

Skagit County Planning Commission
Deliberations: Voluntary Stewardship Program (Ag/CAO)
November 15, 2011

Commissioners: **Jason Easton, Chair**
 Mary McGoffin, Vice Chair
 Annie Lohman
 Carol Ehlers
 Dave Hughes
 Elinor Nakis
 Matt Mahaffie
 Josh Axthelm

Staff: **Gary Christensen, Planning Director**
 Ryan Walters, Civil Deputy Prosecuting Attorney
 Betsy Stevenson, Senior Planner/Project Manager

Chair Jason Easton: Good evening and welcome to the Skagit County Planning Commission (gavel). My name's Jason Easton. I'm the Chair. Tonight's topics or agendas are in front of you, Commissioners. Our agenda for tonight is in front of you. I'm asking for one change on the agenda. The work session on County Road Standards is cancelled. If they arrive before we leave, we may reconsider adding them back to the schedule, but at this time they're not available so we're going to go ahead and drop that from the agenda. Are there any additions to the agenda?

(silence)

Chair Easton: Seeing none, then by consensus we'll accept this agenda and we will move from here into the deliberations on the Voluntary Stewardship Program under Critical Areas. I've asked the Director to give us an opening statement for the public at home briefly about the topic and then we'll go straight into deliberations. Mr. Christensen.

Gary Christensen: Thank you. Good evening, Planning Commission members and those in attendance, as well as those who are watching local TV stations and/or streaming video at skagitcounty.net. Truly a worldwide audience! So, again, my name's Gary Christensen, Director of Skagit County Planning and Development Services. Good evening again.

This matter which is before you is a result of a public hearing which the Planning Commission held on November 1st regarding what we have referred to as the Voluntary Stewardship Program. This came to be as a result of the Washington state legislature passing ESHB 1886 which was created to address the protection of critical areas in agricultural areas or activities. The Voluntary Stewardship Program is an optional

program. The Commissioners have signed a resolution asking that the planning agency – that being you, the Planning Commission – and the Planning Department hold a public hearing to address really several key issues, one of which is should the County opt in to the Voluntary Stewardship Program; what portions – if we choose to opt in – what portions of the county would apply; and, if so, are there priority watersheds within the affected area which you would wish to identify as just that: priority watersheds.

So you held a public hearing. You did receive some public testimony. You've received some written correspondence which we've provided to you in advance. In addition to the written correspondence and public testimony, the Department has provided responses to the comments regarding the proposed Ag/CAO amendments. Those, again, have been provided to you in advance. And we're prepared this evening to answer any questions that you might have as part of your deliberations. Joining me tonight is Betsy Stevenson, who's the Project Manager, as well as Ryan Walters, who is the – representing the Prosecuting Attorney's office, Civil Division.

So, with that, that's probably enough of an intro and we can just proceed as you desire.

Chair Easton: Great. Commissioners, I think the best way for us to proceed would be to take a few – whatever time we need to ask questions of staff and then move in the direction of deliberations, unless you all think that there's a better way for us to do that – because I know there was a few of you who have indicated to me you had some questions of staff. Annie?

Annie Lohman: I have a question. This is proposed.

Mr. Christensen: Yes.

Chair Easton: Okay, let's clarify that. You have in front – thank you, Annie – in front of you is a "Skagit County Planning Commission's Recorded Motion Recommending Changes to the Critical Areas Ordinance" blah, blah, blah. It's two pages. It's just a draft and this is a draft that – just for us to be effective in our deliberations tonight so that you could see what the – what potentially we may do. So more questions about that? Annie first, then Carol.

Ms. Lohman: No, that wasn't the one.

Chair Easton: Carol has a question about that.

Carol Ehlers: Carol has a question. We had a draft which we received on the 22nd and now we have this draft. Which draft are we discussing?

Ryan Walters: One is an ordinance. If you could hold up the documents that you're asking about.

Ms. Lohman: Mr. Chair, the document – if I could back up –

Chair Easton: Go ahead, Annie. I'm sorry. I thought Carol – I thought you were going in another direction. Go ahead.

Ms. Lohman: The document is the proposed ordinance and it *is* proposed, so there could potentially be something that isn't going to happen in here. And that leads me to my question. There is "Whereas Planning and Public Works prepares an analysis of the costs and benefits of enrollment..." Was that something that was going to happen and we were supposed to be – consider that?

Mr. Walters: And that hasn't happened yet. What you have before you is a draft of an ordinance. The ordinance is the document that the Board of County Commissioners adopts. And typically the ordinance has attached to it your recorded motion. But the ordinance is the Board's document. So that was prepared quite a while ago and the document that you got tonight is *your* document, your recorded motion.

Dave Hughes: So this is just the Commissioners' work and we put that at the bottom of our file.

Mr. Walters: It's just fyi.

Ms. Lohman: Okay. So we don't –

Mr. Walters: And it will need to be adjusted, you know, based on whatever it is you do here tonight.

Chair Easton: Based on two factors, actually. Based on what *we* do and then based on how staff responds to what we do.

Mr. Walters: Well, and what the Board does.

Chair Easton: And then what the Board – it's actually three factors – and what the Board decides to do.

Ms. Lohman: Right.

Chair Easton: And the only –

Mr. Walters: And you don't have the analysis document – no.

Ms. Lohman: Okay.

Chair Easton: So the only draft ordinance – or the only draft that we need to be concerned with in relationship to what we're going to decide tonight is the one that is in your packet tonight, the one that is not highlighted, our draft, which is the one that would

read “Planning” – the second words after “Skagit County” it says, “Planning Commission.” Does that clarify things?

Ms. Lohman: Yes.

Ms. Ehlers: And the one that we got on the 22nd that is highlighted on top is to be ignored?

Chair Easton: No. It was a – it was sent as a –

Ms. Ehlers: No –

Chair Easton: Let me – let me –

Ms. Ehlers: We have an ordinance that’s actually got text to it.

Chair Easton: We have an answer to that question and I’ll try to restate it. That’s a draft that the Commissioners may consider in the future based on what we decide and based on how staff advises the Commissioners and then the decision that they make. So it was for your information only.

Mr. Walters: And one of the reasons –

Chair Easton: Am I correct?

Mr. Walters: That’s correct. And one of the reasons you got that is because in the code text there is a proposal to enroll the County in the VSP; however, the code text doesn’t reflect which watersheds you nominate and we don’t want the code to say that because it’s just a nomination. They may or may not get priority status. And so the nomination occurs in the ordinance, not in the code text.

Chair Easton: Annie?

Ms. Lohman: Well, what attracted me to that language was that it says that the Planning Commission was going to consider. So that was just maybe premature then?

Mr. Walters: Right.

Ms. Lohman: Okay. I’m fine.

Chair Easton: I’m glad you clarified that. Carol, can we dispense with this portion of the meeting and move to the other kinds of questions that we have? I don’t want to come back to this. I’d like to make sure we’re finished here. Are we finished here?

Ms. Ehlers: So the one that’s dated 10/19 we put aside?

Mr. Walters: You've – it's not for you to edit it.

Ms. Ehlers: Thank you.

Mr. Walters: Because it's the Board's document, but it's –

Ms. Ehlers: When you give us something like that in the future, tell us that – please. Thank you. Okay, I'm through.

Chair Easton: Thank you, Ryan. Thank you, Carol. So at this time the Chair will entertain questions for – please wait until the Chair calls upon you – we'll take questions for the staff before we actually take a motion on the – make a motion on the issue before us.

Are there any questions of staff on this issue? Elinor.

Elinor Nakis: You know, I'm sorry that I don't have it in my notes but I have a vague recollection of when I looked up this on the Internet what the – what this plan is – the Voluntary Stewardship Program – is, it says that at anytime you have the right to leave the program or something like that, but then it says in another sentence even though you have that ability or whatever, you can be fined if you don't do – if you don't follow the plan.

Chair Easton: So –

Ms. Nakis: If you drop out of it and you discontinue the stewardship that you are currently doing, then we could be fined.

Chair Easton: Do you want to phrase that – hang on – did you –

Ms. Nakis: That was something that I had read in the Voluntary Stewardship Program. I want to know if that – was that in my imagination or do you recall that statement, or how does that affect us –

Chair Easton: Ryan, why don't you take that question?

Ms. Nakis: – as a whole?

Mr. Walters: I'm not entirely sure which section you're referring to. I assume you're talking about the –

Ms. Nakis: I know. I'm sorry I forgot to send that to you.

Mr. Walters: You're talking about the legislation, though?

Ms. Nakis: Yes.

Mr. Walters: The Senate – or the House bill?

Ms. Nakis: Mm-hmm.

Mr. Walters: The word “fine” doesn’t appear in the House bill, so it must have been phrased somewhat differently. Do you – I can’t think of what that would be.

Ms. Nakis: Right.

Mr. Walters: There are a couple of things that might be related to what you’re talking about. One, there are defined points at which the County as a whole can exit the program – not at any time but at certain stages after five, seven, nine, eleven years, something like that.

Individual landowners – it’s a voluntary program so they can participate or not participate. If they participate, they may sign some commitment to actually participate, but the initial choice is voluntary. For instance, if you enroll in the federal CREP program – the Conservation Reserve Enhancement Program – you get money from the federal government in exchange for growing trees along streams.

Ms. Nakis: Mm-hmm.

Mr. Walters: You sign an agreement when you take the money, so you do have an obligation as a result of that. But those are all individual programs that people can participate in right now. So –

Ms. Nakis: Now with the Voluntary Stewardship Program though, is that – does that put people in the same situation? For example, they sell their land or change ownership or –

Mr. Walters: The Voluntary Stewardship Program is, I think, envisioned as sort of an umbrella program. We have all these little programs – some federal, some state, some County programs – that landowners can participate in now. And the Voluntary Stewardship Program would be some kind of coordinating entity that would have goals for participation and also help people participate: Tell people about these existing programs, hopefully get some additional dollars for these existing programs, maybe eliminate some of the restrictions on those existing programs. But you would – there isn’t a new, defined program like CREP that is part of this legislation. What this legislation says is, County, go forth and create a work plan – very broad instruction to the County to create a work plan that creates these voluntary incentives for habitat restoration.

So it’s difficult to respond to your precise question without knowing precisely where you saw that.

Ms. Nakis: Oh, thanks.

Chair Easton: Does that help? Do you need more clarification? Not yet, Carol.

Ms. Ehlers: Well, I'd like to follow –

Chair Easton: Elinor? Not yet, Carol.

Ms. Nakis: Yeah, I'd like – I'd just like to come back. I'm going to read it and see if I can find it in here.

Chair Easton: Let Elinor finish and then we'll – did you have another question?

Ms. Nakis: No, not at this time.

Chair Easton: Okay.

Ms. Nakis: Thank you.

Ms. Ehlers: I'd like to follow up on her question.

Chair Easton: Okay, go ahead.

Ms. Ehlers: CREP goes with the land. Mr. A signs the document. Mr. A sells the land to someone else who's farming, or they're using it for some kind of fish protection program. The CREP program goes with the land. Will these draft ideas or agreements go with the land or with the owner? Or have you gotten that far?

Mr. Walters: Yeah. I don't think anybody knows because that is something that needs to be developed as part of that work plan. And I think it's reasonable to assume that the County is not going to be creating CREP programs itself. I mean, we do have one program that's sort of similar to CREP and that's the Natural Resource Stewardship Program, but it doesn't involve the lease payments that CREP does.

Ms. Ehlers: I wasn't thinking so much of CREP and the money; I was thinking of the principle.

Mr. Walters: I think it's likely that a program would run with the land instead of with a person. That's very speculative because we may or may not create a new program like that. I mean, this may just be an umbrella program that uses existing ones.

Chair Easton: Commissioners, anyone else who has a question? Mary?

Mary McGoffin: The state – or – yeah, the state court ruling in 2007 that said we didn't have adequate details for our monitoring and our adaptive management, correct?

Mr. Walters: That's right.

Ms. McGoffin: That was the deficiency of our case. So do you think, in your legal opinion, that enrolling in this Voluntary Stewardship Program will get us there?

Mr. Walters: So the reason that enrolling in the Voluntary Stewardship Program is attractive legally is because the legislation sets – it changes Growth Management. Previously under Growth Management you had – a county had an obligation to protect critical areas through development regulations. And the 2007 court case was all about the fact that our development regulations took a very non-precautionary approach. They didn't impose buffers on agricultural land; instead we have these defined rules that agriculture has to follow and a general no-harm standard. The opposing parties in that case and, ultimately, the Growth Board and the Supreme Court, agreed that our ordinance wasn't precautionary. And because it wasn't precautionary, because it didn't impose the buffers, because it didn't take that step of being precautionary in terms of protecting critical areas you have to do monitoring and adaptive management. That's state law. And they said that our approach to doing monitoring and adaptive management was deficient.

But the reason that this legislation is attractive is because now it does – state law now says instead of doing that – instead of protecting through development regulations or, in the case of Skagit County, protecting through our watercourse protection measures with an add-on layered program of monitoring and adaptive management – instead of doing that you can enroll in the Voluntary Stewardship Program. So then you don't have the obligation to fix the program – to fix our monitoring and adaptive management program – that we had after the 2007 court ruling. So it sets up this entirely separate pathway. We go down this path – we do Voluntary Stewardship Program – we don't have to fix the monitoring and adaptive management program.

Ms. McGoffin: Yeah, but doesn't the Stewardship Program have monitoring in it –

Mr. Walters: It does.

Ms. McGoffin: – and have adaptive management in it?

Mr. Walters: It does. It definitely has benchmarks and goals that we will need to set up as part of the work plan, and then there has to be monitoring to see if we are reaching those goals. And then later we would have to create an adaptive management plan if we don't reach the goals.

On the traditional path – the path that we were on in 2007 – we need to come up with – we first of all need to establish the benchmarks, which we never really did, and then we would need to create the adaptive management plan. And those are things that we didn't do before. Under this course we – we'll still have to do something similar to that, but we won't have to do adaptive management unless we fail to meet the goals. And we will be doing it at a different venue. Previously we were litigating it. We were before

the Growth Board, then we were before the Court of Appeals and the Supreme Court. In this venue – in the Voluntary Stewardship Program – we'll be going to the Conservation Commission, we'll be working with a technical panel. We won't be litigating it every step of the way. So that's one of the reasons that we find it quite a bit more attractive than the traditional path.

Chair Easton: Annie?

Ms. Lohman: This is really part 1, and the part you're referring to, Mary, is further down the road. We're not even there yet.

Ms. McGoffin: I know but I just – I don't want this to just be a feel-good program that we enroll in. I want to actually get some work done. And so that's what I'm saying: Are these kind of scientific things going to actually happen or is it just going to be more looking at the stream kind of thing?

Mr. Walters: Well, I do think that there is a lot of – there are quite a few requirements built into the legislation to make sure that the work plan that the County develops after enrollment actually does something. First of all the work plan has to go to the state technical panel, which is composed of the directors of the Conservation Commission, Ecology, WDFW and Department of Ag.

Chair Easton: Washington Fish and –

Mr. Walters: Washington Department of Fish and Wildlife.

Chair Easton: Thank you.

Mr. Walters: So there's the technical panel. It has to approve the work plan. So that's the first step. So there's some, I think, likelihood as a result of that that you have a work plan that actually plans to accomplish something. Then, if you don't meet the goals and you fail to correct course after not meeting the goals, we end up back on the traditional course and that is an expensive course. It's a course that ultimately could lead to buffers and that's not really a place where we want to be, I don't think. So there is that threat that if you don't, you know, make good on your work plan – the work plan that you, the County, do develop – but if you don't actually implement it, if you don't reach your goals, then you end up back where you were before.

For the past four years nobody has really had to worry too much about that because we've been in this timeout. We've had no action on this. The court case was in 2007. Since then we haven't had to update our critical areas ordinance. We haven't had to spend money on Seattle attorneys. We haven't had to do any of that because of the timeout. The timeout is over so if we fall off the course now we will be back where we were in 2006, 2007.

Chair Easton: All right, at this time the Chair would like to entertain a motion.

Ms. Ehlers: Annie had a question.

Chair Easton: Annie didn't indicate to me that she had a question. Do you have a question?

Ms. Lohman: Well, with all due respect, it –

Chair Easton: With – to who?

Ms. Lohman: To Ryan. I just want to make it – it sounds like we didn't do anything in the county. An awful lot of projects and habitat projects happened during that timeout. It's *legislatively* nothing happened.

Mr. Walters: Right. I don't want to leave the impression that the County wasn't doing anything in that time.

Ms. Lohman: We weren't all bad actors _____.

Chair Easton: Let's be clear that – we sort of interchange the phrase “the county” with the County government and with the folks that live in the county. And I want to be clear that what Ryan meant to say, I believe, is that a lot of folks in Skagit County proper continued to do things during the timeout, not just Skagit County government. Because there were a lot of –

Mr. Walters: Yes. Both.

Chair Easton: – both, and I think that's an important clarification.

Mr. Walters: However, none of those things count here. We tried that several years ago. We had a strategic plan to recover salmon. The Growth Board was not interested in that strategic plan. They are interested in development regulations that protect critical areas.

Chair Easton: So, Mr. Walters, they may not *count* but they may have still been great work and we're thankful that they happened. I also want to recognize that the Chair of the Agriculture Advisory Board, Nels Lagerlund, is here to take our questions. I asked him and he was gracious enough to be here. Thank you, Nels, for coming. If any of you have a question for Nels before we go into deliberations, by our bylaws it's allowable for us to call upon those who have given testimony before. Here his letter is in front of you. They voted seven to one in favor of opting in. You've all had a chance to review that. It was posted to the website. So if there're any questions for Nels we can also take those at this time, too.

A question? Okay, it's got to be formed in a question. Go ahead.

Ms. Ehlers: It is. In the text there's reference to the priority watersheds of the Samish and the Skagit, and that makes sense. The total watershed, according to the Department of Ecology – the WRIA 4 – includes all the saltwater islands which, of course, are not part of a river watershed. Has it been decided whether the agricultural activities on the saltwater islands are to be part of this or are to be left out?

Mr. Walters: So I guess maybe there are a couple of questions there. One is, To what extent does the Skagit watershed encompass the islands?

Ms. Ehlers: All the maps show that it does, but that's only a convenience to make sure that all the land in the state is in one watershed or another. Because it clearly doesn't mean that they're part of the river.

Mr. Walters: Right.

Ms. Ehlers: And none of them have an Ag zone on it, which, of course, both the Samish and the Skagit have extensively. So is this one of the things yet to be determined?

Mr. Walters: Well, that is the – we talked about that, I think, at your work session.

Ms. Ehlers: We wandered around about it.

Mr. Walters: Yes. You brought that up. So staff drafted a line that is in the code proposal that is in brackets here in the definition of "ongoing agriculture."

Chair Easton: When you highlight it it's a little harder for us to read on these screens.

Mr. Walters: So right here at the top of your screen. In the definition of "ongoing agriculture," currently you have a definition that restricts ongoing agriculture. Ongoing agriculture is the type of agriculture that gets the special provisions of the current ag critical areas ordinance.

Chair Easton: Okay.

Mr. Walters: Ongoing agriculture is not *all* agriculture. It's only that agriculture which meets this definition. And one of the restrictions of this definition is that that agriculture take place in land zoned Ag-NRL or Rural Resource-NRL.

Ms. Ehlers: Okay.

Mr. Walters: So I think Carol's question is, Does that – Does this proposal expand that to other zones? Because there's agriculture that takes place, I guess, maybe primarily in Rural Resource-zoned lands. And because you brought that up, we bracketed this section simply by removing, I guess, also the word "on" and "Agricultural-Natural Resource Lands" or "Rural Resource-Natural Resource Lands." By removing that

section, you would expand ongoing agriculture to be able to apply to other zones, as well.

Now staff doesn't recommend that you do that because that is a change that would be quite a bit bigger, I think, than some of the other changes that are proposed in the draft.

Chair Easton: I wouldn't – at this time we're going –

Ms. Ehlers: I'm not arguing for it. I'm wanting to clarify that it's not –

Chair Easton: Did you get a clarification?

Ms. Ehlers: – that it's not really part of what we're talking about, and that's fine. It's just it needs to be clear.

Chair Easton: Do you feel like that's clear now?

Ms. Ehlers: If I knew which page this paragraph was on.

Ms. Lohman: Page 2.

Ms. Ehlers: Page 2?

Ms. Lohman: In the second paragraph.

Ms. Ehlers: Second paragraph. Okay. Thank you.

Chair Easton: At this time the Chair would like to entertain a motion. Is there anyone who's willing to make a motion on the issue in front of us? Annie?

Ms. Lohman: I move that the County enroll in the Voluntary Stewardship plan and to accept the proposed changes to the critical areas ordinance for ongoing agriculture, Skagit County Code 14.04.020, 14.24.070 and 14.24.120.

Ms. Ehlers: I'll second it.

Chair Easton: Is there a second? Carol?

Ms. Ehlers: I'll second that.

Chair Easton: Okay. It's been moved and seconded to accept the proposed changes as – and I'm not going to reread the motion, but – as proposed by Annie's motion concerning those code changes. Discussion? First the maker of the motion can speak to her motion.

Ms. Lohman: I think it's been – has been said in our work session and alluded to today by Ryan that this is a path that will maybe get us to some things on the ground without litigation. It is not going to be an easy path. It has some arduous requirements. It is not a get-out-of-jail-free card for anybody. It has some dates and certainty that we have to meet, so I don't think that it's giving anybody a lesser standard. It is a program that says, Let's not litigate but embrace all the voluntary opportunities that we can use and get some things on the ground.

Chair Easton: Thank you, Annie. Anyone else wish to comment? Yeah, Carol?

Ms. Ehlers: I seconded it because it seems to be pragmatic instead of litigious. And we've had enough of that.

Chair Easton: Okay. Anyone else wish to comment before I call the question?

(silence)

Chair Easton: Seeing no one else is interested in commenting – Mr. Mahaffie, I'm sorry. I didn't mean to move too quickly but no one was moving. Sorry. Mr. Mahaffie?

Matt Mahaffie: Can I ask a question about –

Chair Easton: No.

Mr. Mahaffie: Sorry.

Chair Easton: No, you can't. I'm kidding!

Mr. Mahaffie: As far as expanding the agriculture, that is not included in this, correct? The way it was written?

Ms. Lohman: Right. I didn't take any words out.

Mr. Mahaffie: Okay.

Chair Easton: The draft that you have in front of you is the draft that Annie just made the motion off of, right?

Mr. Mahaffie: Well, we saw the screen as it was highlighted and bracketed.

Ms. Lohman: But we didn't take it out.

Chair Easton: We didn't take it out. And we're all clear about that. Mary?

Ms. McGoffin: So one of the criticisms was that people wouldn't volunteer to do this and that it had to be something enforceable. And I generally disagree with that because I

think it's in the farmers' interest to cooperate so that they don't have to give up buffer land. So I think there's an incentive for them to want to volunteer.

Secondly, the thing I like about this Voluntary Stewardship Program is that it's very much based on a feedback system, kind of like the way all natural things work. So if you don't make your benchmark then you go fix it, then you go back, you check it again: Are you making it? And so it's constantly getting this feedback, and I think that will get you to clean streams and get you your quality water that you're looking for.

So I think in its ideal form it could work and I – my last comment is as I was reading the planning book, Gary, that you gave us –

Mr. Christensen: Yes.

Ms. McGoffin: It said always try to see if it is consistent with your comprehensive plan. So I don't see any language about that, but it'd be nice to put something in there about how *is* it consistent with our Comp Plan.

Mr. Christensen: Okay.

Chair Easton: We can add that as a finding – maybe come back to that. Would that be appropriate?

Mr. Christensen: Yes, yes. I think that's a very good comment and we'll incorporate that into the recorded motion.

Chair Easton: We'll come back to doing findings in a minute. But we'll circle back to that, Mary.

Ms. McGoffin: Okay.

Chair Easton: Other comments? Any other Commissioners wish to make a comment?

Ms. Nakis: I think that I found the section that I was thinking of. I think I probably just –

Chair Easton: Can you reserve your comments to whether you want to speak in favor or opposed to the motion, or do you want to do – it might be better in the findings part. So is it part of deliber – I mean, we're discussing the motion right now.

Ms. Nakis: Right, as what –

Chair Easton: Go ahead.

Ms. Nakis: – we accept it or not?

Chair Easton: Mm-hmm.

Ms. Nakis: Okay. I guess my interpretation of this statement – it talks about the agricultural operator participating in the program may withdraw from the program. It's not required to continue the measures – the voluntary measures – after the expiration of the contract, the initial contract. So if that's a five-year contract and that person decides to drop out and not participate anymore, not to continue to plant trees or whatever it is that they had agreed to originally, then the responsibility falls on the watershed group. And what kind of funding will they have to continue that? I mean –

Chair Easton: Okay, so I believe that – first of all, I need to know what page you're on because the rest of the Commission – some of the rest of the Commissioners would like to look where you are.

Ms. Nakis: Okay.

Chair Easton: Where are you at?

Ms. Nakis: It's section 14.

Ms. Ehlers: Page?

Ms. Nakis: It's in the Enabling Legislation.

Chair Easton: I know, but I had – a Commissioner asked me for the page – I had a Planning Commissioner ask me for the page number so because they wanted to look at it.

Ms. Nakis: Section 14, page 15.

Chair Easton: Section 14, page 15?

(several Commissioners speaking inaudibly)

Chair Easton: Do you feel like you want that question answered before you can vote one way or the other on this issue? Because we're at the place of the meeting where we're – where I'm having people speak for and against the motion to approve what Annie moved and what Carol seconded. So do you feel like you need – I need you to help me understand, as Chair, what you need from me right now. Do you need this question clarified or can we do it in findings?

Ms. Nakis: We can do it in findings. I'm just considered – concerned that there's – this is unfunded.

Chair Easton: Okay. So I think that concern, it would be best for us to discuss during the finding section of tonight's deliberations. And we're in discussion on the motion, so

why don't you, like Annie – we will come back to you during the finding section. Is that okay?

Ms. Nakis: That's fine.

Chair Easton: Okay, Elinor. Does anyone else want to speak for or against the motion?
Matt?

Mr. Mahaffie: I'm going to speak for it in a negative fashion.

Chair Easton: Okay!

(laughter)

Chair Easton: I'm glad you clarified that!

Mr. Mahaffie: We had a member of the public that I really feel for as far as he presented his outlook on it. Pretty cynical as far as it – you know, being back here in twenty years if this actually works and really cynical to think that it will for fish or agriculture; however, it's the best thing on the table right now.

Chair Easton: Okay. Does anyone else – Josh, do you want to make any comments, or does anybody else want to make an additional comment? Josh? Okay. I'm going to make a comment and then I'm going to call the question.

Ms. Lohman: This is the ____.

Chair Easton: Good. If –

Ms. Nakis: This is exactly what I was ____.

Chair Easton: Elinor? Did you have something else you needed to add before we end the discussion?

Ms. Nakis: Pardon?

Chair Easton: Did you guys have something you needed to add while we're in discussion? Because I'm about to end discussion so I just wanted to make sure I was respectful.

(silence)

Chair Easton: It's my opinion that this is the best that we have to work with right now. And if it stops being the best that we have to work with right now because of lots of potential issues, we can deal with it then. And – we, as a community – and in 2004 – 2006, when I first was appointed to the Commission, this issue was on the forefront.

The very first meeting I ever took in 2006 on any issue in the County building was on this issue – what was commonly referred to as “salmon-ag” – and the challenges that went along those lines. I don’t have nearly the institutional knowledge of most of the rest of you in the room, but I do know that usually hiring attorneys and not getting things finished accomplishes less than what we’re about to accomplish. I feel very comfortable with the reality that we’re making some steps forward and I, too, hope that the Commissioners will take my vote and how we ever decide to vote under advisement and go ahead and approve this. So I’ll be voting in favor of the motion.

So at this time I’m going to call the question. All those in favor of the motion as stated earlier, please signify by saying “aye.”

Mr. Hughes, Ms. Ehlers, Ms. Nakis, Mr. Mahaffie, Ms. McGoffin, Ms. Axthelm, Ms. Lohman and Chair Easton: Aye.

Chair Easton: All those opposed?

(silence)

Chair Easton: Any abstentions?

(silence)

Chair Easton: All right. Let the record show that the Commission passes this eight-zero. As – be very clear – as Annie made the motion and Carol seconded, there were no changes to the draft in front of us. Okay? Now – yes, Mr. Attorney?

Mr. Walters: I was just wondering if you also wanted to endorse the nomination of a priority watershed or two?

Ms. Lohman: I forgot that in my motion.

Chair Easton: I think we do. I’m glad you reminded us. I think doing – yes, Betsy? Go ahead.

Betsy Stevenson: The other question is whether or not you’re including the whole county in enrollment.

Chair Easton: We still have – okay, so Betsy has to speak up a little louder.

Mr. Walters: We draft –

Ms. Stevenson: Is it in there?

Mr. Walters: If you end up adopting the recorded motion draft or something similar to it, then that covers all of this stuff.

Chair Easton: The recorded motion draft that's in front of you, do you all believe that's what you just voted for?

Ms. Ehlers: We have to be clear about it.

Chair Easton: Okay. If you believe that you just voted for this – the proposed changes to the critical areas ordinance, as Annie made that clear – do you – this is new language that you did not see before you came tonight. Is that correct? Some of you need some time to review this because this is the proposed language for our draft motion. These are the kinds of things that, in the past, have been drafted based on our transcripts and some Whereases, as they apply. Then the County staff sends them to all of you usually and you have a chance to comment by e-mail. If you don't comment – which, to this day, I can't remember any of you commenting – then I come in and I sign them, or Mary signs them if I can't – if I'm not available. So would you like to take a moment to read this before we make any – before we move any further? Because I do want to deal with the watersheds and I do – if we need to individually.

Ms. Lohman: What if I –

Chair Easton: Yes, Annie?

Ms. Lohman: Mr. Chair, what if I just changed my – amend my motion?

Ms. Ehlers: Make another one.

Ms. McGoffin: Just make another motion.

Ms. Lohman: Yeah, to include the entire – enroll the entire county and include the Samish and the Skagit as the priority watersheds. And I omitted saying that. But I would rather we had like the generic overriding motion and then we can get into the weeds on the Whereases and that.

Chair Easton: Yeah, I don't – okay. That's fine with me. If the seconder will agree to withdraw, we can withdraw the whole thing and you could restate the motion. Will Carol –

Ms. Ehlers: The seconder –

Chair Easton: Carol, I have a simple question for you. Will you agree to let the motion be withdrawn, yes or no? Carol?

Ms. Ehlers: I have a simple –

Chair Easton: Carol, I need a simple, one-word answer, please, because I need to move back to the motion or I need to move away from it – one or the other.

Ms. Ehlers: "Entire county" includes the saltwater islands which are not covered –

Chair Easton: (gavel) You're out of order. You're out of order. I asked you a simple –

Ms. Ehlers: It doesn't cover that.

Chair Easton: (gavel) You are out of order. I had one simple question. Will you agree to allow the motion to be removed from – to be removed, to be withdrawn? Yes or no? Because she can amend it if you don't want to allow it to be removed. Yes or no, Carol?

Ms. Ehlers: No.

Chair Easton: All right. Annie.

Mr. Walters: I'm not sure you need her agreement, because once the motion has been seconded it's no longer under the ownership of the mover. It belongs to the body.

Chair Easton: Okay. Well, and I may – I probably am incorrect about that. Thank you, Ryan, for that clarification. Annie, out of respect for Carol's disagreement with this particular way – I realize that parliamentarily speaking I may be able to continue to move forward with this – but out of love for Carol I'm going to stop right here and I'm going to ask the maker of the motion to amend her motion to reflect the changes she would like.

Ms. Lohman: Or I could just make a second motion that we enroll the entire county and that we make the Samish and the Skagit the priority watersheds.

Chair Easton: I recognize that you could do that. I'm also trying to split the baby here a little bit –

Ms. Ehlers: Mm-hmm.

Chair Easton: – and keep Carol happy with how we do this. So it would be helpful to the Chair –

Ms. Lohman: If Elinor –

Chair Easton: – it would be helpful to the Chair – not right now; just a second unless you have a point – do you have a point of order?

Ms. McGoffin: I have a helpful comment.

Chair Easton: Oh, we always have so many helpful comments.

Ms. Ehlers: It's like the –

Chair Easton: Carol. Carol.

Ms. Ehlers: It's language again.

Chair Easton: Yes. Words matter. I know they matter. All right, let's take a helpful comment from the Vice Chair. Helpful comment?

Ms. McGoffin: My helpful comment would be that I would second the motion that Annie just made that we include the entire county and that we enroll the Skagit and Samish watersheds as priority. Then we have two motions. They don't do the same thing. They're complementary.

Chair Easton: So the Chair's opinion: The first motion was dispensed with properly. And we will proceed – thank you for the helpful comment – we will proceed with the motion that Annie just made – or do you want to restate your motion, Annie?

Ms. Ehlers: That was clear enough.

Chair Easton: Is it clear enough? I'm trying here, you guys. I promise.

Ms. Lohman: It was respect to the transcriber.

Chair Easton: Yes, that would probably be helpful for Debbie.

Ms. Lohman: The motion would be that the County enroll in the Voluntary Stewardship plan and that the changes – proposed changes in the ordinance – to the critical areas ordinance for ongoing agriculture, and that the entire county be enrolled, and that the priority watersheds be the Samish and Skagit.

Chair Easton: Is there a second to that motion?

Ms. McGoffin: I second it.

Chair Easton: It's been moved by Annie and seconded by Mary to approve this draft recorded motion – no, I'm sorry.

Ms. Ehlers: No, that's not it.

Chair Easton: Sorry. I jumped to the wrong document in my head. It's been moved and seconded – moved by Annie and seconded by Mary – that we accept the language as was made in her motion. Is there any questions on her motion? Instead of me trying to restate it – is there any questions on the motion Annie made?

(silence)

Chair Easton: I apologize. I was a little not clear. Anyone unclear about what they're about to vote on?

Ms. Ehlers: Aren't we allowed to talk about it?

Chair Easton: Wow. Have I ever not let you have discussion, Carol?

Ms. Ehlers: You've tried!

Chair Easton: I have not!

Ms. Ehlers: You've been very decent about it, however.

Chair Easton: Thank you.

Ms. Ehlers: Uh –

Chair Easton: Carol, we didn't *start* the discussion. I just said we were *going* to have some discussion. Does anyone need clarification on the motion?

(silence)

Chair Easton: All right. Discussion. I would first go to the maker of the motion. Annie, do you have any comments?

Ms. Lohman: No.

Chair Easton: Mary?

Ms. McGoffin: Nope.

Chair Easton: Carol?

Ms. Ehlers: I have no argument with having the Samish and the Skagit as priority. That, I think, is necessary. If you include the word "entire" county you are including areas which do not participate in any way in this, according to the language that you have accepted. And that's the saltwater islands. Because there is no Ag or Ag-NRL –

Chair Easton: Carol, are you speaking for the motion or against the motion?

Ms. Ehlers: I can't vote for a motion that includes the word "entire."

Chair Easton: Okay.

Ms. Ehlers: I thought we clarified that.

Chair Easton: So you're – I guess you're voting against the motion. Would anybody like to speak *for* the motion?

(silence)

Chair Easton: Anyone else want to speak against the motion who hasn't already spoken?

(silence)

Chair Easton: All those in favor of the motion, signify by saying "aye."

Ms. Lohman, Mr. Hughes, Chair Easton, Ms. McGoffin, Mr. Axthelm, Mr. Mahaffie and Ms. Nakis: Aye.

Chair Easton: All those opposed?

Ms. Ehlers: Aye.

Chair Easton: Any abstentions?

(silence)

Chair Easton: Let the record show seven-one, with Carol voting against and the rest of the Commission voting for.

Ms. Ehlers: And since we're allowed to say why, it's the issue of the entire county when it's the Ag-NRL zones which are to participate.

Chair Easton: Okay. At this time the Chair will entertain findings, findings of fact. And we're supposed to do those separately, right? Findings of fact and reason, Gary? Reasons.

Mr. Walters: In the draft we put them together, as has been your practice.

Ms. Lohman: Mr. Chair?

Chair Easton: Just a second, Annie. Let me look at something real quick. Go ahead, Annie.

Ms. Lohman: Can we just start at the top of the document and work our way through the Whereases? Because the findings are going to help us with the Whereas.

Chair Easton: Okay.

Ms. Lohman: And sort of start at the top and –

Chair Easton: So you feel like we need to take this like one-by-one?

Ms. Lohman: Yes. Beings that it's a newly presented document and just to make sure that the words on the page are what _____.

Chair Easton: Let me just clarify something before we do that. The reason that these documents are being created is because I requested that they start being created, and the reason I requested they start being created is I didn't really enjoy the idea that all of what we – I end up signing on your behalf gets created outside of when you are around, okay? So I haven't really enjoyed signing these. And we send them out to you by e-mail to the six of the eight of us who take e-mail and you're supposed to read them, and if you don't like what you see, the plan is, then, that you're supposed to e-mail me back – in general. I've never gotten an e-mail back that said, Jason, there's something in here we didn't like. But it still made me uncomfortable, a little uncomfortable when I would come in and sign them. So we talked as – staff and I have talked, the different parts of the staff in the Department, about making this a simpler process. That's why it's in front of you.

So I don't mind us having a lengthy conversation about these if it's an effective and lengthy conversation. But these, in general – the draft recorded motions that you're going to start having when we come in – are for us to use as a tool. And I don't want anybody to be confused: These are not staff-dictated. These are suggestions. We can edit every word out or we can keep every word. It's completely up to us. I just want to make sure that we're clear about that. The Department didn't ask for these; I did for our simplicity's sake. Okay?

Ms. Lohman: Mm-hmm.

Chair Easton: So, with that, I think Annie's right in this particular time. And so what's the *effective* way to actually have a conversation about these?

Mr. Walters: There are three parts to the recorded motion.

Chair Easton: There's the Whereases.

Mr. Walters: There's the Whereases, which are the recitals, and they're typically very basic stuff – lot of dates, lot of background information. Nothing in the recitals should be your decision. It should all be basic facts that everyone agrees on.

The next section is your findings of fact and reasons for action, where you're describing why it is you are doing the next section, which is your actual recommendation. So if you look at this document, that's the way it's laid out, and the final page is a recording of the vote on the full document.

Chair Easton: Have the Commissioners had enough time to read the Whereas section and feel comfortable? Because I'm going to take the Whereases at one time. So if you'd like us to adjourn for a couple minutes so you can read this, I'm really open to doing that. Does anyone need that time? There's no disrespect intended.

Ms. Ehlers: They make sense to me.

Ms. Lohman: Yes.

Ms. Ehlers: They're straightforward.

Chair Easton: Carol.

Ms. Ehlers: They're straightforward and they're what we have done and what has been said to us.

Chair Easton: So would it be – with everyone agreeable then by consensus that we could – can we approve the Whereases by consensus then? The recitals by consensus? Seeing – yes?

Ms. Ehlers: Yes.

Chair Easton: Mr. Hughes? All right. So we've dispensed with the recitals. Now let's move to page 2, the five findings of fact or reasons for action. Take a moment to review those. Take a couple of minutes to review those and then we'll –

Mr. Walters: And I've drafted two additional ones.

Chair Easton: Don't add the next two till I get them to review the first five and don't talk while they're reading because I get in trouble when they talk while they're reading!

(silence)

Chair Easton: Go ahead and put 6 and 7 on the screen. We're going to take 1 through 5.

Mr. Mahaffie: 5's been changed.

Chair Easton: 5's been changed? Ryan, did you change 5 since the version that we have in front of us? It looks different.

Mr. Walters: 5 is new.

Chair Easton: Okay. Take 1 – then just put 1 through 4 on the screen, please. We're going to take 1 through 4.

Mr. Walters: So 1 through 4 are here.

Chair Easton: The 1 through 4 that you have in front of you are the same as the 1 through 4 that's on your screen. Okay.

Mr. Walters: However, "Senate" should be "House."

Chair Easton: Yeah, that's – we're agreeable to change that. That's fine. Okay.

Ms. Lohman: Are you asking for a motion?

Chair Easton: I am.

Ms. Lohman: I move that we approve the findings of facts 1 through 4.

Ms. Ehlers: Second.

Chair Easton: It's been moved and seconded to approve the findings of facts 1 through 4 as on the screen in front of you. Any discussion, maker of the motion?

Ms. Lohman: No.

Chair Easton: Secunder?

Ms. McGoffin: I do.

Chair Easton: Carol, no? Mary.

Ms. McGoffin: Okay, well, there's a couple of redundancies that I see, Ryan. 1 and 4 are very similar. The last sentence of 4, "Setting the stage for a cooperative approach to salmon recovery and enhancement of agricultural lands" is basically the same thing as 1.

Mr. Walters: Do you mean 3?

Ms. Lohman: No.

Ms. Ehlers: No.

Chair Easton: Okay. Let – wait. Let –

Ms. McGoffin: But you're saying that it's important to the –

Chair Easton: Let's not – you guys, you can disagree with her, or you can vote against her. She's actually supposed to be speaking to the motion and you're not. You're actually sort of speaking to –

Ms. McGoffin: I thought it was a discussion.

Chair Easton: No. It's a discussion on whether you're voting for the motion or against it. The motion's on the table so you – if you want to amend the motion and have things changed that's different. It's been moved and seconded and there's discussion on the motion for the four of them, so you can speak to it or against it.

Ms. McGoffin: All right.

Chair Easton: So did you want to speak to it or against it?

Ms. McGoffin: I don't want to speak.

Chair Easton: Okay. She doesn't want to speak now. Anyone else wish to speak?

(silence)

Chair Easton: I'm voting against this. I find number 2 slightly offensive, to be honest. I can't bring myself to vote for number 2. So I don't want to hijack the process, but I don't feel like that's accurate to how I feel. "The long history of expensive litigation surrounding Skagit County's critical areas ordinance for ongoing agriculture has not benefitted agriculture or salmon" is not something I'm comfortable with. And the reason I'm not comfortable with it is that I believe that actually the history of Skagit County actually did more to protect fish and protect farms, and sometimes that did come at the cost of expensive litigation. So I personally can't feel like that's a concept I can be comfortable with so I'm going to vote against this. Does anybody else wish to comment?

Ms. Nakis: Maybe that could be rewritten.

Chair Easton: We'll take the – you know, I'm not – I can't make amendments because I'm the Chair, so I'm just going to vote against it. But if somebody else wants to make an amendment on number – about this, they're always – there's – we haven't called for the question so there's always room for an amendment.

Mr. Axthelm: I have the same comment that –

Chair Easton: Yeah, go ahead, Josh.

Mr. Axthelm: Number 2, the same situation, is that I think that, you know, part of litigation is part of the public process, and I think even though – you try to benefit. You're working towards the right answer, but sometimes it just doesn't come out that way. So I think that –

Chair Easton: So you're going to vote against it or you're going to make an amend –

Mr. Axthelm: Against it.

Chair Easton: You're going to vote against it?

Mr. Axthelm: Yep.

Chair Easton: Okay.

Mr. Axthelm: And then the other thing was –

Chair Easton: Now you realize that you're voting against all four if you vote, because the way the motion was made it's on all four. So I just want to make sure we're all clear.

Mr. Axthelm: Because the motion was made for all four?

Chair Easton: Yes, unless someone chooses to try to amend the motion.

(silence)

Chair Easton: Hearing no amendment, is there anyone else who'd like to discuss it further?

(silence)

Chair Easton: I'll call for the question. All those in favor of 1 through 4 as appearing on your screen, signify by saying "aye."

Ms. Ehlers, Ms. Lohman, Mr. Hughes, Ms. Nakis and Mr. Mahaffie: Aye.

Chair Easton: All those opposed? Aye.

Mr. Axthelm and Ms. McGoffin: Aye.

Chair Easton: Was that three? Let's get hands. Those for? Elinor, are you for it?

Ms. Nakis: I'm for it.

Chair Easton: Elinor, Annie, Carol, Dave, Matt. Those against: Jason, Josh and Mary. Okay. And we'll take 5, and I need a *brief* explanation to why 5 changed – *brief* – from Mr. Walters.

Mr. Walters: Before the meeting, Annie requested a finding or a reason for action about the change in the code section that exempts you from having to get County approval if you are a drainage district operating under a DFI or a TFI agreement, those being the Drainage Fish Initiative or a Tidegate Fish Initiative agreements. These are rather

comprehensive agreements that were negotiated amongst a variety of parties and they are targeted at addressing the impacts to critical areas when you're doing drainage maintenance. That's the section in the current critical areas ordinance that the proposal would exempt. So this finding provides some backing for that change.

Chair Easton: Can you give us a moment then to read 5 and 6 since they're new language that we haven't reviewed yet? So that's on your screen.

Ms. Lohman: Mr. Chair? Mr. Chair, it's just an insertion of 5 in front of 6. It's a reordering.

Mr. Walters: 6 was there before.

Chair Easton: Okay, so 5 is the only – you said you added two new ones. You only actually added one and you reordered them?

Mr. Walters: The other one I typed while you were having a discussion about islands, and it's in response to Mary's –

Chair Easton: Okay, so we haven't even got to that one yet. Okay, if we're just going to review what we haven't dealt with – 5 and 6; thank you for that clarification, Annie. So let's read 5 and 6 and then when you're ready you can all look up and then somebody can make a motion and then we'll deal with 5 and 6, and then we'll come to 7 from there.

(silence)

Chair Easton: Ready for a motion?

Mr. Hughes: So I move we accept 5 and 6 as on the screen.

Ms. Lohman: Second.

Chair Easton: Moved by Dave, seconded by Annie. Any discussion?

(silence)

Chair Easton: Hearing none, all those in favor, signify by saying "aye."

Ms. Lohman, Ms. Ehlers, Ms. Nakis, Mr. Mahaffie, Chair Easton, Mr. Hughes, Mr. Axthelm and Ms. McGoffin: Aye.

Chair Easton: All those opposed?

(silence)

Ms. Ehlers: Good.

Chair Easton: Any abstentions?

(silence)

Chair Easton: Okay 5 and 6 are approved. Ryan, do you want to show us your draft number 7?

Mr. Walters: I typed it on this one, not that one, so I would read it to you and if it sounds okay I'll type it up.

Ms. Ehlers: Shouldn't we do what's here first?

Chair Easton: Well, I'm not going to recommendations till I finish with –

Ms. Ehlers: No, number 6.

Chair Easton: I just did 6.

Mr. Hughes: The motion was to –

Chair Easton: The motion was for 5 and 6.

Ms. Ehlers: Oh, I'm sorry.

Chair Easton: That's okay. So the next two findings are going to be the property of – they need to start out by being – feeling comfortable to the people who are interested in them. One of them – the first one's going to be Mary and the second one's going to be Elinor.

So, Elinor, this you had earlier. We're about to come back to you so get ready for it.

Ryan, read to Mary what you think she was trying to get at and we'll see if she wants to put it on the screen like that.

Mr. Walters: So what I've drafted here is "Enrollment in the Voluntary Stewardship Program is consistent with Comprehensive Plan policies and Countywide Planning Policies regarding conservation of agriculture and sustainable use of natural resources, as well as policies encouraging incentive-based methods to protect habitat conservation areas." There are a lot of policies that have to do with that so I didn't attempt to list them all by number.

Chair Easton: Okay, why don't you go ahead and draft that on their screens so then everybody can see it? Thank you.

Ms. Ehlers: That's useful.

Chair Easton: Elinor, we're going to finish dealing with number 7 – Ryan's typing it up – then we'll come to you and we'll go from there. And if there's anybody else after Elinor that's thinking they want a finding or a reason for action – a finding of fact or a reason of action – prepare yourself, please.

Okay, please take a moment to review the language on the screen in front of you, number 7.

(silence)

Chair Easton: The Chair will entertain a motion on number 7.

Ms. McGoffin: I move that we add number 7 to our findings of fact and reason for action.

Chair Easton: Is there a second?

Ms. Nakis: I'll second it.

Chair Easton: It's been moved by Mary and seconded by Elinor –

Ms. Stevenson: (inaudible)

Chair Easton: Hang on.

Mr. Walters: Betsy suggested we say "...fish and wildlife habitat conservation areas." That's the actual acronym.

Chair Easton: Did you make that – can you make that change, please?

Ms. Nakis: Oh.

Chair Easton: Hang on a second. Matt wants to whisper into Mary's ear about some change that needs to happen, so why don't we make him do it on the microphone. Hey, Matt, what do you suggest gets changed?

Mr. Mahaffie: I move to amend number 7 to read "critical areas" instead of "fish and wildlife habitat conservation areas."

Chair Easton: Is there a second to the amendment? Don't change it yet.

Ms. Ehlers: "...protecting critical areas and...?"

Chair Easton: No. He's saying take "fish and wildlife habitat conservation" and replace it with "critical areas." Correct?

Mr. Mahaffie: Correct.

Chair Easton: Is there a second to his amendment?

Ms. Lohman: Can we have a moment?

Chair Easton: Of course.

Ms. Ehlers: That would be all-inclusive.

Mr. Hughes: Mm-hmm.

Ms. Ehlers: I like that, Matt.

Ms. McGoffin: It's better.

Chair Easton: So then you'd have to second it.

Ms. Ehlers: Okay, I'll second it.

Chair Easton: We're still giving you a moment, Annie. We'll have discussion on the amendment.

Ms. Lohman: No. We can discuss it now.

Chair Easton: We'll discuss the amendment. Matt, do you want to make a statement on your amendment?

Mr. Mahaffie: Well, there's just more critical areas than fish and wildlife habitat conservation areas, such as wetlands.

Chair Easton: Spoken like a guy who does wetlands for a living. Anybody else wish to speak to the motion?

Ms. Ehlers: We spent decades describing critical areas. It's nice to have them included.

Chair Easton: Anyone want to speak against the motion?

Mr. Hughes: Well, I don't know if I want to speak for or against it. I just – you know, critical areas are landslide areas and this whole thing we've been doing is ag and, you know, fish that are related. And we were talking earthquake – I mean, Carol can go

through all the critical areas. You know, I mean, do we want to – is that what we really want?

Mr. Walters: There are Comprehensive Plan policies that talk about incentive-based methods of protecting all critical areas, so if you call it “critical areas” or if you call it “fish and wildlife habitat critical areas” both of those are accurate, in terms of what’s in the Comprehensive Plan. It’s true that our Ag-CAO is focused on fish and wildlife habitat critical areas, however, so that might be more accurate.

Chair Easton: Annie, did you want to make a comment?

Ms. Lohman: I wanted to – basically what Ryan’s alluding to, that this is a subsection of the code and sometimes we keep forgetting and reach out into the general critical areas ordinance, and this is specific to the Ag zone, or the Ag code – the Ag section of the code.

Ms. Ehlers: That’s true.

Ms. Lohman: I think I would prefer that we left it the way Ryan suggested it.

Chair Easton: Anyone else wish to comment for or against the amendment, which the amendment is just to remove “fish and wildlife habitat conservation” and replace it with the word “critical,” so that it reads “protecting critical areas”? Anyone else want to speak against – for or against the amendment?

Ms. Ehlers: Put in –

Chair Easton: I’m going to – Carol, you already – what?

Ms. Ehlers: I’d like to know what Matt thinks.

Chair Easton: Well, I was going to come back to him if he wanted to, but he didn’t say he wanted to. Did you want to speak?

Mr. Mahaffie: Well, if you want clarification, I was just specifically speaking to wetlands. There are agriculture aspects to wetlands as far as farming on wetlands that I think of as included. No, I wasn’t thinking of aquifer recharge areas or geologically hazardous areas. I was specifically thinking of wetlands.

Chair Easton: Would you like to consider the idea?

Ms. Lohman: Wait.

Chair Easton: Hang on. I’m the Chair so I’m going next. Would you like to consider the idea of withdrawing your amendment and then adding the word “fish, wildlife and wetland” as a possibility to help address the issues of your fellow Commissioners?

Mr. Mahaffie: I was just trying to make it cleaner. I didn't –

Chair Easton: Didn't think that _____? David?

Mr. Hughes: Wouldn't wetlands be inclusive in "fish and wildlife habitat conservation areas" without specifically –

Chair Easton: Spelling out "wetlands"?

Mr. Hughes: – spelling it out?

Ms. Ehlers: Not if you read some of the extensive laws that are written, like in the timber discussion.

Chair Easton: Anyone else who hasn't spoken for or against the amendment to the motion – again, we're just amending the portion that's highlighted.

Ms. Ehlers: Having heard the argument I'll pull back my second.

Ms. McGoffin: I'll –

Chair Easton: Okay. Oh, that's right. Matt didn't make the motion, did he? I was out of order.

Ms. Ehlers: Sure he did.

Chair Easton: Mary – yeah, he made the amendment to the motion. So you're pulling back the second to the amendment?

Ms. Ehlers: Mm-hmm.

Mr. Hughes: Yes.

Ms. Ehlers: Having heard the argument.

Chair Easton: After hearing the argument, you've – okay. So I have to allow for the – someone else to second it then, don't I? That would be my next move – someone?

Ms. Ehlers: Mm-hmm.

Chair Easton: Ryan, does that sound right?

Mr. Walters: I got kind of lost a little while ago.

Chair Easton: That's okay.

Ms. Ehlers: You're right on, Jason.

Chair Easton: Is there anyone who wishes to second Matt's amendment which reads: "Remove 'fish and wildlife habitat conservation' and replace it with the word 'critical'"? Does anyone wish to second that amendment?

Ms. Nakis: I would like to second that amendment.

Chair Easton: All right. Well, then we're back to where we were before. All right. Is there any further discussion on Mr. Mahaffie's amendment to this motion? I'm going to vote against it, because I think it's redundant. I don't – I mean, not redundant. I think it's a clarification that actually brings more confusion than clarification.

Mr. Hughes: Mm-hmm.

Chair Easton: So I'll be voting against it.

Ms. Nakis: The reason that I am for it is because it's more inclusive of, for example, landslides, mining operations going on on the Skagit River that could affect. I mean –

Chair Easton: But this is an ag – this is ag – this is an ag ordinance so – okay. I'm sorry. You have the right to your opinion but we're going to now call the question because everybody spoke. So, the question –

Ms. Nakis: It is an ag ordinance on Voluntary Stewardship, but –

Chair Easton: Remember this is a finding of fact on the decision that we made to recommend to the County Commissioners to enroll in the Voluntary Stewardship Program. This is not a statement about anything other than that. These are only findings of fact that relate to what we actually approved earlier. Matt?

Mr. Mahaffie: Mr. Chair, may I withdraw my motion?

Chair Easton: Yes, you may. Does the seconder agree for the withdrawal?

Mr. Mahaffie: Yeah.

Chair Easton: Good. Okay, so it's been – the amendment's been withdrawn. I'm now going to call for the question on the – on number 7.

Mr. Hughes: Mary's motion.

Chair Easton: Mary's motion on number 7 which reads "Enrollment in the Voluntary Stewardship Program is consistent with Comprehensive Plan policies and Countywide Planning Policies regarding conservation of agriculture and sustainable use of natural

resources, as well as policies encouraging incentive-based methods of protecting fish and wildlife habitat conservation areas.” Seeing that we don’t prolong any further discussion, I’m going to call for the question. All those in favor, signify by saying “aye.”

Mr. Hughes, Ms. Ehlers, Chair Easton, Mr. Mahaffie, Ms. Nakis, Mr. Axthelm, Ms. Lohman and Ms. McGoffin: Aye.

Chair Easton: Any opposed?

(silence)

Chair Easton: None. Any abstentions?

(silence)

Chair Easton: None. Number 7 passes seven-zero, or eight-zero – excuse me – eight-zero. Annie?

Ms. Lohman: I just want to remind everybody that in GMA it is a balancing act between agriculture and these other elements. So we can’t lose sight of that. And sometimes we get into the weeds and we lose sight of – it isn’t an either-or sometimes.

Chair Easton: I appreciate that comment. It’s true. Elinor? You had earlier had asked some questions that were related to what could be seen as a – I thought would fit best as a finding of fact or a reason for action. So do you have something you’d like us to consider? And Ryan can help draft it and we can take a look at it.

Ms. Nakis: No, I don’t think so after I compared. I found the paragraph that I had originally seen, compared it to the actual code and – or plan – and it isn’t the same. It has been changed.

Chair Easton: You’re satisfied.

Ms. Nakis: I’m satisfied. Mm-hmm.

Chair Easton: Okay, are there any other additional findings of facts – findings of fact – that would be of interest to you all? Annie? I’m sorry. You’re not Annie. You’re Mary. Mary?

Ms. McGoffin: You can help me word this, Ryan. In the event that there is no state money forthcoming to implement this program, something still needs to be done. I don’t know how to say that. But it can’t just stop because no funding is available for the Stewardship Program.

Chair Easton: Ryan? Don’t comment. Just write it.

Ms. McGoffin: So our intent is that something –

Chair Easton: She's asking for a finding of fact –

Ms. Lohman: Mr. Chairman?

Chair Easton: Yeah?

Ms. Lohman: In the enabling legislation it has a scenario just exactly what you're saying.

Ms. McGoffin: Okay.

Ms. Lohman: If there is no money, we go back to the original ordinance – which is open to litigation – where we just left off before we went to Ruckelshaus.

Chair Easton: Okay. So –

Ms. McGoffin: And I don't want that to happen.

Chair Easton: Okay, so hang on, hang on, hang on. I just want what she wants on the screen so then you can tell her that it's already in the program.

Ms. Lohman: Nobody has control over the funding.

Chair Easton: Okay. You're jumping ahead of where I want to go. I want him to get – I would do the same thing for you out of respect for each one of you –

Ms. Lohman: Okay.

Ms. McGoffin: So let's do it this way.

Chair Easton: No. Just let me finish. Each one of you can propose a finding of fact. We all can discuss it, then we can all vote it up or down or modify it with amendments. I'm trying to get us to respect everybody's different desires to bring a finding of fact.

Ms. McGoffin: It's not a finding of fact.

Chair Easton: It's not a finding of fact? Then it's a reason – is it a reason for action?

Ms. McGoffin and Ms. Lohman: No.

Chair Easton: Then it doesn't apply. Then we'd have to take it out.

Ms. McGoffin: Take it out. Take it out.

Chair Easton: Take it out, please. I'm sorry, Annie – you were saying?

Ms. Lohman: Nothing.

Mr. Walters: You could include some non-code related thing in the recommendation section, too.

Chair Easton: We're going to get to the recommendations, so there may be a – maybe that would be an appropriate spot. Is there anybody else that has a finding of fact they want to discuss? Or suggest? Are you looking for something under this section, Dave? Do you need a minute?

Mr. Hughes: Nope. I mean if nothing's –

Chair Easton: Okay.

Ms. Hughes: I just wanted to be prepared if there was something coming up.

Chair Easton: Okay. So I believe we're done with the finding of fact section then? Are we in consensus on that?

Ms. Ehlers: Mm-hmm.

Chair Easton: Annie?

Ms. Lohman: Yeah.

Chair Easton: Okay. Matt? Okay. So let's go to recommendations. So based on the above finding and reasons for actions, Ryan just changed "Senate" to "House" Bill where there was a mistake in number 2. Back to the beginning. Based on the above findings and reasons for actions, the original motion was made by – Gary, was the – who was it who made the original motion – or, Betsy? I think it was Annie, right, seconded by Carol?

Ms. Ehlers: Well, no, that was the first version which we then rejected.

Ms. Nakis: Right.

Ms. Ehlers: And the second version was Annie and Mary.

Ms. Nakis: Yes. That's right.

Chair Easton: Wait, wait, wait. We didn't actually reject anything. We voted twice.

Ms. Ehlers: Okay, the first one was Annie and Carol.

Chair Easton: Ryan, what needs to be here?

Mr. Walters: It wouldn't bother me if you just made another – somebody just made another motion to adopt the whole thing. Because that was – that did seem to get pretty messy.

Mr. Hughes: I mean, theoretically we've already adopted number 1.

Mr. Walters: Yeah.

Mr. Hughes: Is that correct?

Chair Easton: That was the first motion.

Mr. Hughes: And theoretically in another motion we did –

Chair Easton: Number 2.

Mr. Hughes: Number 2 and 3.

Chair Easton: 2 and 3, right – in separate motions.

Ms. Lohman: We already did them.

Chair Easton: Yeah, we're not going back. You guys can change –

Ms. Ehlers: No –

Chair Easton: No, it's the Chair's opinion that we're not going back and you can adjust what I end up signing to reflect the fact that we did it in two motions.

Mr. Hughes: Is that –

Chair Easton: Is that fine? Because that's my – that's my preference.

Mr. Hughes: Make sure it's ___ opinion.

Mr. Walters: Well, the document includes the findings of fact and reasons for action, so despite the fact that some staff have previously included eight or nine votes that you've taken in other documents like this –

Chair Easton: Oh, you're trying to break us of a bad habit?

Mr. Walters: Yeah, because you have – you're approving not only the recommendation and, you know, you may – some of you may – have some feelings about one recommendation and different feelings about a different recommendation, but who's

approving the findings of fact and reasons for action? That becomes a complicated question if you don't have a single vote at the end.

Ms. Ehlers: Well, that –

Chair Easton: Carol, just a second. Is the Commission open to – actually, let's hear what Carol has to say first. Carol?

Ms. Ehlers: Carol would like it clear that she's fully in favor of number 1 and number 3. I don't want to vote against the whole thing. I agree with all of it except number 2 in the recommendations. Now you can do that as an asterisk, or something like that. That's been, I think, done in the past.

Chair Easton: Yeah, our past is – what I've been informed by multiple folks and from our new level of training is that our past has not been as effective as our future will be.

(laughter)

Mr. Walters: Frequently, you know, in legislation you have to decide, Is your feeling about number 2 as important as your feelings about 1 and 3 and what is your overall recommendation?

Chair Easton: So, in the Chair's opinion, we're going to take one more vote. So I need a motion and a second and then a really short discussion – I hope – and then we're going to vote. So is there anyone who would –

Mr. Hughes: I'd move that we accept the recommendations 1 through 3.

Chair Easton: It's been moved. Is there a second?

Ms. Lohman: Second.

Chair Easton: It's been moved by Dave and seconded by Annie to accept recommendations – Ryan?

Mr. Walters: So I think what –

Chair Easton: You need to clarify right now –

Mr. Walters: Yeah.

Chair Easton: In the middle of me restating the motion you need to clarify this?

Mr. Walters: I think what –

Chair Easton: I mean, I realize you're an attorney and I realize that you're also in charge of certain parts of this meeting, but I also realize I'm just restating the motion.

Mr. Walters: Well, what I was hoping was that Dave might amend his motion to approve the document, including the findings and reasons for action.

Chair Easton: Okay.

Mr. Hughes: I thought I was.

Chair Easton: All right. So why don't you just – here's an idea. Withdraw your motion, please.

Mr. Hughes: Okay. Just so you give me a chance –

Chair Easton: To re-do it. I promise you get to fix it. No problem. Read the two lines – if he read the two lines as his motion that are above number 1 –

Mr. Walters: That's right.

Chair Easton: – would that make us all feel better?

Mr. Walters: That's the _____.

Chair Easton: We all want to feel better. Okay. Mr. Hughes – would you like to make a motion now that reads –

Mr. Hughes: Based on the above findings and reasons for action, I move – and the seconder comes later, of course –

Chair Easton: Right – I move that –

Mr. Hughes: – I move that the Skagit County Planning Commission recommend to the Board of County Commissioners – you want me to read all of 1, 2 and 3?

Mr. Walters: You can just say "1,2 and 3."

Mr. Hughes: – 1, 2 and 3 on page 2 of the Ag-CAO and VSP enrollment, dated November 5, 2011.

Chair Easton: Thank you, Mr. Hughes. Is there a second?

Ms. Lohman: Second.

Chair Easton: It's been moved by Dave and seconded by Annie to approve the findings and reasons for action that the Skagit County Commission recommend the – that the Board of County Commissioners – it's hard to read while you're moving it there.

Mr. Walters: Sorry.

Chair Easton: ...the Board of County Commissioners adopt 1 through 3. Any discussion?

Mr. Hughes: Maker of the motion.

Chair Easton: Maker of the motion.

Mr. Hughes: And, yeah, I figure this is the only way you're going to let me speak.

Chair Easton: Oh, really? Has it really been that rough tonight? Really, you guys? Really, Annie? Is it that bad?

Ms. Lohman: Mm-hmm.

Mr. Hughes: And – and I'm going –

Chair Easton: Well, you know, Annie, I apologize if you feel like it's been that rough.

Mr. Hughes: I'm going to go back to – I don't want to say it the old way because the new way is so much better, believe me. But in the old – I mean, it's before –

Chair Easton: I got one more meeting.

Mr. Hughes: – previous attorneys have – we have always voted on like we have tonight now. In past, though, we could have, say, a four-three vote if we only had seven members, but still at the end the vote that's coming up now is when we need the five votes.

Chair Easton: Right.

Mr. Hughes: And that's how –

Mr. Walters: That is the other reason this is important.

Mr. Hughes: Yes.

Ms. Lohman: Right.

Mr. Hughes: Thank you

Chair Easton: And the other reason it's important is what?

Mr. Walters: Because under the Planning Enabling Act you have to have five votes and it doesn't matter what all the –

Chair Easton: Regardless of how many of us are here, there's got to be five votes.

Mr. Hughes: Yes.

Mr. Walters: Because there are nine.

Chair Easton: We could still do a meeting with five, because that's a quorum, but –

Mr. Hughes: You still have to have five votes.

Chair Easton: – you still have all – you have to have all five vote for it.

Mr. Walters: And you can have three to four and two to five and all that on these intermediary motions on the way to the final vote, but it's important that the final vote be five.

Mr. Hughes: That goes to the County Commissioners.

Chair Easton: It's come to my attention that some parts of the way I've handled the discussion tonight have not set well with Annie, so I want to give her a chance to address that.

Ms. Lohman: Just –

Chair Easton: I want you to address it.

Ms. Lohman: I don't have anything to say.

Chair Easton: Are you disappointed with the way I've handled the discussion?

Ms. Lohman: I'm not going to go there.

Chair Easton: Okay. All right, Mr. Hughes spoke to – for the motion. Does anyone else wish to speak for or against it?

Ms. Ehlers: Well, I'll be half facetious and say if you can accept number 2 under the findings of fact, I guess I can accept the "entire County."

Chair Easton: I think you were addressing Mr. Hughes with that comment?

Ms. Ehlers: No, you.

Chair Easton: Me!

Ms. Ehlers: You're the one that disliked number 2 – up there under findings.

Chair Easton: Oh, I was just saying not on *this* number 2. I'm like I don't have a problem with this number 2. You're talking about that's under – number 2 under findings.

Ms. Ehlers: Dave brought up the question of voting for the entire document and you said whether we have five people in favor of it, and there have been various parts of this in which some of us have liked it better than others. And what you're saying now, as I understand it, is that when it comes right down to it do we approve of this basic concept which is in front of us.

Chair Easton: Mm-hmm.

Ms. Ehlers: And that, I think, is somewhat different from whether we agree to one bit of language or another.

Chair Easton: Okay. Anyone else want to speak to the discussion here?

(silence)

Chair Easton: All those in favor of the motion as presented, signify by saying "aye."

Ms. Ehlers, Mr. Hughes, Ms. Nakis, Mr. Mahaffie, Chair Easton, Ms. McGoffin, Ms. Lohman and Mr. Axthelm: Aye.

Chair Easton: All those opposed, same sign.

(silence)

Chair Easton: Any abstentions?

(silence)

Chair Easton: Yes. That would be eight-zero, no abstentions.

Ms. Ehlers: That should be clear.

Chair Easton: That should be clear – yeah. Thank you, Commissioners, for your help on this. We'll now go into General Business. I have a couple issues under General Business, as the Chair, and then we will go from – if the Department – I actually want the Department to go first. You got anything?

Mr. Christensen: Yeah, just one item. I believe your next meeting, December 6th, will be your last, and the agenda will be an update on the Shorelines Master Program – just providing you with some information about that program, what’s happened, what is happening and what comes next.

Chair Easton: And so the December 13 meeting is cancelled.

Mr. Christensen: It’s held in reserve but at this point I don’t think there’s any need to have that meeting.

Chair Easton: Is there anything else that has to come before the Commission before the end of the year?

Mr. Christensen: No.

Chair Easton: And we have a work session scheduled so there’s nothing that’s left in – we don’t have anything that’s hung up in deliberations between a public hearing and deliberations?

Mr. Christensen: No. No. So December 6th, I believe, will be your last meeting for the year.

Chair Easton: Excellent. Okay.

Mr. Christensen: So what I want you to think about is whether at your next meeting – your last meeting for this year – whether you would entertain elections for next year so that you would have the Chair and the Vice Chair established for the first of the year.

Chair Easton: Well, our bylaws are pretty clear that it’s our first meeting of the year, so I think we’d have to – I mean – do we –

Mr. Walters: Do you want me to put them on the screen?

Chair Easton: Could you pull the bylaws for me, please? We probably have to change the bylaws to do that, if I remember them right.

Ms. Stevenson: While he’s looking for that –

Chair Easton: Yeah, you want to give us something else, Betsy?

Ms. Stevenson: Yeah. The update is – I’ve invited the Shoreline Advisory Committee to come to that meeting on the 6th as well, because I’ve invited some speakers to come in and give you some background information. For those of you who were here – which aren’t very many of you anymore – when we did the critical areas ordinance update, in some of those study sessions we brought in some of the agency folks to come and talk to you and you seemed to appreciate that. So we’ve got people from DNR and Fish

and Wildlife and the Forest Service to talk about the Wild and Scenic Rivers, and then some other issues from the other agencies, both as landowners and regulators in those areas. So it should be a really good meeting. The Advisory Committee, I've heard from a few of them and they're planning to come, so I hope you can make it even though it's December ____.

Chair Easton: Okay, and thank you for lining up all those speakers. I really appreciate you doing that, and I know I'm sure I speak for the Commission when I say that. Our expectation for that length of meeting – you and I talked about this – is probably?

Ms. Stevenson: Two hours, I think.

Chair Easton: Yeah, we're taking two hours and there'll be some time within that for some questions for us.

Ms. Stevenson: Definitely, definitely.

Chair Easton: It's not going to be two hours of us just listening.

Ms. Stevenson: Oh, no, no, no, no.

Chair Easton: We're going to –

Ms. Stevenson: It should be a good discussion, I hope.

Chair Easton: Excellent.

Ms. Stevenson: Because all the speakers will be very open to that too.

Chair Easton: Great. If – let's you and I talk later about how we want to arrange – if we want to change the arrangement of the room.

Ms. Stevenson: Okay.

Chair Easton: Because, you know, sometimes we do work sessions that way; sometimes we don't. The one concern I have is that if we do a lot of questions, to make sure that the microphones can pick up the people that are asking questions so that it gets heard on television. But you and I and Brian –

Ms. Stevenson: We have enough tables now that we can do it down here.

Chair Easton: You and I and Brian can talk about that after the meeting.

Ms. Ehlers: Just make sure that you have the microphones so that people on the TV actually *can* hear.

Chair Easton: Yeah, I know. That was a bit of a problem with our last planning session so we'll talk about that offline with the director of the station. It's the Chair's opinion that we would have to change our bylaws to elect in December, so is there – I don't think we want to go into bylaws changes. Does anybody want to do that? I don't see a lot of people excited about that idea.

Mr. Hughes: We'll wait and elect officers –

Chair Easton: We'll wait till January, yeah.

Mr. Hughes: – the first meeting in January and be done with it.

Chair Easton: The first meeting of the calendar year. If that happens in January, great.

Mr. Christensen: Yep.

Chair Easton: If not, we'll go from there.

Mr. Christensen: Yep.

Mr. Hughes: Whoever's not here is the Chairman.

Chair Easton: Amen, amen.

Ms. Ehlers: Perhaps by then our number nine will be here.

Chair Easton: Oh, and I was going to speak to number nine because I met with Ken – I met with Commissioner Dahlstedt and he's in the process of interviewing, or is scheduling interviews. He's had I think he said five applicants. I think that was the number – five – five applicants that have applied and so he's going to be doing interviews and so at that point he's hopeful that it can get done soon. I think he's thinking towards the end of the year or first of the year – sort of the way he explained it to me.

I don't think there's anything else to come before us unless there's something else you guys need to add?

(silence)

Chair Easton: We're adjourned (gavel).