

Skagit County Planning Commission
Update: Transfer of Development Rights Project
Discussion: Shoreline Master Program
February 4, 2014

Commissioners: Annie Lohman, Chair
Josh Axthelm, Vice Chair
Keith Greenwood
Kevin Meenaghan
Tammy Candler
Dave Hughes
Matt Mahaffie
Jason Easton (absent)
Robert Temples (absent)

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

Public Commenters: Roger Mitchell
Randy Good
Ellen Bynum, Friends of Skagit County
Ed Stauffer
Carol Ehlers
Connie Munsey

Chair Annie Lohman: I call to order the Skagit County Planning Commission. It's February 4, 2014, and it's 6 p.m. So if we could review the agenda and if there's any corrections or additions...

(silence)

Chair Lohman: Okay, I don't see any. Nobody's speaking up so we'll move right into Public Comment. Are there any members of the public who wish to speak? Okay, come on up and remember that we are going to be timing you. Three minutes per speaker and Keith will be the timer. We'll let you introduce yourself and then we'll start the timer.

Roger Mitchell: Okay. Roger Mitchell, Bow. Good evening, Commissioners and fellow citizens. First, thank you to each of the Planning Commissioners for your service to our community. We all really appreciate it.

My comment this evening is my wish for 2014. It's a wish list shared by many Skagit citizens. As a background, please consider that Americans are increasingly dissatisfied with government. Citizens across America do not believe government is doing what citizens want done. The Gallup poll recently reported the lowest satisfaction with the way the nation is being governed in the history of asking that question. Just 18% are satisfied. Approval of Congress, just 9%. It's the lowest in Gallup poll history. Americans lack trust in government. 72% see Big Government as the most likely future threat to our country. Americans want government to stop acting like their mother. Americans are frustrated with government's growing involvement in what should be personal decisions. 55% of likely voters believe that government is a threat to their constitutional freedoms. Only 30% view the government as a protector of individual rights. 60% did not believe the federal government had the consent of the governed. They say all politics is local. I realize that you Planning Commissioners are not elected officials, but right here in this room is where local government takes place and you are a key part of that. You are the conduit between citizens and the Board of County Commissioners. Citizens trust you to be faithfully, accurately and responsibly representing our positions on planning activities.

So here's my wish list: As we get into 2014, I'd like all planning activities to be what Skagit citizens want, not what outsiders in Washington, D.C. want; not what Olympia wants; certainly not what the American Planning Association wants. I'd like to see planning that is of, by and for Skagit County citizens.

To that end, here are three behaviors I'd like to see all of us do in 2014, and by "all" I mean concerned citizens like the ones here tonight; County Commissioners; and you, our Planning Commissioners. One, critically question anything and everything coming out of the Planning Department. Two, require factual documentation and reject unsubstantiated ideology. Three, demand honest, accurate and continued citizen involvement and direction in every planning activity. I'm looking for your active participation to make Skagit County work the way our state and federal constitutions intended.

Keith Greenwood: Roger, that's three minutes.

Mr. Mitchell: Thanks. We're counting on you and you can count on us. We look forward to working with you closely this year. Thank you.

Chair Lohman: Thank you.

Randy Good: My name's Randy Good, 35482 State Route 20, Sedro-Woolley. I just wanted to address some concerns of mine tonight here affecting the Planning Commission and public involvement. In my opinion, after a Planning Commission public hearing the County attorney Walters critiques the citizens' comments, spewing his take to match his or the County Commissioners' agenda, sometimes discrediting and altering completely what the citizens' input was meant to say. Walters is the County attorney representing the County Commissioners. The Planning Commission is the citizens' only avenue for public involvement and for crafting and adopting Comprehensive Plans. During the recent Capital Facilities Plan update, records show that the Comp Plan policy, RCWs were violated and public process was ignored on the Path of Corruption paving project. Walters claimed his new language that was put into the Capital Facilities Plan corrected that issue. That's not true. The law was already in place as documentation so clearly shows. And all three County Commissioners were informed by me on TV so that they were aware that they were breaking the law before voting 2 to 1 to accept that paving project bid on June 4. Why did Walters not tell the truth to the Planning Commission and in front of the County Commissioners and allow the County Commissioners to break the law? Why? Was Walters covering for Dillon and Dahlstedt or Holloran or himself? I addressed Walters' erroneous statements on TV and with written comments October 24, 2013. Even the *Skagit Valley Herald* editor stated I was correct. As one of the founding members of the Farmland Legacy Program and also of the county's Agricultural Advisory Board, I now ask myself: If I was on the County Planning Commission now, representing the citizens of Skagit County, how can I in good conscience believe anything Walters advises us on? Thank you.

Chair Lohman: Next?

Ellen Bynum: Ellen Bynum, Friends of Skagit County. I wanted to bring to the Commission's attention the fact that – which you already know – that Anacortes has elected three new City Council members and also a new mayor. And as a part of that activity the Mayor has surveyed the public in Anacortes about what the public would like. The survey has come back and the top of the list on topics to be dealt with is open government and public participation. One of the things that she has instigated in order to help that come about is a process which I would like the Planning Commission to consider, which is they're allowing public questions during their meetings, provided that the person raises their hand. They also have a situation where they have large numbers of people there and they want to make the meeting go as smoothly as possible so that if someone is speaking and the audience agrees with the person they also raise their hand. I don't know if it's the same hand. But I just wanted to bring that up as a really simple way to let people have their say and also to let you have a way of getting immediate feedback on things that may or may not be of concern to the public.

The second thing is that they're also looking at – in Anacortes – they're also looking at other ways to make public participation happen better, and one of the

models that they're looking at – they haven't adopted it, but they're looking at the Ashland, Oregon, model where all of the budget information is on the website and is available – the transactions that the County does are available for the citizens to see so that you don't have to go into a budget and see a lot of invoices grouped together. You can see if they okayed a contract, how they did that and what the decision was and what the process was. So that's another thing.

And then the third thing that they're considering is – and this is all still in discussion phase – having citizens lead problem-solving committees. And this is also something that's happened in other parts of Oregon. And we don't have to reinvent it, but I think that it might be a really good model for you guys to consider when you start talking about the Comprehensive Plan update. I mean, there's no reason why you can't have citizens volunteer to do a shorter version of what was done in the original Comprehensive Plan process.

And so those are three ideas that I wanted to bring before you because if you didn't know about them you can talk to people in Anacortes about what they're doing. I'm sure you could call Mayor Gere and she would tell you what she's thinking about. So thanks very much.

Chair Lohman: Thank you. Anybody else?

Ed Stauffer: Good evening, Commissioners. Ed Stauffer from Bow. I have made the point previously, but I see the Planning Commission tied directly to the constitution of the state and of the nation. And you're part of the due process, part of the checks and balances. I attended a meeting recently of the Skagit Council of Governments, which brought this point into stark relief for me. It was attended by all three County Commissioners, two in absentia, from our county; Mayors of all the cities and some of the villages; representatives of tribes; public utility districts – all on the board which had to vote. And one of the agenda items was a brief report on a grant funding program engaged in by that body on behalf of the citizens of Skagit County, which a few years back awarded \$50- or 60,000 to Skagit Valley Hospital for a project. At issue this time was a – there had been a \$10,000 addition to that grant in the year prior to that and they were asking for another \$20,000 for this year to increase that grant. The questions from the Mayors and the representatives were, What have we gotten so far? And the answer was nothing. And what do we expect to get? Well, eventually there's going to be a trail plan. And this is all about open space. And then somebody moved that they adopt the proposal and unanimously voted to adopt it.

Standing in that room I realized that you are my planning department director. The cities have officials that represent the population of those cities. My power in that group is totally diluted amongst a group of people and not one of them has a definition for what open space is, but I think they mean my house in rural Skagit County. So that's why I'm passionate when I speak to you, because you are my only access. Now tonight you're going to hear about two more proposals, one

the TDR program. I've been participating as a citizen member of that board. We were asked to be open minded and objective in considering it. We've been at that for over fifteen months now. Our mission was to make a determination whether or not this was a feasible program to pursue for Skagit County. I'm wondering if that's still the question that will be before you tonight. So for these issues and the ones that come in the future, I would like for you to be sure that you make sure who wrote this issue, whose idea was this issue, who's paying for this issue, and what in the world does this issue have to do with the needs expressed by the citizens of Skagit County. Thank you.

Chair Lohman: Thank you. Anybody else?

Carol Ehlers: Carol Ehlers, west Fidalgo Island. I raised my hand last week to make this comment but was not recognized. There were two items on Dale Pernula's agenda of what should be done in 2014. One of them was the so-called Hazard Mitigation Plan. It's actually the *Natural* Hazard Mitigation Plan. It is a federal requirement. Congress got tired of paying for repetitive damage caused by one natural hazard or another and the incompetence most of the governments in the United States and, indeed, the rest of the world show when a natural hazard appears that everyone knows exists. We're pretty well done here at flood but I don't know what we'd do if there was a major earthquake.

So in 2002 the first edition of the Natural Hazard Mitigation Plan was done. It's on a six-year cycle. The one that's over here is the 2008 version which I have because I have been a member – an official member – of that committee from the beginning. The 2008 Plan you can find on the Internet under Emergency Management. It is the natural hazards that exist in this county and the – *supposed* to be – the specific information about the infrastructure for each of the eighty-four public entities that exist in this county with responsibility for some kind of infrastructure. On that document depends your flood insurance rating. The money is here. The federal government gave it to the Emergency Management Department. Dale said he didn't have staff. He's correct because Tim DeVries has died and taken his information with him, but that doesn't mean you ignore the situation. You need to look at the 2008 plan which will be done this summer, and the 2009, which is the implementation of how you deal with it. In the 2009, go into the table of contents to the glossary. Go down until you find "Mitigation." You'll find in there the best definition of mitigation for any kind of planning I have ever seen. It fits not only the Hazard Plan but everything else that we should be doing.

Now the second thing, which was not even talked about, was this South Fidalgo Plan, which is mandated by the Comprehensive Plan. Most of the time Skagit County thinks of planning as a zoning map. We don't need that. As a person who's lived there, who knows what the problems have been for the last fifty years, what we need is a plan that realizes the island is a land puzzle. We need to know where the pipelines are. We need to know where the maps are. We

need to know where the drainage basins are. We need to know who lives where. There is no map that I know of that has public roads and private roads except that done by the Kiwanis. The fire department needs a map. SKAT needs a map. Everybody needs an honest-to-god map of an area. All the County can think of when it comes to Fidalgo. This is the fire map that's part of the Hazard mitigation. When you look at south Fidalgo Island, you'll find that there is a major fire problem down there naturally. There are no water pipelines. It makes it difficult. There needs to be a plan. It's part of the mandate from the Comp Plan. It wasn't done in '97. It wasn't done in 2008. It took a screaming match at Brodniak for the County to admit that drainage was a hazard out there. Drainage, landslides, things that go with them. You need to follow the rules and the law. And above all, somebody needs to tell you what they are.

Chair Lohman: Thank you.

Mr. Greenwood: Thanks.

Chair Lohman: Anybody else? ____?

Connie Munsey: Hi there. Connie Munsey, formerly of Mount Vernon, just recently now Anacortes. Thank you all for serving as the voice of citizens on this. I find it not astounding that most citizens of Skagit County don't even know you exist or how much work you put into this. But I would just ask that this year you please try to focus on truly necessary issues rather than every available federally funded, unworkable, unpopular program that wastes scarce resources with time and money. If you do that, you have my full support and anything I can do to help you I would be glad to do though. I just want to point out it looks like we spent sixteen-plus years on the Bayview Ridge project. Now we're sitting through reports on a TDR program that it appears that nobody wants. Remember Detroit, Michigan, was one of these programs and that model city is now being plowed under and turned back into farmland. So maybe we should concentrate for the time being on letting Skagit manage it as it is and not as others would wish it to be. Thanks.

Chair Lohman: Anybody? Okay, seeing none, we'll just move on the agenda to Transfer of Development Rights. Kirk?

Kirk Johnson: Yeah. Good evening. Yeah, I just wanted to come forward and provide a periodic update on the TDR program or project. A lot has happened in the last couple of months and we're moving toward a decision by the Board of County Commissioners later this year whether to move forward with an actual legislative proposal, whether it be policies or code. That would go out for public review and comment and then come to you. So obviously it's important to keep you in the loop of what's going on.

So the first thing that I wanted to talk about was the schedule, so you should all have that in front of you. I think I can put them up on the overhead. So we had a series of three what I've called "focus group" meetings on January 7th. The first one in the morning was with forest landowners; the second one was with developers and landowners in the receiving areas that are being considered for a TDR project; and the third one was with agricultural – farmers and ag group representatives. And I was pleased that a couple of our Planning Commission members were both invited and attended those meetings. Annie was at the agriculture meeting, Keith was at the forester meeting, and Matt was at the developer/landowner meeting, although he indicated that he also would have liked to be at the forest group meeting because of his interest and experience there. So I want to talk a little bit this evening about some of the issues that were raised in those three meetings. I'll get to that in a few minutes.

Looking down – so after the discussion and focus group meetings, the Advisory Committee – TDR Advisory Committee that Ed is on – met in January on the 9th. A firm called Heartland is doing a market analysis for the TDR project that tries to help figure out whether the economics of the program will work given demand for development and the types of additional development potential that could be accessed through TDR. So they will be doing a presentation on what they've found through that process. And the Heartland staff was at the three focus group meetings listening to what participants in those meetings had to say. They've also met once with the TDR Advisory Committee. That presentation will probably happen toward the end of this month or in early March – the presentation to the County Commissioners. Now that's not a presentation on you *should* do a TDR program/you *shouldn't* do a TDR program or this is what it should look like. It's if you want to do a TDR program here's what the market conditions appear to be, either supportive or not supportive, or in certain cases supportive, or supportive five or ten years down the road.

We will be meeting with the TDR Advisory Committee again in March, pulling together a set of recommendations on the subject, and we'll probably meet with them again in April. We've been meeting with them every other month but I think as we're trying to wrap up the recommendations on the project we'll probably need and want to have back-to-back meetings March and April. And then recommendations from the Committee and the Department will go to the County Commissioners in May, and then the Commissioners – it's scheduled here, it could happen sooner, I suppose – will make a decision on whether to move forward with a legislative proposal. So, again, a specific policy and code language that would come forward to you at a later date. They could decide to do that at the next available Comprehensive Plan Amendment cycle. They could decide to do it as part of the 2016 Update. They could decide to do it when that's – when we're finished with that. Or they could decide, based on the Advisory Committee comment, the market analysis, they could say, Eh, we're just not convinced that this is the thing for Skagit County right now, in which case the project would end at that point.

So that's kind of the schedule up until that threshold decision by the County Commissioners, and really what happens after that will be up to the decision that they make at that point.

So first of all, does that make sense? Or does anyone have questions about the basic schedule that I just went through?

Mr. Greenwood: Just that the recommendations have not been developed yet, but there'll be a presentation to the County Commissioners and then there'll be a meeting – another meeting – of the Advisory Committee, which will then develop recommendations? Is that the flow of things as I read it?

Mr. Johnson: No. So the Advisory Committee will meet in March. And at the January meeting we started to talk – I mean we've kind of been progressing through the Advisory Committee's work from what is TDR, what are some examples, what are the components of a TDR program. You have sending areas. You have receiving areas. What are some – what is some thinking on what those would be in Skagit County? Typically TDR programs focus on conservation of natural resource lands or environmentally sensitive or valuable lands, and looking at additional development potential in certain receiving areas. So we talked through that. In January we were talking about kind of the structure of a program. It's actually – well, I don't want to get ahead of myself.

So I would say at the January meeting we started to talk about recommendations, about, you know, Does this make sense to you? Does this not make sense to you? If it makes sense, do you like kind of the straight TDR approach, the density fee approach, a combination of the two? We'll talk about those in a minute. I don't – all I will say about that – because it was just discussion and it was eight of the sixteen members of the Committee – I would just say it was a very – I felt it was a very good discussion. I thought it was the best discussion of the Advisory Committee so far, and people, I think, really have absorbed a lot of information and whether they were speaking in favor of TDR or against it or had reservations it seemed like it was all quite well informed.

But so the Committee – I'll be working with the Committee in March and April to come up with a set of recommendations, which would then be presented to the County Commissioners in May, and then, I think, as we typically do, we would give them some time to think about those and then come back and ask them, Okay, Commissioners, based on what you've seen/heard, people you've talked to, is this something you want to move forward with now or at some point in the near future or, you know, do you have other priorities or you're just not convinced it's the right program for Skagit County?

Mr. Greenwood: Okay, so the market analysis presentation to the Board of County Commissioners would be basically what you're doing with us tonight for

them, or have you met – because I see a bullet for February: Heartland market analysis presentation to the Commissioners.

Mr. Johnson: County Commissioners, yeah. So that's –

Mr. Greenwood: You've already done that or you're going to do that?

Mr. Johnson: No, we're going to do that.

Mr. Greenwood: Okay.

Mr. Johnson: So they did a presentation to the TDR Advisory Committee in November. They went over the key points in the market analysis and the focus group meetings in January.

Mr. Greenwood: Right.

Mr. Johnson: They're gathering information and then they will make a presentation to the County Commissioners in late February or March, saying this is what we've found about, you know, estimated value of development rights from sending properties, estimated value to developers of additional development potential in your receiving areas, what kind of exchange rates or ratios you would need to make transactions work in the marketplace. So that's – their focus is really, How could this pencil out?

Kevin Meenaghan: So it's a presentation of facts, then.

Mr. Johnson: Yeah.

Mr. Meenaghan: And the presentation of recommendations will come later.

Mr. Johnson: Right, right.

Mr. Meenaghan: Okay.

Mr. Greenwood: Now that presentation of facts then, would that be put on the website so that others could see it? Because not everybody went to these focus group sessions where I got a presentation, which was quite good, but for the rest of the people to see?

Mr. Johnson: Yeah. So this January 7th set of slides is on the TDR project website. The November 14th set of slides, which was an earlier version of the market analysis, is on the project website. So, yeah, I've – I fell a little behind in putting things on the website over the last month because it was very busy, but I've shipped off the last of my stuff to the website manager and in the next few days it should all be popping up there.

Mr. Greenwood: Okay.

Chair Lohman: Is the June – is that, then, the end?

Mr. Johnson: Well, if the Commissioners say, Well, this has been interesting. We've learned some things, but we're not convinced that there's strong enough market demand or, you know, We're not interested at this time, then that – other than wrapping up the grant and sending a final project report to Department of Commerce – that would be the end. If the Commissioners say, You know, this looks like it has some promise. We – for whatever reasons – we want to move forward with some type of TDR program. Planning Department, go put together policies and code and do it now or do it a year from now or do it three years from now, then the project would continue forward.

So one of the things: Work is being done with the support of a grant from the State Department of Commerce. One of the things that we made clear in the grant contract was that by accepting the grant the County was not obligated to adopt a TDR program. Its obligation is to do the analysis and take the issue to the County Commissioners and say, Do you want to move forward or do you not want to move forward? And so that's what we'd be doing by June – is my – when I think that will happen.

Tammy Candler: So basically that's when we let the consultant go?

Mr. Johnson: If the project moves forward to a legislative stage – so that would be working with you – then I would like to have some access to both a market consultant and to Forterra if questions come up that I don't have the answers to, or questions that you have, or if, for instance, certain of the receiving areas don't work but the Planning Commission says, Well, we'd really like to know what the economics of allowing additional development through CaRDs is. There's a lot of good information in here that could be used to tell us that but they haven't specifically done that analysis here. So we might go to Heartland and say, Based on the analysis that's here, what would be (the) economics? What would the, you know, the fee schedule or exchange rate for TDR and CaRDs be? And they could do that and then bring that information back to us.

Ms. Candler: And then you'll be presenting us a different timeline then? Because the decision will be made – what the County Commissioners want to do.

Mr. Johnson: Yeah. Yeah. So if they say, We want to move forward with TDR, then, yeah, we would say, In what timeframe? And they would tell us and then, yeah, then I would come forward with a new schedule that would say you're going to be working on this in the next year or, You're not going to work on it until 2017 or whatever – whatever the Commissioners ___.

Chair Lohman: Is the market analysis finished? I was under the impression when I went to that focus group that it was.

Mr. Johnson: No. The focus group meetings were a part of their research on the market analysis – to get feedback on, you know, the value of a residential development right in Industrial Forest. Here's how we came to that. Do you have any thoughts on that? Or for the landowner/developer group, you know, We think this is what an additional unit of residential development in Burlington would be worth and this is the recommended fee through a fee program. Does that – you know, would you be interested in that? So that was part of the information gathering process.

Chair Lohman: Any other questions from the Commissioners?

(silence)

Mr. Johnson: Okay. I wanted to go over two things pretty quickly because I'll refer to them as I go through the rest of this and I think it would be good to understand the difference.

Ms. Ehlers: Kirk, could that be put on the screen?

Mr. Johnson: Yeah.

(several unintelligible comments from audience members)

Mr. Johnson: So there's transfer of development rights and then there's something called the density fee program, or density credit program, the fee in program. And we've been talking about both of them through the project and there are examples of both in Skagit County. Mount Vernon has – I'll call it a traditional TDR program. It was fairly active during the mid-2000s. It's not so active now, due to some policy changes that have been made. But that's basically where a developer who wants to do additional development in a particular place that's allowed by the program would go and find a sending area landowner and say, I'd like to buy ten development rights and this is what I'm willing to pay for them. And the landowner would say, I'm interested and, you know, this is what I'm willing to sell my development rights for, or, I'm not interested it. You know, Go to whatever.

And so the transaction happens between the two of them. The sales price is negotiated between the two of them. The program basically records the sale of the development right on the sending site and the transfer of the development right to the receiving site. But it's kind of a hands off, you know, more free market sort of thing.

Chair Lohman: “Hands off,” as in government?

Mr. Johnson: Yeah. Yeah. It’s kind of – the government sets up the program and kind of the exchange ratio – which we can talk about a little bit later – but then it says, Okay, you know, if you’re a developer or a landowner that wants, you just go find a seller and negotiate a price and you’re good. There’s another type of program which can be used to achieve the same goals and it’s called density fee or density credit or fee-in-lieu. And so basically Burlington has a program like that. It’s called the Burlington Agricultural Heritage Credit Program. And basically what it’s interested in doing in terms of conservation – could you flip that, Dale, to the next page? – is protecting the agricultural land around the city of Burlington permanently. And the mechanism for doing that is that Burlington allows additional development potential in certain of its zones if developers purchase density credits. And there’s a fee schedule and so the developer knows what the cost of an additional development right is and they can go in and purchase those from the City of Burlington and get the ability to do more development than is allowed just by straight code. The City of Burlington takes the revenues from that purchase, provides it to the Farmland Legacy Program, which uses it. If it’s doing any development right purchases in the area around Burlington it would pool that money with other state/federal/county money to make that purchase. So it’s not the direct buyer-seller. The buyer comes to the program, purchases the credits, and either the program directly or the Farmland Legacy Program is the one that achieves the conservation.

So both have benefits. Some people – I guess people who have studied TDR say that some – there are some circumstances where a developer would want to use a density fee program, others where they might want to use a TDR program, and so it can make sense to offer both options. So I just wanted to cover those basics.

Are there any questions there?

Mr. Greenwood: You mentioned that Mount Vernon’s program is not active or very active. Is Burlington’s more active under their density fee program? Or neither one at this time with the market the way it is?

Mr. Johnson: Burlington put its program in place, I think, in 2008 or 2009, right as the housing market crashed. It had two credit sales – density credit sales – and they went into a residential structure – originally a residential structure – in the downtown area where there’s an office on the ground floor and the person wanted to put in three apartments on the upstairs. And I think they could only do one of those, given the small size of the parcel, under Burlington’s fourteen dwelling units per acre. And so they purchased the additional two credits to put the additional two apartments in. Now Margaret says that they have a project currently that’s going through the process that could result in the purchase of up to ninety credits. So she says the market’s picking up, there’s interest, and so,

you know, there's not much of a track record through the program since 2009. So we may see in the next few years whether that's because of the recession or because there's just not developer interest.

Mr. Greenwood: Would that then – it brings up that set price. Is that price set by Burlington and does it change? Or is it when the program's set up you leave it alone? Is that –

Mr. Johnson: So when Burlington set the program up, they worked with a consultant that did – basically looked at the values of different development types to developers and they said, We think you could set a fee for a density credit anywhere between this range, and I think it was like 2,000 on the low end, let's say 12,000 on the high end. Burlington chose the low end because they wanted to encourage use of the program. So the credit fee is \$2500. They have the ability to go back on an annual basis or every few years and look at whether that's – look at whether the program's being utilized, whether they think that that – and it's based on the increase in taxable value of the property, I think. But so I think typically if you were to go with a fee program and set a fee you would want to revisit those fees periodically to see if they were keeping pace with the market. And basically where you're wanting to set fees or set the exchange rate for a TDR program is so that the developer or the receiving area landowner still has an economic incentive to do the development. So if you set it at 100% of what their, you know, money in the pocket is going to be it's not going to be worth the effort to them. So what Heartland is recommending is, you know, if the value of this additional development right is \$10,000 to a developer – and that's after taking out costs, after taking out expected rate of return, after looking at what they could just go out and buy more property for – so that's kind of money in the pocket – then your fee rate shouldn't be any higher than 50% of that, so \$5,000. So if they purchase the development right, do the development, after all the costs and expected return on investment they're still putting \$5,000 in their pocket. So it's still a benefit to them, it's an incentive to move forward with the project, but also there's a public benefit from the increased development potential which goes into conservation.

And that's kind of the whole basis of the TDR program, which is when an upzone or additional development potential is granted – and this was a fairly big issue of discussion with the developer group – should all of that increased value from that upzone go to the landowner, or is it fair or appropriate for there to be some public capture of that value that can then go into, you know, conservation or – yeah, conservation? And maybe not surprisingly, among the developer group that idea wasn't overwhelmingly popular. But it wasn't unanimous, so a lot of the developers said, No, I think if you grant me more development potential I should have to pay to use that. _____ grant it and I'll do it.

It was interesting. There was one person who wasn't able to come to the developer or forester meeting, but he is a member of a company that both owns

and manages timberland and does development both here in Skagit County and in Whatcom County, and he said, Well, yeah, my developer hat says no, I don't want to pay that, but my forest landowner hat says sure, I'd like to be able to sell some of these development rights so I can keep my forest land in long-term forest management, which is what I really want to do with it. So, you know, as I kind of weigh these two things of who I am, on the whole I think it's a good idea. I'd be supportive of it. But again, there were – I'd say that the majority of the participants in the developer meeting – and Matt can correct me if I'm wrong – were kind of like, Nah, I don't like that.

Chair Lohman: I noticed in some of the – there was a little bit of difference, depending on which audience the meeting was, of course.

Mr. Johnson: Yeah.

Chair Lohman: Which was the whole point.

Mr. Johnson: Yeah.

Chair Lohman: I thought it was an interesting concept that the forestry group brought up having an end date, like a term, for the development – more or less like a lease.

Mr. Johnson: Yeah. Yeah.

Mr. Johnson: Did you want to say more on that or –

Chair Lohman: Well –

Mr. Johnson: I mean I could comment on it.

Chair Lohman: I thought it was an interesting concept because, you know, things can change. Nobody has a crystal ball and knows what's going to go on in the future.

Mr. Johnson: Mm-hmm.

Chair Lohman: Which is part of the difficulty.

Mr. Johnson: Yeah, so there was some follow-up to that. As I understand it, most conservation easements have a clause that says if things change so much that you're no longer able – that the property is no longer serving a conservation goal – and I'll just – I was thinking about this earlier. You know, you have a 40-acre parcel on agricultural land, and over time it's entirely surrounded by the city and it's just impossible to farm that. Most conservation easements have a clause that says you can go in front of a judge and say, you know, I or my parents or

whatever entered into this in good faith but things have changed and this is not serving the purpose. We can't get our tractors in there. The neighbors complain. And there is a way to break that easement. But for the most part, you don't want that happening because if the goal is long-term conservation you don't want – it seems questionable to allow somebody to sell a development right and then to be able to get, say, an upzone down the road five years later that grants them more development. It's kind of taking advantage of both sides of the coin.

Chair Lohman: And in the ag focus group there was quite a bit of discussion on whether it would imperil the Farmland Legacy Program. And it was decided – well, not decided but it was suggested that the TDR would be a totally different circumstance. You would be selling potentially *just* your development right but you would have no other obligations for putting in a buffer or conservation or anything. You would just be extinguishing the development right. Whereas in the Farmland Legacy Program the way that some of those easements are being written now they have a giant conservation component and habitat component that has nothing to do with agriculture. So some folks at our meetings were suggesting that it made the TDR program look a lot more attractive than it did maybe two years ago.

Mr. Johnson: Yeah, so there are new – as you know – there are new restrictions on federal ag land preservation dollars or conservation dollars that require buffers and things like that that a lot of farm landowners are not comfortable with. And so – I mean, a TDR program that basically the County would set the terms of the easement and so if it just wanted – and typically TDR programs just deal with the residential property right and leave all the other rights and values associated with the property in place. And that's what we've been talking about with the Committee. So it could be more attractive, at least, than Farmland Legacy Program purchases that are using the federal dollars that have habitat requirements associated with them. I don't know if Farmland Legacy is thinking about, you know, in some cases only using County dollars that don't have those strings attached or what.

So I could go through some kind of overall things that – observations that I had from the meetings and then one by one, or we could just leave it questions, or, Matt and Keith, if you had – I mean, kind of what's your preference? How much time do you want to spend on this? Do you feel – I mean, did you read the materials and you're like, Okay, I kind of get it. I understand where things are. Or do you have specific questions?

Mr. Meenaghan: We all got the notes from the different meetings and your overall summary, so I'm not sure we need to go through anything in excruciating detail.

Mr. Johnson: Okay. Yeah, maybe I'll just do the – I did a page of overall observations and, you know, those are admittedly *my* overall observations, what

struck me as kind of important and note-worthy. I did have a footnote here that these notes are my best effort to accurately reflect what happened at the meetings. The participants of each of the meetings received a copy of the draft notes and were given the opportunity to provide their comments, and those who did I worked them in. The overall observations I didn't do that with. So I'll just – that's just about a page that I provided you and if I put it on the screen people wouldn't be able to read it.

So I would say of the three meetings – developer, agriculture/farming, and forestry – each group definitely had skeptics of TDR and each group also had supporters of the TDR or density fee concept. Some participants, especially in the development group, emphasized that TDR was taking something away from receiving area landowners and developers, requiring them to pay for increased development potential that could be granted for free through zoning, and that's one of the questions that often comes up: Well, you know, can't a City just say you can have six units per acre? Yeah. Well, then why would they do TDR? Well, they would do TDR if they thought that there was merit in capturing some of that value and using it for some public purpose like conservation.

Others – and not all, but some – in the ag and forestry groups thought that TDR – and we've been talking entirely in the realm of a voluntary program – could provide sending area landowners more options for the ownership and management of their land and would be a way to compensate or reward sending area landowners for conservation rather than just saying, Well, instead of one per 20 in Secondary Forest we think to preserve the forest land it should be one per 40. So, you know, with the stroke of a pen your development rights are gone. And there was a lot of criticism that that *is* what happened through the GMA process ten, fifteen years ago.

A lot of participants saw the ease of use benefits to a density fee approach or option, so if a developer needs ten development rights to do their project they look at the fee, they say, Okay, that either works or doesn't work with my bottom line. I'm going to do it or not – versus, Hmm, where am I going to find a farmer or a forest landowner that wants to sell development rights, and once I find them, then I have to negotiate a price. And it's more complicated.

Chair Lohman: But all of this is – isn't all of this kind of contingent on whether you have your Cities as a partner?

Mr. Johnson: So the cities would be where you would – since the GMA and the Comprehensive Plan is set up to encourage 80% or more of development to go into the cities, the cities are going to be where over the long term you would generate the majority of your development right purchases. And right now we have one City that's participating in the project and that's Burlington. And it's been a little frustrating talking with Mount Vernon and Anacortes, saying, you know, at least give it a look. And for various reasons they're not doing that at this

point. Bayview Ridge was a very good opportunity – or would be a very good opportunity – if the County was going to continue down the path of the urban residential development there, because it's the four to six units per acre where there is definitely market demand. It's kind of a proven concept. Heartland felt that was a very viable TDR component versus say, saying, Oh, if you want to go from one floor to four floors in downtown Burlington it's not clear that the market's there. There haven't been a lot of examples like that, so that's probably much farther down the road. But if the County decides not to do urban residential at Bayview Ridge then that gets moved off the table.

Current slow development market and limited number of receiving areas may not generate many TDR transactions in the near term. So that will probably be a key conclusion of the market analysis is there's not a lot happening right now. But there was from 2005 to 2008. So, you know, the markets can fluctuate. I would say it was Heartland that has kind of made the point that they're working with a lot of more urbanized Cities that are now looking at TDR and they're saying, Boy, we wish we had considered this ten, twenty years ago when we created all that mixed use zoning in our downtowns where you could go to five floors and, you know, fifty units per acre apartments. We wrote that into the zoning code with no TDR requirement and now to put it in place the landowners would view that as a downzoning. Whereas, you know, once something's granted, oh, yeah, you could do five floors and fifty units per acre outright. Oh, no, we're going to let you do two floors and thirty units but you've got to buy the others.

So zoning decisions that are made now can have an impact on whether TDR might be viable five, ten, fifteen years down the road. And so Heartland was kind of saying just because the market isn't thriving here don't say well, we'll look at TDR again ten years from now. There could be some costs to doing that.

And then I guess the last thing that I found kind of interesting is there're sort of two perspectives and one is you have to be able to demonstrate that you have a development right, that you can actually build, that you have water, that you have septic, that you – you know – to be able to sell that development right through TDR. And other people who are saying there are very few things in Skagit County and the water issue is probably the main one that can preclude development on a piece of land. It can make it more expensive. It can limit where on your parcel you can do the development. But there are very few things that can actually preclude it. Some people are saying TDR might be a good way to help out landowners who are in a particular area and, you know, due to certain changes it's gotten a lot wetter there, it's gotten more expensive to develop. They'd have to push the house up on the hill where they don't want to be. And so TDR could be a way to help people out who – it kind of looked good when they bought the property; it doesn't look so good now. And then others on the Advisory Committee who are saying you know, if you can't demonstrate that you've got water, that you're in a fire district or whatever, you don't have a right to sell. So it's kind of – I don't know if I'm making that choice clear.

So that's kind of the summary up to this point.

Chair Lohman: Any questions from the Commission?

(silence)

Chair Lohman: Thank you very much. Betsy, you're up. Moving on the agenda to the Shoreline Master Program.

Betsy Stevenson: Okay, so what you have in front of you is a new, ____ working draft of the _____.

I guess the other thing that we have for you – we developed a memo just to kind of let you know where we were. It's not quite the-dog-ate-your-homework but it's close! On some certain sections, just keep in mind that you have pretty much the whole document in front of you, unlike last time where we just gave it to you in bits and pieces as we got it done; however, there are some sections that we've identified in the memo that aren't at a point where we're real comfortable with them so don't spend a whole lot of time on it because they're probably going to change quite a bit. As we started going through and then revising things and reworking things we kind of saw some patterns that aren't necessarily spelled out the way it was organized, and saw, at least in our minds, ways that made sense to reorganize things and format them a little differently. So some of the sections that are still there we haven't kind of worked that yet and some of the language in there is still confusing and it kind of bounces around, so we just – we want to take some more time with it. You're welcome to go ahead and look through it and read it and, you know, have comments but they are going to change, so we just kind of suggested, Hey, maybe you don't want to go through that in too much detail yet.

Mr. Greenwood: How will we know what areas are live and not accurate – ones that you're working on that you have problems with?

Ms. Stevenson: Yeah.

Mr. Greenwood: Do you have a list of those?

Ms. Stevenson: Yeah, I was just going to go through the memo. It was on the front of that.

Mr. Greenwood: Okay. All right.

Ms. Stevenson: And just kind of – I can go into it in a little bit more detail, too, if you want me to. I was just kind of giving you an overview.

Mr. Greenwood: Okay.

Ms. Stevenson: We do –

(several comments from audience about not being able to hear Ms. Stevenson)

Ms. Stevenson: Okay. I'll try to talk a little louder.

Ms. Ehlers: Maybe we can also pull up a little closer.

Ms. Stevenson: Okay. We kind of set out a real tentative schedule, too, as part of the memo, and I can go through this in a little bit more detail after I kind of give you the overview. This is very preliminary and we have no idea what other things may be on some of your agendas, how much time we're going to have, but it just gives you something to react and respond to at least, if nothing else.

So as you start looking through it, this is sort of the way that we split it up. We put kind of Part IV into the end because it gives us more time to work on it. But now kind of going back in a little bit more detail, some of the changes that we made we listed there. But Ryan did a nice job putting together the About This Document, which you guys got a chance to look at at one of your previous meetings here recently. We did renumber the policies from the Shoreline Program so that they align with what's actually in the Comprehensive Plan now a little better. We moved some of the interpretation about Shoreline Environment Designations into the section of Part II because we just felt that it fit better there. We renamed Boating Facilities to include Mooring Structures and some other things because it includes more things than just what are identified and defined as boating facilities. We moved some of the General Provisions for Applicable Upland and Waterward of the Ordinary High Water Mark to the beginning of Part III, which may or may not be important to you, but if you're trying to compare what you had before to this one it'll help a little bit.

The Shoreline Uses and Modifications Matrix: We tried to include a lot more things, I think, than were there before but we still may have missed some. And we're still working on that, as well, to make sure we've captured everything in there and that it jives with what's in the text for those different things. So that's a good place to – you know, if you see things that aren't making sense or you don't think really what you're reading jives with what's in the matrix, make notes of that because that'll be very helpful to us too.

The Dimensional Standards table: We're still working on that but I think that at least it gives you an idea of what we're thinking in terms of what those different standards should be.

The Rural Conservancy-Skagit Floodway: That was sort of my idea to start with since people were asking, you know, _____. In the Rural Conservancy area there's a lot of that area that was mapped – and it *is* mapped – as Floodway, so if

somebody just looks at our Shoreline Program without considering anything else they're going to say, Oh, it's Rural Conservancy. Look at all these things I can do there. And it's like it's not really the case, because once you look at the requirements for doing any kind of development in the floodway it's very different. So we tried to sort of capture that, and in working through it and trying to come up with what would be in the matrix we thought, Well, maybe it works better if it's just an overlay over a portion of the Rural Conservancy area that's actually Floodway. So some of those standards would still apply, provided you can meet the requirements of the flood ordinance and other state and federal regulations that would have to do with property in the floodway. So that's changed a little bit and we're still working on that too, because some of the revisions that I made haven't passed the test for the group yet. So we're still working on that as well.

The Aquaculture section, as you know, was quite lively – that discussion. We kind of got consensus from our Advisory Committee and you guys told us to put forward what we had the way we had it. We've met again with the subcommittee of the Advisory Committee and got comments back from the Department of Ecology, so we've been talking with them back and forth. But we made some revisions again since what you've seen based on comments from Ecology and our Advisory Committee. What is in here is something that they haven't seen yet. I'm going to send it out to them tomorrow. So I'm still working with them as well to see if we can come up with something that most everybody agrees to. And I will continue to do that as we keep going through the review process.

Some of the things that we identified here that aren't right and we know, we haven't had a chance to go back and check on all of them. We've caught quite a few of them, but there may still be some things in there where our cross-references – where we reference other sections of the document – may not be accurate yet. If you happen to see them, go ahead and note them on there, but we're going through and changing those. We've moved things around and changed them so those may not be accurate or correct. You know, if you want to note that, fine. Feel free to. That's, you know, more eyes for us and it helps us, but just realize that we are still working on it. Like I mentioned, the Uses and Modifications Matrix, that still isn't complete. We're finding some uses that I identified in the text that haven't been included in there necessarily that show what's allowed or what isn't and what kind of a permit is going to be needed.

The Definitions section is kind of what comes out of the state RCW and the WACs, what's in our old Shoreline Program, and then some of the terms that needed to be defined in this one. So it's still a little bit all over the place as well. I guess where we'd ask for your help on that, if you're reading through the document – and I know Jason was bringing this up at one of the last meetings: What does that acronym mean? What are you talking about? How do you define that? If you see things in there or terms in there that would be real helpful and useful to you to have a definition and you don't find one back there, let us know that so we can make sure and do it. Otherwise, don't spend too much time just

reading through them, I wouldn't think at this point, because we are going to keep working on them.

Then, Keith, as you asked, here's the section about stuff that we are planning to change and we know that we're not done with. We've identified Public Access, Mining, Recreational Development, Residential Development, Shoreline Habitat and Natural Systems Enhancement Projects, Shoreline Stabilization, Transportation and Parking, and Utilities. And there are still other sections in there that we're still working on and you'll probably see that as well, but those are the ones that we really haven't been able to spend too much time with. And the Public Access I know is important and you guys had a lot of comments, and we're still not comfortable with the way that looks. So we're still working on that.

Chair Lohman: Does this incorporate the changes that Ecology had?

Ms. Stevenson: For the most part, the things that we were okay with changing _____. We haven't had any more discussions on the entire document with them. We've just been talking about the Aquaculture section specifically, so we haven't had a chance to really talk in much detail as far as what they meant by some of that, so we'll continue to do that. A lot of them were pretty simple – Oh, yeah. We understand that. We'll go ahead and make those revisions. Some of them are more policy –

Chair Lohman: But the draft that I – we just recently saw where we could see their comments.

Ms. Stevenson: Right. Right. Yeah, you'll be able to tell if we made the changes or not.

Chair Lohman: Okay. Some of it we may or may not have _____. Okay.

Ms. Stevenson: Right. Right. There may be some things that I'm not comfortable with changing yet without at least having some discussion about what they mean, and there may be some other things that we're just not comfortable with changing...until they make us!

Chair Lohman: Well, I saw a couple that I didn't like.

Ms. Stevenson: Yeah, okay. Okay.

Mr. Greenwood: Well, just a comment: I just did a quick spot-check and there was one that Ecology irritated me with their comment and Betsy didn't go along with it, so I'll give her credit there. I appreciate it.

Ms. Stevenson: Those comments are still in there?

Mr. Greenwood: There's still some more to check but I'm not even going to tell anybody where they are _____!

Ms. Stevenson: There were some things that I just thought, Well, you know, we've met the intent of what the law is. It's not exactly what yours says but we feel like we could maybe have a discussion and at least state our case a little bit. It's too early to just kind of –

Chair Lohman: Well, like on the one for Public Access where we had a – kind of a – threshold before it was required and it was for dwellings, I believe, and Ecology struck that.

Ms. Stevenson: Okay.

Mr. Greenwood: And I think it made sense the way she had it.

Chair Lohman: I did, too, because we basically said after this point then okay, but if you're below.

Ms. Stevenson: Okay, well, make sure you're kind of keeping track of those things and marking _____.

Chair Lohman: So we need to compare the two?

Ms. Stevenson: Well, if there are things that you've found in Ecology's comments that you see that we did change or you find in there that it's different than what it was and you liked it the way it was then, by all means –

Chair Lohman: Okay.

Ms. Stevenson: And either way. Or if we didn't change something that you think we should have that it made sense. But I've found in talking about the aquaculture stuff that some of their comments are just like, *What?* But then having the discussion it's like, Oh, okay. That's what you mean? Then if we word it like this is that okay? And so that seems to really help. So before I jump to too many conclusions on some of the stuff – it's just like yeah, uh, I don't think we want to change it.

Mr. Greenwood: I was just thinking, but there's some latitude and then there's going to be an opinion coming from one person from Ecology, whether they work in concert with one another or not they're going to voice an opinion. Some of it's just opinion, you know? I think your definition should be this one or that one, you know? So anyway...

Chair Lohman: You didn't add "shall."

Ms. Stevenson: Nope. No shalls.

Chair Lohman: Thank you.

Ms. Stevenson: No shalls.

Chair Lohman: I thought it was funny. I almost laughed out loud when I saw that in the definitions they had a definition for “shall.”

(several people talking at the same time)

Ms. Stevenson: So anyway, yes. If you saw things in there make sure you make note of them. And, you know, if you even just want to keep separate notes as far as your comments on Ecology’s comments we can have some special time to just do that, too, if that works easier.

Mr. Greenwood: Because I don’t like their definition of “should.” I’d like to work that over.

Chair Lohman: Well, I saw that you kept “should” but you didn’t keep their “shall.”

Mr. Walters: “Shall” doesn’t really exist in the document, though. The only place “shall” exists, I think, is in the WACs that are quoted verbatim.

Ms. Stevenson: I know, Keith, I think you made a comment to Dale, perhaps, as far as trying to figure out a schedule on your timing. Like I said, we put this together this afternoon just kind of to break it down to see what it looked like and how much time we thought it would take. But you’re going to have a better sense after you start looking at it. You know, I have no idea how long it’s going to take to get through any of this stuff or how we’re going to go through it or how much time you’re going to want to spend, how much discussion it’s going to take, or how much time we’re going to have on the agenda to be doing this if you’ve got other things in front of you. So we just broke it down to meet twice a month, which you guys still have to decide that. That’s not my choice to make. And then we thought we could get done and there was another Tuesday in the month of April so we put one in there, but we didn’t schedule it. And I think otherwise they are two weeks apart because that gives us some time to keep working on things and if you have changes that we can get back to you quickly while it’s still kind of fresh in your mind. Show you what we did, and that’s good too, rather than taking all your discussion and comments and then go back and try to do things. But, again, you know, this is going to be out there and it’ll be on the website –

Mr. Greenwood: This will be on the website?

Ms. Stevenson: Yeah, this memo will be anyway if we change it. We put up a new schedule so take a look at it and we can talk about that, too. But, you know, if on April 1st you whiz through all that stuff and we start – you know, we’re going to want to keep going and I don’t want to be tied to this and have people show up saying, Well, you said on your schedule you were going to be talking about this that night. So it’s kind of fluid in that sense. Or maybe one night it’s going to take you a long time to get through a section that we thought we might get through more, that’s perfectly fine, but then we’ll just have to sort of change it based on – we just broke it down as best we could, I guess is what I’m trying to say.

Mr. Walters: And it’s grouped by subject. You’ve got policies in Part I and development regulations in Part II. We grouped the policies and the development regulations for each subject together. So that’s why it’ll cite a code section and then a Comp Plan policy section.

Mr. Greenwood: Well, I appreciate – just to make it clear what you just said, which is that this is a sequential pattern and it may go faster or slower based upon how we go through it, and so the public can get feedback sooner or later, but hopefully not later.

Mr. Walters: And we tried to group things that appeared to be shorter – for instance, the critical areas section is pretty short so maybe you make it through all of Part V and a couple other Parts in one night; whereas Part IV is where the real meat of the document is which is why it’s broken into four different meetings.

Chair Lohman: But I think you need to be really clear on what is already code, what is already – that we’re not changing when we get to that critical areas part, because I thought there was a lot of confusion from the public on that. They thought it was new language and it wasn’t new language.

Mr. Walters: I don’t recall if that was in your most recent draft or a draft prior to that.

Chair Lohman: It might have been a prior draft.

Mr. Walters: It may have been a prior draft. In any event, the current state in this draft is that the critical areas ordinance that we already have, already adopted, already live with is incorporated by reference. So all of that text doesn’t exist within the Plan itself.

Chair Lohman: So maybe some discussion, because I saw several Ecology comments where they inserted the words “and their buffers.” I remember we were talking about how we were going to incorporate critical area buffers and other buffers if they fell in that shoreline jurisdiction but they’re not completely in the shoreline jurisdiction. Because that’s the trouble when you say 200 feet,

because you lop something off and so how do you handle that? Well, Ecology had an idea and we need to see if that's what we want to do.

Mr. Walters: And I think that's one of those comments we didn't incorporate.

Mr. Greenwood: Good.

Mr. Walters: We may have changed it in some way to address their concern, but not use exactly the text they proposed.

Ms. Stevenson: Well, we had the discussion and we can talk about this when we get there, but my thought on this is that because we are incorporating it the buffers – whether it's within a shoreline area or whether it's just a critical area – would be the same buffer, if you're following me. So if you take what's in shoreline jurisdiction and part of the buffer is actually outside a shoreline jurisdiction it makes sense to me, because the buffer is going to be the same regardless of which jurisdiction you're in, to include it in a shoreline. Otherwise you're back to what we have now. We're going to need shoreline variances, perhaps, and critical areas variances, so it did make sense to me – and there may be reasons why it doesn't – I'm perfectly open to just go ahead and keep it all within shoreline jurisdiction, so then you're at least dealing. Even though the rules are the same you're just dealing with it once and _____.

Chair Lohman: So we need to be clear so that people don't feel like they're getting whacked twice.

Ms. Stevenson: Right, right. Which is what they would – they are now, if that makes sense.

Chair Lohman: Yeah.

Ms. Stevenson: The shoreline laws and then critical areas laws.

Mr. Greenwood: And there might be a difference in how they interpret the benefit or hands-off approach to buffers. We might look at buffers one way, and the way I read Ecology's was they were treating the buffer as if it were the feature and I didn't think it's the same.

Ms. Stevenson: Yeah. I agree with you on that. And I guess the other thing to keep in mind is if we do take it into shoreline jurisdiction if they do need a variance then that's something that's going to have to be approved by Ecology where now, if it's not, it would be a variance through our critical areas requirements, right?

Mr. Walters: But if you need both anyway.

Ms. Stevenson: Yeah, but even in a Hearing Examiner variance under the critical areas ordinance doesn't mean approval from Ecology. So I'm already arguing with myself while I'm thinking about it. I don't have a set answer here yet. I'm still kind of thinking about it.

Chair Lohman: I guess I want everybody to have an open mind, where it may on paper look like it's short it may be when you start delving in that you discover stuff.

Ms. Stevenson: Right, we need to think it completely through. That's why I appreciate more eyes and more discussion.

I don't know if you have any questions about anything in the memo. We won't have another meeting until the first part of March. That gives you a month to try to get a little more familiar with it and look at it. And if you have any questions along the way, you know, feel free to e-mail me or give me a phone call. That's what I'm here for.

Mr. Meenaghan: So are we or should we have any external agencies come in to talk to us about this at all? Like, for instance, Fish and Wildlife – would it at some point be good to have, you know, other state agencies come and talk to us?

Ms. Stevenson: Yeah, we can certainly do that.

Mr. Meenaghan: I mean, I'd be curious to know, you know, how's the salmon habitat doing, you know?

Ms. Stevenson: When we started the process we actually did do that. But that's been a while ago and other Planning Commission members ago, so we can do that if there is something specific that you'd like to hear from them about, you know, let me know your ideas so that – and now that we have some bucks we can do that, because we had Department of Natural Resources come, someone from Fish and Wildlife, someone from the Forest Service.

Mr. Meenaghan: Yeah, those would all be great.

Ms. Stevenson: Okay.

Dave Hughes: He just said something that kind of – I was thinking about it. He said "and other Planning Commissioners ago." When do you feel that this is going for public comment? I mean, let the – because my experience with these big projects is the time we're putting in before is usually double the time after. And I believe there's at least – there's two and maybe three Commissioners that their terms are up in the next few months. Now I don't know what's going to happen to them but are they – obviously we won't be sending this to the County Commissioners probably before September or October, are we?

Ms. Stevenson: No. We're going to take as much time as you guys need with this review which we kind of have maybe May, but that can change based on how long you want to take to do that. Once we get all your comments back then we're going to have to go back and draft up a formal kind of review out for public comment and adoption process, and then we start there. Then we have to do a notice and allow sixty days at least with that process. Then we'll come back to you guys with it again. Then it'll be your choice whether you want to kind of take some time to look it over and have some discussion or whether you're ready to have a public hearing and start the process – or public hearings. I'm guessing probably depending on what kind of feedback I get there may be some need for some additional workshops somewhere along the line in here as we're working on it to kind of keep the public involved in what we're doing and how we're going about it and giving them some more time besides just our public meetings now with their three minutes – some one-on-one time to talk about it and get some feedback from them. It's going to take as long as it takes, but I'm not thinking that we would do much of anything more than get through your process by the end of the year, and hopefully have a recorded motion out of it by the end of the year – or not.

How long are you hanging around, to use that as our goal?

Mr. Hughes: That'll be twenty-eight years. I don't know if there's going to be too many days after that.

Ms. Stevenson: Okay, where did that put us?

Mr. Hughes: I don't know.

Ms. Stevenson: When you're twenty-eight years. Because I remember when you came on but I don't know when your twenty-eight years is up.

Mr. Greenwood: When is your term up?

Mr. Hughes: It's this year sometime at least.

Ms. Stevenson: Okay.

Mr. Hughes: I believe there's two others, too.

Ms. Stevenson: Maybe we can get you special dispensations.

Mr. Hughes: Yeah. We'll see what else is on the agenda –

Ms. Stevenson: Okay.

Mr. Hughes: – as far as Dale’s concerned. Projects.

Ms. Stevenson: Yeah, there will be other things before you so this is me being selfish and looking at it from, Okay, this is how much time we’ll probably need with you if you don’t have to do anything else, which I know is unrealistic probably in the next several months, but I didn’t know how else to quite go about it. So we’ll move as we have to and step forward as we have to. But hopefully at least we’re prepared, and (if) something comes up we’re still prepared and we can just do another meeting. If you guys are willing to meet a couple times a month that would be great and it really would help. Because I know we found before if you wait till a month you kind of have to go review what you talked about the month before and you don’t necessarily – it’s not quite as fresh, if that helps. But it still gives us some time to turn things around. But that was just sort of us talking. Again, if you guys have different ideas and other ideas it’s your time, so we want to be respectful of that too.

Mr. Walters: We could talk about the process a little bit, too, because we had advertised, I think, on the website that there will be eventually a sixty-day comment period. That doesn’t presuppose when the public hearing is. Is there a sixty-day written comment period followed by a public hearing? Is there a public hearing at the beginning, middle or end of that process of the sixty days? Is there a sixty-day comment period, a public hearing, and then another comment period? I mean, there are a lot of options. So it can be a very long, drawn-out process or it can be staged or we can figure it out as we go.

Chair Lohman: Well, and if we’re going to be taking input from the public we need to be able to see it, like, as soon as it’s – while it’s fresh, rather than wait to the very end like we have done in the past. We could get their input because we could get it early and get it incorporated if we need to.

Mr. Hughes: I think it’s important that – just from history and experience – that the written period should always extend past the public hearing just because – and I anticipate it’ll be very well attended and smoking, and that’ll bring up a lot of questions that there’ll be as much written correspondence *after* the public hearing as there would be before.

Ms. Stevenson: And then depending on how much we get, we need to respond to all of that before we bring it back to you so that’s going to take some time.

Chair Lohman: And if you’re anticipating an interactive meeting where we have the public and the Planning Commission together that almost needs to be a separate event because I don’t know how we would be able to do our regular business and do that at a single meeting. Is that what you were suggesting?

Ms. Stevenson: Say that again, where you say “interactive meeting” with the public.

Chair Lohman: I thought you said something about having a meeting where the public can talk and dialogue with us at a –

Ms. Stevenson: Oh, I meant me, not you necessarily.

Chair Lohman: Oh, okay.

Ms. Stevenson: Sorry. But there might be some needs for some additional public workshops or open houses or something to go over things.

Chair Lohman: Great.

Ms. Stevenson: Again, I'm perfectly happy if people have specific questions about different sections to come out and talk to me about them.

Chair Lohman: I misunderstood what you were thinking. I was thinking, How are we supposed to do that?

Ms. Stevenson: Yeah, that's a little tougher for you guys and a little easier for me.

Chair Lohman: But you should, you know, the earlier and the sooner...

Ms. Stevenson: We've taken public comment all along. I'm continuing to do that. So if people have thoughts we will try to get this up on the website tomorrow. I can't promise somebody else's time who has to do that, but they will have it available to them. And hopefully this document and the memo will be up on our website tomorrow. So if people see things – you know, we know we haven't caught everything, but we could use the reminders. If people want to comment to us now we are trying to incorporate those things even in these early drafts, so you don't really have to wait until it's the formal adoption process to give us your thoughts as far as what's going on.

Chair Lohman: And you're going to put those comments up on –

Ms. Stevenson: We can try to get those posted as well. Yeah, because I think it helps. Yeah, we have in the past with some of the ones that have come in.

Chair Lohman: _____, so is it – is that okay?

Mr. Walters: I'm sure. It's just – it's just time.

Chair Lohman: Oh.

Mr. Walters: And also, you know, if someone sends an e-mail and says, Hey, page 37 needs an s, are we putting that comment up? I think probably not.

Chair Lohman: Oh.

Mr. Walters: You know, so maybe there's some threshold.

Chair Lohman: Scrivener's. I don't expect you to put every scrivener's mistake up on the website.

Mr. Walters: Right. We're probably also not looking for that comment at this time either because we know that there are those kinds of issues. We're looking for maybe more major themes.

Mr. Greenwood: I'm just thinking, Annie, do you envision a March 4th meeting whereby there's interaction between us and the Department where we come up with our questions for that particular section, or are you thinking there'll be a presentation first, followed by that interaction? And then how would you anticipate or consider public involvement? Would there be some public involvement?

Chair Lohman: Well, I almost think that you've basically divided the book and this is your homework assignment, is to kind of be knowledgeable on this section of the book and come prepared. And Betsy'll give her presentation of what might have moved between when we went home and did homework, and then prep you for the next batch of homework. But I think having a homework assignment is – I really like having that.

Ms. Stevenson: Okay.

Mr. Greenwood: I was just wondering what you were thinking.

Ms. Stevenson: It helps us because then we know what we need to have prepared, and there is an expectation and so we were able to put some of the stuff that we really haven't gotten to toward the end. But it's flexible. We can adjust things as we need to depending on how it's working. If you want a brief presentation before we start, we can do that. If you'd rather just jump right in, assuming that you've looked at it, and just start with questions, you know –

Chair Lohman: I think we all signed up to be prepared. So you've kind of outlined kind of a syllabus here and if it's the will of the Commission I think we should try to follow it. And you mentioned earlier that if we finished a section maybe leaping into the next one. I would caution about doing that too far in to the next chapter or the next segment because you can't prepare for the whole book.

Mr. Meenaghan: You know, we wouldn't have done our homework.

Mr. Walters: There's probably enough in each block that that won't be a problem for you.

Ms. Stevenson: Yeah. I'm guessing that may be – but I know we went through a lot of sections and you guys didn't have a lot of questions or comments, and last time things that we thought would draw quite a bit of discussion didn't, so I never know for sure.

Mr. Greenwood: No.

Ms. Stevenson: And then some of the things that I wasn't anticipating, based on the discussion that sort of came out of it and added in, and it was *more* than I was expecting. So we just kind of tried to break it up in pieces that we thought were workable and doable, but that doesn't mean if we don't get through something and somebody says, I'm sorry. I haven't had a chance to go beyond that. I've just been out of town or too busy, I would ask that we just – you know, we get out of here early because we all did our homework and we did a really good job, or there may be something else on the agenda. Whatever you guys want to do is perfectly fine, but I didn't want you to think that this stuff was set in stone because _____. It's up to you guys.

Chair Lohman: I think after the first –

Ms. Stevenson: It's your meeting. You have a better sense of that.

Chair Lohman: – block, then we'll kind of get an idea of how we want to proceed. But I think we should just dive in and come prepared for that March 4th as you've laid it out.

Ms. Stevenson: Okay. Then we'll try to stay pretty close to it. Let's do that. If we have a chance to move forward and are comfortable talking about something else. Or we may be able to bring something back to you from our previous meeting that says this is kind of what we got out of this. Did we catch what you were trying to do? Like maybe the second meeting would be an overview of the first one a little bit, and anything that we can give to you to put to bed and be done with, great kind of thing.

Chair Lohman: That might be good to do it on that kind of model.

Ms. Stevenson: So, if that works.

Mr. Walters: Do we assume correctly that what you'll want to do is just start going through the scheduled sections paragraph by paragraph, anybody have any comments on this paragraph, that kind of thing?

Chair Lohman: The devil's always in the details. I mean, I don't think any of us want to be surprised.

Mr. Greenwood: I can envision – see what you think of this – just a brief summary of that particular section, highlighting, perhaps, some of the input that's been received from Ecology, as well as – I mean, it could be real brief, but they liked it, they didn't like it, they didn't have any comments. Because my focus is going to be on my area of most complete understanding so I don't want to snooze through a section that the public had a lot of input on or Ecology had a lot of input on. Maybe we didn't like it or, you know. So maybe threefold – Ecology, public, and the Department's perspective – and then we might have a flavor of where the focus seems needs to be. I mean because I want to be prepared, as well, but there might be some things that have come up and maybe they've died down a little bit because of length of time.

Chair Lohman: But this is still early and this is still a draft, so we're not at the final document yet. I just want to say that out loud.

Ms. Stevenson: Again and again so that people still do understand that.

Mr. Greenwood: But if we're in the last stages of it, it's been going on for a long time, we're getting down to the time where it's pretty critical that we get it right.

Chair Lohman: Right.

Mr. Greenwood: And it was supposed to be done – under the original timeline – by last year and we decided to take whatever time is necessary, whatever that takes.

Chair Lohman: Anything else from the Commission?

(silence)

Chair Lohman: Thank you very much, Betsy, and Ryan.

Ms. Ehlers: I just have a basic question. If you're going to talk about shoreline designations, but the shoreline designation depends entirely on the inventory. When is the inventory going to be part of this discussion?

Mr. Greenwood: It always has been, as far as I'm concerned.

Chair Lohman: I was under the impression it was.

Ms. Stevenson: Yeah, we've had at least one, if not two, presentations. One specifically, where they went through it and in pretty good detail of how they ranked and rated everything and how they split it up and divided it.

Ms. Ehlers: In my area it is not accurate.

Chair Lohman: Carol, this is – excuse me.

Ms. Ehlers: And there are probably others. How are you going to relate it?

Chair Lohman: But we will be going over the entire thing and it would include the inventory. So we're going to be reading the whole book and going over the whole book.

Ms. Stevenson: And you have a copy of it in your notebooks.

Chair Lohman: Right.

Ms. Ehlers: Give the new people a copy of the inventory.

Ms. Stevenson: They have it.

Chair Lohman: Anything else on the Shoreline Plan?

Mr. Stauffer: Madame Chair, a point of clarification. Did I hear correctly that the Chair is open to public written comment on the Shoreline Master Plan – has been and continues to be? I was not aware of this opportunity for public comment.

Chair Lohman: Yes.

Mr. Walters: There is not an advertised written comment period right now, but as with all legislative actions the Department accepts comments at any time.

Mr. Stauffer: Thank you.

Chair Lohman: Thank you.

Ms. Ehlers: Are you going to pay attention to them?

Chair Lohman: Please –

Mr. Hughes/Meenaghan: That's uncalled for.

Chair Lohman: Will the public refrain? Anything else from the Planning Commission on the Shoreline subject?

(silence)

Chair Lohman: Okay. Anything else from you on the Shoreline, Dale?

Mr. Pernula: Nope.

Chair Lohman: Okay, moving on to the Department Update.

Mr. Pernula: Okay, I've got a couple of brief things to bring up then one that's going to be fairly lengthy. The first one is Ellen Bynum reminded me that there is a Short Course on Local Planning that's being put on by the Department of Commerce. It's kind of a short notice. It's tomorrow from 2 to 5:15 in Coupeville, and I believe that it's concentrating on historic preservation. There will also be one in March, March 6th, in San Juan County, if you're interested in going over there. And, in addition, I've talked to the Department of Commerce about tailoring a local – a Short Course on Local Planning – tailoring it to Skagit County's needs – a rural, farming county rather than an urban location – and they said that they would do it probably in the fall but maybe in late summer. So I'm going to try to get them to come up here and do that as part of the training program.

The second thing – and I think I need to respond to some of Carol Ehlers' comments, which I appreciated, on the Natural Hazard Mitigation Plan. Tim DeVries was replaced with Jack Moore as the Building Official and he is involved in that update and he is involved right now. And I'd like to kind of go over the Planning Department's part in natural hazard planning. I think the operational part of the Plan is mainly up to the Emergency Management Department; the infrastructure is more up to the Public Works Department; and the preventive portion of it – a lot of it is to the Planning Department, and we do have a lot of regulations that are periodically updated and I believe are in pretty good shape. That would include our building codes; fire codes; the floodplain management regulations; the critical areas ordinance, in particular dealing with geologic hazards. So those are the things that you guys have been involved in, have kept them pretty much up-to-date. So I believe that as far as preventive – preventive measures – we're staying in pretty good shape right now, and we are involved in this Natural Hazards Plan update.

The third thing I wanted to talk about is the status of Bayview Ridge. I've had some questions from various members of the Planning Commission about it so even though you haven't been involved in it recently, at least not in the last couple of months, I wanted to bring you up to speed because you will be – something will be brought to you in the near future, I believe.

I sent you copies of a letter that we received from the Burlington-Edison School District and the Board of County Commissioners' response to that letter. You may have also read in the newspaper that a resolution was adopted by the Port

of Skagit, and I have a copy of it just in case you didn't see it or get a copy of it. Now it's all pretty important, but if you go to page 5 of 6 and the actual resolution, if you go to item number 2 it says, "The Port Commission is committed to public safety and endorses the safety zone dimensions recommended by WSDOT in the Airports and Compatible Land Use Guidebook and therefore urges Skagit County to complete an update to the AEO to adopt the most current WSDOT-recommended safety overlay zone dimensions and to amend the language of the code to (1) bring it current with FAA and WSDOT guidance on airport compatibility issues and (2) to provide the necessary protection of the airport to ensure its future vitality."

I'm going to put a copy of what those AEO zone changes would look like. Okay, if you look at this map – I hope you can see it – there – if you look at the black lines, those that are like an extension of the runways. I don't know – can you see them there? Okay, the area on the runway that extends to the northeast, you can see that there's a black area. It's Zone 4. And then an extended area around it which is in red, which is the new Airport Environs Overlay Zone 4. You can see that it extends the length by quite a bit and the width as well. That Zone 4 highly restricts residential uses that could be put in those locations. You can have densities less than five dwelling units per acre but you cannot have, according to the Guidebook, densities of greater than four dwelling units per acre, which is what our current Subarea Plan that was just recently adopted says. So we have the Port requesting that we adopt these new overlay zones. And this is a draft. It's not precise but it gives you a pretty good idea, and it gives you an idea that a portion of the Bayview Ridge residential area cannot be used for the uses that have been adopted for those areas.

So I just wanted to let you be aware that this is coming down. We're going to be working with the Port to see – let me back up a little bit. According to the Growth Management Act, we're only allowed to designate uses that we have an allocation for. If we want to designate that Zone 4 for a use, such as industrial, for that area we have to have an adequate amount of land that we can allocate for that use. So we're going to either have to find some unallocated land that we haven't allocated for industrial use, or move it from somewhere else in Bayview Ridge to this location.

So we're working with the Port right now to see if that's possible. But, anyway, we believe that there may be some significant changes to the Bayview Ridge Subarea Plan relatively soon.

Do you have any questions on that?

Mr. Greenwood: Would this overlay change if the airport were to expand as they had talked about – expanding runways? Would that overlay change?

Mr. Pernula: My understanding is that the runway that they're talking about extending is that one that goes to the northwest.

Mr. Greenwood: Okay.

Mr. Pernula: If that extends, it would not affect so much the Bayview Ridge development but it could affect the area to the northwest of the airport. Now that's assuming that other things in the guidelines don't change. Those could change as well. Yeah, they could expand. They could contract. But as it is right now, this is roughly where the new proposal would be and it's what the Port is asking us to adopt.

Mr. Walters: And this overlay incorporates their proposed extension of the runway to the northwest?

Mr. Pernula: I don't believe it does.

Mr. Greenwood: Because I would think it would be helpful if they thought about full build-out. What are their final plans for extension, if they have plans for that? If they don't have any plans for extension then, you know, maybe they're not thinking very far ahead but I would think that they are. So, I don't know. I just wonder what that overlay would look like.

Chair Lohman: Is the map showing the – our action that we just recently did where we adjusted that –

Mr. Pernula: It does not. This is the only electronic copy I had of these new overlays was an overlay on our old map prior to the re-adoption. If you look at the industrial area, it's actually extended to the east – ah, I can't really show it to you. There was 110 acres that was added as Light Industrial from what's shown on that map.

Mr. Walters: And the BR-CC was reduced in size.

Mr. Pernula: Right.

Chair Lohman: Right.

Mr. Pernula: Unfortunately this is the only electronic copy I have right now. I have some hard copies of this overlay – the new overlays on our new map, but no electronic copies. In any event, a lot of these things we're going to be talking to the Port about to see what their ideas are, see what kinds of extensions they're talking about. And, frankly, I did focus on the Bayview Ridge area itself and how these expansions would affect our Plan.

Mr. Hughes: It appears to me that the runway – the runway is not that big right now. I think that's – it has to be their proposed or where they could go.

Mr. Pernula: It could be.

Mr. Hughes: They're darn near to Farm to Market Road and to Josh Wilson, if the purple is the runway, and it's nowhere close to that now. And I believe the land, the rural land on the northwest corner there, it at one time was for sale for houses and I believe it sold for raspberries. So someone's told people that they can't develop in some of the rural area there.

Mr. Walters: Yeah, it's not obvious to me if this reflects that proposed runway extension or not.

Chair Lohman: Maybe we should get back to the Port and ask them those questions.

Mr. Hughes: We'll probably know that when it comes to us.

Mr. Walters: Oh, definitely.

Mr. Hughes: I mean, we're just speculating right now what –

Chair Lohman: Yeah, everything's ____.

Mr. Walters: But the surprising thing is that the change that really affects the residential area, the subarea, is not related to the runway that actually gets the most use.

Mr. Hughes: No.

Mr. Walters: It's the alternative runway, the one that – this angled runway.

Chair Lohman: East.

Mr. Walters: And the big effect of the change in the AEO zone is not because that runway has changed or is proposed to be changed in any significant way. It's just – it's the Guidebook. The Guidebook has changed and the prescriptions based on that Guidebook make those zones bigger.

Chair Lohman: Anything else on Bayview Ridge?

Mr. Pernula: That's all I have on Bayview Ridge and that's the end of my report.

Chair Lohman: Okay. Okay, we're on item 6, Planning Commission Comments and Announcements. Anything from the Planning Commission?

Mr. Greenwood: I just want to say that I appreciate what you said electronically, Ryan, on the Shoreline, as far as the Ecology comments and the ability to review those. So far I like what I've seen, but I've only seen one thing. But I have reviewed all those comments and commented on the comments, but I'll kind of reserve judgment for wishing I had seen those sooner, but thank you for getting those to us. It's in a good format that's useful.

Chair Lohman: And I really like that on our agenda when you have it on your computer when you make things interactive and you can just click on it and it takes you to the webpage that you need. This one doesn't have very many things like that but I know the last one had quite a few and I found that extremely helpful. I really, really like that. I want to thank staff for doing that.

So anything else? Could we have a motion to adjourn? Matt?

Matt Mahaffie: So moved.

Chair Lohman: (gavel) We are adjourned.