candler: Can you say that one more time?

Chair Raschko: It said – well, the Planning Commission agrees that Skagit County has an obligation to protect a sole source aquifer. In saying that, I infer that we're all in agreement that there is a need for protection. I mean, we are agreeing that it needs protection but all of this says we – this is just not the way to do it.

(sounds of affirmation)

Commissioner Day: There's a page of regulatory authority in the slide deck.

Chair Raschko: Well, I'm not arguing with that.

Commissioner Day: Okay.

Chair Raschko: My inference is that right now the whole aquifer out there is in huge danger and something's got to be done. And I just don't believe that.

Commissioner Day: I don't think – well, first of all, I think seawater intrusion is documented.

Chair Raschko: In places.

Commissioner Day: In places.

Chair Raschko: Yeah.

Commissioner Day: In the sole source aquifer. Maybe not all of it.

Chair Raschko: Yep, yeah.

Commissioner Day: But I think what's the impetus, at least from a legal standpoint, *is* the regulatory authority to protect groundwater and drinking water under the Growth Management Act. I think you're right. I think we agree that the authority exists but this might not be the way to accomplish that.

Chair Raschko: Okay, so it all makes sense then looked at that way.

Commissioner Day: If you agree with that. I think that's what we were – what I was trying to say. If you agree.

Chair Raschko: All right.

Commissioner Woodmansee: I have a question on this, though. It's my assumption that we are already addressing sole source aquifers in our Comp Plans and stuff already. Are we not? And so, I mean, you could take the tactic that the Planning Commission agrees that Skagit County has a sole source aquifer reference portion – I don't know the right word to use, but it's addressed in

our Comp Plan already. So we're not in a position that we're saying that we – you know, we're like Jefferson and that we have abandoned it and we're not doing what we should do. At least we're not being told that's our situation. And so it's like we already have in theory in place in our Comp Plan what's supposed to be there to take care of this kind of a sole source aquifer.

Vice Chair Candler: So you would propose language that says, The Planning Commission agrees Skagit County has an obligation to protect a sole source aquifer as indicated in many sections of the code __ areas.

Commissioner Woodmansee: Right. I mean, it's addressed. If somebody wants to make the argument that it's not sufficiently addresses, that's a whole other subject than what we're trying to do right now. Does that make sense?

Vice Chair Candler: It absolutely makes sense. So you would say something like, The Planning Commission agrees that Skagit County has an obligation to protect a sole source aquifer, which is addressed in areas of the Skagit County Code.

Commissioner Day: I don't know that, though.

Mr. Eckroth: I just pulled it up. I could show you where it is. So under 14.24.310 it designates that sole source aquifers are considered Category I areas, as critical aquifer recharge areas. Under 14.24.340(h), it says Sole Source Aquifer Mitigation, which – so there's mitigation required under .310 too.

Commissioner Day: So would you just, for the Finding – Tammy, was this you who raised it? – would you just say that we're not certain that this ordinance provides that protection over and above what's in existing code?

Vice Chair Candler: No, I would just say, The Planning Commission agrees that Skagit County has an obligation to protect a sole source aquifer under the Growth Management Act, which is addressed in other sections of the code – period – but are not convinced that the proposed language will –

Commissioner Day: – provide additional protection?

Vice Chair Candler: – provide additional protection. Or will – even the way it is is okay probably, but, ...are not convinced that the proposed language will accomplish protection of the aquifer.

Chair Raschko: Okay, are we done?

Vice Chair Candler: I know I was the one that asked you to take the same word out of the goal on F, but I think I would like you to add your word back in because we're not saying that – we're just saying it's – the same as what you're proposing can be addressed somewhere else. There's other education issues.

Commissioner Day: Would it make it more clear if F became B?

Commissioner Woodmansee: You mean, like, it just got renumbered?

Commissioner Day: Yeah, just have it come under the first sentence or the first Finding.

Chair Raschko: That's a good idea.

Commissioner Day: It seems like the logic would follow better to me.

Vice Chair Candler: Yeah.

Commissioner Hughes: If we could look at E. To me at the end of the second line, "in other sections of the code" comma "but are not convinced." Or "changed." Keep the period there but change the "but." I have problems starting a sentence with "but."

Vice Chair Candler: Semi-colon after ___?

Commissioner Hughes: Yeah, however.

Vice Chair Candler: It makes sense as one sentence to me. But we need the – it's probably a semicolon or something.

Chair Raschko: It would be "is," I think. "...is the Planning Commission." Singular.

Mr. Eckroth: Where at?

Mr. Moore: Right at your cursor.

Chair Raschko: Right after "but."

Mr. Eckroth: Oh.

Chair Raschko: Okay. All right. Are we satisfied? Are we ready for a vote?

Commissioner Day: We vote on the Findings?

Chair Raschko: Yeah. All those in favor – are we voting on the Findings or entire document?

(incomprehensible comments from several Commissioners)

Chair Raschko: I guess so. We voted on the top parts – and just the Findings. Okay. All those in favor of approving the Findings, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

Commissioner Hutchison: Nay.

Commissioner Henley: Nay.

Chair Raschko: Two nays. Okay. You know, I know we voted, but is there anything that might change your votes?

(silence)

Chair Raschko: Okay, that's fine.

Vice Chair Candler: You mean additions or –

Chair Raschko: Yeah.

Commissioner Woodmansee: Hey, Robby?

Mr. Eckroth: Yes?

Commissioner Woodmansee: There is a column that you can check "absent."

Mr. Eckroth: Oh.

Commissioner Woodmansee: Further to the right.

Mr. Eckroth: You are correct. Thank you. That's the problem with typing on the podium.

Chair Raschko: Okay, so, well, that concludes our deliberations on the Guemes Island Seawater Intrusion Amendment. And we will move to Planning Commissioner Comments and Announcements. We could start with Jen.

Commissioner Hutchison: I don't have announcements but I was hoping that I might ask a quick question of the Department for an update, perhaps, on the voluntary compliance agreements in the ag-tourism segment. I feel like we're beyond the date of submittal at this point. So I was just curious if there was any idea of, like, the percentage of those identified businesses that *may* have actually applied. I'm just really curious.

Mr. Moore: Sure. Actually the interim ordinance the Commissioners passed granted six months –

Commissioner Hutchison: Oh!

Mr. Moore: – to submit. So there's still a few months left –

Commissioner Hutchison: Oh, I hadn't realized.

Mr. Moore: – for business owners to submit. There has been no voluntary compliance agreement signed as of yet. The Department has received three or four submittals for review.

Commissioner Hutchison: Is that all?

Mr. Moore: Yes. The Department intends to reach out to operators of businesses that we think would fall under the moratorium and the AOI to encourage them to initiate the process prior to the deadline.

Commissioner Hutchison: Thank you.

Chair Raschko: Vince, have you anything?

Commissioner Henley: No, I don't have anything more.

Chair Raschko: Okay. Joe?

Commissioner Woodmansee: Follow-up to Jen: So is that something that the Department's going to do fairly soon or –

Mr. Moore: I would anticipate that a letter would go out in July just reminding all of the operators that this window is open now but will close in a few months, and that we encourage them to submit if they so choose.

Commissioner Woodmansee: Just out of curiosity, how burdensome was the – like, the reporting they had to do? Was it like a fairly reasonable, easy thing – the information they had to provide? Or was it, you know, a bit of a task?

Mr. Moore: In my estimation, it's fairly easy to present the information. We produced a fillable form for them to indicate a typical event size, number of cars onsite, frequency of the events, et cetera. And then where – at least the first couple proponents, their concern was prior to signing the agreement, what are they committing themselves to. So in what ways is their property deficient that would need to be corrected once they go through the permitting process? They seemed to want to have quite a clear idea of what that is prior to signing. It would be – as I described it to them, it would be quite easy for us to put in the agreement – and the stock voluntary compliance agreement does indicate that we acknowledge there's a violation and we hereby, you know, agree that we are going to correct it to meet all codes. But a lot of them want to know exactly what that means. So are they going to have to do structural repairs? Are there, you know, stormwater implications? Are there fire sprinklers needed? Et cetera. So they're looking for a little bit more specificity, so I have been encouraging them to schedule a predevelopment meeting to get those questions answered, and then we would be able to use the comments from the predevelopment meeting to insert or attach to the voluntary compliance agreement.

Commissioner Woodmansee: I can't imagine wanting to go down the road of stormwater compliance for some of these people. That can be quite the road to go down. At what point – you don't have to answer this, but my thought is at what point – I mean, where are we grading them at? You know, existing use, right? I mean, are we taking them to today? If we're taking them to today, most of them are going to shut down; they won't be able to afford what they have to do. So just it'll be interesting to see how that plays out.

Mr. Moore: Mm-hmm.

Chair Raschko: Tammy?

Vice Chair Candler: I don't have anything tonight.

Chair Raschko: Okay. Thank you, everybody, for your hard work tonight. That's all I have. Angela?

Commissioner Day: Yeah, well, I also appreciate all the dialog. I would like to see us as a planning commission – I'm not familiar with – I'm a newbie so it's new to me to vote on a motion and then vote on the Findings. I think it would be more powerful if we could all come to consensus on findings for things that we recommend to the Board of Commissioners. So I don't know if that's a good goal or if others agree that *is* a good goal, but that's just a thought I have. And I really appreciate everyone's input. I think it was a really good discussion. I appreciate all of your insights.

Chair Raschko: Amy?

Commissioner Hughes: Your input is good to hear because we've just done it that way since I've been on the board – or the Commission – so maybe we do need to work on that as far as consensus rather than voting. That's a good thought.

Chair Raschko: Okay. Well, thank you, everybody. We will stand adjourned (gavel).