

Skagit County Planning Commission
Discussion: Transfer of Development Rights Program
Discussion: Legislative Reform Ordinance
Other Miscellaneous Business
February 5, 2013

Commissioners: **Annie Lohman, Chair**
 Josh Axthelm, Vice Chair
 Carol Ehlers
 Matt Mahaffie
 Elinor Nakis
 Keith Greenwood
 Dave Hughes
 Jason Easton (absent)
 Joe Prince (absent)

Staff: **Dale Pernula, Planning Director**
 Kirk Johnson, Senior Planner
 Ryan Walters, Deputy Civil Pros. Attorney
 Betsy Stevenson, Senior Planner

TDR Citizen
Advisory Committee: **Allen Rozema, Skagitonians to Preserve Farmland**
 Martha Bray, Skagit Land Trust
 Ed Stauffer
 Paul Kriegel, Goodyear Nelson Timber
 Wayne Crider, Skagit/Island Counties Builders Assoc.
 Kendra Smith, Farmland Legacy Program
 Bruce Lisser

Public
Commenters: **Ed Stauffer**
 George Wolner
 Roger Mitchell
 Kathy Mitchell

Chair Annie Lohman: ... on February 5, 2013, Planning Commission regular meeting.
Jason Easton and our new Planning Commissioner –

Dale Pernula: Joe Prince.

Chair Lohman: – are not with us. At seated at the table we have members of the TDR citizen committee. So if you could review your agenda and let me know if you have any additions/corrections, and then a brief discussion about the agenda format and see if you like this format.

Carol Ehlers: Are we ready to ____?

Chair Lohman: Go ahead, Carol – very brief.

Ms. Ehlers: Remember we were told a couple weeks ago to be close to the microphone so that the audience can hear. Does it help? Okay. I like the fact that it described what the subject is more than just a word or two, particularly when we don't know beforehand what the words might specifically refer to. I would like to have added in here what documents the person who's putting it on the agenda thinks we should have read beforehand or might bring with us. Or, if you have two or three versions of something, such as the legislation that was just under discussion, to talk about which version of it would be – we would all be using, so we'd all be on the same page. I strongly believe that the 2009 bylaws, which had at the end of it that the Planning Commissioners shall read and review and ask questions about the topics before the meeting comes – I think that's the strongest, most positive part of what the Planning Commission tried to do after the 2009 fiasco, and I regret deeply that it was left out. I hope it will be put back. But to have references as to what you want us to look at would certainly make it helpful.

Chair Lohman: Any other comments from the Planning Commission?

(silence)

Chair Lohman: Okay, so we'll try out this format and we can always adjust it as we go, too.

Okay, moving on then to item number 2. We're going to have a discussion and include the TDR committee on Transfer of Development Rights, which we kind of call TDRs. So I'm going to turn it over to Kirk.

Kirk Johnson: Okay, thank you. I appreciate it – with the Committee – to have the opportunity to talk to the Planning Commission tonight. We had a few other committee members who were planning to be here and then things came up at the last minute, and then some others who are traveling and the like, so we have a pretty good-sized Committee of sixteen members. Maybe we have half of that here tonight.

I thought the first thing that we can do is just go around and do introductions of the Planning Commission and the Advisory Committee members just so everybody kind of knows who they're talking to. So I'm Kirk Johnson. I'm a Senior Planner for the Planning Department and I'm managing the TDR study process and project review process.

Chair Lohman: Okay.

Allen Rozema: Allen Rozema, Skagitonians to Preserve Farmland; Advisory Committee.

Martha Bray: Martha Bray, Skagit Land Trust. I'm on the Advisory Committee.

Ed Stauffer: Ed Stauffer, citizen at large.

Paul Kriegel: Paul Kriegel, at Goodyear Nelson, a small timber company here in the valley.

Wayne Crider: Wayne Crider, Skagit/Island Counties Builders Association.

Matt Mahaffie: Matt Mahaffie, Planning Commissioner, District 3.

Ms. Ehlers: Carol Ehlers, Planning Commissioner from Fidalgo Island.

Elinor Nakis: Elinor Nakis, Planning Commissioner from District 3.

Keith Greenwood: Keith Greenwood, Planning Commissioner, Mount Vernon.

Chair Lohman: Annie Lohman, Planning Commissioner. I live near Edison and I'm District 1.

Josh Axthelm: Josh Axthelm, Planning Commissioner, District 2.

Dave Hughes: Dave Hughes, Planning Commissioner, District 2 also.

Mr. Johnson: I think I'll read down the other members of the TDR Committee who aren't here tonight. I didn't pass out a roster. So also on the Committee are Charlie Boon, from The Boon Team Realty; John Doyle, from the Town of La Conner; Margaret Fleek, from the city of Burlington. Margaret was planning to attend. She wrote something up and something came up at the last minute, but you have a written statement from Margaret. Charlie Guildner, with People's Bank; Jana Hanson, with the City of Mount Vernon; Jennifer Hagenow, who is also an at large Skagit County resident; Mike Hulbert, with the Conservation Futures Advisory Committee – what, Carol?

Ms. Ehlers: We don't have Margaret's –

Chair Lohman: Yes, you do.

Ms. Ehlers: I don't have Margaret's. Elinor doesn't have Margaret's.

Ms. Nakis: Oh, we didn't pick it up from the table.

Mr. Hughes: Well, I have a whole bunch here that I thought had gone this way and they ended up here. But maybe they all need to go this way.

Mr. Johnson: Yeah, they were materials for Planning Commissioners to pick up when they got their name tags.

Ms. Ehlers: Thank you, Dave.

Chair Lohman: I got it!

Mr. Johnson: Mike Hulbert – I can't remember the name of the company he's with.

Chair Lohman: Vikima.

Mr. Johnson: Vikima, a seed company. He's also a member of the Skagit County Conservation Futures Advisory Committee. Bruce Lisser, with Lisser & Associates. He was going to be here; may be a little late. Kim Mower, a dairy farmer, has been on the Agriculture Advisory Board. Kendra Smith, who staffs the Farmland Legacy Program and works with the Forest Advisory Board; and Joe Woodmansee, with Woodmansee Construction, who was also going to be here until he contacted me at five o'clock tonight. So it's a full committee. It has diverse representation – people from cities, from development interests; people from resource areas and rural lands; resource managers; and just some interested folks. And usually we get a pretty good turnout at the committee meetings themselves.

So I've done a couple just briefings for the Planning Commission on the TDR project. I wasn't planning to go back to that and sort of give the overview, just to save time for the interaction of you with the Advisory Committee, unless you think that would be useful.

Chair Lohman: What do you guys – what are your wishes? Do you want him to just dive into his program tonight or do you want him to recap what he gave us before?

Ms. Ehlers: Well, you gave us memos from it.

Mr. Johnson: Right.

Chair Lohman: I don't think we need to –

Mr. Johnson: Okay.

Ms. Ehlers: I read them and they made sense. I don't see any reason to repeat.

Mr. Johnson: Okay. Good. That's what I thought and had hoped.

So the first thing I wanted to do was just set out some of the goals of this discussion and let you know where we are in the process, which is quite early on at this point. The

Committee has met three times – once in June, once in September and once in November – and it wasn't – the *full* Committee only has met in September and November. That's when everybody was appointed. We had a meeting scheduled for January but I broke my arm and got the flu and had to cancel it, so that's rescheduled for February 14th.

There's no specific proposal that's been developed yet. In fact, I think some of the Committee members are saying, *Where's the beef?* But we're trying to be very organic and let that kind of percolate up from the Committee. I sent some comments to you that were circulating in the community, I think yesterday, that – I thought from reading the comments it seemed to imply that there was a specific proposal, that it was going to do this to these lands and this to this program, and we're not there yet. Pretty much all options remain on the table and we're trying to work through those with the Advisory Committee. So I just wanted to let you know that it is still fairly early on.

Some of the questions that we're looking at through the project are:

- Should Skagit County develop a TDR program at all?
- Do we think it would be viable here?
- Do we have the market demand to make a program work?

The County Commissioners will at the end of this year have the opportunity to sort of look at the summary of the entire project and say, Yes, we think there's merit with moving forward with it – an actual legislative proposal that would go out for public review and comment and then come to you for probably a hearing or a series of hearings and deliberations. But they may decide at the end of this year that we just don't think TDR is right for Skagit County. So that's – that will be what I call a "threshold decision" that they need to make at the end of the year.

Some of the questions – the one that Allen keeps asking is, What is it that we're trying to conserve through a TDR program? What are the values that we think Transfer of Development Rights can help conserve? And, related to that, What should be the areas identified as "sending areas," which are the areas on the map that include those resources or resource lands that you're trying to protect through Transfer of Development Rights, where development rights are eligible to be purchased and then transferred into receiving areas? Receiving areas are typically within cities or other urbanized areas, like Bayview Ridge, where there's the potential to have more intense development than you can in the rural area. Some of the areas we're looking at in terms of receiving areas are Burlington – the city of Burlington and, specifically its commercial district. We provided some grant funds to Burlington to do some economic development and redevelopment planning for its mall and big box area, trying to look at opportunities to fill some of those vacant lots and make sure that the commercial base there is viable into the future.

We're also looking at Bayview Ridge urban growth area as a potential recipient of transfer of development rights and possibly some other isolated, rural areas. But the

thinking isn't that far along yet on those. Mount Vernon and La Conner, like I said, are represented on the Advisory Committee, and one or two Anacortes City Council members have suggested that they may attend the February 14th Advisory Committee meeting where we'll be talking about receiving areas. There was another comment that I think you received tonight that – you know, Why is the County looking at TDR at all? It should be the Cities because they're the ones that would receive the development. So we are working with those Cities that are interested in working with us as being the primary receiving areas.

And then a key question of the overall study and review process is: What should a TDR program's relationship be with Farmland Legacy, which is known as a *purchase* of development rights program, or a *PDR* program. There's some concern going back to an earlier study done in 2005 that a TDR program *could* or inevitably *would* harm the Farmland Legacy Program, and so we're looking at whether that's a correct assumption or whether there're some ways that a TDR program could be set up that would be entirely separate from Farmland Legacy – wouldn't even address Ag-NRL – or whether there're ways that they can be complementary and both address ag lands to some extent. And there's a diversity of views or opinions to date on the Advisory Committee on that subject.

So in wrapping up, we expect to work through these issues and others between now and early fall, at which point we should have some solid recommendations for the Board of County Commissioners to consider, and the broader community. The Board will have that threshold decision to make by the end of the year: whether to formally consider a TDR program through the legislative process. And at this point, I would simply ask everyone to keep an open mind and identify – you know, if you have questions, concerns, whatever, we get those identified and then that come help me and others pull together information to answer those questions.

Chair Lohman: Kirk, when you said “end of the year,” do you literally mean December?

Mr. Johnson: Yeah – well, *by* December, let's say.

Ms. Ehlers: Is that a calendar deadline or a grant deadline?

Mr. Johnson: That's just kind of a self-imposed deadline that if we plan to – if the Commissioners want a TDR legislative proposal developed and run through the Planning Commission – and I think the grant expires at the end of 2014 – then we need to be doing that in 2014 to be done when the grant expires and to make this a project that, you know, concludes within the foreseeable future, rather than it just stretching on for longer than we'd like. Yeah?

Ms. Ehlers: There's something that I didn't get a chance to bring up earlier that I'd like you to add to your collective agenda for the future, and that is that the County decided two weeks ago here in this room – or decided beforehand and announced it two weeks ago – the County and all the mayors and the various electeds – that they have selected

the three primary alternatives to look at for the flood study, which also is to be done by 2014. And since it has an enormous impact on the ag land, I would like you to consider thinking of that as a part of what is a very complex equation because it might also end up with a source of money for you.

They're talking about levee setbacks as one alternative, and since that won't take all the water in a hundred-year flood, much less a bigger flood, then there are two other alternatives, which I'm not sure are, really. One, you divert it through the Skagit delta, either over the whole delta or in the Avon Bypass; or you divert it into the Samish delta, either over the whole delta or in the Joe Leary Bypass. Those are all very debatable issues and will stir up a lot of heat, but apparently we can't pretend that at some point we're not going to get eighteen inches of rain. So then what do you do? And I suggest that you add that, get the document that I'm holding from Kara Symonds, and see how it works into your future agendas –

Mr. Johnson: All right. I will –

Ms. Ehlers: – both for a source of the problem and a source of the reason why you have to do something that you might not do, and third, for the source of money. And whether the source of the money and the solution might be TDR *and* – the way you have TDR and Farmland Legacy *and*.

Mr. Johnson: Okay. The next item that I had on our discussion framework was initial comments from the Planning Commission and TDR Advisory Committee members: hopes for and concerns about TDR in Skagit County, and it could also include key questions that you have in your minds. So I thought maybe we could just go around one direction or the other and everybody would have an opportunity for a minute or two to say what their hopes for or concerns about or questions about TDR are, so we can kind of get the universe of issues among this group on the table as the framework for the rest of the discussion. So we could go left or we could go right.

Mr. Hughes: I'll start and I guess in reading the comments, whether it was this morning or yesterday that – and you brought it up in your intro of that – I guess one of the things now that I look at is, you know, How's the County going to really cram something down the Cities' throats? And – but there was a comment – and you can tell me who it was from – but they were talking about, you know, Cities, if they had a – like Burlington maybe is doing it; they have their own TDR program or something like that to where they're giving developers credits for green space and parks. And even – and I, in reading between the lines that, you know, maybe they were going to, you know, the borders to kind of make a ring around the city. Burlington has been fairly positive as far as preserving farm ground. And whether – you know, one of the things would be to get development rights and ring the cities just to take the pressure from more sprawl, as far as urban growth areas, et cetera.

So I guess that's my, you know, one comment – that, you know, Kendra's programs are – seem to be working and I would really hate for – you know, it's going to take some

work on your part but I would really hate to see something foul up what she's doing and some of the other groups are doing as far as whether they purchase rights or, you know, some other program.

You know, back in – finally, kind of a history lesson – but back in the '90s when we were doing the – you know, trying to write the Comp Plan, you know, the TDR program was the only thing we were even thinking that, and everyone thought well, this is going to be the greatest thing since sliced bread, and you know how fast that's moved through the system. But I just think that some of the programs that Kendra's doing now and some of the others are – I don't want to get in the way of that because she's saying she's working well with the farm community.

Mr. Axthelm: My turn? I like to keep a, you know, fairly open mind about it, and looking at these programs I – there's pros and cons, I think, to a lot of the programs, and looking at the TDR program there're some good things about it, but then you look at the existing programs to preserve the farmland, there's a lot of good things about those, too, so it's – the concern I would have is, well, the TDR program seems to make things a little more economically feasible as far as developing and stuff. But I want it to be done for the right reasons and not just financially driven. You know, is it the best for Skagit County? Is it going to do the best thing to preserve farmland and also encourage economic growth in the right direction? So I think that those things need to be considered.

The third thing that concerns me is about the zoning. The TDR program seems to me to circumvent some of that – the zoning – and I would be concerned on that to make sure that it's not giving a loophole ticket around what the public wants as far as density and zoning itself. So that's it.

Mr. Johnson: Okay, thank you.

Chair Lohman: I have mixed feelings about it too because I don't want to penalize our rural identity because we do have Rural Villages, we do have kind of rural – they're really not organized exactly like Rural Villages but those are really important to our county fabric, and I don't want us to lose that kind of thing and have everything just be piled into cities. I also kind of echo Josh's concerns about the zoning. I also think that we have a Farmland Legacy Program and the challenge has been keeping it funded and getting grants, because sometimes you have more applicants than you do dollars. That being said, there's an awful lot of strings attached that seem to be getting added on, so it isn't necessarily just to preserve farmland. There're some other things that have nothing to do with farmland that are getting added on, and I question some of that. And while that might be a little bit of far afield from the TDR but would that kind of thing be more profound – you know, more predominant than if we have a TDR? And I just want to see what else there is. I don't want to say no but I don't want to say yes today.

Mr. Greenwood: I'm interested in the TDR from the perspective of how it might benefit. I think the Farmland Legacy Program seems to be functioning and providing those

protection measures and opportunities for preserving that agricultural value that's – that the current public wants. I do think that there's other places where people have perhaps already lost their development rights and it might be good. And I'm thinking that since we've been talking about the Shoreline Master Program update, a lot of those parcels might actually have already lost their rights and it might be better to move some of those rights into a place if the City wants them. If the City doesn't want them, then we're – I don't want to put too many credits into a developer's hands to where a developer is too incentivized to cram a bunch of houses into one spot and then the buyers are stuck with something that isn't very livable. So I guess I want both ends to be happy with what they're getting. So I guess I'm not just thinking about farmland. I'm thinking, you know, other – ag and other types of properties that have maybe even already lost their development values.

Ms. Nakis: So I have thought when it comes to the Farmland Legacy and the other programs that are already out there that purchase development rights so that ag land is kept in ag land, is there a possibility that since they own those development rights, they purchase them to protect the farms? As we move along here, if the TDR does come into play and there are developers that want to buy rights, would they be able to buy them directly from the Farmland Legacy Program to help fund that program somehow? I mean, is that a possibility? And the reason I think that it *could* be and that it might make sense is that in my reading I discovered that there is a percentage of the development rights that are in the TDR bank, in some situations, that are retired, maybe not in the yearly basis but on a regular basis. So, you know, what is that called? I mean, rob Peter to pay Paul? So is this only a temporary type of proposal?

Mr. Johnson: If Kendra were here – oh, you are! Why aren't you at the table?

Kendra Smith: I don't think...

Mr. Johnson: Okay. She would say that there are some requirements in using federal funds where you can't then turn around and resell those development rights. But there are other instances if you weren't using federal funds or if you funded the TDR bank that there – you can create kind of a revolving fund. So it's an interesting concept. Did you want to correct anything I said?

Ms. Smith: Anything that – most of our purchases are using federal dollars. The federal dollars cannot be – that's just they're not – it's not allowed.

Ms. Nakis: Oh, I see.

Chair Lohman: Can you come up to the table? Because we've got a recording thing, Kendra. Sorry.

Ms. Smith: Sorry. If our properties are purchased with federal dollars it's not allowed.

Ms. Nakis: Okay.

Ms. Smith: Most of our properties – at this point, 95% have been federal dollars. We have been making requests to try to, you know, get rid of that requirement. We're not seeing very much progress that way. Again, that's something that goes all the way up to the Secretary of State – or the Secretary has to deal with that at the Department of Ag on that – at that level. So that's way out of our hands.

Ms. Nakis: Okay. Thank you.

Ms. Smith: But it's a great idea. We did present that. We were hoping – I mean, it's a really very smart idea.

Ms. Nakis: And at what rate – do you have that information? – at what rate do you pay now for the development rights for ag land in this county?

Ms. Smith: When we purchase the development rights, right now the majority – and actually all of them have been off with appraisals. And that's because, again, getting grant money or getting any other money sources it's a requirement. We did not do that in the first couple of years and now we do it on almost every project. That is done on a fair market value before and after purchasing the development rights. And it's tough to say because, you know, as you change the market changes. And I will say, you know, on a very, very general basis – and our appraiser is sitting right behind me so you may see a knife come right through my shoulder! – that we – you know, on a real rough average, if you have 40 acres it's generally, you know, about 95 to 100,000 is what we'll purchase a development right off that 40 acres. There's other things that come into play. It's to its location and the type of – you know, the farmland, what else is on their structure. So it's other things, as well. That's very, very general.

Ms. Nakis: Is it percentage of the appraisal?

Ms. Smith: The appraisal is done, as I said, on fair market, so it's before – it's – what it would be, have a development right on it then you take the development right off of it and that's what we're looking at. That's what we pay for. Because we're taking – we're extinguishing the development right.

Ms. Nakis: Right.

Ms. Smith: There's a very small portion, you know, and then an easement is put on it, an easement that's in perpetuity. So that is, you know, an added thing onto that land – an encumbrance (sic). So what we are really buying is just the development right. Everything else can occur on that land, as long – within the confinements of that easement of the conservation ____.

Ms. Nakis: Okay. Thank you.

Chair Lohman: Carol?

Ms. Ehlers: I think this is probably part, as I said, of a very large equation of different ways of dealing with varied kinds of lands. I like Keith's suggestion about some of the shoreline areas. Down at Dewey Beach there are half-acre lots where people can't use them and yet a half-acre lot in what was a quarter-acre zone of extremely high tax land – and you better believe they're extremely high tax land, especially this year when they've reappraised it. Some of those people need help. There's other land which I have seen which I read in here that you have to – it's an issue of whether exactly the status, but I know of a street – of a road – where the uphill land is 5-acre parcels, it's in the 2 ½-acre zone so under any theory it can be developed. But every time they try to cut the trees the land then ends up on the road which means, of course, it can't be developed. There are a number of places, according to the Soil Conservation Service, where these conditions obtain. People bought these parcels innocently at fair market value and I think they would feel a lot better about federal tax money being used to help one group if the other group were also helped, as a basic principle. One of the illustrations you have in here of a very successful TDR right is referred to as "the Pinelands." It's the New Jersey Pine Barrens down in the south and it is *the* source of drinking water, *the* aquifer, for southern New Jersey and parts of Pennsylvania. You can't do anything in the Pinelands. It's not a question of taking a development right away from farmland that you could do something with. You *can't* do anything there. And so that's one of the reasons why it's so very, very expensive and very successful – and it really has been – and it has done the kind of necessary good that many of us think federal money should go for. So I'd like to encourage you to think in that direction as well as the directions you're talking about.

And one final question: Are we protecting the land or the landowners or both?

Ms. Bray: What was the – could you repeat that, please?

Ms. Ehlers: Are we protecting the land or the landowners or both? And it appears to be as though up till now whether it be the Farmland Legacy, we're trying to protect both financially. When it comes to what Seattle City Light is doing up in the Sauk, they're trying to protect both. It seems to me to be very much a Skagit County approach to try to do more than one thing with the same source of money, and I'd like that to continue, however you end up writing this.

Mr. Johnson: So the decision to – by a landowner – to sell a development right would be an entirely voluntary decision and they would presumably only do it if they felt that they were getting a fair value for that development right. So in that regard, it would be –

Ms. Ehlers: A fair value. But a lot of people would be like those that I understand are up on the Sauk. They're enormously grateful to get any money at all out of what amounts to land that is supposed to be usable, but for public benefit isn't. And if you want to know the exact site of my illustration, I'll tell you later.

Mr. Johnson: Okay.

Mr. Mahaffie: I'm of two completely different minds on this. I think Josh nailed it pretty good for me for one part. I don't grasp how you can move development rights into a separate jurisdiction without, you know, destroying the underlying zoning in that jurisdiction. If the City wanted more development they could just rezone it, is my idea. It seems kind of like a pyramid scheme kind of scam to move it that way.

On the other hand, I sure think it would be neat to take a development right off of Secondary Forest and add an extra CaRD lot and do a CaRD development, and Rural Reserve or Rural Intermediate or Rural Village within a single jurisdiction. I just kind of need to understand more how it works going between the two different jurisdictions.

Mr. Johnson: Do you want brief responses or would you rather just go around the table?

Ms. Ehlers: Grace told me that the County has done one of these in farmland just as you've described.

Mr. Johnson: Well –

Chair Lohman: Wait – hold on. Let's – I think we should just get all the way around; otherwise we won't make it.

Mr. Johnson: Yeah. Kendra, I had suggested that we go around the table with initial comments from Planning Commission members and Advisory Committee members: hopes for and concerns about or key questions about TDR in Skagit County. So do you have anything that you want to add as an Advisory Committee member?

Ms. Smith: I think one of the things that, you know, when we all jumped into this we all were very, you know, the first concern was the Farmland Legacy Program and making sure that it would be maintained as it is because of the success it has. And I will say that every action we've taken to date, including talking to the consultants that have come onboard, that's been emphasized, and I think everybody really grasped that. So from that perspective I'm very comfortable in knowing this. And that looking at this I think that we have seen where programs like the Heritage Program with Burlington is a success and where we can do some things with it, and that it's going to take something that's being creative, not the typical run-of-the-mill the way we go about it. And possibly, you know, as far as from a Legacy perspective, that a program could possibly, you know, work with it, you know? Right now today – as we are today – probably not, but this is something that we need to think of the future as funds for the Farmland Legacy Program could diminish. We might not find as many grants out there, and will we have another avenue?

Now taking off the Farmland Legacy part and looking at some of the others like forest lands and some other lands out there, as you mentioned, Keith, I think that's a very – you know a wonderful thing to look at. There's possibilities that way and taking them off

of Secondary Forest and moving them in other areas and helping with that, because there are a lot of lands that have been taken – you know, that development right removed, you know, without the compensation. And there are other – there's interesting markets out there – the ecosystem markets – I always forget what that term is – but, anyhow, along those lines. But I think this is something that is going to have to be very creative, a very much Skagit County, unique program how it's developed and how to move with it.

Bruce Lisser: Okay, my involvement in this – I have been involved in the TDR process. I've worked for the Mount Vernon TDR intimately. I was involved with writing it and getting it going, and it works. But it all depends on the receiving sites and it's all going to be based upon the success rate of the developing community as to what the value of a transfer of development right is. It's not going to be \$100,000 and you're not going to be buying a value that you're used to with the Farmland Legacy. It's going – the City of Mount Vernon's one, for example, we're probably down around 15,000 for a development right.

That's going to be – and I think it's been mentioned a couple of times about the Cities wanting – you know, being the areas that you're going to increase the density in. And my experience in the one City is it worked okay at the beginning until they saw the reality of the increased density due to the TDR program. And it wasn't received well. And so I think what you're going to have to do is be creative about not thinking in terms of residence as a development right, but utilizing other opportunities like reducing the number of required parking; doing some reduction in square footage of coverage for a commercial site. Doing something that the Cities would see a benefit in in terms of their tax dollar allocation with a commercial site. So you're going to have to be kind of creative about that. And it's – I think it's going to be really difficult to make a countywide program successful if it's dependent upon the municipal Cities to increase that density, because I don't think it's going to work well. We have talked about that and I think it's going to be complicated.

But I think we've got the cart well ahead of the horse here. We haven't done the economic analysis. We don't have the consultant on board, I don't believe, yet who's going to be providing that type of information. And it's kind of conjecture as to what we're supposed to be doing. I mean, the sending sites: I mean, my God, you could sit here all day long and say, Oh, the shorelines would be great; ___ would be great; urban growth areas would be great; got some farmland that's wonderful; forestry's great. We have *thousands* of acres to play with. We have *tons* of them. But we don't have any receiving sites – very limited receiving sites. And I think Keith mentioned the impact of the existing zoning. I mean you can't just all of a sudden say, Well, we're going to have in the Rural Reserve – which you're allowed two units per 10 acres in a CaRD – all of a sudden say, Well, we'll give you a bonus. That would go over well. I just don't see the County accepting an increase in density without understanding what it is they're doing.

So I see it as very complicated. It's going to be – I think people are thinking there's going to be a huge value in the TDR to make, that the sellers are going to get rich on it.

I don't think that's going to be the way it is because the developers that are going to be the end users, and if they see no value in a TDR they're not going to buy it. They're just going to say, Forget it; it's not worth it. I'll just go with the density I've got. So there are lots of interesting things ahead of us.

Mr. Crider: I'm fairly new with this, but there are a lot of unanswered questions that I have that I think we need to explore before I can say whether I would support a TDR program or not. Right now our builders and developers work with density bonuses in the city and that's for preservation of some open area in a site or something like that. There are limitations to it. I don't know how that's going to work with a TDR program. I agree with Josh: It needs to be for the right reasons and we need to make sure that everybody is compensated appropriately in a TDR program. And I think there are so many things we still have to answer before we can really move forward that I'm not going to say whether I'm for it or against it. And Bruce is ___ right. I think we have the cart before the horse. I think we need to get the horse out in front of the cart and then we can figure everything out.

Mr. Kriegel: Well, I would touch on a little historic perspective. About twenty years ago timber land owners had a building right for every 20 acres, and then we agreed to go with the current zoning system which created Industrial Forest and Secondary Forest and Rural Resource. So those all had different densities. And then the Planning Department came along with some of the little housecleaning things that you guys see every year or two, and we ended up with some regs that said if you weren't within 200 feet of a county road you didn't have a building right anyhow, and if you aren't in a fire district you don't have a building right. So we've given up quite a few of our building rights for free and I appreciate Carol's concerns about people who have to give things up for the public good, but we do that on a daily basis out there on the hillsides. So I'm less sympathetic. I don't like it and I realize that for people that just own a home and a small piece of property it's a big hit to take. But I represent a relatively small landowner in the scope of things here in the county, and the hit's kind of hard on us, too.

The other thing I don't like about it is giving up something forever. Small forest landowners in the state of Washington have a riparian easement program. You can enter into an agreement with the state, if you choose to do it, and they pay 50% of the value that you have to leave in riparian areas and unstable areas, so there is some compensation there for small landowners. And that exists for fifty years and then that contract is over. I like that idea a lot better than selling something off a piece of property forever.

Mr. Stauffer: My primary focus is on the fact that Skagit County already has a Skagit County Comprehensive Plan which we put in place under the Growth Management Act. That plan was, by definition, a conservation plan. If I read the materials provided – which are quite substantial – to the committee members, a Transfer of Development Rights program is intended as a conservation measure to protect areas from development that have not yet been developed through these transfer of development rights which – you're correct – do permanently remove rights to develop. Our last

meeting the subject was sending areas and it was clarified that what you're talking about when you say "sending areas" is *only* residential development rights in unincorporated Skagit County; receiving areas, *only* municipal areas in Skagit County. I agree with Commissioner Mahaffie. I have yet to discover why there's a need to create a program around development rights in cities when, as I understand it, City jurisdictions are free to determine their _____. If you read more deeply into the materials provided, primarily written by our consultant who is a _____, Taylor Carroll, who was a co-author of the Cascade Land Conservancy papers on transfer of development rights and is now a staff member of Forterra, a non-government organization which is the providing agency to the grantee. He was the one who implemented the first round of TDR efforts on behalf of the state of Washington's efforts in the four most populated counties. The similarity I see to this process and the GMA process that we underwent is when the counties were required to plan under the GMA there was a question as to whether or not Skagit County qualified as a county that was going to be required to plan, being that we are just a little over 50% rural at that time. We did plan.

As far as I can tell, the concern in those four counties where they've already done – under Taylor's guidance – the TDR adoptions, they were driven by the vision of the way the farmland is superior to the Kent Valley. And so they were looking at a rollback situation. Lands that perhaps they wanted to preserve had been eaten already by sprawl. In Skagit County, I sat on the rural committee for the Rural element of the Skagit County Comprehensive Plan. We looked at this issue. The concept of TDRs was in the palette of choices that we considered at that time. We elected instead to choose the zoning plan. A TDR program is an option to zoning for land control.

Under the zoning plan under our current Skagit County Comprehensive Plan we mapped critical areas, resource areas, wetlands, and put residential development densities in place. Our goal was 80/20 urban/rural development from that point on. I would submit that – in my view and, I would think, in the view of the majority of the property owners in Skagit County – our conservation plan is working really well.

My last comment is our Farmland Legacy Program is recognized as far ahead of the rest of the state – maybe the rest of the country – in generating our own local ____ to protect farmland. Now I don't know how successful it is or if it can be made more successful, but this is a purchase of development right program which is locally grown, locally suited to our need, and working locally. And I would share the concern that any discussion of some other program could interfere with that.

Ms. Bray: Well, you know, I work for Skagit Land Trust and I think, from our perspective, there's tremendous need still for land conservation in Skagit County, not only in the farmland areas but in forest land areas and vulnerable watersheds where we're facing potential for increased water flows and lower, you know, inability to have enough water for development in some of those basins, as well as for wildlife habitat and other things. And I look at a Transfer of Development Rights program as just another possible tool in the toolbox that should be considered. And I think it's early yet. We don't really know whether it can work, and I do think we need a very tailored

program to Skagit County. But I encourage everyone to consider – to keep an open mind about it. It's not going to be a magic bullet but it can be another option for landowners. It's a great incentive for landowners, especially in areas where there aren't a lot of options for their lands. And, you know, I think there's creative ways to think about how to make this work for cities, as well. I like some of Bruce's ideas about that.

You know, I guess that's all. I don't need to go on more, but just in general I think it's – we're excited about it. I think it's worth exploring, and maybe the time is right. I guess the other thing I say is, you know, growth has certainly slowed down the last couple of years but in the long run I think we all know that we're going to be facing increased growth pressure again, and I think this is a particularly good tool for dealing with sprawl – into the cities but outside of the city limits. And, you know, all of us know that we're facing a lot of growth pressure and _____. It's time to get – try to get ahead of that a little bit.

Mr. Rozema: I guess I'll bring up the rear. I'm also very excited. I think our organization is also very excited about this opportunity to be studying TDRs more in depth. This is the right time, right place to be looking at this – absolutely. We've had a number of studies done and this is going to build on those, and I do think it is an opportunity worth pursuing – another tool in the toolbox to help our conservation resource lands, whether it's going to be, you know, _____ farmland to forest lands, or other critical areas. It's an opportunity for the public to weigh in on a suite of tools and public policy options to guide the future of Skagit County. And it is – I think the horse is in front of the cart right now, because it is the opportunity to look at a suite of public policy proposals that are going to be developed and how we want this county to be shaped, what resources we want to protect, and then, ideally, echo a lot of the concerns. But they're just concerns. I want to define what we want out of this program. It absolutely won't work without City support so let's go get it. Let's define what we want a TDR program to look like, what we want to accomplish, and set out a bunch of positive statements about how we want to grow as a county, and then go work to achieve it. And looking at it from that framework, we'll address our concerns. So I want to be out there in front helping the public define their future and use this as a tool to achieve it. So, anyway, I'm very positive about this opportunity.

Mr. Johnson: Well, thank you, everybody. I don't have anything to add to that. A lot of good issues, a lot of good questions, a lot of, you know, positive yeah-let's-give-this-a-try and then some reservations and concerns, which we are trying to keep an open mind about all of those and figure out what's the combination that might work here and might work best in Skagit County.

The next thing I've got on the agenda – Chairman Lohman, is there any – okay. Or Chair – Madame Chair.

I have down here – just ten minutes – questions about the mechanics of TDR – how does it work, when and where it works. There were a few questions. You know: I don't really understand. The City can just do whatever zoning it wants, so is this a pyramid

scheme is one of the ones that sticks in my mind. Bruce – as he said, helped to develop the Mount Vernon program – has been involved in some TDR transactions so he has more of a hands-on understanding than I do. But I thought I might just kind of go back to the TDR 101 with a couple of visuals, just to make sure that everybody understands the basics, and that might lead to some questions about, Well, why would a City even want to be involved in that kind of thing?

(several comments about handouts)

Mr. Johnson: So does anyone *not* have one of those? There're also some in the back there. So basically there're two different representations of basically the same thing. This one's by Forterra. This one is from James City County, Virginia. And I just thought I'd show kind of a variety of organizations that are explaining what TDR basically is. So you have your receiving areas, which typically are cities although they can be unincorporated urban growth areas like Bayview Ridge. They could be Rural Villages or some areas in the county, but that gets a little more tricky because of the restrictions that we have and maybe want on _____. But the goal is to identify sending areas, which are areas in the landscape that the community has an interest in protecting. It might be agricultural land. It might be forest land. It might be, as Martha mentioned, sensitive areas in a watershed. It might be a scenic view. And that area becomes a sending area where the private landowner has the option to sell their development right. Nobody is *requiring* that they do that. And if they choose to do that they can work with a purchaser who wants to do more development in the city side and negotiate a price for the development right. This is very general and overview-y. And if that transaction goes forward, then a conservation easement is recorded on the land – very similar to what happens with Farmland Legacy although, as I understand it, with most Transfer of Development Rights programs the easement is really just focused on the residential development right and not other things, whereas Farmland Legacy, I think the easement tends to be more restrictive than that.

The purchaser pays the property owner for the development right; the transfer is made; and then they get the potential to access some additional development potential within the city as a result of having made that purchase. And, again, James City County looks to me like a rural county on the east coast. It has essentially the same view where development rights from rural areas from willing landowners are sold to people in receiving areas who pay them money and then they're able to do more development or maybe provide less of something than the zoning regulations would otherwise require in the receiving area.

So you definitely need a partnership with the city or the receiving area that's going to receive the development rights. And typically – I went to a meeting a week or so ago of about ten Cities that are working on Transfer of Development Rights programs, and in about two-thirds of those cases the City representatives and their elected officials saw Transfer of Development Rights as a couple different things. One was to be a part of the regional solution to protecting agricultural and forest lands outside of the cities or protecting watersheds for drinking water, while at the same time encouraging the type of

development that's becoming more desired and more accepted down in some of the central Puget Sound communities, which is allowing residential development to move into commercial areas – maybe more condos, mixed-use development. A lot of the Cities saw TDR as actually being an incentive to developers. They pay a little to get the potential to do more development that has been run through the community planning process and the community has said, Yes, this is what we want to see here. And so it's a – it's viewed as a benefit on the City end and on the developer end, as well as on the interested landowner on the rural side that's interested in selling their development right. Maybe they have a house on the property and they don't want to use the other development right. Yeah?

Mr. Stauffer: How are they managing to develop forest lands without breaking some ___?

Mr. Johnson: Well, it would be like our Secondary Forest. If somebody owns 40 acres of Secondary Forest and they've got two development rights because they have one right per each 20 acres, they could build two houses or sell one of the 20s to build a house, or if they were interested – and it would be voluntary on the landowner's side – they could sell one or both of those development rights to –

Mr. Stauffer: We have water rights.

Mr. Johnson: A lot of –

Mr. Stauffer: A lot of those development rights on the Secondary Forest _____.

Mr. Johnson: Secondary Forest is a fairly large area. It's kind of a band around all the Industrial Forest lands. I don't know – I don't have the number offhand in terms of how many potential development rights there are in Secondary Forest.

But, anyway, I just wanted to – now about a third of the Cities at the meeting said that their elected officials, they really didn't see why they should be accepting more growth to protect some distant rural or resource land, or they saw putting additional hurdles in the way of the kind of development that they wanted to see as being a disincentive to that type of a development rather than an incentive to that type of development. So in some ways you have kind of a NIMBY, we-don't-want-this-growth-here; and in another, Well, we might want this downtown redevelopment plan to happen – this is what Mount Vernon is saying about its downtown redevelopment area along the waterfront – we want it to happen but we're afraid that requiring somebody to buy development rights to access the development potential that we'd like to give them is going to make them less willing and less interested to do that.

Anyway, that's my brief overview, which I'm sure will generate some questions. Yeah, Carol?

Ms. Ehlers: What kinds of monies are we talking about for a development right?

Mr. Johnson: That would really depend on the jurisdiction's situation – the type of, you know, what could be accessed through purchasing a development right or development rights in the receiving area. I guess the key thing about the monies and what makes transfer of development rights attractive to some people is that it's not public funds. It's not tax funds or grant funds being used to purchase the development right. It is private market-generated. You have somebody that's interested in doing something that a City, let's say, allows and the City says, We'll charge you a dollar to access five additional dollars of profit potential. And so they pay the dollar for that and then that money goes to the seller of the development right in the rural area. So it's a private market-generated funds or transaction for conservation purposes.

Ms. Ehlers: A long time ago I listened to Bill Vaux telling the County Commissioners about a program that sounded to me like a failed program, if ever there was one, on Whidbey where some farmers had sold a development right for \$25 because they didn't know any better. And the issue that I came away with (is) it is essential for transparency, because if Farmer A is aware of what's going on and gets a fair value, Farmer B – for whatever reason – doesn't know, boy, he can be cheated. And that can sour a community very quickly, so please add that to your collection of ideas.

Mr. Lisser: Willing buyers, willing sellers.

Chair Lohman: But you're always going to get –

Ms. Ehlers: Yes, but not only that, there's dishonesty in this world and if farmland of this value is going for this kind of a price it ought to be known. It is for everything else that we're buying.

Mr. Johnson: Bruce, do you – I gave probably more of a conceptual description. You've kind of been involved in actual transactions. Do you want to kind of describe how it really works or fill in some of the details?

Mr. Lisser: I'll try to describe the City of Mount Vernon's. And one of the things I think is going to be a roadblock for us getting the City excited is they probably have in excess of a hundred TDRs sitting there all ready to go inside of their city limits. And that – you were able to increase, you know, one unit per net acre density to make it – you know, when they first started the program you could buy a TDR and increase from based upon gross acreage. So you had 10 acres, you could have, you know, ten TDRs added into that mix. And then there's an allowable – you could – say you had, you know, 9600-square-foot zoning you're allowed to go down to 6000 square feet if you use the TDR. So it was a real incentive for the developers to go, Yeah, this would really work.

As the process matured we kind of learned a little bit of what worked and what didn't work, they changed it to net density. You take out your critical areas, take out your buffers, take out your roads and all the rest. Well, when you did all of that, you barely had enough land left to even meet your underlying density without the TDRs into the

mix, so they became less valuable and less of an incentive to purchase something because you couldn't make it work anyway. So that was kind of one of the problems in the city as we moved forward. And then the amount of area that you can use that in is not as robust as it was originally. They took some of the zonings that they don't allow that anymore just because they didn't want the increased density.

So I think, based upon my experience with that, I would say that the real opportunities – like I mentioned before – is figuring out a way to make the incentive work in a commercialized area because that is the area, especially for the City of Mount Vernon. They have the land available but they really don't have – it's not really developed. If you take a look at Mount Vernon, for instance, say as compared to Burlington or Anacortes. It's not as robustly developed. It's older. It needs some work. If you were able to incentivize that somehow and get the Cities excited – I've spoken with their Planner, Jana Hanson, about those concepts and she said, Yeah, I'm keeping an open mind about that.

But I think it's going to take a lot of work to really figure out what we can do to motivate the Cities to even be interested, and then once you get some interest – and even the County. The County has lots of opportunity. Can we work with the Port? You know, can you work with the Bay Ridge area? Alger? Some of the things that are outside of the floodplain that you're wanting to work with. I personally don't see it as a – something that the agricultural community is going to really be wanting to do, because if you've got the opportunity to get \$100,000 for a development right versus something that the developer is going to negotiate with you for more, it's going to be in the, you know, \$10 to 15,000 zone because you figure you're going to have at least, you know, half of your predevelopment cost of a lot is the way it works to make it profitable. And there's a big difference between a transfer of development right and an extinguishment of a development right. And the Legacy Program's actually saying "Hasta la vista" and they're gone forever. So there's an incentive. That's a long time to say, you know, you have nothing left in your land. It's a big difference and I don't know whether – you know, like I said, we've got to figure out a whole lot of things.

I look at it as an opportunity. And anything you can put in a toolbox to get good, intelligent development is worth looking at, and the developers are the ones that if they are well motivated you're going to get a better product. And if a TDR is part of that tool kit that says, If you buy a TDR, we will allow commercial on the ground floor and residential on the top floor, and you can only do that with a TDR because you're using basically two values within the same common footprint, why not? I mean it's something new, it's something that is working. Parking, densities – there's tons of things that you can look at. And I, just in keeping an open mind as to the opportunity – so I don't know whether it'll work in Skagit County because we have so much rural land that's already, like was previously mentioned, zoned for conservation whether there's a place to really make this work, I don't know. I really don't know. I mean, we were talking earlier about concentrating on the urban growth boundaries to incentivize the Cities to say, Hey, if we take some of your critical areas and do a TDR in that type of ___, when it comes into the city it's already protected. You don't have to deal with the impact of it. They may be

motivated for that because they know it's eventually going to come their way anyway. So there's – like I said – there's tons of things, you know. But as far as I'm concerned, you really can't get a TDR on something that's non-buildable. Shorelines that are lost. They really – there's no development allowed, so why would you – it's kind of a gift at that point: Hey, I'll buy a development right on a piece of property that's non-developable. Awesome! It's great for the seller but in reality there's no development that could take place. And the same argument can be made for the agriculture land. I mean, it's pretty hard to develop in agricultural land right now, but the extinguishment of a development right is completely different than a TDR, so – it's completely different. So then that's a great system. I mean, the Legacy Program is awesome. I mean, it's good for the farmer and it's good for the County.

Ms. Ehlers: Kirk?

Mr. Johnson: Yeah?

Ms. Ehlers: Do you remember that program you got us all to down in Burlington a couple years ago where they were showing what you could do in an area where you could do some of the things Bruce is talking about?

Mr. Johnson: Mm-hmm.

Ms. Ehlers: I know of an area in Mount Vernon that's just longing to have somebody to do something with it. It went into foreclosure, it's been sitting there abandoned – essentially almost abandoned for years. It used to be a good site. The state refused to allow a stop light so that one mall could communicate with another down there on College Way.

Mr. Johnson: Yeah, so –

Ms. Ehlers: If ever I saw land that's looking for something like you're talking about –

Mr. Lisser: There's lots of those.

Ms. Ehlers: – and something that that other gentleman talked about.

Mr. Johnson: So two or three years ago when we were looking for a partner – a city partner – on this, Burlington was the one saying, Hey, we're really interested in looking at....I mean, and they have a pretty vibrant commercial area already, but they also have a lot of vacant lots or underutilized lots. Margaret Fleek is always kind of thinking ahead and so we said, Well, maybe we can, as a part of a grant proposal, get some funds to help you do some commercial, economic redevelopment planning, which they're doing now; it's a key part of their economic development strategy. So that's the benefit. That's the incentive to the City. And in doing that, they're saying, Sure, we're happy to look at potential where if we're creating new opportunities for development in that area that we might make some of that accessible only through purchasing development

rights that would then be used through a County program. You know, maybe it's to protect those 1800 acres of ag land around the city that they have a goal, as a city, of doing. And that is really important for TDR programs, is for the jurisdiction that's the receiving area to have some direct relationship to the area that's to be protected, whether it's ag land around them or their water source. And so if we can find other incentives and opportunities, if – you know – if we could work with Mount Vernon and partner to try to find a way to do some redevelopment planning on some of those vacant or highly underutilized areas, with the interest of the property owners, the landowners, then that does create that kind of opportunity. And that's what we're looking to do through this project, is find benefits for the Cities, benefits for rural landowners who are interested in conservation of their land, and make that work through the marketplace.

Ms. Ehlers: Well, think of it also in this equation of taking areas that are – I wouldn't call that "defunct," but when land is in foreclosure and it hasn't been bought, as far as I know, by anyone. The Key Bank is down there now but it's – it is essentially unused, already citted, with full infrastructure – water, power, that kind of thing – that's the kind of thing I can see as a target area for the kind of money you're talking about in redevelopment.

Chair Lohman: But I guess I have to question: Isn't that something that the City could initiate? Why do they need to tie it in with a TDR with the County? I mean, they could do whatever the heck they wanted pretty much. They could incentivize those property owners with a whole array of opportunities. So I'm asking to be the devil's advocate here – why would the City want to –

Mr. Johnson: So –

Mr. Hughes: Why the developer, for that part?

Chair Lohman: Right.

Mr. Hughes: Why would he want to pay extra money to do something when the City probably already wants someone to come in and buy that property and develop it, and the City says, Oh, you've got to go out and buy some development rights from farmers or forestry or someone else before you can do this. And he says, Well, that just doesn't make sense.

Chair Lohman: It doesn't make sense to me.

Mr. Johnson: So the –

Mr. Hughes: The more I'm listening – you know, I want to get it out here – the more I'm thinking of this, why would a City, you know, come out and buy something? It's – I just – I would hope that your committee works on this but if it sees what some of us are seeing, that we're going to have a, you know, two years of a lot of your time which I

think the County's understaffed in this department anyway – and maybe you could be working on something else.

Ms. Bray: Hey, can I comment on this?

Mr. Johnson: Sure.

Ms. Bray: You know, the cities are part of the county. You know, the people that live in the cities of Skagit County care about the surrounding landscape. They recreate there. They enjoy the views. They live in the cities because, you know, they value a quality of life that Skagit County offers them. Part of that has to do with protected open space, you know, with clean water and air. You know, I think there's a case to be made for the Cities participating because we're all part of one eco-region.

Mr. Lisser: I agree. I think the Cities have to find out, like Dave was saying, what's in it for them, and that's the bottom line.

Ms. Bray: But we need to show – we need to find out what works.

Mr. Lisser: And I don't know how to do that without looking at the report and seeing what's proposed, because I know there're tons of ideas and things that work but, you know, like I said, it – I don't know what it is that's going to make the Cities jump up and down. Burlington's got a really awesome deal and it's not the Transfer of Development Right. It's just a flat out incentive that's very inexpensive to motivate people to do things for the good around them, and it's not very expensive. I don't know – I don't remember the exact amount for increasing your density, but it's very reasonable – like a thousand dollars.

Mr. Johnson: \$2500, I think, for a development right.

Ms. Smith: \$2500 – yeah.

Mr. Lisser: And that's an amazing thing that they're doing. I don't know how well it's working because really there's not a whole lot of development going on right now. I see it coming and I think that you're going to see the benefit of that, but the City of Mount Vernon doesn't have anything similar yet. We may be looking at it but that's – the bottom line is the developers are going to be – at least from my experience – is that they're the key to the success of these TDRs because they're the ones with the dollars, they're the ones that are going to be negotiating the success. And if the Cities have a way to incentivize that particular developer to utilize a TDR for their mutual benefit I think it'll be successful.

Mr. Johnson: Okay. Kendra, did you have a comment?

Ms. Smith: In responding to, like, Burlington: What they saw was the need that they wanted to have open space around their city. They wanted to have a protection of an

open space band around them. That open space happens to be farmland. They did not want to have it – to destroy that. They felt that was an asset to their city because that's how they see themselves. They're in the middle of this incredible valley and so because of that they're saying, Well, yeah. When they're doing this transfer of density they said, You know, we could have easily rezoned our city. We could have, you know, given it away. But instead of giving that away they said, No, we're going to protect outside because we think there's value in the county in protecting that.

And other ways Cities might see this would be protecting watersheds. I mean, this water's coming into the cities and we're having more and more regulations with NPDES – you know, the stormwater and requirements of cleaning and all those sorts of things. So there *are* these values that can be provided, that the Cities are all of a sudden someday they're not going to get away with doing everything that they've done in the past. I mean, you know, building up to the river's edges and then requiring the other resources – forestry, ag – to put the setbacks in. They're getting wise to this and maybe paying for some of the things that they need to have in the cities. So this is where – in the future that's, you know, where they will benefit by having that land remain in conservation values. The conservation values _____.

Mr. Johnson: I'd echo what Kendra said. I heard that Arlington got interested in TDR because the mayor ____ protect the agricultural – well, I think the Stillaguamish Valley that leads from I-5 to her city. And she said, You know, we're not going to be such a nice place to be if that's a strip mall as if it's protected. So, yeah, Tacoma is a big – one of their big interests is their water supply comes from some forested land in the county and so they have an interest in protecting that. Burlington has said the area around. A developer – I mean, the City can give a windfall away. You know, Bayview Ridge: Okay, you own Rural Reserve. You've got one development right, or two with a CaRD per 10 acres. So all of a sudden we're going to make that urban, so you go from one per 10 to four per 1. Is that like a forty times, you know, windfall? So the County, at that point in time, could have said, Well, we're going to let you go from one per 10 or two per 10 to four per 1 or forty per 10 or 400 per 1000, but you've got to buy an increment from thirty to forty. We're going to give you a windfall but we're going to make you achieve the total maximum that we want as a planning entity. You're going to buy that, but you get more in return because there's more economic value. It might be \$1 of cost to the developer for \$5 of an additional profit made down the road. So is that fair, equitable, good, bad or just trying to be fiscally savvy, you know? I guess those are all good questions but that's kind of how TDRs work.

Mr. Hughes: But in Burlington, that Bayview Ridge case, you know, I think it was set up to – there was a lot more open space. That's what they gave up to get the density. Same thing.

Mr. Johnson: Mm-hmm.

Chair Lohman: Where's the discussion about flooding and, you know, kind of the vulnerable spots in the county? I can't help but wonder about putting additional

valuations and populations in some of the more vulnerable areas in our county. And what that does to the rural surrounding area is it puts a lot of pressure on. So, I mean there is a yin-yang. If you're going to put more people behind the dike there's a heck of a lot more pressure on those of us outside who are going to take that floodwater, and that's a reality that you kind of have to always have at the back of your mind.

Mr. Axthelm: It seems to me that if we don't plan for the future the future will come anyway regardless, and it's going to take over. My understanding, like you've got a Comp Plan or Envision Skagit County that looks to the future and then takes – taking that and overlaying that on the zoning would find areas that would be desirable to put this – to use a TDR program to encourage the growth. I'm surprised, Bruce, that actually that people fought that so much with the – how did he put it? – with – where you have the density, so many houses per acre, and that just a little bit of growth – that they fought it so hard. Because that seems like a place where it would be desirable, with the city overlaid it and says, Hey, I've got the zoning that is – that I want a certain density, but it's a little lower density. How can we encourage that to be better?

Mr. Johnson: So I live near one of those developments and it looks good to me. I mean it looks like it could – I think it's one that was involved in that – on Digby Road.

Mr. Lisser: There're a couple that we've done in Mount Vernon. It's not so much the residences that – I don't think the administration is quite there yet. It's a big change going from 15,500-square-foot lots _____ used to _____ to a 6000-square-foot lot, which people are wanting the younger generation _____. It's a quantum leap and I think we need – we're not there yet. We're in the process. That's why there's a – more successful in the ____ settings down in the King County/Snohomish County area. Because the land is really expensive so if you can take, you know, a small chunk of land and increase the ability to do things on that particular parcel through TDRs, you have a whole lot of incentive to be creative and make it work. They've got lots of those little malls. They've got a lot of – there's just a lot of really cool things that are taking place. Reduced parking because they have really good bus service. They have those types of things that we really don't have yet because we don't have the population to get there. But that doesn't mean, like Josh says, that we shouldn't look at it and plan for it. You could have it as a toolbox that's not really ready to become operable for another five or six years, but I can tell you: We will be seeing an increase in density. I mean, I've been doing development work since '79. Trust me. We – everybody here is probably living in one of those new lots that we've created since '79. There's a lot of density that's going on. There's a lot of building that's taking place. There's a lot of places that you would have never thought was going to be developed. It's amazing, you know. And that's not a bad thing; it's just reality. And until people stop having children that want to live here, we're going to continue having that problem. It's a really cool place to live. And we've got to do it right and we've got to be smart about it, and if this is a tool that the Cities can see – I just see it as – we just have to have them on board. And I don't think the Cities are afraid to be on board, but I think they need to see why it would benefit them to be on board. And if we can't benefit them and they have to be at the table to make it work. And, you know, I don't think it's going to be something that's jammed down the

Cities' throats because you can't do anything properly if you go about it in that manner. But if you create a win-win, I see it as an opportunity for everybody. But, you know, what – like I say: That cart's way out there. We don't know yet. But it's – if we don't keep an open mind to it we may have lost an opportunity that won't come back to us again, so why not? It doesn't hurt anything. It doesn't cost anything to try.

Mr. Greenwood: Can I make a point? Just that it seems to me when we talked about the Bayview area that that – as an example – it seems a little bit manipulative. Either you want the density to be increased or you don't. And then the City or County is kind of holding it over the developers. We want something else. We don't have any money to do what we really want to do, which is to protect this particular farmland, so we're going to compromise over here and shove a bunch of houses over here we don't really want anyway just so we can get some money to buy some farmland. And maybe that's just maybe the wrong way to see it, but I know that I've seen in Mount Vernon, for example, there's places where you've got a greenbelt or undeveloped – probably just undeveloped because it's in the same zoning, but then you've got this development kind of packed in and you can hardly get down the street. And then I looked at one, because I went to pick up my friend and he's got a real small car and the one next to him has a little – one of those MGs or the midget kind of car – Mini Cooper? – and then the house right next to him – and there's only room for probably two Mini Coopers and then you're already into the sidewalk – but he had an Escalade and a Hummer. And, you know, you should see how funny that looked! I mean, I took a picture. But you can look at it on Google Earth, too, and you can say, You know, that's not really a very – a lot of people bought maybe those houses because they could afford them, but then once they got in them they really didn't fit their lifestyle. So when you're in a densely populated area an apartment looks good because your neighbor's got an apartment. But when one neighbors got 5 acres and the development you're in has, you know, a one-lane street with too many cars on it, you might not be ready for that type of density. That's all I was thinking.

Mr. Lisser: It's the reality of Growth Management. It is what the people wanted until they got it and they found out, Oh, my God. Four units per acre is a lot of people. And that's kind of was the guiding storm of four units per acre. And you start and incentivize people with planned unit developments, doing open spaces – whatnot – and you increase that to six units per acre, _____.

Mr. Greenwood: But I know I've heard –

Mr. Lisser: It's complicated but it's what the people wanted.

Mr. Greenwood: I've even heard Ken Dahlstedt say, You may want people to live at a higher density, but I don't want to live there.

Mr. Lisser: Exactly. And there're a lot of people –

Ms. Ehlers: Oh, yes.

Mr. Lisser: That's what I was mentioning. We're not there yet in Skagit County. We've had lots of presentations. I don't know if you remember "Honey, I Shrunk the Lots." It came out about ten years ago. We were all going to hug small lots. Well, we tried that and it was good. I mean, we did some pretty neat things but, like you said, I don't think we're ready for it yet. But that doesn't mean we shouldn't be looking at it, because five years in a development comes pretty quick. I mean, there are developments that take eight and nine years to make happen. And, you know, knowing that you have opportunities and the toolbox and people that – you know, every eight years the cycle is, you know, when land gets cheap in Skagit County people from King County come up and develop. And then it comes up and then – you know, it's just a cycle that we're in. Right now we're in the low cycle because they're developing big in the down south _____.

Mr. Greenwood: I think –

Mr. Lisser: I mean we need to have intelligent development opportunities because the developers are the ones that are going to be setting the future. And if you can do some really neat things that incentivizes big developers – the D.R. Hortons, for example – that are willing to come in and do some really unique, good things that look like this type of thing that have the nice open spaces, that have the density, that know how to do it right, it's a win. It really is. There're good things that can – if you do it right, there're some really cool things that you can do.

Mr. Johnson: So I – oh.

Mr. Greenwood: I just didn't want us to get too narrow maybe in our focus of sending areas and receiving areas, because I guess I'm thinking more rural about some of the receiving areas being that Secondary Forest, which is outside the shoreline and the critical areas, and maybe get some of these lots that already have established development rights on them. Maybe they're not practically buildable, but they already have that right and they've got it in statute and got reinforced recently. But to get them to move just another 200 feet out so that that Secondary Forest buffer just moves a little further away from the shoreline, which might be a little higher valued resource area. Not that I want more houses in the forest land. I don't want that but, you know, another 200 feet away from the Skagit River would be helpful, because that's where I see all the houses – right on the banks of the river.

Mr. Johnson: So just a time note: A couple people said they needed to leave at 7:30. I've got a son playing in a high school playoff game today. So maybe we could take a comment from Ed and then –

Mr. Stauffer: Do I have time to make a comment?

Chair Lohman: Yeah.

Mr. Stauffer: I do want people to realize that in Skagit County we also have other optional conservation plans in play. We have Land Trust. We have the open space taxation plan. We have publicly-owned lands. A concern that I have is – well, first: Next meeting we consider sending areas, so we really haven't developed that _____. I'm keeping an open mind _____ what happens there. Then following that we have yet to hear and do the market analysis _____. My major concern with this committee is this is a quarter-million-dollar grant. A good chunk of that is a side deal that's specifically earmarked over to the City of Burlington – something they have going on. I don't know if the full committee's going to be involved in that _____ or not. Out of that quarter of a million dollars in the grant, \$50,000 of it was for salary to compensate a Growth Management Act specialist, the guy _____. The Growth Management specialist to the tune of \$50,000 quit his job here and moved elsewhere. So we're going through this without being able to really assess the first leg of the three-legged stool. I can tell you from my experience with the Growth Management Act language that the owners of unincorporated land in Skagit County are defined as "stewards of the land." And you're going to look in the hearts of the people to see the level of conservation that's in play today. Thank you.

Chair Lohman: So are you – any concluding remarks?

Mr. Johnson: Just this market analysis that's been talked about: We have selected a consultant. Kendra was involved in the selection, Margaret Fleek, and I, and also Taylor from Forterra. I think they're going to bring some really good analytical tools here and help us look at those areas, those cities that may have some development potential, and then what the willingness to pay to access more of that would be, and how to make a TDR program potentially work financially, economically and the like. I'm happy to share results of that or stages of that as we move along. So that is – I think several people have mentioned that that really is a key part of this because if you don't have the financial mechanisms worked out and an understanding of values in sending areas and willingness to pay for development in receiving areas, you don't have a program that can be workable.

I guess we can just stay in touch and understand from you how often you'd like to hear about where we are in the process, whether you'd like to get together on a semi-regular basis with the full committee or just staff reports. But we can just kind of keep in touch on that.

Chair Lohman: But on your market report –

Mr. Johnson: Yeah?

Chair Lohman: – market analysis – you are going to be going out and actually talking and wearing boots and it'll be definitely local. It's not going to be just literature shirts like the one for Envision?

Mr. Johnson: No, not at all. Yeah.

Ms. Ehlers: And is it just for farmland?

Mr. Johnson: Well, we need to refine down what potential sending areas will be, so it could be farmland. It could be forest land. It could be rural lands with certain environmental values. That's on the sending side. Then we'll also be looking at development projections within some of the cities and specifically within some types of development that might be accessed through purchasing development rights through a TDR program. And that's called "pro forma analysis" and it gets very nitty-gritty, down to the specific location and the specific rules and regulations that are in place and costs and revenue expectations from the particular development.

Ms. Nakis: Could it be that the final decision is that your TDR for Skagit County is your sending and receiving areas both be in the county and not in the cities?

Mr. Johnson: It could be. The grant funds specifically require us to look at cities and towns as the receiving areas, so we can't use grant funds to look at, say, transferring development rights to Bayview Ridge urban growth area or requiring purchase of a development right for somebody who's receiving a rural up-zone. So we can do every – we can do the sending area analysis, we can look at how TDR might interact with Farmland Legacy with grant funds, but the state has a policy where they think TDR works best where you're transferring from county rural areas to city areas. But the Commissioners, if they want to, could use additional funds to look at some of those county-to-county transfers – the county receiving side of it – and they could decide that has the best potential or fits best here in Skagit County.

Ms. Nakis: Right. For my money, the TDRs to me seem to fit better within the cities so that cities can actually reinvent themselves, opposed to taking on additional growth that maybe they don't want. They can redesign their towns for walking paths or make them more livable, and really think out where they want their, you know, apartment housing and that sort of thing – have an opportunity to redesign.

Mr. Johnson: Yeah, that's how some cities have used TDR.

Chair Lohman: This is a state grant, right?

Mr. Johnson: Yeah. So I think that's all that I have and we have, and several of us need to run, and we appreciate the time with you, and we'll be in touch as the project progresses.

Chair Lohman: Thank you very much. And thank you to the Committee.

Ms. Ehlers: Thank you.

Mr. Axthelm: Thank you.

Chair Lohman: Okay, we're going to move on to the next item on our agenda, number 3. Carol, we're moving on.

Mr. Greenwood: Carol.

Chair Lohman: So the next thing on the agenda is the Planning & Land Use Legislation Ordinance. And this is the ordinance that was –

Mr. Axthelm: Can we hold on a second? We're continuing our meeting, so those that wish to talk, if you could pull it out in the hall so that the public can hear what's going on.

Chair Lohman: Thank you. Okay, the public hearing part is already closed. It closed yesterday at 4, 4:30. I don't remember the time.

Ms. Ehlers: 4:30.

Chair Lohman: But the Commissioners have asked our comments on it. So, Dale, did you want to introduce the topic?

Mr. Pernula: Well, I'll make a few comments first. I thought this would be best to be like a question and answer period as much as anything, and you can formulate your comments for consideration by the Commissioners.

A few comments I'd like to make is just about the origin of this. I started looking into it to see when it began. It actually began in July of 2011. Most of you may recall it was at the direction of the County Administrator. He asked PDS – Planning and Development Department – staff to interview all the Planning Commission members, and I believe that they did interview all the Planning Commission members with the exception of Dave Hughes.

Ms. Ehlers: I don't remember it.

Ms. Nakis: Yep, I was interviewed.

Ms. Ehlers: Well, I don't remember being interviewed, certainly not by him.

Mr. Pernula: No, no – by the Planning Department staff.

Ms. Ehlers: I don't remember that either.

Mr. Axthelm: Was this the time when we – there was some issue. There was some issue in the Planning Commission. I don't remember what it was, but they pulled us individually or asked us individually to come talk to them.

Chair Lohman: I didn't realize that was related to this. I never made that quantum leap.

Mr. Pernula: I'll get into that in just a second.

Mr. Axthelm: Okay.

Mr. Pernula: The items that were identified by those who were interviewed – I believe they were interviewed in the Padilla Room – some of the things included that meetings weren't efficient; they wanted to get the planning materials out in advance – sooner in advance; they wanted to hold regular meetings the first Tuesday of each and every month; they wanted to – the Commission members needed support to adopt parliamentary procedures, Robert's Rules of Order; study sessions could be utilized to explain plans, policies and programs; people need to be made part of the process; need to better understand the Planning Commission rules, responsibilities and authority; should have periodic required training; conduct study sessions on the floor in a round table format – and you can see that we've done that; need to create public trust; engage stakeholders early on; need PDS contact for the Planning Commission; and Planning Commission members need to come to meetings and hearings well prepared.

Well, this was followed up then by the letter from the Board of County Commissioners which had the seventeen questions that were asked of the Planning Commission, and that was reviewed by the Planning Commission on February 7th and March 6th; thereafter, this ordinance was prepared, specifically trying to address the identified issues from those two Planning Commission meetings and from the individual interviews. As you know, the Board of County Commissioners held a hearing and they allowed written comments through yesterday at 4:30. We sent out those comments that were available through Friday on Friday to you and those since Friday and through yesterday I handed out tonight, so you should have all the comments that have been made.

Ms. Ehlers: Not all of them because mine aren't here.

Mr. Pernula: You tried to –

Ryan Walters: We didn't get any comments from Carol from the Commissioners' office, but if they're there we'll get them tomorrow and send them out.

Ms. Ehlers: Well, they were turned in on time – ahead of time. I was ahead of Ed.

Mr. Pernula: We will get them to you for sure.

In the packet I prepared a memo with Ryan that addressed many of the issues that have been brought up. And, as Annie mentioned, the Planning Commission was asked by the Board of County Commissioners to make comments on the proposal. So take all the time that you need to review the information, the large amount of information, the large amount of public input that has been provided; digest the information; and come up with some comments that you feel comfortable with. You may have noticed that in

the packet are the comments, and I forwarded them to you as well from Annie, when she reviewed the ordinance and came up with some very good written comments on.

And I might point out that of these things I've been trying to begin – been beginning to implement some of these things without the ordinance. For example, I conferred with Annie in advance of the meeting to prepare the agenda and, in fact, we changed the format of the agenda. I got the written materials to you a week in advance. I'd like to stick with that if we can at all, but sometimes if we're preparing stuff and it's in a very preliminary format that might be difficult to do, but that is our goal: to get it out to you a week in advance.

Then the third thing that we did after talking to Annie and reviewing the materials is we're putting work sessions down here rather than having you up at the dais.

So those are my comments. This is an important ordinance. It deals with the functions and the operations of the Planning Commission, and we do wish to address those issues concerning communication, concerning communication with the public that were the original goals of this ordinance. And I think Ryan may have some comments, as well.

Mr. Walters: I don't have any specific comments but I'm available to answer any questions that you have about the content of the ordinance, its implications, how exactly it functions with state statutes or other ordinances or other statutes that are mentioned in it, such as GMA, subdivision statute – that kind of thing. So if you have anything in particular you want me to talk about, I can talk about that.

Ms. Ehlers: I would love to talk about this.

Chair Lohman: Can I ask the Commissioners, please, one item at a time so everybody has a chance?

Ms. Ehlers: I would love to talk about this – I think it's crucial – after I have read everything. Because the basic principle upon which decisions are supposed to be made is a thoughtful review of what the comments are as a result of a hearing. And since the basis of this country is rule of law and due process and having the evidence and having it all available at the time a decision's made by anybody, it seems to me that a discussion or deliberation should follow that same principle. That's what we've been told all along since I've been on the Commission, except when the legal department decided it wasn't necessary, and that's a comment referring to your predecessors, Ryan.

Mr. Walters: Not me, I'm sure.

Ms. Ehlers: John Moffat broke every rule I can think of again and again. But when you read information, if you're thoughtful about it you take what you bring into the discussion from what you've read and many times you shade what you would say or how you

approach something differently because of the evidence or the information – let’s call it that – that’s been turned in. And I think this is useful tonight, but I want a meeting in which this is the subject of the meeting, because there’re some parts of this that I think are terrific, some parts of it that – well, you got my expression of it at the hearing. And there’s one part that I don’t see anywhere from anyone except Paul Taylor, and I would like to have not just Ryan’s, but Ryan and Jill and maybe that third attorney that you had working on it – what these conflicts are in these laws; what the legal basis is for using Article XI; what the difference is of planning authority on Article XI versus why it was necessary for the Planning Enabling Act. Because – I guess I’m going to have to represent another demography: the ones who can remember what it was like here back when it was just Article XI. And it wasn’t very pretty. The people had a right to develop but the County in my – and I can give you some illustrations – the County had no authority to protect the sucker who bought a subdivided lot. And I remember when Dad bought the lot I’m in I said, Dad, don’t buy it. You can’t trust this County. And he said, But, honey, government exists to protect the public. And I said, Not here, but he bought it anyway. And I’ve been trying ever since to make what he said true, whether I was on the Commission or not. But I really agree with him. I’ve read a lot about history where you can’t trust the government, and I don’t want it and neither does anyone in here.

So I don’t know how to trust anything based on Article XI. It was supposedly for sanitation but it didn’t help a subdivision in west Mount Vernon. What happened there, as I remember it, is the subdivision was built. It’s a nice little subdivision. It was and still is affordable. It’s very respectable. But the two or three lots that were next to the river, when the river rose in the fall the people who bought these houses two months before were told they couldn’t live in them because the septic system was contaminated with this river water. And the new Dean of Students at Skagit bought one of these and he blasted us lunch after lunch for months on what it was like. And finally, as I understood it, the March 1965 planning law in this county was a result of the lawsuit because the County said, Yes, we knew there was a problem down there where those septic systems were but we didn’t have the legal authority to not allow the builder to build there. Now that’s sanitation if I ever heard of it. And I know out where I am the County did not have the authority, it said, to enforce the setback from the top of the dirt cliffs in subdivision six and seven, said the developer, so he put what the County had – would enforce, which was 40 feet – and he begged us to set it back 50. And he begged us to do certain things to control the road water that the County directed onto the subdivision.

Chair Lohman: Carol, could you tie it into the –

Ms. Ehlers: So what I want to know, I think, is that first section in the Whereases – we don’t have anything for that that I know of. And I think it’s reasonable for you to delineate why you picked what you picked, why you said what you said, and very much what the implications are of it.

Chair Lohman: Well, can I dovetail –

Ms. Ehlers: That's my comment tonight.

Chair Lohman: My – I'm not an attorney and I'm not – I'm a volunteer here. I don't understand the difference between planning under the Constitution or planning under the Planning Enabling Act, and I believe that's where Carol was going with her comments.

Ms. Ehlers: Mm-hmm.

Chair Lohman: So I did look at the Constitution and, as a matter of fact, I called Ryan and I said, Now what does this mean exactly, and I Googled various phrases, various definitions, and I did a ton of due diligence and time wasting trying to interpret either/or. So why would you pick one or the other and what are the merits of one or the other?

Mr. Walters: So to break it down succinctly, the County has authority to adopt laws, to adopt regulations under the Constitution. We don't – as a county – we don't need any special legislation from the legislature to have the authority to adopt laws because counties are set out in the Constitution and counties have authority under the Constitution to adopt laws. So the legislature did, though, way back in 1960 or so, adopt a scheme – this is a word that I use. It's a legal term __ a statutory, organizational structure called the Planning Enabling Act, in which they said, You can set up a planning department and a planning commission in this way or this way. They give a couple of options within that statute. There's another statute other than the Planning Enabling Act in 35A.63 and that one is nominally for cities but it does say that counties can use it, too. It provides a different structure that you can use to set up a planning commission. If you – if you, as a county, opt to do that – if you opt to use one of those structures that's fine, but you have to follow that structure. So the structure that's in the Planning Enabling Act sets out planning commission terms of – you can choose a couple of different numbers of planning commissioners. You don't necessarily have to have nine. You could have seven. I think you can – I think you can have five. You can put department heads onto the planning commission. You have a number of options as a county within the Planning Enabling Act, but you have four-year terms.

Now Dale suggested that what we ought to do is have three-year terms. There are nine Commissioners, there are three County Commissioner districts. You can have three-year terms if – you can't have three-year terms under the Planning Enabling Act because it says four-year terms. It doesn't give you an option for the length of the terms. So if we wanted to do that we wouldn't be able to rely on the Planning Enabling Act. We wouldn't be able to say, We're using the Planning Enabling Act to create the Planning Commission. Now as I just said, though, it's not really necessary to use the Planning Enabling Act. We can just say, All right, we're not going to use the Planning Enabling Act or, We're not going to use the other statute, 35A.63. We're just going to rely on our power to create regulations, create departments anyway under the Constitution.

Now if you do that then you have to say how the Planning Commission operates, because none of that will be incorporated from the Planning Enabling Act, because we wouldn't be using the Planning Enabling Act. The Planning Enabling Act says a bunch of different things about how a planning commission operates. We wouldn't be using that so we'd have to write that down, and that's why that's in the ordinance. The other section's about how the Planning Commission works.

Now it's more than just the three-year terms. There are other things in there that are different from the Planning Enabling Act, and one of those big differences is the way planning commissioners are appointed. So currently the Planning Enabling Act says that planning commissioners are appointed by the Chairman of the Board of the county commission and that the rest of the commission has to confirm the appointment. Now in practice that is not really how the current Board of County Commissioners, or any board of county commissioners that I'm aware of in Skagit County, has done it. The way they've done it is if you're from District 1 – if you're from District 1, then the District 1 Commissioner will pick that person and just sort of by tradition the Board agrees. The Chairman doesn't actually make the appointment. It's the District 1 Commissioner who appoints District 1 Planning Commissioners. What we did is – in the ordinance – is we wrote code that would formalize what the process actually is, so that the County Commissioner from District 1 appoints Planning Commissioners from District 1, and then they're confirmed by the rest of the Board, rather than what the Planning Enabling Act says, which is the Chairman appoints all the commissioners and the rest of the Board confirms. It's a little bit different. But the point is you can't do that – you can't make that change – if you're relying on the Planning Enabling Act because if you're saying that you're using it, well, you can't say that you're using it and then also differ from it.

So that is sort of the overview of why you would just not use the Planning Enabling Act. Now when you do that, when we put that in code and we adopt an ordinance that creates a Planning Commission that doesn't rely on the Planning Enabling Act, that doesn't mean that it provides the Department the authority to do whatever it wants there. It – I mean, it just doesn't mean that at all. What it does mean is that the Board of County Commissioners, which is adopting the ordinance, is adopting it on the basis of a different legal authority. It doesn't really make that big of a difference in terms of how the Planning Commission operates. For instance, we could have two different ordinances, and I'll give you a comparison of the two. In one, you could say, We are adopting a planning commission consistent with the Planning Enabling Act. Full stop. And then all of the protocols and procedures that are in the Planning Enabling Act would apply to the Planning Commission. Or two, you could adopt an ordinance that says, We are creating a planning commission, and then you could copy all the text in the Planning Enabling Act and paste it into that ordinance. And you could say we're adopting it under our Constitutional authority in Article XI, Section 11. The planning commissions adopted under either ordinance will operate identically because the point is it doesn't matter really what authority you're adopting these ordinances under. What matters is what the text of the ordinances say and what the structure is set up by those ordinances.

Does this – and to expand a little bit on what Commissioner Ehlers was saying, it doesn't affect the subdivision statute. The County is required to comply with the subdivision statute, which is not at all related to what's in the Planning Enabling Act.

Ms. Ehlers: I know it does – I know it isn't. But what are you doing to the rest of the Planning Enabling Act by cherry picking?

Mr. Walters: Well –

Ms. Ehlers: You're cherry picking on the terms. You're using what you want to say in terms of how the Planning Commission operates – that's another subject. But what happens to the rest of it? Does this mean you're not following the Planning Enabling Act?

Mr. Walters: We're not – in this – the way this ordinance is currently drafted, it does not incorporate – it does not base the ordinance on the Planning Enabling Act.

Ms. Ehlers: I know that.

Mr. Walters: It does not incorporate the other provisions of the Planning Enabling Act at all. The only thing it includes is it says "consistent with" it – one paragraph from the Planning Enabling Act.

Ms. Ehlers: What happens as far as the operation of Planning regarding the Planning Enabling Act?

Mr. Walters: Of just land use planning in general?

Ms. Ehlers: We're talking about an RCW that most of us haven't read and most of us haven't seen. We're talking about the Planning Commission Act, which most of us haven't seen and which when I read a couple of years ago I found the – all sorts of things that I always wanted to do that Moffat said we couldn't do that are specifically permitted by law.

Mr. Walters: Do you mean in 35A.63?

Ms. Ehlers: Yes, yes.

Mr. Walters: But we're not currently using that one either.

Ms. Ehlers: For anything? So a planning commissioner – what I was told years ago was that a planning commissioner has no legal right to go anywhere near a piece of property or an area that's under consideration. So I said to – I went to the Burlington Planning Commission. They know all about what they're talking about. I went to Anacortes and learned they know all about what they're talking about. So I said to Gary

when there was – it was Trumpeter Lane when Mount Vernon wanted to take it over. I said, Can't we go see what Trumpeter Lane looks like? And he said, Well, you could maybe go by in a car and look at it through the window. And then I find in the Planning Commission Act that planning commissioners have the same right planning staff have to go on a piece of property that is under discussion in front of the planning commission. You can't go with the owner. You can't do ex parte. But you have that same right. But you're saying now that the Planning Commission Act doesn't apply to County planning commissioners? It only applies to City planning commissioners?

Mr. Walters: RCW 35A.63 sets out an alternate statutory scheme for setting up a planning commission.

Ms. Ehlers: I'm not talking about setting it up. I'm talking about the rest of the operation.

Mr. Walters: Right. We're not using 35A.63 at all.

Ms. Ehlers: So we don't have any of the rights that are in there?

Mr. Walters: No, 35A.63 does not apply. Now the County would have the option of saying, Instead of 36.70, we're going to use 35A.63. And two other counties have used 35A.63 instead of 36.70. The legislature has given us at least two organizational methods for how to organize a planning commission and the County can choose from those or can create its own.

Ms. Ehlers: You're missing the point. You are talking about organizing the Planning Commission. I'm talking about the rights of the planning commission and the job of the planning commission in dealing with planning in a county. Have you changed that? I can't tell.

Mr. Walters: No. The rights of the Planning Commission – let's address first of all the – your question about the right to enter property. Planning commissioners, by virtue of the fact that they are planning commissioners, do not have any special right to enter private property.

Ms. Ehlers: In spite of the Planning Commission Act?

Mr. Walters: We're not using the Planning Commission Act. We're not using RCW 35A.63.

Ms. Ehlers: That's news.

Mr. Walters: Well, it shouldn't be news because the code as currently adopted says we're using 36.70.

Ms. Ehlers: (sighs)

Mr. Walters: The current code makes no reference to RCW 35A.63. 35A.63 is an alternate statutory organizational system that a lot of *Cities* use.

Ms. Ehlers: Which explains why a City can know its geography and the planning commissioners in the city can go out and look to see whether the streets are wide enough to have a nursing home there, but the County people can't go.

Chair Lohman: Yeah, he can't –

Ms. Ehlers: Wait a minute, Annie. Last year when you said you wanted people to go out and look – or Kirk did – to go out and look at the various Comp Plan amendments, according to what you're just telling me we had no legal right to do that.

Mr. Walters: I'm saying that you have no *special authority* as planning commissioners.

Ms. Ehlers: Well, Moffat told us we could not even go near the place.

Mr. Walters: I can't really speak to that.

Ms. Ehlers: That we had to only depend upon what we were given by – in paper.

Mr. Walters: That is a slightly different issue.

Chair Lohman: Oh – Dale?

Mr. Walters: If you are evaluating a quasi-judicial permit application – which you're not – I mean, the Comp Plan amendments that come before you are legislative. If you were dealing with a quasi-judicial application then you would have restrictions like that. But you do not review quasi-judicial permit applications.

Ms. Ehlers: No anymore.

Mr. Walters: Some City planning commissions – Burlington, Anacortes – they review quasi-judicial permit applications. Here we have a Hearing Examiner for those, and the Hearing Examiner is under those constraints. The Hearing Examiner can't go to a piece of property, you know, without it being part of the hearing with opportunity for both sides to be there. But those constraints don't apply to planning commissioners *here* because you're not dealing with quasi-judicial applications.

Chair Lohman: Dale.

Mr. Pernula: I think Ryan answered the question – what I was going to say.

Mr. Greenwood: Did you want to continue with the others?

Chair Lohman: Yeah.

Mr. Greenwood: Yep. Matt, fire away.

Mr. Mahaffie: Question for you, Ryan. As far as the _____ clause, why did you pick that language kind of versus what we have now? Annie kind of addressed it in hearing. It just seemed kind of broad. Was there a reason for that? Bainbridge Island, I believe it was.

Chair Lohman: Bainbridge, yeah.

Mr. Mahaffie: I was just – well, personally for myself I might work with a client –

Ms. Ehlers: Matt, I can't hear. Please.

Mr. Mahaffie: Sorry. I'll speak to Ryan that way. You know, I might work with a client that owns a piece of property and two years later they own a different piece of property somewhere else. Normally I wouldn't recuse myself. I, you know, didn't work as a project on that property. It seemed like that language might be broad enough that it might bump you out.

Mr. Walters: So it might be helpful to narrow – to zero in on the language that you're talking about. The provision is 14.02.140(2) – that's of the proposed language.

Mr. Mahaffie: I just – I never really saw a problem with anybody, you know, not being honest with needing to recuse themselves, you know, if it was an actual conflict of interest. That just seemed really broad.

Mr. Walters: The language as proposed means if a planning commissioner is an applicant or has a financial interest in or for a comprehensive plan amendment or land use application for the planning commission. And that is relatively – it's almost the same as what's currently adopted. But then it has this other section: "is a paid or unpaid advocate, agent or representative of an applicant," so I assume that –

Mr. Mahaffie: At what point does a representative – at what point are you and aren't anymore, I guess would kind of be my question. If you had any financial ties to them five years ago – does it stop at one point?

Mr. Walters: It does use the present tense.

Mr. Mahaffie: Okay.

Mr. Walters: But –

Mr. Mahaffie: I was just a little unclear on that.

Mr. Walters: I think the intent of the provision is to be very clear on what conflict of interest is. I think it probably is not as clear as it needs to be because Annie's had questions, you've had questions. But it also expands a little bit on what it means to have a conflict of interest: that you may not participate in a decision or a recommendation on the application; you may not be present in a meeting room during discussion of the application. But I think it's certainly something that we could do to, you know, expand that section that we have questions about into something that is really clear and does make sense – maybe inserting the word “presently” for something like that. Because there are situations where you may or may not be a paid advocate for an applicant but it may or may not be clear as to whether or not you have financial interest. But if you're a paid applicant it doesn't seem like that is going to – the appearance of fairness doctrine doesn't apply because they're not quasi-judicial, but it still sort of casts a pall over the application. And frequently planning commissioners are drawn from industry groups or consultants because those people know about how things work and it's very useful to have those perspectives. But we also want to make sure that nobody has any real interest in the outcome of a legislative matter like this.

Chair Lohman: Well, then why don't you just use straight volunteers and – because I looked this up, too, and I put it in my written – and in Robert's it says no member should vote on a question in which he has a direct personal or pecuniary interest not common to the other members of the organization.

Mr. Walters: And that “not common to other members” is also some language that seems to make a lot of _____.

Chair Lohman: Because you've got kind of – if you had that, plus you've already mentioned the appearance of fairness and some other behavior stuff in there, it almost seems like the language that you're proposing is overly broad because I can assure you I am an agricultural advocate because I'm a farmer.

Mr. Walters: Yes, although it says an advocate “for the applicant,” not necessarily for an industry or for a subject matter.

Ms. Ehlers: The applicant could be the industry.

Mr. Walters: I don't think it would ever be the entire industry.

Ms. Ehlers: Oh, we did it for months in 1990 when we were protecting farmland. If you didn't have people like Dave on the committee who really knew what they were doing we would have had a disaster. And, yes, he benefitted. Of course – he's a farmer. How else can you work it when you're dealing with that kind of broad-based issue?

Chair Lohman: I think the net is too broad in the language that is in the proposal. Because I think when you – it's open to too much interpretation, and when you have conflicting interpretation that's kind of a suggestion to you that, oh, maybe the language isn't as clear as you want it to be.

Mr. Walters: Yep, and I think that we understand that. We selected this language because it seemed to be working elsewhere and it seemed to capture all the things that we wanted to capture. But I think the Board is interested in specific comments on what could be changed and they might want to adopt some other different language.

Ms. Ehlers: I think Bainbridge is sufficiently different from Skagit in its lack of farmland, for example.

Mr. Walters: Well, all of these areas are very different from Skagit. The point is –

Chair Lohman: Let's write our own words.

Mr. Walters: Well, we are always actually advised by the Board to go look at other jurisdictions –

Chair Lohman: Well, you kind of –

Mr. Walters: – to see what other examples they're using. It's not like this entire ordinance –

Chair Lohman: No.

Mr. Walters: – is Bainbridge's ordinance. We just plucked one paragraph out of it. But, yes – I mean, I think we are perfectly willing to write whatever language suits the Board here. But you – I think you understand sort of the intent of what this language is trying to get at.

Chair Lohman: Sure.

Ms. Ehlers: How do you protect somebody like me who would have been destroyed if Wooding had not been able to do what he was trying to do? The land down across the road – one out of fifteen parcels, one was already destroyed. My parents owned that one. One is in the process of being destroyed and has gone into foreclosure and nobody with any sense at all is going to buy it. And that's because of the road drainage that the County dumped on it and then the clear-cutting drainage from some years ago. So when – I think part of the difficulty is what's in the record or what isn't in the record, and I'd like to address that another night. But how do you protect somebody from being destroyed? Because –

Mr. Walters: Well, I think if you read some of the state materials on their conflict of interest rules, especially some of the MRSC documentation on the conflict of interest rules, they do make the point that being on the planning commission provides you *personally* with less ability to weigh in on some items when you have a financial interest in the outcome.

Ms. Ehlers: Well, you see, when a county's writing rules that govern things, that's part of it. But I wish you'd go read Settle. Settle is an attorney – a land use lawyer – and a professor at one of the colleges down in the Seattle area and he wrote a classic textbook on planning land use law, and there's a major chapter in it on planning commissioners. The County used to have it. I don't know whether in the moves they were required to throw it out or not. But it's a classic. And I would never have joined the Planning Commission, nor would anyone that I know out where I am *dare* to join the Planning Commission, after what happened in the '80s and '90s if we had no way of protecting ourselves. And we're not talking about – when land goes on a shoreline it's gone. It's not farmland or any other land that gets flooded and it may still be usable. So please go look at Settle.

Mr. Greenwood: Can I take a turn? My – I guess my initial observation is – I want to try and keep it short – is that I don't think that you necessarily needed to include the – maybe weren't required to include the planning commission and the – we got a PowerPoint presentation that talked about the concepts of it. I think there was a disconnect there because you were going actually before the Board of Commissioners and giving them a presentation. They get the presentation, people hear it, they see it on TV, they have a disconnect between this timeline that Dale just mentioned. I didn't really see the language until a few days – you know, the day after we had our PowerPoint presentation so I gave some feedback on some initial language without getting the benefit of hearing the reasons that were just explained even now about why the – using the constitutional methodology as opposed to Planning Enabling Act. I think there just became this level of – and I read it in a lot of the comments – a level of distrust, and it just kind of built up this wall of opposition to this proposal at the outset and it just got – it kept building, you know. Even – it looked like there were even some more comments today in opposition to it. And I think we're kind of starting over again with it to try and understand the framework for how to proceed. But even the explanation as to why to go from the Planning Enabling Act to a pretty – it looks like a pretty big change to go to the Constitution and make sure we have all the right elements in there to enable – it didn't sound like enough – I didn't hear enough evidence to warrant the switch in my mind. If it's the terms and if it's the – a lot of the seventeen points that you mentioned, Dale, were things that you did really, really well, I think. Over the past week-and-a-half I've had great notification, I've had great communication, I've had lots of preparation time. If it went just like this, I'm fine with it and I wouldn't see a need for any additional change from that. Now I haven't been here that long, but I also know that Carol's been here for a while so whatever her term is it really isn't mattering that much. It's not affecting the mix that much, because she's been here for quite a few years and others have, too, and the people I've seen termed off have been people who've said, I've got something else to do. So I don't know if the terms are really causing a conflict for anybody, and if the Board of Commissioners needs to switch how they appoint maybe Commissioner Dillon talks to Commissioner Dahlstedt and he says, I'd like to appoint this person, and Commissioner Dillon says, I'd like to appoint this person recommended by...because it's in his district. They could probably follow the Planning Enabling Act for a period of time to conform to what they're actually doing. So I guess I'm just seeing a little too much resistance to go very quickly with this.

Ms. Ehlers: Mm-hmm.

Mr. Walters: I could give you another example of a provision that's in the ordinance that addresses sort of a conflict with the Planning Enabling Act, and that is the provision in the ordinance again dealing with appointments. As I said, the Chair appoints and the rest of the Board confirms. Tradition indicates that the district Commissioner sort of nominates and that the rest of the Board approves. Last year we had a lengthy period where we didn't have a Planning Commission appointment and there was nothing, really, that the Board could do about it. In this ordinance the Board – if the district Commissioner doesn't make an appointment within a specified time period then the rest of the Board can just appoint someone.

Mr. Greenwood: But it sounds like – as the way you've described it – that the Chairman, under the Planning Enabling Act, could have appointed somebody whether they –

Chair Lohman: (unintelligible)

Mr. Greenwood: Yeah, even if it wasn't in his district. Right?

Mr. Walters: That didn't work last year.

Mr. Greenwood: Did someone try it?

Chair Lohman: Well, it was the Chairman's district!

Mr. Walters: Right.

Mr. Greenwood: So...

Mr. Walters: Anyway that's trying to get out _____.

Mr. Greenwood: Okay.

Mr. Mahaffie: Just a little bit for what you heard from Keith. No offense, but you *haven't* been here that long.

Mr. Greenwood: Right.

Mr. Mahaffie: And it may seem to the public that, you know, where is this coming from. Where is this coming from, from you. Personally I've been quite vocal in the past with staff and the Commissioners that this Commission has not been running efficiently. This is – I mean, I'm a volunteer. I come to a meeting and when it's a lot of times almost perceived to me myself as a waste of time because it hasn't been run efficiently. It's been an issue. Yeah, it's been great for the last little bit. It's progressively gotten

better – accolades to staff – but it hasn't been that way in the past, and from what I hear from other Commissioners, I haven't seen the worst of it even close to it. So I mean –

Mr. Greenwood: But is that a Constitutional problem or is it a Planning Enabling Act problem or is it a let's-just –

Mr. Mahaffie: I'm just saying –

Mr. Greenwood: By going to – by even watching a little video on Robert's Rules of Order, I saw light bulbs coming on for people to where they said, Hey, we don't have to run that way.

Mr. Mahaffie: I'm just suggesting to the public and yourself of where it's coming from. Where did this start? I kind of feel that there was a reason for it to start. It wasn't something staff just pulled out and said, We're going to do it.

Mr. Greenwood: I didn't think so either. I didn't think so either. It just looked that way.

Mr. Mahaffie: It did. But there was – I was just trying to make it clear that there was several of us, I think, that really felt that way and really kind of _____.

Mr. Greenwood: And I watched you guys on TV and I would say you guys weren't very efficient either, but a lot of these folks here have said they think – they're suspicious – they think there's a takeover going on.

Mr. Mahaffie: I heard. I understand that, but to the public, I mean, they – I don't think they really have been here every night to see how we've really worked and how inefficient, you know, things were at times.

Ms. Ehlers: Well, they were but it's not the Constitution that determines that. It's the management. What bothers me is that 14 – Title 14 – has always come to the Planning Commission. 14.02 and 14.08 were taken to the County Commissioners. So what kind of implication does that have for any other 14, like Betsy's 14 with the Shoreline? You set – precedent is part of the American system. So Title 2, which describes what the Planning Department is supposed to do and the Planning Commission within it, to me makes common sense. And that is something that should be and must be heard by the County Commissioners. That's not our business. It will be the first department ever in Title 2, but that's all right. You have to start somewhere. Dale's list of jobs isn't nearly complete but that can be added to. So that belongs to the County Commissioners. Whether you do something under this law or that law or this Constitution, that is also something that goes to the County Commissioners. But 14.02 and 14.08 – when you're talking about the criteria for making decisions that *is* our responsibility, that's pretty crucial. When you eliminate the bylaws that you worked on so long in 2009 in response to a problem that came up – and I've turned in the article – a response to a problem came up when we did the critical areas ordinance in 2006 and 7, and forty-two changes were made by the County Commissioners in what we – what the Planning Commission

forwarded, and the only change we ever heard about was the one that was in the resolution approving that critical areas ordinance, where it said that the shoreline setback was moved from 50 to 100 feet because the Swinomish Tribe threatened to sue. But the other forty-one changes we still don't know what were made. As a result of that uproar was the process by which you ended up writing the bylaws, 20090532, which I think have an enormous amount of quality in them. You incorporated a lot of the language from the bylaws into this new text. That's fine. You left out the section that we were obligated to be prepared for a meeting. That made me jumpy because I think it's for a year – people in the audience have told me it's been two years that we haven't had materials to talk in front of us before we came to the meeting, and sometimes – this last time – we didn't have it in front of us at the meeting. That is a procedural thing, not a Constitutional thing or a thing that goes in some law or another, but it's crucial.

Mr. Greenwood: Matt – Carol? – do you think this will make this Commission run more efficiently, based upon the way we've run tonight?

Mr. Mahaffie: I don't know. I was just trying to say that it was coming *from* somewhere.

Mr. Greenwood: Okay.

Mr. Mahaffie: It wasn't just something that the Department was trying to spring on people. Obviously the public notice and, you know, having materials and knowing what we were talking about really was an issue. But I just think it was coming from somewhere.

Mr. Greenwood: Right. I could hear from Dale that it really was, and I read a lot of those – that questionnaire. I wasn't queried but...

Mr. Mahaffie: I distinctly – you know, they were good questions the Commissioners asked us. I do remember, you know, staff interviewing us. It was a good, long, hour-plus long interview with staff.

Mr. Walters: Should I address that Title 14 issue?

Ms. Ehlers: Mm-hmm.

Mr. Walters: The Planning Commission, under current code and under the proposed code it doesn't change. The Planning Commission reviews plans and development regulations. So that's a lot and almost all of Title 14, but it's not – it's not – it doesn't have anything to do with a magic number 14. It's not *just* Title 14. It's not *all* of Title 14. So there are things in Title 14 that the Planning Commission won't review. There are things that are outside of Title 14 that the Planning Commission will review. For instance, County road standards. Those aren't in Title 14. Comprehensive Plan's not in Title 14. So the rule is not things that are in Title 14 are things that the Planning Commission reviews. The rule is: Development regulations and Comprehensive Plan amendments are in part what the Planning Commission reviews.

Ms. Ehlers: But I looked at the previous times – 2000 being the notorious one that I'm sure Dave remembers – and we reviewed all of Title 14 in that hearing.

Mr. Walters: During kennels you also reviewed Title 7, which was animal code regulations.

Ms. Ehlers: And we failed miserably.

Mr. Walters: But that was because they went together with the Title 14 development regulations. It was for convenience. It's not because you *had* to review those.

Ms. Ehlers: But look – you're taking away the right to review.

Mr. Greenwood: Carol? Carol.

Chair Lohman: Dale?

Mr. Pernula: I would just like to assure the Planning Commission that the Board of County Commissioners, regardless of whether or not you're required to review this ordinance, is going to listen to any comments that you have to offer to them. So provide whatever you think is important.

Chair Lohman: Do you guys have anything?

Mr. Axthelm: You know, I – just reading through the new – how you're setting up the new code – how do you refer to it? The new ordinance.

Mr. Walters: The proposed ordinance.

Mr. Axthelm: Proposed ordinance. You know, I think to me there's a lot of things that make sense in it, that seem to help us run a lot better as a commission. And I appreciate that but I also – reading through I understand how the public can misunderstand a lot of the things that are stated or could have current concern over a lot of the things that were stated. Because my feeling is that there are a lot of things that seem to take away some of our – not freedoms, but some of the flexibility in it. But I think that helps in some ways, too, because we can't really operate good if – like Robert's Rules, for example. As I've learned a little bit more in Robert's Rules, or as we've used that a little bit better, it's helped our Commission to operate a little smoother. So that's helped, but I think – let's see – it's helped so that we seem to run a lot smoother.

Mr. Walters: One of the questions that's come up is about bylaws. The proposed code makes it clear that you can adopt standing rules, which is what Robert's Rules calls them. But, I mean, they're equivalent to bylaws. You could substitute the word "bylaws" and the Board could end up substituting that word right into the text. But it actually – the

proposed code gives you more freedom, because under the current code you can recommend bylaws to the Board and the Board has to approve them. Under the proposed code the Board doesn't have to approve them. You can adopt them yourself. So I know that has been an item of concern, but I think the text addresses the issue.

Chair Lohman: But when you reread – I think the challenge is is that when you're reading drafts with all of the markups it doesn't read as easily as when you read it in a clean version. So I missed it myself, and so I went back after I read Dale's report and I found it. It *is* in there. We can – the Planning Commission may adopt special rules, which would be our bylaws. And the bylaws kind of get down to the nitty-gritty. The challenge is keeping your bylaws current, and our bylaws weren't current. They were more than ten years _____.

Ms. Ehlers: No. 2009 was –

Chair Lohman: When I first came on.

Ms. Ehlers: When was that?

Chair Lohman: 2009. Because I know I did that onerous task, and then so – but they were old, and that's the challenge. It's the obligation of the Commission then to stay current. If the bylaws are meeting all their needs, then they sign off and say, Okay, we're good to go. You don't have to go through the agony of rewriting them every time, but you need to kind of ring the bell.

But I think maybe it just needs plain language – plainer language – to say that. Because I did look at the resolution from 1961 or whatever year that was – I wasn't even born then! – and it did say that the Planning Commission can write their own rules. So it sounds as if you have a blank check when really you don't because you were following under these other things, these other constraints. So it's not just a blank check – you can do whatever you want – but it does give us additional leeway because we aren't having to take our bylaws or our rules and run them through the County Commissioners and have their ___ and then have them sent back and have that back and forth. We do get to take that step so we do have to have somewhat of our own autonomy within certain other guidelines.

Ms. Ehlers: Mm-hmm.

Mr. Walters: And that's the reason for rescinding the old 1961 resolution – because the resolution says certain things and then the County Code, as existing, says certain other things, and that's one example. The resolution says the Planning Commission can adopt its own bylaws. The County Code says the Planning Commission can adopt its bylaws but they have to be approved by the Board. We don't want to have those conflicting provisions. In the event of a conflict, the later adopted one controls, but we don't want to have the conflicting provisions anyway. So that's the reason that the proposed ordinance would just rescind the old resolution and then restate anything that

needs to be in the code *in the code*, code being better than resolution because you can find it and it's kept up to date.

Chair Lohman: There was one other thing. I saw – and I flagged it myself – the item about staff participation. And I don't want to insult staff and say that we don't care about their input because I think they're a valuable part of our meetings and our ability to function. But I think we need to be very clear they're not a member of the Planning Commission and there is a distinction. And in this, it doesn't say it that way. It creates doubt. So I think maybe if you were to put where you talk about the – maybe there needs to be a duty for staff somewhere, but *not* as a member of the Planning Commission.

Mr. Walters: And as the comment in the margin points out, that rule is recommended by your Robert's Rules trainer that you had last year who writes the column for MRSC.

Chair Lohman: Right, right.

Mr. Walters: And it was either the Chair or Commissioner Greenwood who suggested, I think, that the text say "as recognized by the Chair," to make it clear that the Chair of the Commission is running the meeting –

Mr. Greenwood: Right.

Mr. Walters: – but that the Chair could recognize staff in the event that they have some additional information, something that's important to the Rules of Order or something that's important to how the process is.

Chair Lohman: Well, if we're going off a cliff, we want somebody to stop us.

Mr. Walters: Well, I think that's the idea behind the MRSC parliamentarian's recommendation. It's also basically what we do now. If Dale raises his hand during the meeting, then the Chair recognizes him and he says something. So it's not intended to create anything particularly different. Maybe the addition of that language makes that clear. You know, "as recognized by the Chair."

Mr. Axthelm: Where it wasn't defined before –

Chair Lohman: Right.

Mr. Axthelm: – is what you're saying.

Mr. Walters: Right.

Mr. Axthelm: It wasn't defined.

Mr. Walters: Right, and there were a number of things that weren't previously defined; for instance, last year – or maybe like fifteen months ago – there was a question of, Can you call yourselves another public hearing on a topic, or, Can you extend the public hearing by yourselves. And what we wrote in here is that – to answer that question because at the time I was asked the question and I said, I can't tell you because it's not clear, there's no instruction in the code or in the resolutions on whether or not you can do that. So we wrote in here that you have the ability to extend the public hearing and that you have the explicit ability to request another public hearing. It doesn't give you the explicit ability to *call* another one, but to request one. There're a lot of public notice requirements associated with that. But, you know, that's another example of things that were fleshed out in the draft because they weren't addressed before and they had come up over the past eighteen, twenty-four months or so.

Ms. Ehlers: What you're talking about, Annie and Matt, part of what has happened sometimes is if we're up here and the Chair is as big as Jason is – I remember that February meeting my notes said that those from Jason toward the staff got to say what they wanted to. It was the most frustrating meeting I've ever been at in my life. And part of what – I very much agree with Matt and how badly things have been led sometimes, but that's the Chair of the Commission and there have been times when it was pretty obvious that staff thought that they were leading the Commission instead of the Chair. So what you've done is clarify on that one and that should help a lot of some of the things that used to go on.

But Annie's an entirely different Chair from what we've had in a long time and she's making a huge effort to see all of us, and I think that's crucial.

Mr. Walters: Well, and also I think my sense is that we are all sort of working together – Prosecutor, Planning Department, Planning Commission and Board of Commissioners – to sort of improve things here, because the Planning Commission has, you know, elected a different Chair, has gotten new members, has worked on bylaws, has embraced Robert's Rules. The Planning Department has a new Planning Director, has been working on different seating layouts, different timelines on providing new documents. And the Board has sort of globally instructed that this kind of stuff happen, and the Board has said, you know, These types of things need to occur. Not everything goes into an ordinance; some things can just occur with moving tables; some things can occur with new directions to Planning Department staff; some things happen with just different changes in tone.

But there're a lot of different moving parts here and a lot of these proposals get really complicated and long. I mean, the Shoreline Plan, for instance, is like 200 pages – and getting shorter all the time. And these are difficult things to work through and I think Dale's memo indicates that we all make mistakes sometimes and made some mistakes in this ordinance in that I don't think any of us – me or the Planning Department or even the Board – anticipated that the switch from Planning Enabling Act to Constitutional basis would become a large concern. I mean, I, personally, have no problem advising the Board: You can use the Planning Enabling Act or you can use the Constitution as

your basis for setting up your Planning Commission. Other people have, you know, other concerns about that but that's not something that was anticipated. So I hope that gives some sort of background there.

Ms. Ehlers: So what happens other than – the Planning Enabling Act includes a lot of things, as I remember, beyond the planning commission or establishing the planning department. So what happens to the rest of it?

Mr. Walters: Well, a lot of those provisions are addressed by GMA. The Growth Management Act being adopted in 1990 – you know, thirty years later – adopts a lot of provisions that cover a lot of the stuff that's in the Planning Enabling Act. So we feel like we've captured it all. And, I mean, we can go through it all with you and highlight different provisions and show you how they're all captured, but we think we've done that in this ordinance.

Chair Lohman: Well, the biggest improvement with GMA – if you had to find something nice about GMA – was public participation. It has fairly robust language in GMA about public participation.

Mr. Walters: That's right, and those provisions in this ordinance also address the GMA public participation requirements. And the County already had a public participation – a set of public participation requirements in 14.08 and the intent here was to make them more robust. I think the Planning Commission had repeatedly said – and the Board has embraced the concept of – the Planning Department needs to go to the Planning Commission at the outset of a project – of any particular development regulation project – and say, What is it that *you* think we should do on this topic? I can't remember which ordinance proposal it was in the last couple years – oh, it may have been Miscellaneous Code Amendments, actually – one batch of Miscellaneous Code Amendments – where the Planning Commission really strongly said, You should have provided us options. Do you recall this discussion?

Mr. Axthelm: Mm-hmm. Yes.

Mr. Walters: I think most of you were here at that time.

Mr. Axthelm: I think we were all here – just recently. Like I said, “recently”: I remember it!

Mr. Walters. So the language in the code proposal says that the Department – first of all, the Department has to get permission from the Board of Commissioners to start a development regulation project. And we explained, sort of, before why that's in there: One, so that if any particular County Commissioner wants a project to go forward that they need to get the consent of the Board, put it on the Department's work program, and also evaluate all the projects the Department is working on in terms of resource allocation, time allocation. So the Board wanted that provision and actually the

Department also wanted that provision because it makes sure that everybody is communicating and on the same page with what projects the Department is working on.

Ms. Ehlers: Is that really a new thing, because you've been doing it for five, six years?

Mr. Walters: It hasn't been –

Ms. Ehlers: Codified?

Mr. Walters: Well, it hasn't been codified. It has been kind of the policy because I think the Planning Department has asked for this work program idea, but it hasn't really been required. So this code would require it. And, really, a lot of this is codifying practice and making practice required so that it's the same all the time. So you first get permission from the Board. You get a resolution instructing the Department to work on a development regulation. Then the Department has to create a webpage on their website for each project, describing the statutory constraints – you know, what statutes are involved, which is something Carol has talked about quite a bit – the Department's approach, the Department's description of what the process is going to be – you know, how long this process is going to take, when they expect to reach various milestones. That kind of language is here in the proposal. And the Department has to go to the Planning Commission at that outset, before code is drafted, to get the Planning Commission's feedback on the approach that the Planning Commission thinks that the Department should take to dealing with the development regulation issue. And then the Department is supposed to use that feedback in drafting the proposal and including any options that the Planning Commission talks about in that first initial consultation, so that when a draft comes back to you it includes options that you've identified that are things that are doable that you can choose from. Because you complained about in the past that the Planning Commission gets a draft; sometimes there are timelines, deadlines for Growth Management Hearings Board actions – that kind of thing; statutory requirements for adoption of development regulations. And if you don't have options in the draft that the public is able to comment on, then you have to start the process over if you make a big change and it's not something that the public has already commented about.

Ms. Ehlers: Mm-hmm, that was a good thing.

Mr. Walters: So that's the reason that that option language is in there. And so these several steps that I've described were not in current code and are not currently required but would be required under this ordinance. And it also, you know, immediately after that fleshes out what goes in the Department staff report, how the Department distributes that staff report and the proposal. Currently they publish a legal notice. You read the current code and it says they publish a legal notice. And that works well for Carol but maybe fewer other people who don't read the newspaper as diligently.

Ms. Ehlers: Carol got scared stiff back in 1987 when she discovered that if you had a legal notice in that paper that governed you and you didn't know about it, forever hold your peace.

Mr. Walters: So the additional requirement that is not in current code – the new, additional requirement on the Department is that they publicize anything that goes out in legal notices, but also more than that: the listserve and add it to the project page on the website. So there's a place for a) people to go and get the documents later, but b) also get notice, if they're signed up on the listserve. So it doesn't eliminate any of the current notice requirements. It does add electronic notice requirements that are free to the Department to use, don't cost the Department any money but dramatically expand the availability notice to people that are interested. And then it fleshes out what goes in your recorded motion, and then it fleshes out – it actually – it takes, I think, three different sections of text on how the Board deals with your recommendation and the proposal when it gets to the Board and condenses them. Now we got a least a couple of comments on, you know, how it condenses them and you may want to take a look at the clean copy ordinance, rather than the strikethrough, to see how it condenses them. But the gist of how that works is simply that we deleted text that was duplicative. I mean, there was a list of five options the Board had and then in the next section the same list again, which is not necessary to repeat, so we just reworded it so it's shorter.

The gist of how it works is the Board receives your recommendation. If your recommendation is different from what the public has seen in a substantial way, then the Board has to take more public comment on it. They have a couple different ways to do that. They can do a written comment period, they can have another public hearing, they can send it back to the Planning Commission to have the Planning Commission do a written comment period and public hearing. That isn't different than what they have available to them now; the text is just shorter. But that's the general concept. The public has to be able to comment on the development regulation, plan or plan amendment. You make a recommendation. If the Board wants to adopt something that is different than the initial version released for public comment, then there needs to be another opportunity for public comment before the Board adopts it.

So that part of it was already in code but it's shorter. But those other things that I talked about, those are new requirements on the Department and on the process to expand public participation.

Chair Lohman: Matt? Matt, then Josh.

Mr. Mahaffie: I have two comments _____. I had second thoughts about appointing a new member and putting a time limit on it. First, I mean, we went for a year, give or take, without having a seat filled. Albeit, it sounds great to, you know, kind of force the hand; on the other hand, Commissioner Greenwood, I think, was worth waiting for to get a forester – a true forester – on our board. I don't know how I feel about putting a strict time limit. I mean, if Dave or Annie were gone and we didn't have any ag representative and none wanted to volunteer the first posting, I mean is that something that we really want to force on the Commission? I was really kind of having second thoughts about that. We have a unique county with how we're trying to balance and the

Commissioners have been pretty good, I think, about trying to balance this Commission with different walks of life.

Mr. Walters: Well, and we drafted that at the request of individual Commissioners. If the Board meets and decides they don't want that provision, then we can very easily take that section out, but it's harder if you don't see the section drafted so we drafted that section because they wanted to look at that.

The other thing that I think addresses that is the three-year term and regular term end date and regular advertising. You're advertising every year. If someone comes in and they say they want to be on the Planning Commission, they're looking for opportunities to participate in local government, then the Clerk of the Board can say, Well, there's an advertised – there's a position coming up in every district every year. So you know when you need to apply and it's a regular, standardized thing. That's –

Chair Lohman: It's still a Commissioner's appointment.

Mr. Walters: It is.

Chair Lohman: I mean they can accept or reject.

Mr. Walters: But it's not a mystery as to how people can apply. Because right now they may or may not advertise a position if there's already somebody in the position. In this ordinance they always advertise, always getting a list of names coming in, and they can make the decision at the time that they make the decision but they're always getting that feedback and advertising and awareness that there are positions open.

Mr. Greenwood: I think Josh was next, Carol.

Mr. Axthelm: You had mentioned something a little bit ago – I think it was the pipeline or – I believe it was the pipeline situation, where I felt the letter that went to the Commission for the Commissioners wasn't the same as what we had decided on in our Planning Commission meeting. So –

Mr. Walters: The letter?

Mr. Axthelm: Yeah, the –

Mr. Walters: The recorded motion?

Mr. Axthelm: Yeah. Exactly. I'm not current on terminology! The recorded motion. So I didn't feel like it was the same thing as what we'd said.

Mr. Walters: I think on pipeline you recommended just not adoption, so I assume your recorded motion reflected not adoption.

Mr. Axthelm: Okay.

Mr. Walters: But your recorded motions are signed by the Chair of the Commission. Now something that's not addressed in here is the thing that we have played with a couple of different times where we'll draft the recorded motion at the podium for you so you can see it as it comes together. But we don't always do that and sometimes it's more complicated than others. That issue is not addressed here at all. It could be but –

Ms. Ehlers: It should be because there have been so many times when somebody's motion didn't come to the Commissioners as it turned out – I mean, what you move and what you second isn't what comes. And what you have done, Ryan, when you stand up there and you take our words and you put it in there so we know exactly what's going that has been the most significant change in our behavior in all the years I've been here. Because again and again a motion that one of us would make turned out to be vastly different when staff was finished with it. Sometimes the opposite.

Mr. Axthelm: That's what my question is. Does this address that?

Chair Lohman: Yes.

Ms. Ehlers: Yes, it does and I liked it.

Chair Lohman: It says, "Signatures of the Chair and Secretary attesting that this recorded motion reflects the Planning Commission's decision..."

Mr. Walters: Well, I think the signatures were already required. The process is not addressed in here.

Ms. Ehlers: And it should be.

Mr. Walters: We have done this a couple of different times. I guess mainly only I have done this.

Ms. Ehlers: And some other staff are less comfortable writing on the fly and typing on the fly at the podium. I've been an advocate for some of this because the alternative method where nine Commissioners say various things and then staff watched the video and typed what they said into the motion I think is problematic because four of you could have said various things and the majority doesn't agree with those things that you said. So I have felt that that's problematic. But I don't know of another way other than typing it in the meeting.

Chair Lohman: I think it needs to be flexible because certain things are going to be easier to do.

Mr. Walters: Well, and that's why it's not in here: to keep it flexible.

Chair Lohman: I think the Planning Commission as a body needs that flexibility. If we feel that we need Ryan or somebody like you, or somebody from Dale's staff to stand there and do that –

Mr. Walters: Dale doesn't type very well.

Chair Lohman: Well, neither do I!

Mr. Axthelm: So could we handle that by a motion to say, Let's – if you want this proposed, that you write that draft up – on a certain issue – and then we take a vote on it and if we don't all vote on a majority then it doesn't happen.

Chair Lohman: Matt.

Mr. Mahaffie: A different subject.

Ms. Ehlers: Well, let's stick to –

Mr. Walters: One more comment, maybe, on that: On your Comprehensive Plan Amendments – your 2011 Comprehensive Plan Amendments – that recorded motion ended up being really long, and the ones where we've done them at the podium are much shorter. The 2011 recorded motion included maps and descriptions of every proposal. Let's not say it's impossible, but sometimes it would be harder to do than other times.

Ms. Ehlers: Well, do think of a way of doing it because that has been for me personally the greatest source of distrust in how this government operates.

Chair Lohman: Matt. Carol, let Matt speak.

Mr. Mahaffie: Final comment from me anyway. I'm a very, very big proponent of the education requirements; however, I was just kind of wondering if maybe there should be a sunset provision in there. Dave and Carol have been here, I think, long enough that perhaps after you're into your third term maybe you don't need to do further education; however, your first couple terms of a Short Course on Planning is – what's that?

Mr. Hughes: You're putting us out to pasture?

Mr. Greenwood: Is that a sunset or a grandfathering or what?

Mr. Mahaffie: I mean, how many times can you go to the Short Course on Local Planning?

Ms. Ehlers: Oh, goodness! That isn't what it ought to be. You're right. But when I was on the Commission I didn't know a thing about forestry. I realized that two sides were

telling us totally different stories and I didn't know which one was lying. One of them had to be.

Mr. Greenwood: You ought to listen to me. I'll tell you.

Ms. Ehlers: Well, this is a long time ago. And so I went to Colorado to a forestry seminar put on by *that* university because I soon learned that you couldn't trust *this* university. I've gone to session after session that the Beachwatchers put out to learn about geology and geomorphology and things that I don't know. I think the trouble is the word "education." A lot of people think education is taking a course and, gosh, that's not what you need. But to learn – and phrase this differently – but to learn more about those aspects of the Planning Commission responsibility than what you already know, because no matter how much you know when you come in here I don't think you begin to know. And I remember one time in 2002 as I was looking through my agenda I have a note on the agenda, "We're all using words and none of us mean the same thing by them."

Ms. Nakis: Right. I like that one letter that came in that said we need a Definitions – you know, something to hand out so we all are run by the same definitions of words.

Ms. Ehlers: There's only three minutes. Can I bring up something huge? With this public participation reform and 14.08 only deals with big things, you're only going to give us ten days to respond – the Planning Commission or the public – to respond to something like that Shoreline thing? Please put in it – this is 14.08, not 14.06; 14.06 is the little stuff. Ten days is probably fine. But for anything like large amounts of codes or a significant code like this or any Comp Plan or Comp Plan Amendment, recognize that most people have another life and they need time to think and read, and a month is really crucial.

Mr. Walters: The proposed code reads there's a 14-day comment period: "A written comment period must last at least 14 days. A public hearing has to be advertised at least 10 days prior and there has to be a consolidated end date." That was another question that's come up frequently: When does the comment period continue if there's also a scheduled public hearing? So this addresses that question. "A written comment period, when offered concurrent with advertising of a public hearing, has to have the same end-date as the public hearing."

Ms. Ehlers: That's fine.

Mr. Walters: Which means that, in effect, all public hearings can probably be advertised 14 days ahead of time because you have a 14-day comment period. There is a line in the proposal that says a longer comment period should be considered for more significant projects. We didn't flesh that out further – although we could – but we didn't flesh it out further because what are the thresholds? But if we could come up with some thresholds you could write that in there.

Ms. Ehlers: Everything in 14.08 is significant. So just put in 30 days.

Mr. Walters: Just – well, we could replace just the 14 with 30.

Ms. Ehlers: Yes. And don't do it over Christmas.

Chair Lohman: Wait. Matt? Or Josh – sorry.

Mr. Axthelm: No, I have a suggestion with that one. Is it 14 – put it in for 14 days, but is there a potential of coming to that point and extending that? Because you'll know after that 14 days, if it's pretty significant, that you want more comment in.

Mr. Walters: And there's a provision in here that allows the Planning Commission to continue a public hearing and – for instance, on this proposal itself the Board extended the comment period by an additional two weeks. But we could also just write in a default 30-day comment period – or at least for the initial comment period. Because, as I mentioned before, if you have a change you have to have another comment period, so does that mean the second comment period is also 30 days or can it be shorter?

Ms. Ehlers: It can be shorter.

Mr. Walters: So there's those questions. We have had ordinances that are only a single line long, like the wetland mitigation bank on ag land –

Ms. Ehlers: Well, that was pretty dynamic.

Mr. Walters: – ordinance. So do we want to require a 30-day for even ___ short? Those are all _____.

Mr. Axthelm: That's why I was suggesting the 14 days. Because, to me, that if you have a 14-day then if you have something that needs to get through, you can get it through if there's no big comments on it. But if there's some big comments on it then you say, Okay, we've received several comments here. Do we need to get some more?

Mr. Walters: Well, and we could say just like the –

Chair Lohman: Could you – maybe Matt has an idea.

Mr. Mahaffie: Well, I just wanted to reiterate kind of to Josh that we've had things with deadlines sometimes that 30 days is too long.

Chair Lohman: I think it all hinges on staying cognizant of what the calendar is. So that's going to be between the Department and the Commissioners and the Planning Commission. We're all going to have to know what the timeline is and we're all going to have to keep up to speed with regular updates on what that timeline is because we may

not be able to extend the hearing. We may not be able to have those luxuries that you're trying to capture.

Ms. Ehlers: Yes, that's true, but I've been through hell two times this last year because of the 14 days. So you sweat blood trying to get the essential stuff in and then you've gotten another 14 days. If you'd had the 30 to start with, then you could do what we did twenty-five years ago when we were given 30 days and actually think our way through a problem and in a balanced way and find the ins and outs and analyze it without ending up with a stroke.

Mr. Walters: Well, and we could write the various different sentences that say the default is 30; you can choose 14 if it's minor – something like that.

Ms. Ehlers: That would work. Because no one's going to be – the way this is written, the Planning Commission gets the copy at the same time that the public gets it.

Mr. Walters: Correct.

Ms. Ehlers: Now that's what they did to us in 1999. In 1997 when we did the Comp Plan, there were citizens advisory committees that did the various sections – lots of people, so there must have been a hundred people involved in the various sections. It was then put together in the Comp Plan. It came to the Planning Commission in November. We looked at it. There was a hearing. It went through a process, then there was another iteration of it in April. In April there was only 12 days because everybody had already been through the thing. And that ended up with a process that was satisfying to the public and to us, and it was quite efficient. But it's these huge things like Betsy's stuck with.

Chair Lohman: Carol, let Keith –

Mr. Greenwood: Can I just ask? This'll help me focus a little bit better on what my task is. Are we convinced that we can't do all the things that we just talked about without passing something like this or a revised format? Can we not do all the things that you guys have talked about pertaining to efficiencies and timelines and things like that unless we pass this, or something like it? Because if that's the case then we need to – I want to work harder on getting the right language and all the right words in there and take as much time as it takes to make sure it's fleshed out. I'm convinced it'll be – unfortunately, you know, code gets – tends to get bigger rather than smaller, and every time I try and make it smaller it tends to get bigger again.

Mr. Walters: Well, I work hard at keeping it small.

Mr. Greenwood: I usually do.

Mr. Walters: But the – my sense is the Board wants to adopt something to do the things that they want to do, and they're open to a variety of different changes and a variety of

different approaches. Some of the things that we've talked about – well, I mean, as we've described – some of the things that we've talked about Dale can just do, as Department Director, but if you want code requirements on what Dale or the Department can do, well, then they need to be in the code. You need to adopt the code.

Mr. Greenwood: But if it makes sense and Dale's doing it we can kind of do it already. And then when it doesn't make sense then Dale doesn't have to do it.

Chair Lohman: Dale?

Mr. Pernula: Apparently the point is, though, that as of a year-and-a-half ago or so there were many, many times when those things weren't being done. So why not codify them and have it readily a reference and required to have a certain amount of notice, required to have a certain amount of time for the Planning Commission to review the materials, et cetera?

Ms. Ehlers: We already have the 10-day notice. There's a lot of this stuff that's already in the code.

Mr. Pernula: Sure.

Mr. Greenwood: And the bylaws already talk about Robert's Rules of Order, plus a shortened methodology in their conduction of business, and they kind of describe how to do this motion and that motion. Just because we didn't do it doesn't mean we didn't have the means to do it.

Chair Lohman: There was a mistake. I think there's a mistake, though, in here, if we could get into the weeds and the technical. You talked about taking additional comments, and it's in the Deliberations section. A public hearing is closed at that point and I question whether when you solicit for additional comments it leaves you wide open to, Well, are you getting comments or are you getting technical information? I think we're allowed to get technical information or a definition. I know, Carol, you're going to say the puppy mill, but I think that that was a staff error. But I think that the Commission, if it's already in the record or if it's at-large, readily available information I think we can get it. But I think what's questionable is you've got it in Deliberations and that's almost too late.

Ms. Ehlers: Yes.

Mr. Walters: So we can strike or amend that section. I think you're talking about ability to ask follow-up questions under deliberations.

Chair Lohman: Well, I think the writing, the words that you put in there, are problematic.

Mr. Walters: The reason we put them in there is because the Planning Commission has asked on numerous occasions about being able to ask follow-up questions. That wasn't previously addressed, so we made it clear by adding a sentence that you can. Now if you think that's problematic or if you don't want the ability to ask follow-up questions – it's not supposed to be an invitation to give additional comments. It's supposed to be – it says the Planning Commission may ask follow-up questions. So it's not asking somebody to come up and just start testifying again but –

Chair Lohman: I just want to make sure that the words reflect what you – your narrative. That they really are not an elaboration of somebody's testimony, that it really is a fact-finding, kind of –

Ms. Ehlers: That's a good word, Annie.

Mr. Walters: Well, maybe an additional sentence would clarify that?

Chair Lohman: Something.

Ms. Ehlers: Fact-finding would be a good way of putting it.

Chair Lohman: Because I think that it *is* our responsibility if we need a clarification on something – and it could be something real technical where we – somebody's got – but the challenge is – and I wrote it in my comments – is that that person or the person that could answer the question may not be available at the hearing and they may not be available at our deliberations, but we need to be able to get the feedback in order to maybe make a decision.

Mr. Hughes: Maybe there's a reason they weren't there. Maybe they didn't want to be there. It's happened.

Ms. Ehlers: Yes, it has. I would like the right to ask questions during the hearing.

Chair Lohman: You have it but you have to wait till they're done talking.

Ms. Ehlers: Well, that makes sense but it's not clear in here that we have it.

Mr. Walters: Immediately after the person testifies, you mean?

Ms. Ehlers: Yes. You should be able – if someone testifies, you should be able to say, I'm not sure about that. How do you define it or –

Chair Lohman: But how much do you put in the –

Mr. Hughes: The Chair should have the discretion to keep the public hearing moving along, too.

Ms. Ehlers: That's true, but it's a good way of finding out something –

Mr. Walters: (unintelligible)

Ms. Ehlers: Well, in a timely fashion.

Chair Lohman: But you don't want the Planning Commission to become co-testifiers. You're taking testimony and you might ask a question, but you don't want to become –

Mr. Walters: Well, and this particular sentence might actually be something better suited for your own rules rather than in the code, because I don't think that the Board really cares whether you ask follow-up questions or not. It's just what suits you. So maybe this section – that paragraph (b) – shouldn't be in the code at all. It can just be addressed in your rules.

Ms. Ehlers: That could work. The very first hearing I ever heard, two senators asked questions that changed the direction of the whole thing.

Mr. Walters: Well, and that is the one problematic thing. If you're having a public hearing you've got to give – I mean, if you're having a public hearing you've got to give the person their equal time to provide their comments unless they're, you know, out of order. So you shouldn't be interrupting them during their comments.

Ms. Ehlers: They didn't interrupt. They waited until he was finished.

Mr. Walters: Okay.

Chair Lohman: Okay, is there anything on this topic from the Planning Commission?

Ms. Ehlers: Well, for tonight.

Mr. Walters: So at this point you, I think, should decide what you want to do. I might suggest that we bring back to you new text with several of these things changed, although we don't have complete direction on each one. But we could include brackets and that kind of thing. We can get that out to you in a week, have it on the website. Everybody could see it and then you could talk about it again at your next meeting, if that's what you want to do.

Ms. Nakis: I think it would be good.

Mr. Axthelm: Mm-hmm.

Ms. Nakis: We would have another opportunity to go through it.

Chair Lohman: Well, you've gotten an awful lot of feedback, an awful lot of comments from Commissioners.

Mr. Axthelm: I think with a lot of the public comment, my feeling is like – from the public I've seen a lot of things that I would like to look at it again, and – based on what they saw – and then comment again.

Ms. Nakis: I think that the public comment was – maybe some of the negative portions of that public comment had to do with the fact that this wasn't initially brought up at a Planning Commission meeting.

Ms. Ehlers: Mm-hmm.

Ms. Nakis: Right? And so some of – I really felt like some of these people were defending us. Like, What – you know, What are you doing? When we have written our own bylaws in the past, they've seen that process in the past. They've seen how we've operated in years past and then all of a sudden this new ordinance comes along and it doesn't *look* like we had any input at all.

Ms. Ehlers: I've addressed that, too.

Chair Lohman: Anything else on this from the Planning Commission?

(silence)

Chair Lohman: Okay.

Mr. Axthelm: Do we need to have a motion on it then?

Chair Lohman: I don't think so.

Mr. Walters: You can if you want, or we can do that.

Ms. Ehlers: I don't think we need to, do we?

Chair Lohman: I don't think we need to.

Mr. Walters: Do you have any additional –

Chair Lohman: Okay, Josh –

Mr. Walters: I have a question first. Do you have any additional input on the format of the presentation? Because we have current –

Ms. Ehlers: Oh, yes.

Mr. Walters: Maybe this is a foolish invitation, but we had – we currently have on the website a strikethrough version – this one with the red marks and the comments.

There's also a clean copy with no comments, which means the text is bigger. It spans the page. But then you don't have the comments and you don't have the strikethrough, but you also have the whole other document that also has that. We've also heard comments that red isn't a good color.

Ms. Ehlers: It isn't.

Mr. Walters: And Word has the ability to mark strikethrough in a different color than additions, so we can do those things. We can do different colors. If you have any comment on that, you could include that in your motion.

Ms. Ehlers: Well, you don't want to –

Mr. Walters: Or provide it to me separately later.

Ms. Ehlers: – ___ the motion isn't too long.

Chair Lohman: No. I'm going to do the Chairman's thing and say, you know, I'm sorry but that comes down to your own computer and you have the option when you get it on your computer of changing that. I don't want to get into the weeds on whether the text is – on a draft – is red or blue or purple because then you're going to have the people that can't read blue and the people that can't read green and then – you're not going to be able to please everybody and, I'm sorry, I just – I think it's really generous of the County to have the strikethrough version where it's clean and the ugly drafting version. I think that's enough.

Ms. Ehlers: It is enough, but you cannot expect the people in this county to all have an office and fancy computers and being on cable and the rest of it. But, Ryan, if you have the strikethrough copy, red and whatever other colors you've got, and then you have a clean copy, all of us who have any computer at all could print off the clean copy, put it on the table, and look between what's on the screen and what's on the table. And that is the way a lot of people – older folks – operate. And that would give you the best of both worlds. And if you don't use that stupid paper the Commissioners use that has "proposed" written under it or "draft" written under it at a cross-section –

Mr. Walters: We'll remove the watermark.

Ms. Ehlers: – that just – that's expensive and drives everyone's astigmatism crazy. Do what you finally did and it'll work.

Chair Lohman: You can kind of adjust the transparency on that watermark.

Mr. Walters: We'll just take it out and put it in a header.

Chair Lohman: But you need to put it on the footer and the header then – on each page.

Ms. Ehlers: Yes, putting it on the header was first rate.

Mr. Axthelm: So the motion.

Chair Lohman: Okay – Josh.

Mr. Axthelm: I motion that you take the information that we've given you today and to bring that back to us with some comments or change, and then we have an opportunity in the next meeting to re-review this document.

Ms. Ehlers: You don't want the other comments that people have turned in to be looked at?

Mr. Axthelm: Yes, that can be incorporated as well.

Chair Lohman: Okay, can you say that again for me?

Mr. Axthelm: If I could repeat it exactly!

Chair Lohman: This is what I have: I have "Take the PC feedback and the public."

Mr. Axthelm: Take our feedback and the public feedback, incorporate it into the document, and bring it back to us so we can look at it again.

Ms. Ehlers: I can second that.

Chair Lohman: Okay. I have a motion by Josh and a second by Carol to take the Planning Commission feedback and the public feedback to the Board of County Commissioners and incorporate that information into the document and then bring it back to the Planning Commission.

Ms. Ehlers: Do you want it to go to the Commissioners?

Mr. Axthelm: No, I'm going to forward it to the Commissioners.

Chair Lohman: Oh, back to us?

Mr. Axthelm: Just bring it back to us before it goes to the Commissioners.

Ms. Ehlers: Bring it back to us.

Chair Lohman: Okay, take the Planning Commission feedback and the public feedback, incorporate it into the document, and bring it back to the Planning Commission.

Ms. Ehlers: Mm-hmm.

Mr. Axthelm: At the next meeting.

Chair Lohman: At next meeting.

Mr. Axthelm: So that would need a second.

Chair Lohman: Okay.

Ms. Ehlers: Oh, well, I'll second that if you can get it done by the next meeting.

Chair Lohman: Okay, let me repeat just because.

Ms. Ehlers: And if you could – well no; wait a minute – if he can get it done in three weeks because, you see, we want it a week before the next meeting.

Mr. Walters: That's right. We'll endeavor to give you more than a week. Your next meeting would assumedly be March 5th?

Chair Lohman: Yep.

Ms. Ehlers: Well, does Betsy need it?

Mr. Walters: Betsy's still here.

Betsy Stevenson: (inaudible)

Ms. Ehlers: You need to do Aquaculture in March?

Ms. Stevenson: We hope to have it to you on the 5th of March.

Chair Lohman: Dale.

Mr. Pernula: We will work on both of these items. If Aquaculture's ready to go a week before the 5th, we'll go with Aquaculture. We may not have enough time to do this. We can either put it on the next meeting or at a special meeting a week or two after that one, whichever is your favorite.

Ms. Ehlers: Okay.

Mr. Axthelm: That sounds good.

Ms. Ehlers: Well, then that depends on how it works out in time.

Mr. Pernula: Right.

Mr. Axthelm: It sounds good.

Ms. Ehlers: When you do the Aquaculture map, Betsy, put – find the NOAA map of the San Juan Islands chart so that we can all see what the shoreline and the shore lands look like.

Chair Lohman: Carol, let's stay on task because we have a live motion on the floor.

Ms. Ehlers: You're right.

Chair Lohman: Okay, the motion is to take the Planning Commission feedback and the public feedback and incorporate it into a document and then bring it back to the Planning Commission at the next meeting, which will be the March meeting, if there is room on the agenda – correct? – or at a special meeting.

Mr. Axthelm: So put it on the end of the agenda. If the other item goes long, then we have to wait till a special meeting.

Chair Lohman: Dale.

Mr. Pernula: I think I'll take a look at the material, see how much is there, and if it looks like, you know, it's going to take an hour or less I'll put it on – this – on the agenda. If not, I'll see if we can schedule a special meeting in a couple of weeks after that.

Mr. Greenwood: Can I ask why we're giving them a timeframe? Do we need –

Chair Lohman: That's *our* timeframe.

Mr. Greenwood: I know. We're giving them a work list of you've-got-to-get-it-done-by-such-and-such-a-time. *When it's ready* they could bring it to us. Wouldn't you think that would be appropriate, Josh, to amend your motion? When they're ready to bring it back to us?

Mr. Axthelm: Sure.

Chair Lohman: Is it – well, this is discussion.

Mr. Walters: I don't think it will be a problem to put it on your March agenda – in terms of preparing the document.

Chair Lohman: Well, if it doesn't look like it's ready in March you can let us know that.

Mr. Pernula: Well, I'll let you know.

Mr. Axthelm: Well, that'll be on the – it'll be on the agenda if that's –

Mr. Pernula: I committed to talking to the Chair and setting up the agenda in advance.

Chair Lohman: Right. So, any more discussion?

(silence)

Chair Lohman: Okay, let's vote. All those in favor, say "aye."

Ms. Ehlers, Ms. Nakis, Mr. Axthelm, Mr. Hughes, Mr. Mahaffie and Mr. Greenwood: Aye.

Chair Lohman: Aye. All those opposed, say "no."

(silence)

Chair Lohman: Okay, the motion passed. Okay, moving on on the agenda: We've got it scheduled for public comment, and because we are funning really long and we want to still get to the Planning Department Update, I would like to just limit everybody to one minute, please. And you need to come up here and say your name and where you live. So if you could kind of queue up, that would be great.

Mr. Axthelm: Could we ask how many people want to comment by a raise of hands?

Chair Lohman: How many people wanted to speak? Four?

Mr. Axthelm: Do you think that we can give them the full three minutes with four people?

Mr. Greenwood: Sure.

Chair Lohman: I think one minute because it's almost nine-thirty and we still have some things on the agenda.

Mr. Axthelm: Okay.

Chair Lohman: I would like to remind the public that this is not an open record so we are not – this is not a public hearing so you're going to be recorded but it's not going to become part of the record and it's not – you're not going to be making standing, or gaining standing. So go ahead, Ed.

Ed Stauffer: Ed Stauffer, Box 114, Bow. Congratulations – progress. After two years of coming to Planning Commission meetings and hearing what I thought were your major concerns, number one was a meeting where staff did not present you with the material upon which you were to deliberate until the morning or the afternoon of the hearing. Tonight we hear for the first time that our new Planning Director has responded to that need – the first time I heard it expressed was a year-and-a-half ago –

a week ago and gave you a week's notice. Very good. Nicely done, Mr. Pernula. Thank you. Please continue.

Number two: The agenda. The agenda needs to be determined and controlled under due process by the Chair. Thank you, Director Pernula, for consulting ahead of time before altering the agenda. This is another matter of progress. It has not happened in the past.

Number three: Called into work session at a round table to improve communications. Very good. Improvement. One minute at the end of an issue like this for comment from the public is not adequate, even if we are sitting where we can see people. On July 2011, we hear for the first time tonight, the County Administrator approached the members of the Commission and asked questions. We have – the public has never been aware of this. We've seen no list or publication of the results at all of those interviews.

Mr. Axthelm: I think it's past time.

Mr. Stauffer: On January 31st, 2012 – a year ago –

Chair Lohman: I'm sorry, Ed. I think you ran out of time.

Mr. Stauffer: Do you think this is doing a good job of due process?

Chair Lohman: The next person?

George Wolner: George Wolner, 1641 Highway 9, Sedro-Woolley. I think it's really good what happened here tonight – this kind of forum – and I go along 100% with Carol on the earlier you can get public input and get the feedback from the Commissioners at that moment that the public comment is made, it's good interaction and it'll serve on the long haul to get your decisions made in a timely fashion, as opposed to just listening (and) not replying to the public at the time they make a comment. And it just prolongs the process because we don't know what you're thinking, what you're going to do, et cetera. And it's good that the public gets a good feel from where you folks are headed and it'll eliminate a lot of negativism. And I'll testify to that myself. Thank you very much.

Chair Lohman: Thank you very much.

Roger Mitchell: Madame Chairman, Planning Commissioners, I thank you for the opportunity to share my opinions and comments. I had more to say but a minute is absolutely not enough.

Citizens generally feel that the Planning Commission listens to us – that may not be true tonight – and represents us when other parts of the County government do not. Thank you for the critically important work you do for our community.

As a point of order on what was discussed tonight, if there's going to be new language drafted, when do citizens get to see that and comment on it? That was never brought up in any of this discussion. The citizens obviously care about this particular issue. It's very clear, I think, from all the public comments they absolutely oppose the proposed ordinance.

On a different topic, many of us are just getting up to speed on TDRs. From what I've seen, TDRs are essentially a Ponzi scheme and should be avoided by this county. I trust this is not another scheme involving a grant with oppressive strings attached. Thank you.

Chair Lohman: Thank you very much. Kathy?

Kathy Mitchell: Kathy Mitchell, Bow. Thanks for the time. I have been here for two years watching what's been going on as well, and a lot of the stuff in detail. And, in short, considering this proposed ordinance and the discussions tonight, I'd like everybody to think and pay attention to the fact that most of the discussion that went on tonight was about style and management, not code. That's easily handled, and I think Keith brought this up and Carol did and a couple of the others. Almost everything that was discussed tonight that's been a problem in the past has nothing, absolutely nothing to do with code or law. It has to do with management and administrative-type tasks or control. That is leadership. Dale, thank you for doing what you've done so far. It's been miraculous in just a week. Knowing you can do that much this fast is very important. Annie, since she's been Chairman, has been running this by Robert's Rules – so much better, so much better for everybody concerned. Please continue to think about that as you look at this ordinance because the ordinance itself – I still oppose the idea because I do not believe that you need it. You can already do this by administrative and Robert's Rules rather than ditching the basic code that you've been going by for a long time. So please do consider that as it comes along. And I do think the public needs to know if –

Mr. Axthelm: Time.

Ms. Mitchell: – we're going to be able to see this and have comments to it, please.

Chair Lohman: Thank you very much.

Mr. Axthelm: Thank you.

Chair Lohman: Anybody else for public comment?

(silence)

Chair Lohman: Okay, the next item is Department Update, and when Dale and I were going over this agenda this is where staff's going to update us and keep us apprised on the calendar and the work plan and just those sort of things. Dale?

Mr. Pernula: I'll have more about the work plan in the future, but right now I'll just mention a few things. First of all, on the TDR I think you guys were brought up to speed as to where it's at. Also the draft Shoreline Master Program has been submitted to the Department of Ecology and it's available online if you want to take a look at it. So it's out. It does not include the Aquaculture portion of it. There is a meeting scheduled right now – and we hope it goes ahead – for February 21st to work on that Aquaculture section, and it will come back to the next meeting of the Planning Commission tentatively in March.

Chair Lohman: That Aquaculture, is that just that subcommittee or the entire Shoreline Committee? Your February Aquaculture meeting? Sorry, Betsy.

Ms. Stevenson: Yeah, the tentative schedule for the 21st, that would be for the whole Advisory Committee so that you get a recommendation from the whole committee before.

Chair Lohman: Okay. Sorry, Dale.

Ms. Ehlers: Is this the time I can make my comment about –

Chair Lohman: No.

Mr. Axthelm: You continue.

Mr. Pernula: Let me finish up first. One of the questions that came up a few minutes ago was regarding the process of interviewing Planning Commission members. It was at the direction of the County Administrator. It was actually done by the Planning staff back in 2011. It wasn't done by the County Administrator.

Then also there is a concern about when the draft will be viewable by the public. As soon as it's ready and out to the Planning Commission, we will also put it online so it will be available to the public well in advance of the next meeting if it's on the agenda.

Mr. Walters: I think the Board of Commissioners today also said that they would offer a – is it today? I think – would offer another public comment or public hearing or something before they would move forward with it. So there will be some additional public comment – a formal comment period – but I don't know when that will be yet.

Mr. Axthelm: Good. Thank you.

Mr. Pernula: That's all I have.

Chair Lohman: Is it about the __ update?

Ms. Ehlers: It's about the Aquaculture.

Chair Lohman: Okay. I guess there's another question directed to you, Betsy.

Ms. Ehlers: Betsy, do you remember that NOAA map I showed you that has – it's fairly new and it shows the shorelines? It has the mud flats and the – in green – and the shallower area in blue and the deep water in white. It would be crucial for our understanding of the kinds of aquaculture that's proposed for various areas if we could see it. That map, I understand, is digitally available from NOAA, which means if you put it on the website digitally people wouldn't have to have a huge computer capacity in order to open it up and see it. And that, I think, would make a big difference in public understanding and perception of what this aquaculture discussion might mean for people who lived in certain areas. There's a huge difference, I have learned, between what is scanned – which takes up enormous amounts of space, and many of us can't download if it's big enough – or digital, which doesn't. And so since it *is* digitally available, please provide that so people can use it.

Mr. Walters: That might be another update, the digital update. The Shoreline Plan is, I think, only 1.5 megabytes. It's 200 pages but it's only 1.5 megabytes and there's – when you open it up, there are bookmarks and you can jump to any individual section in it, so it's hopefully a little more user-friendly. There's also a table of contents and if you click on any item in the table of contents it'll jump to that section. And then the Planning Commission webpage is now at skagitcounty.net/planningcommission, so there's a faster way to get to it if you just type in “skagitcounty.net/planningcommission.”

Ms. Ehlers: Is there – what's the status of that inventory? You know, that's almost as big as the Shoreline Plan. Is there going to be any opportunity for anybody to make sure it's accurate for their reach?

Ms. Stevenson: The Inventory Analysis and Characterization Report?

Ms. Ehlers: You call it “the Analysis.”

Ms. Stevenson: It's in draft form until it's finalized. If you have comments that you want to make and you want to have – you know, we've talked about some of the things that you've asked for, we could do that. You need to make it fairly clear what you're asking for and it needs to make sense based on the work that was done to come up with what's in there and how it was developed and all of those things.

Ms. Ehlers: It is online. It's going to be the basis on which all the decisions to restore are going to be made and all the issues that will be brought up that the public might find expensive. You know what I think of the reference section. What kind of opportunity is going to be provided for the public to look at that document and say, This is not accurate from my reach? And that's a very specific term for a very specific area of the

shoreline. It seems to me like it's a difference – it's the basis on which these policies and code are made, but it's the basis also on which they're going to be implemented for each of these individual people's shoreline. You'd better think about that one.

Mr. Greenwood: Are we talking aquaculture now or what?

Chair Lohman: She wants to know – no, the inventory.

Ms. Stevenson: It's been online, it's been posted since it was made available.

Ms. Ehlers: But we've never had –

Ms. Stevenson: People can comment on it up until the time it's finalized, which is at the end of the process.

Ms. Ehlers: No, it is *not* understood that people can comment. The comment period ended the 29th of June.

Ms. Stevenson: No, that was for the draft SMP. That wasn't for the Analysis Report.

Ms. Ehlers: That's all anybody knows about. I spent an afternoon trying to explain to people what it was and that's all they knew about, so there's a communication gap.

Ms. Stevenson: It's more of a technical document, so we would love to hear from landowners who have seen things in there that they feel are a mistake, or would like to share some information that they have, because people didn't necessarily go out and visit every property and every site with that. We will be going out for open houses again as we did in the beginning with the visioning process as soon as we get comments back from the Department of Ecology on this draft. Can I finish, please?

Ms. Ehlers: Don't ever bring a group of people to Fidalgo Island and say we have to express things in three to four words.

Ms. Stevenson: Sorry. I lost my train of thought and now I don't even know where I was. _____.

Ms. Ehlers: There was a lot of –

Ms. Stevenson: We'll be having open houses when we get the comments back from the Department of Ecology. They've been doing things pretty well lately as far as a turnaround time, so we will schedule those like we did before: one in Concrete, one in the Lyman and Hamilton area, one in Mount Vernon, and one in Anacortes. Hopefully we will be able to address any of the questions or concerns that people may have with any of the work that's been done to-date, and specifically to people who have the knowledge of certain properties. And we have taken comments from a lot of people already where they saw something and they questioned it and we've had dialogue. A

lot of changes have already been made. We will continue to do that until things are final. So it doesn't have to be a formal comment period. I will take your thoughts and comments at any point along the way. I have been saying that since the very beginning. We'll continue to do that.

Ms. Ehlers: Betsy? Betsy, you are unique in that.

Ms. Nakis: Maybe that could be on the webpage.

Chair Lohman: I would like to say –

Mr. Walters: I was just going to say that that is on the SMP webpage – that paragraph she just –

(several people talking at once)

Mr. Walters: As of today it went up.

Ms. Stevenson: – probably a little nicer. I'm getting tired and cranky and I apologize, but –

Chair Lohman: But this Shoreline update, we are in the sausage-making and it isn't smooth, it isn't pretty, and it's kind of chaotic but we're in the draft drafts. So I think we need to keep reminding ourselves that. We haven't gotten to where we're on a gelled draft yet. So we've asked for comments. The Planning Commission has arduously gone over tons of this that we – I don't think we did this before. So this is the ugly process when you start at the beginning.

Mr. Axthelm: Thank you, Betsy.

Ms. Stevenson: Well, I think it's been great for me, too, because having the collaborative effort on this – you guys are coming from things in a whole lot of different ways, and when I get down here it's been invaluable. It also gets it out for other people to observe and watch and see what's kind of happening and going on to get involved earlier in the process. So it's messy and it's not always fun, but I think it's a great way to do it and especially for something that's such a big change for a lot of, you know, things. Some things won't change too much. But I think it started out really well. You get to come back and see it a few more times.

We're going to have plenty of time for the public hearing notice and all of that – probably 60 days? – and our environmental review process. So we'll be doing everything that we can. We have a deadline, I know, but I know we're probably not going to make that deadline, and it's important to take as long as it takes to have people understand what it says – the Planning Commission, the public and everybody – so we're going to do the best that we can. And I think this most recent draft, there isn't a formal comment period again on this one. It's just so that you know what's gone to Ecology so everybody can

be up to speed, and as we continue to make changes we will post those drafts on the webpage, too, so that you can see that we're still working on it, we're still trying to simplify and make it easier to understand. It's down to 186 pages now, rather than 200. So we're working at it, but it is still a working, living document. So I appreciate all the help that you guys have offered to this point and look forward to a whole lot more of it.

Mr. Walters: That's another thing that has come up over the past couple weeks. People have – we've learned that people have wondered about when they *have* to comment. No one ever *has* to comment. If you want to participate in a process when there's an advertised comment period you should comment during that *advertised* comment period. You should comment then because at that point there is a very particular draft that is out for review and that kind of thing. But you – on these legislative matters, you can comment at any time on anything.

Ms. Ehlers: That's new. I like it but it's new.

Mr. Walters: The key is when there's an *advertised* comment period then there is some draft that's – because there are a thousand drafts, you know, at this point. We save a new draft every day, you know?

(laughter)

Mr. Walters: That doesn't – we don't want comments, you know, on every day's draft. That isn't helpful. What's helpful is that you have conceptual comments and comments on particular things that you like or don't like, and then that when there's an advertised comment period there is a particular draft out for public review. So you just heard Betsy describe that there's this draft going out to Ecology. They're going to have comments, then there will be another draft and that one will go to the open houses, I think. So, you know, there are all these different drafts all the time. The important thing is when a comment period is advertised you should definitely comment then.

Mr. Hughes: That's when the record starts.

Chair Lohman: Right.

Mr. Walters: Right. That's the record for the Growth Board and that kind of thing. But you can comment other times, too.

Ms. Ehlers: It seems to me – I appreciate very much having spent all this time working through it because it took months for me to get a perspective of how these things – because they're complex – how they're organized, how one section relates to another, and how you have to pay attention to the definition of terms, like what's "conservancy" and what kind of implication does it have. But I have been telling people to focus on the analysis, or what I call the inventory, because that at this point is fairly set and you need to know whether there are errors. And so I've been focusing people's attention onto that rather than the draft of the code and the policies simply because there *are* changes,

so that the basic data upon which decisions may be made in the future by people who intend to enforce something – that that basic data is correct.

Ms. Stevenson: I think that's important.

Chair Lohman: Okay, any other Department updates? Thank you, Betsy.

Ms. Stevenson: Thank you.

Mr. Mahaffie: Question?

Chair Lohman: Go ahead, Matt.

Mr. Mahaffie: Since this wasn't done, am I still a Planning Commissioner? The appointment was up the 31st....

Mr. Walters: Yes. The Board reappointed Annie, Carol, Matt and the new Planning Commissioner, Joseph Prince.

Mr. Axthelm: Okay. So that was my question.

Mr. Walters: Yes.

Chair Lohman: But it's strange. It's short terms.

Mr. Walters: Yes, the Board –

Mr. Greenwood: September, isn't it?

Chair Lohman: Yeah.

Mr. Hughes: Is that on the website now?

Mr. Walters: Yes.

Mr. Hughes: It was not on last week.

Ms. Nakis: It wasn't on the 2nd.

Mr. Walters: They didn't do it until yesterday.

Mr. Greenwood: You're on a short leash.

Ms. Nakis: It wasn't on today, I don't believe – new terms?

Mr. Walters: Oh, the – on the Planning Commission page there's a little chart with the terms. That wasn't updated. The resolution adopted _____.

Mr. Greenwood: It was in the Planning – the Board, the Board of Commissioners – it was on their website and in their agenda.

Chair Lohman: Right.

Ms. Ehlers: You know, when it comes right down to it, the 1st of September is a much better time to have the turnover than the 1st of February, because the 1st of February means you have the advertisement period around the 15th of December and that's a black hole. And furthermore, something like Betsy's working through, you start a project in the fall; you're working it through the whole winter because that's when we have time free to work. You don't want to interrupt that with new people and have to educate them.

Chair Lohman: Okay, so –

Ms. Ehlers: September's good.

Mr. Greenwood: We're on item 6, right?

Chair Lohman: Okay, item number 6: Planning Commissioner Comments or Announcements. I just wanted to say the public brought up in the public comments that we didn't talk about public participation or public comment, but I did personally in my – written quite a bit about that section, and I personally talked with Ron Wesen, who's Commissioner for District 1, and I have talked about it with Dale and I've talked about it with Ryan. So while it may not have been talked about *here*, we are talking about it. Because we support early and often public participation.

Ms. Mitchell: Are those going to be posted, too? Your comments and Carol's _____.

Chair Lohman: They were part of the public record.

Mr. Pernula: I believe they're posted already.

Mr. Walters: Except for Carol's. We will find Carol's.

Ms. Mitchell: I did check this afternoon. The last I saw was what was on the 1st. It must have been sometime since.

Mr. Pernula: (unintelligible)

Ms. Nakis: You sent it Pony Express, didn't you?

Ms. Ehlers: No, I hand-carried it and I got here before 4:30.

Mr. Greenwood: My only comment about public participation is that people waited a long time for public comment and it was moved up in the agenda, and yet it was squeezed down to a very, very short period of time, and I think that sends the wrong message. So however we adjust the agenda to accommodate the public – we’re a public representative, so if we don’t even give them time to speak and to listen to them I think we’ve short-shifted them a bit. And it’s mostly just the message tonight, that’s all.

Mr. Mahaffie: Can I –

Chair Lohman: Go ahead, Matt.

Mr. Mahaffie: We didn’t used to give public comment as part of our agenda. I think it’s great.

(sounds of assent from several Commissioners)

Mr. Mahaffie: *But* I’m kind of thinking that it should be a note in the agenda “if time allows.”

Ms. Ehlers: Well, maybe we should have a shorter agenda.

Chair Lohman: There was a lot of thought –

Mr. Mahaffie: Well, the agenda length has been my issue since Day 1, and we’re supposed to be done by nine o’clock.

Chair Lohman: Yeah. It’s quarter till ten.

Mr. Mahaffie: So all it did tonight was make folks mad. Having it at one minute, I don’t think that was fair. But, at the same time, we have to move. I mean, it’s a kind of balancing act.

Chair Lohman: Dale.

Mr. Pernula: I think this public comment thing is something that we can talk about maybe at the next meeting. Because what I’ve seen in the past and in other places I worked was that the public comment was at the very beginning of the meeting so that people could make their comments and leave. They would only schedule, like, ten minutes and they’d take how many comments they had and divide it among that time, and then get on with the rest of the agenda.

Mr. Greenwood: Yeah, because I’m thinking we could have run this meeting and got the same stuff accomplished by nine o’clock if we had had the public comment for twenty minutes *anywhere* in the agenda. Because we must have felt we had time or

something, it just went superfluous. So we can cut back on illustrations and analysis and maybe get to some of our points a little more briefly.

Ms. Nakis: And that public comment is helpful. It's helpful to all of us, so to have it early and then they leave – I think that's a good idea.

Chair Lohman: I've sought tons of opinions from – I've even asked our state legislators how they do it. I've watched how the County Commissioners do it. I talked to a friend of mine that's a commissioner – a planning commissioner – in another county, and it's all over the board how they do it. But they all agree that sometimes you have to impose time limits because the time runs long. And there's even even more limiting imposition on the public by saying, Okay, you're going to go up first but you can't comment on anything that's on the agenda. We didn't feel that we wanted to do that. So, I mean, it's a Pandora's box no matter how you do it, but we want to hear from the public and we are, but it's –

Mr. Greenwood: If you had to do five minutes at the beginning and five minutes at the end – whatever block of time so that they have an idea that they're going to get to speak.

Mr. Axthelm: We're not paid. We're all volunteers. We come here – as a planning commission – we come here because we have a genuine interest. We have a genuine interest in public comment. We have a genuine interest in these issues. Unfortunately, we can't hear everybody at a public hearing – or in this situation, and that's why we have options to give your public comments. I read your comments. We read them. And when you stand up here you have limited time. So if you really have something important to say, please, please give it to us in comments so that they're written, so that we can get that information. We can't always promise that you'll have all the time in the world up here to give your comments, but we do have a genuine interest and we do want to hear you.

Ms. Ehlers: I like the comments at the end of the meeting because often people illustrate without knowing it some point that's been made in the meeting. I think we could have had the TDR program last an hour tonight and then planned to have an hour to have this discussion, which I don't think we did plan for an hour.

(some unintelligible discussion)

Ms. Ehlers: This is a perfect example. We were talking, as Ryan remembers, about what you could turn in at a hearing and at the end of the meeting this chap illustrates his major problem. It's a financial problem. It's a shoreline problem. It's a combination of everything you can think of, and he could only do it in large paper and in color. And he didn't know that we were going to be talking about that because that wasn't part of this ordinance and that wasn't part of what became the agenda. So it's fortuitous, but it was very helpful – at least I hope you found it so.

Chair Lohman: Is there a motion to adjourn?

Mr. Greenwood: I'd like to make it.

Mr. Axthelm: I'll second that one.

(gavel)