

Skagit County Planning Commission
Discussion: Letters from Planning Commissioner Mark Lundsten to BCC
Work Session: Bylaws Update
September 22, 2020

Planning

Commissioners: **Tim Raschko, Chair**
 Kathy Mitchell, Vice Chair
 Mark Knutzen
 Joseph Shea
 Mark Lundsten
 Amy Hughes
 Joe Woodmansee
 Tammy Candler
 Martha Rose

Staff: **Hal Hart, Planning Director**
 Mike Cerbone, Assistant Planning Director
 Peter Gill, Long Range Planning Manager
 Julie Nicoll, Deputy Prosecuting Attorney

Chair Tim Raschko: I'll start over. This meeting of the September 22nd, 2020, Skagit County Planning Commission is now called to order. As I was saying, let's use the Chatbox if somebody wants to be recognized to speak. We'll start with a rollcall. Kathy Mitchell?

Vice Chair Kathy Mitchell: Here.

Chair Raschko: Tammy Candler?

Commissioner Tammy Candler: Present.

Chair Raschko: Amy Hughes?

Commissioner Amy Hughes: Here.

Chair Raschko: Mark Lundsten?

Commissioner Mark Lundsten: Here.

Chair Raschko: Martha Rose?

Commissioner Martha Rose: I'm here.

Chair Raschko: Martha Rose. I see you, Martha. Okay. Joe Woodmansee? He's here; I see him.

Commissioner Joe Woodmansee: Here.

Chair Raschko: Joseph Shea?

Commissioner Joseph Shea: Here.

Chair Raschko: And Mark Knutzen?

Commissioner Mark Knutzen: It's Knutzen, yes. Mark Knutzen's here.

Chair Raschko: All right. So first of all I'd like to welcome Mark Knutzen to the Planning Commission. Would you like to introduce yourself? You don't have to.

Commissioner Knutzen: Sure. I live on Avon-Allen Road just west of Burlington. I've lived here two years. Grew up in Burlington; graduated from Burlington-Edison High School; spent a couple years at Skagit Valley College, then went over to WSU; came back; and I've been farming fulltime since 1974. I farmed in partnership with three brothers the early years. We were crop farmers, no animals. We grew peas and grain and seed crops like most crop farmers back in the day. As the peas left the valley – as Amy Hughes knows – we had to get into something else and many of us chose to get into potatoes. I was partners with the two brothers from 1984. We sold our potato warehouse in 2013 and since then we've each farmed a little bit on our own. I'm mostly retired now. I do still own some farmland that I rent out and I work part-time for the people that bought our warehouse on Chuckanut Drive there.

Personal life: My wife Patty and I have been married 44 years. We've got three adult children – a daughter and two sons – and five grandkids from two months old to 14 years old, and they all live within about one hour of our house so that's what I do instead of being retired. I help watch grandkids, and that's a lot funner than working, boy, I'll tell you that!

I've been involved in several different boards over the years, mostly agriculture – Farm Bureau, Commission on Pesticide Registration, Washington State Potato Committee, Western Washington Horticultural Association. I was on the board of the ___ Association. I'm now on the board of the Burlington Historical Society. The thing I like about history for me, a lot of history I remember as current events, not history, so some of the younger people think that's kind of neat.

I am looking forward to being on this. I've been interested in it for decades but I've never had the time. On our farm we were real hands-on so I didn't have time to do this. So now that I have time I'm looking forward to it. So thank you.

Chair Raschko: Great. Welcome, Mark.

Commissioner Knutzen: Thank you.

Chair Raschko: We've got a – first of all, the staff has some housecleaning items. I request, too, that they introduce the members of staff who are here. So Mr. Gill?

Peter Gill: Sure. Thank you, Chair. Just a reminder. It's been a little while since we've had one of these virtual meetings, so if you don't mind muting yourself, unless you're talking or ready to talk. That would be helpful. It cuts down on some of the background noises. Like Commissioner Raschko said, or Chair Raschko said, please use – feel free to use the Chat to get recognized, but please don't write your actual question or comment in there. Just say "I have a comment." We are recording that Chat. You could also wave your hand or hold your hand up as well.

As usual, the Chair still runs the meetings. In the virtual meeting, the procedural rules still apply, which we'll be talking about today. A big fat welcome to all the public that are out there on Skagit 21. Thanks for joining us. It's nice to have people out there. And if you can remember to say your name before you talk for people that don't actually have any video. That will help them to know who is speaking.

I'm Peter Gill. I work for the Planning and Development Services Department. This will be a chance for us staff to introduce ourselves. I'll ask our director to introduce himself.

Hal Hart: Hello, everybody, and welcome, Mark. Really glad to have you here. I'm pleased that you're a history buff like I am as well. I think it's super important and I think we have to tell what our history is. I think that's really important just generally.

The Planning and Development Services is composed of just three pieces here, with Current Planning, Long Range Planning, and Natural Resources planning. We also have Building and Fire as well. And we are totally focused at the moment on getting permits out the door. But I love being here and listening to the good work of this commission. Thank you.

Chair Raschko: Mike?

Mike Cerbone: Yeah, my name is Mike Cerbone. I'm the assistant director and glad to be here. Glad to see these faces.

Mr. Gill: Julie, from the Prosecuting Attorney's office is here.

(sound problems)

Chair Raschko: Well, Peter, can you fix it?

Mr. Gill: I can try, and I can text Julie some of the tricks. But Julie Nicoll is here from the Prosecuting Attorney's office and she is here to help answer some questions regarding the bylaws tonight. So I appreciate her being here tonight. We'll get your audio figured out here.

Chair Raschko: Okay. Thanks for being here, Julie. Anything else, Peter?

Mr. Gill: That is it on my end. Thank you.

Chair Raschko: Okay, so we'll turn to Public Remarks. I don't know that there is anybody who wishes to address the board of commissioners – the Planning Commission, I should say. Hearing none –

Mr. Gill: I have not received any written comments to date, but there may be someone online.

Chair Raschko: Okay, then we'll turn to our first business item. It concerns a letter to the Board of County Commissioners dated 8-28-2002 regarding findings on Docket Item P-4, Great Blue Herons. And I just – by manner of explanation say that the letter went out from Commissioner Lundsten and I felt compelled to reply to it in a letter of my own to the Board of Commissioners. But this discussion is not so much as the contents of each of those letters but, rather, a discussion of the protocols around such a letter, and how it adds to team work and trust. We've got somebody

in the background on here? Okay. So anyway, we'll start and open the floor to discussion. Does anybody have anything to say?

Commissioner Lundsten: I'd be happy to start off.

Chair Raschko: Go ahead.

Commissioner Lundsten: Mark Lundsten, for those who can't see. I wrote the letter and was surprised to have the response it did since it was just a recitation of what I had submitted, thinking that we were going to work on a draft – what I thought of was a draft. And so to me the findings were not sufficient. I was in a minority. I knew that. But since it had not come up for discussion I thought it deserved to be aired and so I aired it. Tim and I had a – just for full disclosure here, when I had gotten Tim's letter (and) I saw the matter on the agenda I thought, Let's talk about this. Let's see what's going on. Because I thought that there were misunderstandings, which I think there were. The basic one was that I was not trying to do anything other than exactly what I did with presenting it as a minority report. And there was a question that I was sending it out not to the Planning Commission but to other people and not sharing it, but I was told when I joined the Planning Commission myself that we had – that we should never – Ryan Walters basically said don't send messages to all the Planning Commission. Send them to the staff and the staff will take care of it. And when you reply to messages from the staff that have gone to the Planning Commission, don't hit "Reply All" unless it's something minor like schedule. So that is what I've done all along, is I sent anything to the Planning Commission to Peter and Hal and Mike – Michael.

So that was the intention and it was not meant as an attack on the integrity of the Planning Commission. Quite the opposite. I wrote it in the spirit of – that the Planning Commission needed to have full presentation of the items they had considered. I wasn't trying to change anyone's mind. I was – and I was speaking – I made that clear in the letter. So I was speaking to bring a full report of what had happened and that was all, and I fully meant it to be seen by everyone, just like I fully meant – actually, I thought we were going to discuss it a few meetings ago when we – when it was not discussed. It hadn't been voted on but – so I assumed that we were looking for edited remarks or edits we wanted to make to the Findings of Fact. But, again, I was not in the majority. I did not agree – no one else agreed with me so – and that's – I'm not trying to change that.

So that was what I think happened here. And to get back to bylaws, which I think this relates to – and I don't – I think Tim and I have the same intentions. I think we want the Planning Commission to work well. And I think that what I could have done to make it work better is to just send it to *him* as well. And to include one person from the Planning Commission – the chairman – and Kathy, probably, the Vice-Chair. Send it to both of them and then we're all clear with all the public meetings rules and all that stuff. And then it's all – then it's fully shared, and that would probably be the advice that I would give to anyone in my situation in the future.

So I – if I missed anything from our ___, feel free to – obviously – to state your case, but I think that's a summary of what I bring to this right now.

Vice Chair Mitchell: Point of order.

Chair Raschko: Thank you, Mark.

Commissioner Lundsten: Thank you.

Chair Raschko: What is your point of order?

Vice Chair Mitchell: Our legal staff, Julie, is ready to do a test and I hope we can do that before we go any further.

Chair Raschko: That was what I was going to do next. Okay, can you speak, Julie?

(silence)

Chair Raschko: No. Hmm. Well, Julie, you are – a little red button indicates that you are muted, so you have to unmute.

Julie Nicoll: Can you hear me now? Because I called in as well. Oh, okay.

Chair Raschko: Okay, all great. Okay.

Ms. Nicoll: I just used the phone. Sorry! I'm the newbie to the process here!

Chair Raschko: Okay. Commissioner Candler has requested the floor.

Commissioner Candler: Thank you. It may take me a minute to gather my thoughts on this so please bear with me. When this letter first came to my attention I think it opened the proverbial can of worms that you hear about. I found the letter very objectionable on several fronts. And it lead me to another letter that I did not know existed, which was written in 2018 on another issue – P-12, it was called at the time – and then I looked and I found that the letter from 2018 is linked on a website, a campaign website that I think it links an article that I also found some content in to be incredibly objectionable. So I want to talk about those things. And I don't know whether everybody's read the 2018 letter, but I have it here and I want to just read the first paragraph. This is a letter dated December 26, 2018, from Commissioner Mark Lundsten and it was originally directed to the Board of County Commissioners. There are several people cc'd on it, none of which are Planning Commissioners.

The first paragraph reads:

At the October 16, 2018, meeting of the Skagit County Planning Commission (PC), I was the only commissioner present in favor of docket item P-12, the rezone proposal for South Fidalgo Island. I'm not rearguing the Commission's recommendation to the Board nor appealing the Board's decision to follow that recommendation. I'm saying that our deliberations about P-12 were inadequate. A major reason for this was that we remained silent about a misinformation campaign. We treated false statements as if they were true and thus enabled confusion instead of promoting understanding.

And the letter, several other pages which, I think, *do* argue P-12, and then at the end it says – the last paragraph – no, second-to-last paragraph: "By not acknowledging this issue, let alone addressing it, we crippled our deliberation and did a disservice to the public who counted on conscionable and honest consideration from the County." Use of the word "conscionable," I think, implies that our deliberations were *unconscionable*, which is a pretty strong word.

I took a look at Robert's Rules of Order. There're some generable duties of loyalty described in there that I think have been violated both in that letter, the recent letter in 2020 on P-4, and another article that I want to mention, but later. I think there're several problems that I've had with this and one, I think, is pretty simple. And I've heard Commissioner – former Commissioner Lohman talk about this a lot. I couldn't track down where it was really specific as to whether you can or cannot do this, but the first thing that I noticed was that the letter was written not as "I am citizen Mark Lundsten." It was written as "I am Planning Commissioner Mark Lundsten." I don't know that that's – I personally think it's inappropriate. I think Commissioner Lohman thought it was inappropriate. I didn't find where it's written, but, you know, we spend a lot of time reading these proposals, reading public comment, listening to the public hearings, deliberating on it, spending whatever time we spend researching it in whatever ways we do. And I feel like the point of all of this is for us to come to a vote. Now whether or not, you know, we agree or we split, and how we split, I think the point of all of this is that we come *as the Planning Commission* to make a recommendation. And I think that when *as a Planning Commissioner* you write a letter it undermines that. That whole process, I think, is undermined by putting your name as a planning commissioner to that.

The thing that bothered me the most about it was the tone of that letter, the other letter, and certainly the article. Disparaging the public – you know, basically discounting everything that everyone who was not in favor of those, came to the meeting and gave testimony on were just dismissed as false information. And I recall this back at the time that that was happening, and remember having a discussion about it in our deliberations and it bothered me then and it bothers me now. It's a terrible insult to those citizens who showed up to give testimony, I think.

So this article that I'm mentioning, it talks about – and I don't know who wrote it, and if Commissioner Lundsten didn't write it obviously he's not responsible for the words of others, except insomuch as that he seems to have sort of incorporated it by reference or adopted the contents of it. And that article talks about, sort of touts this idea that after that meeting – this is back in 2018 and I apologize; I know some of you weren't even on the Commission at that time – but it touts this idea that after the meeting Commissioner Lundsten came back and – I think I'm quoting – "took the Commission to task" for not stopping a – kind of a disruption at the meeting where a proponent of P-12 was trying to speak. And I remember that following meeting after the public hearing, the next meeting, Commissioner Lundsten kind of pointed out, Hey, you know, we need to not let our meetings become disrupted. And at the time I thought, Well, that's absolutely correct. I mean, note to self. Good tip. You know, call a point of order; make sure everything's not – you know, make sure people get to be heard and that things are going the way that they should. And so I thought it was a little bit strange, though, to hear it now being touted as Commissioner Lundsten took us to task. Commissioner Lundsten was in an equal position as any of us were to have called the point of order at that meeting. So I went back and I watched the meeting and obviously we want to control our meetings. We want to control disruptions. But it passed pretty quickly. It was a little bit disruptive but nothing that I think probably prevented a speaker from speaking. Again, what bothered me about that is that you don't take us to task on something that you are in an equal position to do. Anybody can call a point of order. So the characterization of that is offensive. It disparaged our process, it disparaged how we conducted ourselves at the meeting and that we needed to be disciplined for it. And I felt it was ___ at the time then more of a – hey, reminder. You know, let's not do that.

I think the other issue I had with it was failing to cc the Planning Commission – makes it appear pretty – sort of back-door. I just heard Commissioner Lundsten's response to that and I don't know what things he already knows about how this all works, but from my perspective we can get things

to the Commission. We can provide them to staff and it can go out to everybody and nothing has to be secret. I think that's kind of the opposite of what we're trying to do here.

So I think that the disparaging of the public bothered me more, but the disparaging of our process I do think is a problem. The fact that this is more than one thing. This is not just the new letter on P-4, which I think had all the similar kind of problems that I've already talked about with the letter on P-8 (sic). So the reason that I mention all of this the way that I do is that I know that our Chairman wrote a letter and I know that one of the other Commissioners, Commissioner Woodmansee, supported that letter, and I support them as well. If you get into, like, the merits of P-4 and all that, I don't want to get into the merits of P-4. But I think it's important that as a Planning Commission we address this as opposed to each of us just individually – I mean, what are we here for? If each of us just individually give our opinions we can just go be citizens. We don't need the Commission for that. So I don't want to see it sort of go down that path. And I think it's important that as a commission we think about whether or not that's what we want this to do.

The P-4 letter specifically talked about – well, I just want to back up. Commissioner Lundsten talked about how he felt that recorded motion was going to go, but what I don't – what comes to my mind in all of this is that I don't think Commissioner Lundsten necessarily understands what we're accomplishing. For example, I read the changes to our recorded motion that Commissioner Lundsten was proposing and one of the very first ones was to bolster blue heron cranes' importance. We've all agreed they're important. Again, I don't want it to devolve into a re-discussion of P-4, but my point is not that. My point is that the very first thing I read in his edits was to really bolster how important they were. So you would not bolster how important heron cranes are as a reason for action on not protecting heron cranes. It was the opposite, in a way, of what we were trying to accomplish, and I think we need to remember what we're trying to accomplish. And so regardless of the fact that we deliberated, we had 21 I think were well thought out points which were then disregarded by Commissioner Lundsten, and there was actually an allegation that that's *not* what we based our decision on, which I think is kind of an allegation of wrongdoing on our part. And that was the more recent letter. The other one, I guess, was "unconscionable."

But I think this is strong language. I think it's really unacceptable. Ad I think as a Commission I'd like to see us – I'd like to hear from some other Commissioners to see if they have similar views about the problems that I see with that. That's all. Thank you.

Chair Raschko: Thank you. Commissioner Mitchell?

Vice Chair Mitchell: Yes. Thank you, Chair. I find it interesting what Commissioner Candler had just said and what she had looked for. I do not know what others started to look for or perused when they saw the letter either, but I did and I ended up doing numerous searches online, because the letter, I thought, was extremely offensive. It appeared to me that it was subterfuge, it was disparaging, it circumvented and subverted the Planning Commission process entirely. It was not aboveboard. Everybody that's been on this Planning Commission for more than the first meeting and anybody – brand new people, you always give them the first pass for the first meeting and possibly the second. Everybody goes through the same training. Everybody has the exact same understanding for what you can and cannot do. Nobody knows – everybody knows when you send something out not to hit "Reply All." *Everybody* knows that from Day 1. So that excuse I find as a very poor excuse for what was chosen to be done. Number one. That's my personal opinion.

Number two: I find that the fact that the Commissioner chose to copy outside people and disregard the Planning Commission was also underhanded. I listened to the Board of County Commissioners when they heard about the work Docket 2019 and, lo and behold, a whole bunch of calls and letters – I heard over a hundred – came in disparaging the Planning Commission for everything that they had done on that. Remarkable, isn't it? Also by some of the same people that were copied later. When I started doing research and finding out more, because I don't – I think everybody should be on a level playing field. I don't care who you are. Everybody is on the same level playing field with the same training and same understanding. One of the first responsibilities is for somebody to disclose affiliations. Always. Mr. Knutzen just came on today for the first time and right out of the chutes he listed what his affiliations were. In the past, Commissioner Rose, when we came up to a thing she would list her affiliation if it applied. The same thing with Commissioner Raschko, Commissioner Lohman, or anybody else – Commissioner Woodmansee. I can think of others. Yet Commissioner Lundsten chose not to. I find it very interesting that it was – that he went through the whole thing pretending or making it sound like he wasn't on the board of one of the committees – or, excuse me, one of the *groups* and even a director on the board, and he was acting when he was reading stuff like he had nothing to do with it. I find that fascinating through that process.

I also found it fascinating when I did some more website stuff trying to find things, he put the 2018 letter on his Facebook, disparaging the Planning Commission, and it goes on in the headline – leads to another website that says the deliberation, not misinformation. And it's the same letter that's the 2018 letter that I believe Commissioner Candler read the first paragraph on. I highly encourage everybody to read the whole thing and find it on their own. It's easy to be found since he has posted it, or it has been posted, on at least three websites. And that's, I find, also subversive to the Planning Commission activities. The same kind of thing – it says that the Planning Commission has misused information, misdeliberated. There's other kinds of language that I just – I've never seen – in my 15 years watching the Planning Commission very closely and participating as an outside citizen versus being on the Planning Commission – this is coming the seventh year now – I've never ever heard of anybody doing anything like these kinds of things, especially when everybody gets the same training.

There is another – that was one of the other websites where it was posted. So to pretend that this whole thing was just a one-off thing and kind of excuse it away I find disingenuous. Now we've got two years' worth of material of repeated behavior. *Nobody* does this kind of thing. Right in Robert's Rules you are not – go back and read Robert's Rules – you are not supposed to undermine the Planning Commission and the decisions afterwards. I find it disingenuous when somebody writes a letter and the beginning of it says that the writing is not to change anybody's minds or opinion, *but yet*. And there you go. And does the same thing afterwards. We can discuss how to handle these kinds of things in the future but, again, in 15 years I've never seen or heard anyone anywhere, no matter what organizations or advocacy groups that they belong to or were affiliated with ever doing anything like this kind of thing before. So, yes, it *really* bothers me. I come from 30 years' worth of training and I've never seen anybody do this kind of thing before.

Another thing: Bear with me just a moment. So I'm going to list off the main things that I think everybody should think about, not just in this situation but when we move forward as we look into our bylaws and everything else. In this situation, on two letters we had the same thing: failed to copy the Planning Commission; copied outside groups; published attack letter on the Planning Commission – and it was an attack letter. I'm not going to pussyfoot around with language saying it wasn't. It disparaged the Planning Commission for the process and what they did on at least three websites with information and such. Also quoted from another article. Also published

incorrect and misleading information on what the Planning Commission actually did. Anybody that's interested on the whole process in the deliberations for either of those years, there are full transcripts; there are full videos; there's a plethora of information to back all of that information up and all of the work that the whole Planning Commission has done.

The other thing is that this Commissioner was also a part of that every step of the way and had more than ample time to have input on every step of the way.

Another thing: His last letter I found also offensive – is that he said something to the effect that the Planning Commission – let me find it – chose not to address the last thing. So it was back to the 21 statements. Again, not discussing actual points. They were only – his understanding is that they were only raw material that would be winnowed down more to understand essentials at our next meeting. I'm quoting from the letter. Next paragraph, quote: "So I submitted my own draft edit of the findings for later discussion, as I understood the staff had requested us to do." Yes, staff did request us to do. Everybody knows. Nobody else chose to fight on that and do that because we are used to working together. It's not that what you know can't be put forward, but what also came to the Planning Commission – and most people don't know this outside, is that it came to us that that was going to be then our starting point – was what *one* person out of nine's notes were going to be for the starting point. That is not what happened. Everybody's work was back on the 25th of February and it took two days and nights to pull that back to where it should have been.

So why it matters to this letter? The next thing he says: "As I understand the staff requested..." Okay, that's fine. And then he says, "The PC did not discuss the findings except to approve the 21-point document." Excuse me. Please refer to the transcripts, and if these Chat things are also recorded, people had comments and said. That was rehashed, the group discussed it, did not want to rehash everything all over again. Excuse me, so that's just yet another misleading statement/false statement. He said – goes on to say "I do not think the Planning Commission's decision was the result of those 21 points. I think it was mostly the result of one point," and he reads off the Planning Policy. That's very interesting because he was a party to all those meetings just like the rest of us. His account of those meetings and those facts as he's writing the letter later to other people on the outside, to the Board of County Commissioners, and subverting, letting the Planning Commission know is completely different than anything I was a part of. Look at the transcripts and look at the meetings.

The point of all this is: Everybody has a bite of the apple together and working as a group. That's what we've been doing all along for a long time. Never do we ever come to a complete agreement on anything anywhere. Everybody that's ever been on a planning commission is on a side where something passes or a side where something doesn't pass. That's just the nature of the way it goes. There's also a part in our bylaws that says specifically – somebody help me if you can remember the quote. It's something like lose honor, win gracefully. It's something like that. If anybody else can remember...I could look it up. But the meaning of that is just plain and simple, and that is sometimes you win, sometimes you lose some. There's issues all the time encompassing things and sometimes it works and sometimes it doesn't work.

So in total, I don't think it's good form to let this kind of thing continue. I was really shocked and stunned when I found out the one of our Planning Commissioners knowingly did this and has been doing this for two years – we now have a pattern of it. I was really disturbed to find stuff that was on websites. That is my opinion. I understand other people can have other opinions. Now what does this mean in the future? This means in the future that, as we discussed last January,

ethics are a very important thing to know and to go by, and we need to look more towards that towards the future.

Number two, the Board of County Commissioners, staff, Planning Commission, other advisory groups are all held to being forthcoming, truthful, and keep things in sunlight. Those are the basic things that have a level playing field. And so, yes, I was extremely disturbed by this and, no, I don't think it should be dismissed as a give-me or that was just a one-off thing. It wasn't. Thank you.

Chair Raschko: Thank you, Kathy. Okay, Mr. Shea.

Commissioner Shea: Yeah, thanks. So yeah, I won't get into deep detail, I guess, of the letter that was sent, but some things that kind of resonated with me just kind of reading through it and responses is that I think – and especially with some of the legal advice we just got pertaining to our bylaws that we're going to work on in a minute – I think there really should be a separation of duties when we're making a private or a personal comment toward something. We don't have anything, I believe, in our bylaws for minority opinion, as far as being set up, that I do agree with kind of what's being said that we're working as a team and the whole point of us is to bring these issues out in the light during a meeting to give people time to respond to them and, frankly, just give them ability or an avenue to respond. And I think that might irritate some people, and I could see how irritating, but – and, you know, some things might come up after the fact that you might not have thought of or something along those lines. But I think it's really important for us to do our homework and to bring these issues that we think that were making motions on incomplete facts, or if we're not following what we're supposed to be doing, then I think that needs to be addressed in the meeting in real time so we can actually address this in front of the public and then give the rest of our board members time to rebuttal or get more information to have a discourse. I mean, I think that's the whole purpose. I think the comments of – you know, if we're all just going based off of us sending in our own ideas or our own positions towards items to the Commissioners, it kind of defeats the purpose of our planning commission. Now with that being said, reading through some of the suggestions from other counties. policies and procedures, a minority of opinion might be an actually good idea. The big thing with that is that it gets put together with the proposal all in one and moved forward to the Commissioners. It's not separate. It's all in one. So when you have a vote, you either – the portion of the board that's in the minority opinion, they can form a letter and then have it attached with and go along with everything else to the Commissioners. So there's no perception of things being done behind people's backs, whether it was intended or not. And I don't want to argue any sort of intent or anything. But something I learned a lot is reading words is a lot different from talking to people in person because you could perceive or put motives behind things that may not have been intended. Maybe things were meant to be in a good light and tried to shed some light to issues that weren't addressed. But, you know, I think it was perceived as kind of an attack at the integrity of the Planning Commission.

So that's just kind of very kind of short, but that's kind of how I saw things. But it's really hard, I feel, for us to have honest and open discussions if we're not being forthright with each other and doing our job in research and getting information in front of the rest of the board members so we can discuss this in front of the public and have an open conversation. I'm all for people having their own private opinion. But something that was kind of mentioned too and some of the legal advice we might get into is that, you know, as a planning commissioner you've almost got to sacrifice some of your rights for, I guess, freedom of speech depending on what you're taking to. If it's an item that hasn't been fully addressed or voted on, you know, just like any other public official, I guess. They can't necessarily just speak about everything, especially if there's unfinished

business or it's still in deliberations or something like that. So I just think it's really important that if we do have issues we need to bring them up in front of each other to make sure that our relationships aren't getting undermined and we're able to work together and actually work through these issues. So that's it for me.

Chair Raschko: Thank you. Commissioner Candler's requested the floor. Is there anybody else who has something to say before we return to her?

(silence)

Chair Raschko: Okay. Commissioner Candler, go ahead, please.

Commissioner Candler: I just wanted to also mention, because I had forgot originally, but Commissioner Mitchell brought it up as well. We have an appendix to our bylaws. It's called the Simplified Rules of Procedure. And in that document there's a section – it's on page 5, C3(e). It says "Be respectful. Differences of opinion are inevitable. It's up to each Planning Commission member to balance the needs of his or her constituents with the needs of the community as a whole. Agree to disagree, lose gracefully, win honorably." I mean, this is definitely to me an example of not losing gracefully. It's more like fighting teeth and nail and going, you know, kind of underhanded to get the points across. And I think that – it just isn't within the spirit of our bylaws. I think as an individual citizen the letter would have still been a problem because of the duty to loyalty, but at least it would have been as an individual citizen.

So I wanted to point out that. I think it is in violation of our bylaws as they are written, although in looking at this – you know, and I'm glad we're looking at the bylaws, but there's just not a lot of guidance there in terms of what that means. That's all.

Chair Raschko: Okay, thank you.

Commissioner Candler: Oh, wait. I'm sorry.

Chair Raschko: Commissioner –

Commissioner Candler: I'm sorry. There was one more thing.

Chair Raschko: Go ahead.

Commissioner Candler: Sorry. Thank you. It also sadly does make me wonder. I mean, I found a couple of letters, an article, some things, but it does make me wonder what else might be out there that we haven't even seen. That's all.

Chair Raschko: So we have Commissioner Knutzen followed by Commissioner Mitchell. So go ahead, Mark. You have to unmute. Say, Mark? There you go.

Commissioner Knutzen: Yeah. Mark can go ahead? I'm still struggling. My apology. I, of course, was not on the commission when all this was discussed so I have no comments on the pros and cons of this proposal. I did receive copies of both of the letters and read through, and I would concur with some of the other Commissioners' comments. I was quite surprised to see this letter. Commissioner Lundsten says twice he's not trying to change the Planning Commission decision, which, of course, he's not, but he is addressing the Commissioners to try and get them to not

agree with the Planning Commission's decision. I really was shocked to see that. He's got the – certainly the right to address the Commissioner as a private citizen, but he said “As a member of the Planning Commission...” That's how he starts out his letter. So he's trying to circumvent, in my view, the decision that's already been made by the Planning Commission. I feel the Planning – the three County Commissioners hold the power, the Planning Commission recommends, is my understanding. The Planning Department recommends. We vet the pros and cons and let the Commissioners make up their minds. When I saw what he was trying to do – essentially influence the Commissioners' decision, riding on the coattails of the Planning Commission – I just think that's totally inappropriate and I was shocked when I – if I follow it right, if I read that right. That's the way I follow it. Totally inappropriate for a planning commissioner to do that, in my opinion. That's all.

Chair Raschko: Thank you. Commissioner Mitchell?

Vice Chair Mitchell: Thank you. I concur with what Mr. Knutzen said and some of the others so far. One of the points that Commissioner Candler brought up earlier brings something to point in mind which I would also like staff to take note of when we get to the bylaws, because this is a good case in point for this. Either one or both of the letters – now I can't remember which; I'd have to go back and read them again – brought up about how many – I think it was the 2018 one and it was also talked about again on P-4 for this year. There's a basic challenge that planning commissioners have been given to come to the table to hear all sides of things as unbiased as possible – not to bring in preconceived notions, __ to deliberations. I'm telling these things everybody already knows, but there's a point for this. When we get into those deliberations – because being a fence-sitter so many times, because I have no affiliations with anybody. I'm just here trying to do the work. In those deliberations time and time again somebody brings up new information or salient points that I might never have seen, thought of, or even thought might make a difference before and yet they do. And that's one of the main points of bringing the body together with deliberations where we bring together and everybody looks at the same things, exchanges ideas, sifts and winnows through information, and comes up with collective decisions. And that is about the best that we can do because that's the information that we know at that point in time.

The reason I'm pointing this out at this point is because I also found it offensive in the letters when it was disparaging towards the public's comments and opinions, number one. So that was a main sticking point for me. Number two, time and time again this Commissioner has brought up the point that somehow the Planning Commission is supposed to make a decision because we get 350 people that say this, 500 people that say that. Now I'm exaggerating numbers, but you get the point. Or the majority of this, the majority of that. That is not how we're supposed to make decisions. We are supposed to make decisions not on advocacy. We're supposed to make decisions on merits of proposals. And I think that's a main tenet that needs to be looked at and the whole group look at as we come into the bylaws as this moves forward. That's another reason why this sticks in my craw as the reasons and the excuses for the letters behind them. And I can only suppose the intent. I don't really – I give people latitude. But the result was different. The result is disparaging the public, disparaging the Planning Commission, disparaging the process, disparaging the work, disparaging the public, and also acting like we're supposed to disregard other kinds of information and go whole-hog for advocacy because of numbers.

In the past I had asked Ryan Walters – and this is before our current council's with us – what do we do when a big issue comes before us – because it has happened in the past – where we get inundated with letters from Seattle and other regions. How do we add that into the mix? Well, I can't speak for anybody else, but our decisions and our policies and our laws and our ordinances

and our work is supposed to be *for Skagit County and the citizens here*, and not from outside influences overbearing all of that. So I'm telling you guys things that go through my mind and why that's important, and hope that you think those things through because I think it's a very dangerous slippery slope if we go towards advancing the idea that we're supposed to approve and make recommendations to the Board of County Commissioners for anything in Skagit County because a number of people say so. I think that's missing the point entirely for what we're supposed to be doing.

The other thing is in Robert's Rules it says in three or four different places in different ways, you're not supposed to – meaning planning commission members, board members, anybody else members of committees – we're not supposed to go after somebody else's motives or attack person's motives that's on the board or a commission. If any one of us chooses to say in a meeting that we're going to do something and our motivation is such, yes, you're entitled to do that. But I can't come along and disparage somebody else's motives in those meetings. For instance, I can't go out and say something like, You're against this, or your points are contrary because of your ideology and things like that. That is a huge no. Absolutely no-no. You can't do that in Robert's Rules. You cannot assign somebody else motives or anything like that either. The reason I'm bringing this up – for a quote on the letter. And this is why I think it's real important for everybody to go back and read those two letters, every single line carefully, and understand why we need to look at those, because we have to address this for a level playing field for the next bylaws that are going to be for this county for who knows how many years. And one of the letters, it said – hang on a second – I think mostly the result of one point – okay, the point of this quote is this: The letter was misrepresenting, and in my opinion it was assigning a motive to what the Planning Commission's deliberations were. And that was in the August 28, 2020, letter. Quote: "I think it was mostly the result of one point, Skagit County Policy 6.2." Well, the rest of us are going, well, what is that? Okay. You go read the policy. 6.2 says – it's under the section 6.0, but 6.2 says specifically "The rights of property owners operating under current land use regulations shall be preserved unless a clear path of public health, safety, or welfare purpose is served by more restrictive regulation." That's great. I love that policy. However, that is not how things went down in the deliberation. That's not what was said. That's not how the 21 points came up. And if somebody had wanted to put that back in then at the time they could have and should have. And there had been ample opportunity to do that. So I don't think it's right for somebody to make an assumption. I don't think it's a right to around the Planning Commission. I don't think it's right to make false accusations, say that everybody *else* has misleading information. And I certainly don't think it's right to assign false motives. Again, I'm not saying any of that off the cuff. It's all on video. It's all in the transcripts. And I challenge anybody that thinks differently to go look for themselves.

Chair Raschko: Thank you. Mr. Lundsten?

Commissioner Lundsten: Yeah, thank you. Well, I feel like the imputing motives to someone has been *really* exercised in *my* regard here, Commissioner Mitchell. I think you and Tammy and others have definitely assumed a lot of things about what I do. I stand by my letters. I stand by my – what I've said about them. I sent them as was instructed. I did not send them to everyone because I was instructed to send to the staff. That's how I did it. That's how I've done everything, with giving material to the staff.

The letters that – the second letter, the 2020 letter, was in the staff report. It was something worthy of discussion, in my opinion but not in anyone else's, and I brought it up and said so. I would suggest that the reading of both those letters has been exaggerated. It does not criticize an individual. It does not attack the integrity. It attacks – if it's an attack – it criticizes the product of

our work. I'm saying I don't think we did a good job. I think we should have done differently. It's two letters in three years. In each case I was the only dissenting vote. I was in a minority. Single person. And I said that single person's point of view to the Commissioners, to the Board. And I assumed – and in this case I was right. In 2018 I thought you guys *did* get the letter. I thought it was – I didn't even think about it. And it's certainly public – it should be public information. And I can't change what you think of me. Kathy and Tammy have made it clear. And that's fine. I think it's absolutely hypocritical for Kathy to say that we can't be questioning people's motives when that's what's been done with me.

You know, Julie and I had a talk when I was asked a year and a half after I'd been on the Planning Commission to join the board of Evergreen Islands. I wasn't a member of that group and I asked Julie about it. I said, Is this an issue? What's going on? I don't know if Julie remembers the conversation but I didn't want to jeopardize my role here, which I take very seriously. And I – she – we went through all this conflict of interest stuff and whether or not – what needed to be disclosed and this and that, and I was completely above board about it. I thought it was a fait accompli. It was, you know, done. Like I said, you can – I can't change the conspiracies that you think I'm harboring. You give me a lot more power than you think I have. I'm just being very straightforward about what I did, and my opinion – like I said, one person – me – in a minority feel obliged to give a report on that.

I stand by those letters and I dispute the assessment of my motives. They're wrong. I was being transparent. I was being rigorous about our arguments, which I would do again. That's what I think. We didn't do a good job on the Findings of Fact for the Great Blue Heron issue, and I tried to point out my point of view. Now the rest of you think you did a good job. But I said what I said. You know, after the P-12 letter came out I ran into Ken Dahlstedt. I hadn't ever met him before, and I had written that letter to him. And he's an institutional guy. He knows what's going on. And he shook my hand and he said, I read your letter. Good for you! Speak up! They can deal with it. You've got your point of view. Say it. That's good. He wasn't – he didn't think I was attacking the Planning Commission. I don't think I'm attacking the Planning Commission. I'm criticizing how well we do our work and if you want to make that a flaw of my character, have at it. I think that we need to have better standards about what is done and how it's expressed upon those two issues. I didn't think we did the right job.

As far as the public – insulting the public, I think that it was really a matter of just trying to figure out what was true. And we discussed that. That's a matter of trying to *serve* the public, trying to figure out what's true and what's allowed to be said. You know, what's allowed to be believed and what we talk about.

So I stand by those letters. And the accusations of having a – me being part of a conspiracy and all these letters and I have been – that there was a pattern that I was a secret agent from some organization that wanted to have power over the Planning Commission. This is an advisory body. We give advice to the Board of County Commissioners. This is a minority report. I've heard much more vehement language used in our discussions than I used in mine, in my letters, in either one of those. Two letters, two letters. This isn't an evil scheme that you seem to make it out to be. I completely, again, was shocked at that, at the idea that because we disagree I have some sort of nefarious motives. No, I don't. What I said is what I meant. I'm not – I'm not – and, oh, by the way, a lot of this – you know, there's a lot of information or a lot of statements have been made that just are wrong. I don't think there's – I mean, there's nothing on Facebook. I'm not exactly sure what the point is of a lot of the information, but I just say it again. I stand by these. They were an assessment of our work and my difference of opinion. It's a minority report. It's a standard

procedure in many cases we have, and I was told that it was fine by – I received a letter from one Commissioner. Thank you for your comments – the P-12 letter. And another was – shook my hand, so – he said, “Express your opinion. That’s fine.” If I see it personal – how I attacked the integrity of the Planning Commission, is absolutely a false assessment. Those letters are a belief in the ability of the Planning Commission to have dialogue, to have disagreements, and I wasn’t trying to open it up. I know I’m not going to change anybody’s mind. But that’s there for the record. And that’s it. We should be able to absorb that, you know. It doesn’t bother me to think that we have differing opinions. And we’re moving on. Like I said, I’m not trying to change that.

You’re wrong, Commissioner Mitchell and Commissioner Candler. I did not have the motives that you said I do. Your facts aren’t accurate. I was on Evergreen Islands for a year and I got on after I had been on the Commission and I got off a year later for my own reasons. And it had no effect, there were no issues during that time that affected the Planning Commission. So I’m not sure really – well, that’s not exactly true. There was, I think, some testimony on trails which – I think that was it. But at any rate, I stand by those statements and I disagree with the assessment. I think this is an overreaction about issues that would be different if we had agreed. This is a minority report. It’s not a personal attack on anyone or on the institution nor was it meant to be.

Chair Raschko: Thank you. I’d like to make one comment. And generally it’s just looking at the letter and the distribution list. And mechanically, if I’m going to compose a letter to somebody, I will get on my word processor and I will write the letter. Have the signature block and after the words I would put down my cc’s and I would list them all. Now the letter’s done. I will save it. Now how do I deliver that? Okay. So the thing that would hit me first was I don’t want to send it to all of the Commissioners so I’ll send it to Hal Hart and Mike Cerbone and Peter Gill and ask them to kindly forward it on to the cc’d people that, you know, in a particular list. But we’re not even on the letter. And if you could say you’re trying to separate the two actions, you write a letter and you put down the people you’re going to cc and then you figure out how to get it to them. And you might think, you know, it’s not right to send it to these other eight people so I’m going to request somebody else to do it. You know, neither happened. And so I’d like to give Commissioner Lundsten the benefit of a doubt on that and a lot of other things, but I just can’t see it and I’m sorry. So we’ll go to Commissioner Candler. You’ve requested the floor.

Commissioner Candler: Thank you. So I was really torn on what to make of all of this until I have just heard Commissioner Lundsten’s response. Things like “I would do it again” and just complete defense of the actions. No understanding for why they were inappropriate, no understanding for what losing gracefully means. I could – I’m just – right now I’m just complaining, right? I don’t know how everybody on the Commission feels because we didn’t hear from everybody, but to me I would like to see the Planning Commission as a whole talk about this and decide whether or not the conduct was appropriate. Because I’ve just heard Commissioner Lundsten say he’s going to do it again and that there’s nothing wrong with what he’s done, he hasn’t disparaged us, we’re all – you know, we’re all crazy. So I would like to make a motion for a censure of Commissioner Lundsten specifically for the letter of 9-28- 20, for – I would like to see it for the letter of 2018 as well, but I know some of the Commissioners probably maybe haven’t even read that. I think it’s pretty clear just based on the bylaws we do have on being respectful and losing gracefully that there’s been a violation. And what concerns me even further is the idea that the Commissioner thinks it’s perfectly appropriate and perfectly fine and he’ll keep doing it. So the idea of a censure, I think would be to say, We do not agree that that’s appropriate and we don’t agree that you should keep doing it, and if you plan to keep doing it we plan to keep saying it’s not okay with us as a whole. So the spirit of the motion would be to say from the group as a whole that we don’t agree with the way that these are phrased, that we don’t agree with disparaging us, we don’t agree with

disparaging the public and assigning motives and telling – anyway, about, you know, the contents of the letter. So I'm – I'm – I don't think that the censure has any real teeth. It's sort of a – I would like the Planning Commission to put Commissioner Lundsten on notice that this is not something that we agree with as a whole. So that's the motion.

Vice Chair Mitchell: Second.

Chair Raschko: Can you state your motion in a way that staff can get some things written down and repeat it? Yeah, thank you.

Commissioner Candler: Okay. Sure. I will do my best to do that. I move that the Skagit County Planning Commission censure Commissioner Lundsten – Commissioner Mark Lundsten – that – under our bylaws, page 5, Appendix A, Section c(3)(e), the clause requiring members to be respectful and to lose gracefully, and also for a violation of Robert's Rules of Order, Duty of Loyalty. And I think that we should indicate that the specific conduct is writing a letter disparaging the Planning Commission, including content that disparages the public; not cc-ing us; failure to cc us as a group, and whatever other input people have; and that we should incorporate by reference at least the 2020 letter, perhaps also the 2018 letter. And that I think we should just basically indicate that this serves as a notice that if Commissioner Lundsten continues to breach the duty of loyalty we may take further action in terms of malfeasance and misconduct. We're going to change our bylaws – and that's the motion. We're going to change our bylaws. We may add a clause if we choose to for whether or not someone should have the ability to dissent, and make that a part of our recorded motion. We may want to set a barrier on what type of a vote split would include something like that. It is unfathomable to me that a person who's in a single-person minority would think that they know more about what the Planning Commission's intent was, what the Planning Commission's deliberations were all about. It's a lot of confidence, I guess you could say. But – anyway, listening to the Commissioner tonight talking about this and that it – you know, his words were it wasn't an attack on us individually. It was an attack on the product of our work. I don't know what better admission of it being a disparagement to our Commission there could possibly be. And that's the motion.

Vice Chair Mitchell: Second.

Chair Raschko: Okay, could – Peter, are you able to read back the motion, or is that a tall task?

Mr. Gill: That's a pretty tall task, but I'll tell you what I have: Skagit County Planning Commission would censure Commissioner Lundsten under bylaws page 5, Appendix A (c)(3) requiring respectful and – respectful treatment of Planning Commissioners and losing gracefully, with the specific conduct of disparaging the Planning Commission.

Chair Raschko: Commissioner Candler, does that adequately reflect your motion? You have to unmute.

Commissioner Candler: Essentially yes. I was trying to send an email to Peter Gill that would kind of aid in all of that and I can certainly do it, but it certainly reflects the gist of the motion.

Chair Raschko: Okay. I think it's going to be – I think it's real important to have it right.

Commissioner Candler: The motion is supposed to be verbatim under Robert's Rules. I get that. So at this point what I think is appropriate is for me to say I move to censure Commissioner

Lundsten, and then we can draft the recorded motion based on other people's input as well if there is more. But the motion I think should be kept simple right now. The motion is to censure Commissioner Lundsten.

Vice Chair Mitchell: Second.

Chair Raschko: Okay, it's been moved and seconded to – okay, is there any discussion?

Vice Chair Mitchell: Yes.

Chair Raschko: First we have Martha Rose, please.

Commissioner Rose: So I'm curious about what Julie Nicoll has to say about this and I just want, for the record – I didn't agree with the letter but I was not offended by it. So the idea about the censure seems a little heavy handed to me. But I will be interested to know whether Julie has an opinion about it.

Ms. Nicoll: You want me to speak now?

Chair Raschko: Go ahead.

Ms. Nicoll: I don't know if you have any specific legal questions. I feel like it's inappropriate for me to weigh in on my, you know, individual opinion. So I'm happy to answer any *specific* questions. I don't really have an opinion to share at this point.

Chair Raschko: Okay, thank you. Commissioner Mitchell?

Vice Chair Mitchell: Thank you. Everything I said and talked about can be proven, has already been documented. I have screen grabs. I have research information. I've got quotes and all kinds of information. I do not know what anybody else looked at or did on their own to be able to back that stuff up, but if you can see this right now, that is a screen-grab of the Facebook page that we were just told a few minutes ago does not exist. Here's a screen-grab on another website about that letter, the deliberations – not misinformation – the 2018 disparagement again on a website. I'm not making it up. Screen-grabs. And the same thing for – there's an article where it's also quoted with links and put into the thing. And that website, it also turns out that the Commissioner is also one of the writer contributors.

I never said anything about a specific motive. I said that we cannot say things about specific motives. I said that's one of the things that we're not supposed to do. What I said is I cannot guess the motives, but what I do find is all kinds of information on things that should not have been done and conduct that should have not been done and is not acceptable. And that's if you keep a level playing field, follow the bylaws, follow Robert's Rules, and the same courtesies that any single one of us would expect. That is one of the things, the fundamental things, on what's made this planning commission work so well for so long – is that everybody gives everybody a chance to speak their motions or their points, their opinions, their backgrounds, their experiences – all those kinds of things. Nobody has ever gone after anybody as far as attacking in meetings and having arguments and screaming matches like you see on TV for things. People have always, up to this point in time, respected the process and respected the individuals. And the reason for my second on this motion is because I've already seen all the information and I'm comfortable with everything that I've said because I can prove it. And if anybody else wants to know, they can go look for

themselves. It's very easy to find. That's very easy to prove. The whole thing about this is keeping sunlight on everything at level playing fields, and the courtesy and the respect. And that's one of the main problems. Robert's Rules allows for boards, committees, and everything else to do disciplinary actions. Chapter 15 in one of the other versions has a whole chapter on that on the whys and wherefores. And that's because people *do* have disagreements and people *can* do things wrong and that kind of thing. And normally you can just go talk with somebody and then it's said and done. I was willing to let it go after a simple discussion earlier except for the fact it kept getting worse and worse and worse. And so by the time we came back down to the motion, yes, I'm off the fence now swinging in the other direction. Because if, in fact, we let people undermine the work of the Planning Commission, knowing what the bylaws say, knowing what Robert's Rules say, knowing what all of our training says, and we ignore these kinds of things, other people can do these things and it can certainly get worse. In Robert's Rules it says it is part of our responsibility to not let that happen.

And so Commissioner Candler was correct. A censure motion really has no teeth but it is a warning signal. And if, in fact, we were to take what Commissioner Lundsten said at face value, that he saw nothing wrong with it and would do it again, and we actually ran up against this kind of thing again, I would be behind having another censure and maybe even this time – because ___ said so, with a letter to the Board on recommendations of why. So, you know, guys, we're trying to keep a level playing field. That's the whole purpose.

Chair Raschko: Okay. Commissioner Candler, you had a question for legal?

Commissioner Candler: Yeah, I just wanted to comment regarding the question that Commissioner Rose had to legal. I'm just assuming that if might have to do with maybe our powers or authorities because I questioned that when I was debating what to think about all this. And so I just wanted to mention that the Robert's Rules of Order, I think, pretty clearly allow for us to take some control over our membership in that form and that censure is some minor tool that is given to us. If you have questions about that, I think that I can find more information about that. But it seems to me that censure is perfectly within our province.

Chair Raschko: Thank you. Commissioner Shea?

Commissioner Candler: I also want – can I just – I also wanted to say that to me the censure is not just about the letter but it's the reaction to is. That was the biggest thing for me tonight – hearing that Commissioner Lundsten plans on behaving this way in the future. And I also have seen the Facebook posting. I pulled it up on my phone when I heard that, so it's there.

Chair Raschko: Commissioner Shea?

Commissioner Shea: Just real quick before I jump in, I don't know if Amy's talked on this yet and I don't know if she would speak before me. Just kind of a point of order.

Chair Raschko: Go ahead. She's next.

Commissioner Shea: Okay. So, Commissioner Lundsten, I hope I you don't perceive me, I guess, necessarily attacking your character or motives, and that's something that I had to think about more, although like Martha said, I didn't necessarily agree with the letter and I definitely wouldn't have necessarily done that myself, but I do agree that maybe a censure might be a little heavy handed. *But* with that being said, it needs to absolutely be addressed in our bylaws and it needs

to be outlined as far as what process we want to follow for a minority opinion. I think that is valuable. There is a difference in opinion that if you have an avenue to express that. I do think that the meeting minutes and our Findings of Fact should outline those disagreements. But, you know, it is hard to go through a three-hour meeting and I think, you know, having a minority opinion or minority report is going to be pretty important moving into our bylaws. But I just wanted to clarify, you know, I'm not trying to attack your character per se. I just think that the letter, in my opinion, was not necessarily the best thing. But that's my point. I don't necessarily think a censure is the best option. It's a little heavy-handed. And although I do agree with it being brought up, I understand that opinion. But if it's not addressed now in this item then our bylaws definitely need to address this, because if this is a concern about the future and that there are board members concerned about individuals continuing a certain way of conduct in the future, then the best way to address that would be in our bylaws. And if it was a total agreement amongst our commissioners that that's the way we would like to go, I think it's best fixed in the bylaws and then it's more of a permanent or long term solution to this in the future. So, yeah.

Chair Raschko: Thank you. Commissioner Hughes?

Commissioner Hughes: I'd like to yield the floor to staff. We have staff members here who have guided us along the way. I'm not saying the staff has to respond to this point, but if they would like to I would like to yield the floor to them.

Mr. Gill: My only feedback – if I could, Chair; this is Peter Gill – is that this should be addressed in your bylaws. If there's strong feelings on what can be reported to the Commissioners then it certainly needs to go into the bylaws. And that's what we're here today to do, so we should make sure that we get it in there.

Chair Raschko: You know, I'd like to bring a point of order. And I'm sorry, Amy, but, you know, this is a matter for the Planning Commission and I don't think it's up to staff to weigh in on this. Now if everybody else disagrees with me we'll have staff continue. So I'll open that up.

Commissioner Hughes: If I could respond, I wasn't asking for them to weigh in but to provide guidance per se, like Peter Gill just gave us – you know, the bylaws issue – just so I can decide my feelings on this. Thank you.

Chair Raschko: Well, okay. Well, I'll withdraw my point. Go ahead – anybody else have anything from the staff?

(silence)

Chair Raschko: All right, is there any further discussion? Mr. Woodmansee? Go ahead, Joe.

Commissioner Woodmansee: Okay. I guess for me I did take this as an attack on the process and the integrity of the process, and that's where my real problem is, not in a disagreeing point of view. And it's hard to – I think, you know, when you attack the process you're attacking the people in the process at the same time. You can't really separate the two things. And so I just feel like basically what was said was, well, we got it wrong and we didn't do a good job of analyzing the information that was presented to us. And I was actually kind of shocked to read what I did read. I've never seen the other letter. I don't have any comments on that. But so I just feel that whether it's eight-to-one or nine-to-nothing or seven-to-two or whatever it might be that the recommendation from the Planning Commissioners is the recommendation. And I think it just – it

confuses the issue when letters come out after the fact and undermine what was the process and what was being said. And I feel like it painted a picture of maybe an incomplete process and just erroneous decisions, is how I felt when I read it. I know you all read my letters because I copied all. And so I just disagree with that. I think it was a good process and it was thoroughly discussed and, in the end, the vote was what the vote was. And I would prefer to see the Planning Commission live with their vote. And it doesn't stop somebody from going to a Board of Commissioners' meeting and saying, well, I'm Joe Individual and I think that this should be considered on this particular item and here's why, and I'm speaking on half of myself and I'm not speaking to the detriment of the Planning Commission as a whole. So that's how I feel about that.

Chair Raschko: Okay, thank you. Is there any more discussion?

(silence)

Chair Raschko: Okay, there's none. Being none, we'll move to the question. Commissioner Candler?

Commissioner Candler: I saw Commissioner Lundsten stand up.

Chair Raschko: Pardon me?

Commissioner Lundsten: I –

Chair Raschko: Oh, I'm sorry. I didn't see you on the Chat thing. Go ahead, Mark.

Commissioner Lundsten: Okay. I'm just – I understand that the impression of everyone is that I am – or not everyone, but of a few members in particular – is that I have been insensitive to the integrity of the Planning Commission, and I can understand that. As a footnote/sidenote, the objection I had to the Facebook posting was not that it had not appeared. It's from a website. It was posted on a website as part of a log entry and it got linked to Facebook. That's my only point – an academic one at best.

This thing turns on my intention. Let's call it what it is. And my intention was to have all of you get my letter. Now it's not a – Tim – Chairman Raschko doesn't think that that is enough, but he doesn't necessarily – doesn't sound like he believes me, but that's the way it – that's the truth, and I would stand by it and I'm – in defense of this process, and I think this is what I want to carry into the discussion, is that we *have* to be able to take minority views and not take it personally. I am saying that – I've never – I filed two minority reports in all the time, all the things we've done, and it's just one person has been there and I think that's something we need to make appropriate. That's entirely – that's what we need to have done and we should have them aired in front of the Board. I think that would be a good idea. It will make our process more thorough. And we can use that. We definitely can use that. I did not plan to keep this from anyone – categorically. ___ you can believe me or not, but that's the truth. I don't – you know, I was told not to send to everybody, and I didn't. Everything else I send – Peter or Hal or Michael – I send around. That's the way it's always been. So at any rate, that's how I feel about it. It's – I will do it again and I will question our results again. And if I'm the only one, I will write a letter. And I'm sorry if my language was too strong, this or that. It's about the product of our work. It's like grading a paper. Sometimes you do better work and sometimes you don't. And that was my opinion. We should be able to take that. We should be able to do that. We *need* minority reports. Not all the time. Not on everything. But on something like this, I think we do. And we can craft that, and I fully agree with that. I meant

nothing personal about anyone here. Our process could use some improvement. This didn't take into account public information. It did not digest the issue well enough in either of these cases, and I tried to point that out. I knew it would not have no effect, but I thought it ought to be aired, so – and I think that that's a good policy that we ought to follow. We ought to take that rigor. And I'm – you know, if I ruffled feathers about my strong – you know, making a strong point in a strong way, it was not intended to be personal to anyone or to degrade this process. It was a vote of confidence *in* this process. It was saying we can do this. This is how – we can do this and go have a beer afterwards. We can have these arguments. We can do it, and we should do it that way.

I'm disappointed at the assessments of my motives and my intentions that have been made falsely, which is what I see has been done. It's wrong. I do not feel that way. And I do think that we need to be able to examine things fully. That's my opinion. And there will be a vote here about which, I'm sure, I will not be happy again, but I will say that we should examine things fully. And, you know, _____ this case as well. This needs to be aired out as well. So if I've stepped on toes I need to learn what the protocols are with this group – no question about it – and I'm willing to do that. But what I will do is I will say that we need to look at things fully, look at things carefully. And throughout this process I have respected our opinions and our points of view. I have criticized what we've come up with. That's how I've worked. And I did not intend to keep it from any of you. Categorically. Thank you.

Chair Raschko: Okay, thank you. Is there anything else from anybody?

(silence)

Chair Raschko: Okay, if not we'll –

Commissioner Candler: I have one comment.

Chair Raschko: All right. Commissioner Candler?

Commissioner Candler: Thank you. Just to be clear, I just heard Commissioner Lundsten talking about minority views. This is not about minority views. I hope that's clear. Obviously there's going to be minority views. That is kind of the point of deliberating and talking, and I feel like anybody could be on the minority. I've been in the minority myself. And so I just don't – for those who think that the censure's heavy handed, I certainly understand, because I'm torn as well. But I'm not sure what other option there is when I just don't think that there's another option available to us that's anything. If we don't do something then we've already heard that this will continue. And we can address some of that through the bylaws, like Commissioner Shea said, but my position is that the bylaws do address this and have been violated. That's it.

Chair Raschko: Thank you. Okay, let's see, we have Commissioner Mitchell and then Commissioner Lundsten. Okay, Commissioner Mitchell?

Vice Chair Mitchell: Yeah, just in closing on my end. I concur with Commissioner Candler just said. This is not at all about a minority viewpoint. That's not the point. All of us have been there. This is about everything else that we've discussed. I'm not going to go through it again ad nauseam, because if the points were not made clear after those discussions, they may never be made clear to those individuals.

Chair Raschko: Okay, thank you. Commissioner Lundsten?

Commissioner Lundsten: Just a minor thing. I think when this happened it would have been a lot easier if there had been some different kind of communication. The objection was a surprise to me and obviously a lot of people talked about it. No one called me. No one talked to me. I heard that I had ruffled feathers and that it had ____, but no one talked to me. And that would be a big difference, I'm sure. It would have made it a lot easier. I called Tim when I saw it on the agenda and realized what's going on. Well, Tim, let's talk about this. This could have been understood in a different way had that happened. So I – like I said, I was not trying to keep anything from anyone. And clearly that was a __ misunderstanding that could have been brought up right away and should have. That's all.

Chair Raschko: Any other comments?

Commissioner Candler: Just as to that last – sorry.

Chair Raschko: Yes, Commissioner Candler?

Commissioner Candler: Sorry, I'm trying not to belabor but...listening to the very first time through this, I found that it was a bit of an indignant, defensive response. This is the whole point of this motion. If someone had called you and got that defensive response that you first had I don't think we would be anywhere. And I don't think we're going to *be* anywhere without a censure tonight.

Chair Raschko: Any more discussion before we have the question?

(silence)

Chair Raschko: Okay. What I'd like to do is vote in alphabetical order. I'll call your name and you can either aye or nay. And I'll try going in alphabetical order, so that would be Commissioner Candler. How do you vote?

Commissioner Candler: Aye.

Chair Raschko: Okay. Then, let's see, it'd be Commissioner Hughes?

Commissioner Hughes: Aye.

Chair Raschko: Did you say "aye?" Okay. Commissioner Knutzen?

Commissioner Knutzen: Aye.

Chair Raschko: Okay. Commissioner Mitchell?

Vice Chair Mitchell: Aye.

Chair Raschko: Excuse me. I'm sorry. Commissioner Lundsten?

Commissioner Lundsten: No.

Chair Raschko: Okay. Commissioner Rose?

Commissioner Rose: I'm going to vote nay.

Chair Raschko: Okay. Commissioner Shea?

Commissioner Shea: Aye.

Chair Raschko: And Commissioner Woodmansee?

Commissioner Woodmansee: Aye.

Chair Raschko: And Commissioner Raschko. I vote aye. So it is seven to zero. Are we missing somebody? No, eight-to-zero. Okay. So the motion carries.

Vice Chair Mitchell: Correction. There were two nays, though. Seven to two.

Chair Raschko: Two nays. Oh, Commissioner Shea is the nay. I'm sorry.

Vice Chair Mitchell: No, no, no!

Commissioner Candler: Commissioner Rose and Commissioner Lundsten.

Chair Raschko: Okay, Lundsten. Okay. Right. Sorry I messed that up. So it is seven to two. The motion carries.

All right. We're finished with that. We'll move on to a Bylaws Work Session. I think we should get it started just ____ – how long do we want to run tonight? You don't have a building to lock up, do you, Peter?

Mr. Gill: No, we don't have to get the public out of the building by nine. That's true.

Chair Raschko: Okay, well, why don't we get a start on this and see where it takes us? So we'll start the session with the presentation from our legal counsel. Ms. Nicolls?

Ms. Nicoll: Did anybody want to take a break before we do that? I don't know if anyone needs a break. I don't know if that's what your procedure is or not.

Chair Raschko: Okay.

Ms. Nicoll: I don't want to be holding people up if they need to use the restroom or just need a breather, but that's just a suggestion.

Chair Raschko: Why don't we come back at five to eight? Okay, so we're recessed. Good suggestion.

(break)

Ms. Nicoll: If I could share my screen, I will pop up a PowerPoint.

(discussion of technical problems with sharing the presentation)

Ms. Nicoll: So thank you again. This is Julie Nicoll with the Skagit County Prosecuting Attorney's office. I'm here today because I was asked by several of you to come present several of these

topics. At the last meeting, you discussed the bylaws. I think it was July 7th. There were lots of questions that came up so I watched the video. I also read the transcript and I tried to capture all of your questions. So I'm hoping I got a lot of the topics that you guys discussed and had questions to provide you with more context. If additional questions arise, let me know. You can put your name in the Chatbox, I can try to address in real time. This will also be a, you know, a conversation that will likely continue over several sessions, so if it does continue I'm happy to attend the meetings and be a resource during meetings or, you know, before or after meetings you guys can always pick up the phone and call me or email me with specific questions. But I was hoping that the memo that I sent you guys – I know it's really lengthy and I apologize for that – that it was useful to you. You may not have gotten through all of it but at least it's there to refer back to or these discussions.

So I can just dive right in here. So the first topic that was discussed at the last meeting was the legislative versus quasi-judicial action. And I just want to initially apologize because I might have created some confusion because I initially was of the impression that most of what you guys – or *all* that you guys do is legislative, and so I was surprised to see the quasi-judicial language in the bylaws. But then as I dug into it further, I realized that I had mischaracterized that. So I apologize. And we'll go into more detail about that. But the majority of what you guys do *is* legislative and there's a few things that you guys do that are quasi-judicial. The reason why I was confused – and I think it's easy to get confused – is that you guys are an advisory board so that's why I assumed you guys aren't the final decision-makers and that it would be considered quasi-judicial. But since you guys hold the hearings, where specific actions – and even as an advisory board the courts say that it should still be conducted in the same manner. So we'll get into that further but I just wanted to initially set that out.

So legislative actions. What are the legislative actions? So they are basically code amendments that impact the entire community and not specific individual rights. So this can be adopting or revising comprehensive plans, area-wide zoning changes, and zoning amendments that also have – impact a larger area. So that can get tricky, you know. Is this zoning change going to affect just one property or is it going to, you know, affect a whole subset of properties? So the line is not always clear so it's important to talk about it as a group so that everyone knows what type of action it is and so you can clarify the rules. But as a whole, if you're looking at changing a whole zone, that would be a legislative change. And quasi-judicial is when you're evaluating a specific proposal brought by an individual applying adopted standards and policies.

So one of the examples that many of you worked on that was a quasi-judicial action was the specific request in the 2019 docket to remove the Mineral Resource Overlay from a specific property. And then as the Planning Commission as a whole, you guys were deciding whether or not that proposal met certain criteria in our code to remove the MRO. So that was a specific individual asking for a specific change to their policy. And so then you're acting – quasi-judicial is like a judge – in that action, determining someone's specific rights versus legislative, which is as a policy matter: Is it a good thing to change our code to allow this type of use or that type of use? And so it's very site-specific, the quasi-judicial. And so they're usually easy to identify but sometimes, you know – I think the Samish Bay Cheese one from several years ago, it was a specific individual seeking a change but they were seeking a change to the entire zone. So it can get tricky, depending on how these proposals are made. But in general, the only site-specific issues you guys address are the rezones. Or generally the only quasi-judicial actions you guys hear are site-specific rezones. But the rest of the quasi-judicial actions in Skagit County regarding land use decisions are handled by our hearing examiner. And that is like special use permits or other variances or, you know, appeals.

So when you have a quasi-judicial action, the reason why it's important to identify it is because if you have a quasi-judicial action you're required by state statute to comply with the Appearance of Fairness Doctrine. And I think you guys have seen that in our bylaws and I think it shows that it's only, you know, applicable to quasi-judicial action. So this is something required by state law. It applies to more than just planning commissions, hearing examiners. And again, as the statute mentions, that you're determining the legal rights, duties, privileges of specific parties. And here, as I said before, even if you're only advisory you're still doing that even if there's an advisory recommendation. So there is a higher ethical standard. It's not just whether you have a conflict of interest. It's any appearance thereof, so it's a higher standard. So again, it applies to site-specific rezones ____ contact, and to proceed cautiously. And I think, you know, as a whole when new information or proposals come to you we, you know, as the County, could identify which items are quasi-judicial and which aren't and flag those issues for you. And in the bylaws in the appendix there's even specific rules, if you've noticed, in Appendix A for different hearing procedures for quasi-judicial versus legislative. So it can be tricky if you guys are holding a public hearing and hearing different types of matters at once. So, you know, there's specific protocol, and one of them is identifying if they're outside the rules, and then the next one is placing on the record if you have any conflict of interest at the outset. I think our bylaws say prior to hearing the matter, but I suggest that be clarified to at the outset of your consideration of the proposal, not just – you know, at the beginning of a workshop when you first discuss a matter that that be raised, not just at the beginning of a hearing.

And in the Appearance of Fairness Doctrine, the biggest difference is there's no ex parte contact. And we talked about this before, for some of you that have been on the Planning Commission. That's just like a judge – that you can't talk to any of the parties or any members. You're just there to take the evidence and review the record that's presented to you at the hearing, so there can't be any side conversations. That's what ex parte contact discusses. Whereas on the legislative side you can have discussions with advocates and talk more freely with those people, and waive the information on your own outside of the hearing process. So it's way more formal under the Appearance of Fairness when you're dealing with quasi-judicial matters, so you kind of have to put your judge hat on, which is really different than legislative. And then there is under the Appearance of Fairness Doctrine that if you recuse yourself for a conflict of interest you cannot participate at all, even as a member of the public. And I think this was brought up at the last meeting of why – even if I have a conflict I should still be able to weigh in as, you know, an interested member of the public. And the case law says no, that you actually – and that's why the leaving of the room comes into play. So it does seem kind of harsh that that is taken away from you, but as I quoted in the memo, the courts have weighed the pros and cons of that requirement and have said that, you know, as an official member of a governing body that you weighing in on your own personally would still, you know, hold weight because you are this governing member so that you should be excluded entirely. So again, this is just for quasi-judicial action.

And then the other thing that's a little bit different and a bit quirky is if you have a conflict of interest and you can't reach a quorum – a majority vote here – then sometimes the state law allows you to vote. So it seems a bit backwards, but if you have a conflict, you can in some circumstances vote. But it's the – it's called the Rule of Necessity. And I'm not sure we've had that issue come up, but that's one thing.

So with respect to legislative then, what are the standards? And we have some general, you know, standards in our bylaws currently, and it's if you have a pecuniary interest – I hate saying that word. It's hard to say for some reason, for me at least! But that's a financial interest. If you have a financial interest you can't participate. I think there's also if your immediate family member

has a financial interest that they would prejudice the opinion that they should disclose and recuse themselves. So our standards right now for legislative are pretty broad, but as I stated in my memo, there are also nonfinancial interests that come into play that you guys might want to consider adding or amending your conflict of interest section when it comes to legislative matters, or at least at a minimum have specific disclosure requirements. I mean, with respect to legislative matters, the standards *are* lower. You know, everyone's coming from a different background – you know different industries, different points of view – so that's kind of part of the diverse nature of the, you know, Planning Commission, and that's why you guys were selected to be on the Planning Commission. So, you know, you may have a specific cause that you're advocating for and under legislative it's sort of allowed to have a specific interest and promote that interest, and someone else may have a different interest, but it's just a matter of disclosure. And if you guys want to change the ethical standards there's also a Code of Conduct that could be added to the bylaws if you guys wanted to, which is just looking at what other jurisdictions had. But for legislative it runs the gamut if you look at other jurisdictions, so it's really a policy decision that the Planning Commission should consider. I'm not saying it necessarily *has* to be changed, but I just gave you guys some information on what else is out there and other things to potentially consider.

Are there any questions about legislative and quasi-judicial actions before I kind of move on from that subject? And if you guys come up with questions later, that's fine too.

Chair Raschko: Any questions? I have one. For ___ necessity, it said in your PowerPoint that that would allow a person to vote. Does that also allow them to deliberate?

Ms. Nicoll: That's a good question. I'd have to look into that. I don't think the statute addresses it. I would think not because if they were conflicted then they wouldn't be participating at all. They would only come in at the end. But I'd have to get back to you on that. That's a good question.

Chair Raschko: Thank you. Anybody else have any questions?

(silence)

Chair Raschko: Okay, now we move on.

Ms. Nicoll: All right. So then speaking about quorum was the next topic I discussed. I think there were some questions about quorum and when it needed to be met during the previous discussion. So there are – it's confusing, I have to admit. As a Planning Commissioner, there are so many rules that apply to you guys. You know, there's Open Public Meetings Act, there's planning commission statutes. You know, there's just a whole gamut so that's why I was trying to give you guys an overview of what rules apply to you, and in doing this research I was also sort of overwhelmed by how ___ these different laws touch you in different ways. So under the Open Public Meetings Act, it requires a vote of the majority of the members for a final action. So that's one area that's kind of a general requirement. And the other thing about the Open Public Meetings Act, which we'll go into a little bit further, is that's a good one to review. I know you guys have mandatory training on that and I'm happy to host another training session on the Open Public Meetings Act because it's really important and it's becoming more highly contested. There's a lot of court cases that are coming out and it's a really tricky one. But if you look at the definitions in that statute, they define "action" and "final action." And what everyone thinks as what is the Planning Commission's "action," you think of the action to approve or, you know, to make a recommendation – what's in your recorded motion. But the word "action" is actually defined as discussion or deliberation, basically anything that you guys do. And then there's "final action,"

which is what we would traditionally think as an action. So there's a lot of rules surrounding any action that you guys take, more broadly, and then there's rules about final actions. I just wanted to highlight that but we can go into that in more detail.

So the OPMA requires –

Chair Raschko: Can I interrupt for a moment?

Ms. Nicoll: Yeah.

Chair Raschko: Before we get too much farther, I missed on the Chat that Commissioner Lundsten had a rule about the necessity question. If we could go back to that quickly?

Ms. Nicoll: Sure.

Chair Raschko: Commissioner Lundsten?

Commissioner Lundsten: Yeah, thanks. You asked pretty much the same question but I wanted to clarify that that rule allows – suddenly allows the person to have a vote, and it just seems like it's completely contradictory to what the conflict of interest intends. Is it – and I'm – it just sort of seems unusual to me that you would have that rule at all – that that's the whole point of conflict of interest. But so to clarify, the rule of necessity allows a person to vote but probably not to deliberate. You're going to get back to us on that. Is –

Ms. Nicoll: Yeah.

Commissioner Lundsten: And it overrides the conflict of interest?

Ms. Nicoll: Yes. I know. I agree with you, Commissioner Lundsten. It seems quite bizarre. But I think the intent behind it – and I can pull some case law to confirm – is that when you're dealing with a quasi-judicial action, you know, it's like somebody coming before you and asking for a determination on their specific rights, so there needs to be a decision made. Versus if you don't have a quorum in a legislative matter it's like, Oh, well, I guess we're not amending the code. So it's basically forcing a decision, like a judge would have to make. So that's, I think, the intent behind it. But I can definitely provide you guys with follow-up information on it. But I agree with you that it doesn't feel right, but it's the necessity of reaching a decision for that person with respect to their specific rights. Does that make sense?

Commissioner Lundsten: As much as it can, yes. Thank you.

Chair Raschko: Thank you, Julie. Sorry to interrupt.

Ms. Nicoll: I would like you guys to interrupt. It's way easier than just talking at a camera! So then with respect to not having a quorum, you know, if there are plan ___ and you guys are looking at seeing that there isn't going to be a quorum, it's probably good to evaluate what's on the agenda. But it's okay to not have a quorum if you're just presenting information at a workshop. It's just this final decision basically that you needed to have a quorum, under the Open Public Meetings Act.

And then there's another specific requirement, another statute that requires not less than a majority vote of the total members of the commission for comprehensive plan amendments. So

it's tucked away in multiple places that requires a vote. And I think our bylaws say that, you know, we need to have a majority. I'm not suggesting that there's anything wrong with our bylaws. It's just providing the context of where the requirements come from. The only thing that I do suggest changing, which I mentioned in the memo, is I think there is a scrivener's error – like a typo – in the bylaws in Article IV, Section 2, I believe it is. I don't know if you guys have that in front of you or not. You don't need to but – is that right? Sorry, Article V, Section 2. There's a reference to – an incorrect reference – to the Appearance of Fairness Doctrine. It says for the RCW 42.36.900 and it should be .090. So I think that was raised at another meeting, but that's the one thing that definitely needs to be changed.

So then moving on to other topics is the issue of public statements. Obviously we've talked a little bit about this already. It's not something we *have* to include, but it may be good to include just so people understand what the rules are, what a good practice may be. I've provided some examples in the memo that – you know, who – to be clear – who has authority to speak. For instance, Kitsap County has in their bylaws that unless specified by the chair, the chair and the vice chair ought to be official spokespersons for the planning commission. And Snohomish County also has some other language about the right to express personal opinions and to be very clear that it reflects your personal opinions only. So there is some language you guys can consider with respect to those issues. And that also ties in to the issue of – or the matter of having a minority report, that that could be a way to express those opinions in a more formal manner than individual communications outside of the commission.

So moving on then to the Open Public Meetings Act. Again, like I said, this could be like a whole hour-plus training just on the nuances of the Open Public Meeting Act, and we can go into more detail on that at another training if you guys agree that that should happen. I think it never hurts, especially since it's a changing area of law. But just in general for a refresher, it basically stands for the proposition that all meetings and records associated with your work – emails, draft documents, all these sorts of things – are open to the public. The one thing I did notice in the Open Public Meetings Act, it does require the planning commission to keep minutes. And those have to be open to the public. And I do know that you guys have transcripts prepared but I'm concerned that we should also be keeping minutes separately or in addition to transcripts and those should be formally adopted at the beginning of every meeting. They should be distributed, reviewed and voted on, and adopted. The same thing with the transcripts. They should – you know, everyone should be reviewing them and confirming that they accurately reflect the record. And sometimes I've noticed that there's some blanks because they had difficulty transcribing so that might be something that people could fill in, that they could be more formally adopted. I think we're doing a great job providing the notices and the transcripts and the meeting materials online in compliance with the Open Public Meetings Act, but my only concern was the minutes. I think it also provides a useful snapshot to people to what's going on on a daily basis without having to dig through a 40-page transcript. It's a useful tool to know, you know, what meetings were – you know, what general topics were discussed. So maybe staff can assist in that process.

So then the other issues involved in the Open Public Meetings Act is it does not allow secret ballots for voting. And this is something that is different than Robert's Rules. And so I think what we have to be careful about with Robert's Rules is we always have to be making sure that, you know, if Robert's Rules are, you know, the rules that we are following for procedure that they also jibe and comply with state law. And Robert's Rules are very general so we just need to make sure, and we can make those changes clear in the bylaws so everyone knows and doesn't fall into any traps there. And then again, as I mentioned before, all actions and final actions must be adopted at a public meeting, or the remedy is it they become invalid if someone challenges it.

And the one kicker to the Open Public Meetings Act that has a little bit more teeth than others is that if you violate the rules you could be subject to personal liability and fines. I think it's 500 for the first and 1000 for the second, and that can change over time as well. So that's the one difference here than other statutes. And then hopefully you've been told that training is required within the first 90 days of taking office and then at a minimum every four years.

Did anybody have any questions about the quick overview of the Open Public Meetings Act?

Chair Raschko: Commissioner Lundsten, you have a question?

Commissioner Lundsten: I do. Thank you. I wondered, "actions" and "final actions": Can you – what is an action that has to be done in a – or what is the difference between an "action" and a "final action"?

Ms. Nicoll: Yeah, so as I mentioned before, an "action" includes deliberation or discussion. So it's basically everything that you guys do leading up to a "final action," which is an actual vote, you know, that you then memorialize into a recorded motion. So that's why the language is confusing, because you would think an action is just the final vote. But they call that "final action" in the statute, and "action" is everything else that you guys basically do. So we can look up the statute and give it to you verbatim. I'm not as tech savvy to do that with my sharing of the screen! I don't know if anyone else has it pulled up. I can pull it up on my phone. Okay, I have it printed up. So it's RCW 42.30.020. " 'Action' means the transaction of the official business of a public agency by a governing body, including but not limited to the receipt of public testimony, deliberations, discussion, considerations, reviews, evaluations and final action." And then it says "final action" means "a collective positive or negative decision or an actual vote by a majority of the members of a governing body. So "action" includes "final action" and it also includes deliberations, discussion, consideration, review and evaluation. So that's why the "action" is being, like, everything that you guys do, but "final action" is the actual vote. And I think people have confused the term "action" before without considering the definitions.

Commissioner Lundsten: Mr. Chairman?

Chair Raschko: Go ahead.

Commissioner Lundsten: So even a workshop is an action. If we're getting work – that was really what I was getting at. If we have an educational session, more or less, when we can ask questions, it's like a class. That's an "action."

Ms. Nicoll: Yeah.

Commissioner Lundsten: Okay.

Ms. Nicoll: That's why it's not very intuitive, because you don't think you're actually taking action. So you're required to follow the proper notice procedures, you're required, you know, to make the meeting open and available to the public. So that's the consideration here.

Commissioner Lundsten: Last spring – or I think it was last spring – we had a – or last fall – sometime we had a hearing on – a workshop on – it was not a hearing; it was a workshop – and we hadn't put it in a full 24-hours on the website on the agenda. And we – then that put us in jeopardy because we would be taking an action without proper notice, even though we were just

taking a class – were basically taking a class. So that counts – that's official business, that level of action that requires that kind of notice.

Ms. Nicoll: Yeah.

Commissioner Lundsten: You _____ other time but this clarifies it. Thank you.

Ms. Nicoll: Yeah. Yeah, no, that's exactly right. You've hit the nail on the head. It's just – to me it's not very intuitive but I guess it makes sense. But they don't – you know, I think when they were developing the law and some of the case law I've read surrounding the Open Public Meetings Act is the intent is to have the whole process open, not just, Oh, you get to be there when they make the final vote. You get to see how the sausage is made and you're allowed to participate in that. Well, let me clarify. You may not be able to *participate* – like, you know, public comment may not happen at every single meeting – but you're still able to have that open to the public and then there will be at least some opportunity for the public to weigh in.

But that's a good point. And I don't know how much information was provided to you about this matter, but the reason why we had to shut down the planning commission meetings and other public meetings during COVID and we still have restrictions on us right now that we can't meet in person is all do to restrictions through the Open Public Meetings Act. The governor has made changes temporarily to the Open Public Meetings Act. So that means even though we *should* be meeting in person we're not, and, you know, there were other changes associated with meeting initially that wouldn't even allow us to meet remotely. So those are all surrounding Open Public Meetings Act. So that's kind of a big one that people can get in trouble with, so it's good to get additional training and to be aware of the requirements.

Are there any other questions before we move on?

(silence)

Ms. Nicoll: So the next topic is Communication with County Commissioners. I think it was previously discussed and after reviewing other jurisdictions' bylaws as something for you guys to consider. You can do it or you can decide to not do it or be formal about it, but the idea was to consider joint meetings. A lot of different jurisdictions have, like, annual meetings or some regular occurring meetings where the two groups get together and discuss the work program and discuss, you know, the deliberations and your thoughts on things, just to improve communication and two-way feedback. And that would all be done in a public session. And I linked an article to an MRSC website talking about the origin of the planning commission that, I think – it's just a few pages long – I think it might be useful for you guys to review. It talks about some of the communication. It builds trust and support – because right now I don't know how much communication there is between the two bodies – and then they'd have an opportunity to ask questions both ways. So that's something that you guys might want to consider.

And then I also talked in the memo in the section about the minority reporting and gave you guys some examples – that, you know, having a more formal way to have other Findings of Facts for a dissent or a minority could be helpful. And then there's a more formal – then there could be a more formal process for submitting and reviewing that – having all the members review it and sign it.

So and then the next topic is Department Recommendations. I think there was some confusion about Article IV, which relates – Article IV, Section 4, which relates to the Planning Department's roles, specifically with respect to item j., which was notifying planning commission – that the Department would notify the Planning Commission members of proposed – I'm sorry. Notify the Planning Commission members of any staff-proposed changes of an approved recorded motion. And I was a little bit confused by that requirement because my interpretation was once the Planning Commission has made its recorded motion there wouldn't be any changes. If the Board of County Commissioners wanted to show a recommendation from the Department, then it would be appropriate for the Department to provide those recommendations. But otherwise the code for the legislative actions, which is in Skagit County Code 14.08, describes that the Planning Department's role is kind of a beginning for the recommendation initially and all the technical research that they do – that they make recommendations early on in the process, not after the fact. So that can be changed as well. That was just my reading of the code and the current bylaws. But I don't see them needing to change a recorded motion, so I would suggest clarifying j. or removing it altogether. The code also describes in 14.08 that the Planning Department provides the recorded motion. They're like the secretary that provides the information to the Board and then the Board could at that point ask for additional information. I think it would be useful to ensure that there's, you know, consistent communication between the Department and Planning Commission *and* the Board of County Commissioners so everybody knows where things are at in the process. And if the Planning Commissioners want to continue to participate at, you know, future public hearings, or listen in with the Board of County Commissioners that they be able to do that and weigh in again as well, or to provide the context behind the Commission's decision.

So it's up to you guys if you want to change any of these matters with respect to communication with the Commissioners or the Department recommendation.

And then another – these are kind of getting at some miscellaneous things that I pointed – that I found that I thought might be useful for your consideration. Again, you don't have to make any changes, but I thought it would be helpful to point out what other jurisdictions have. I don't think there's been any issue with chronic absences, but other jurisdictions have more specific requirements about absences and whether or not they're excused or not and how many absences you can have. So again what we have is that you guys will strive to attend all regular and special meetings and that you will notify the Department if you're unable to attend. But, again, you guys can look into whether you want more specific language or you can keep it as is. I provided you guys with some example about attendance. Don't want to really make it too complicated about excused absences or unexcused or whatnot, but it's just interesting to see what other people have put out there. It could, you know, become an issue in the future, so it might be something to consider.

And then the last issues to talk about: Some of them are just procedural. Again, we talked about Robert's Rules, that those – we might want to consider updating the bylaws to reflect the most recent version, *and* perhaps having a complete set of those rules. I think some members might have an abbreviated version. I don't have a complete copy of it. I don't know if staff does or anyone else, but that might be something to add to the list: distributing a more specific set so everyone is aware of those procedures. Again, noting, you know, where there may be differences with the Open Public Meetings Act as well.

And I also noticed in the Appendix, at the beginning of the Appendix it says that these procedures will be used *in lieu* of Robert's Rules, but then it says they're just guidelines, So we might want to clarify the language there as well.

The other issue that came up that I noticed was the meeting – it says in the bylaws that we are not – that you guys should hold not less than one meeting a month unless there's no matters pending. That comes from our code. It's in 14.02. There's another section besides 14.08 which deals with the legislative process. There's 14.02 that you guys should look at as well. And maybe I can work with staff to compile, you know, an information packet. I don't know what information is provided as part of the onboarding process, or ongoing training process, but it might be useful to have a set of all the specific local codes that apply to the Planning Commission, as well as state statutes and other statutes so that you guys can become more familiar with them. But in our code it says that – and it's also in one of the planning enabling statutes – that you guys are to hold meetings once a month basically. I've provided a memo to several sections where that requirement is. So that's where it comes from.

And then I think one of the last issues with respect to procedural matters that I put in the memo had to do with public remarks. And I think there was some discussion about whether or not you needed public remarks at every session or not. And there's no specific legal requirement about public remarks. If you're holding a public hearing, then of course you have to accept public comment __. We don't as a matter of course, you know, under the law have to have public remarks at every meeting. If you guys *want* to have public remarks at every meeting, you are totally allowed to do that, but there's no minimum requirement. I think there was some confusion when we went to remote meetings if we had to invite the public to every session. You know, like, for instance, a workshop. We don't technically *have* to invite public comments – or public *remarks*, I guess, is what you guys call it. We don't *have* to do that, but if you guys want to and decide as a group that you think it's a good, you know, avenue for people to provide information to the County, then we can do that.

And then the last few items that I put in the memo were about one of the other things you can clarify that I saw in several jurisdictions so there's no confusion – is that the prosecuting attorney is the sole legal advisor for the Planning Commission. So that's information, if that ever arises or if there's confusion about who is the attorney for the Planning Commission. And then there's training. This isn't necessarily specific to the bylaws. I just – when I was doing this research and providing you guys with information I provided a link in the memo to some upcoming training that I came across. There's a lot of free trainings that are available and, as I said before, I'm happy to do more trainings and provide you guys with more information. So maybe I can work with staff to see, you know, what those needs are and I'd love to hear from you guys individually if you have questions as well.

So that's kind of the gist of my presentation. Mark Knutzen, you have a question?

Commissioner Knutzen: Yes, are you addressing me?

Chair Raschko: Go ahead, Mark.

Commissioner Knutzen: Yes, I didn't catch it in the presentation that you just gave. You may have gave it and I missed it. But regarding communications with County Commissioners, there was two examples you cited in here regarding the minority opinion reporting to Whatcom County Council and reporting to Kitsap County. In both cases minority reports much be attached to the findings of the Planning Commission as a minority report and reported as such, and signed by the Planning Commissioners participating in the minority reports. That addresses the issue that we spent an hour and 45 minutes talking about earlier. Did you give that just now and I missed it?

Ms. Nicoll: I didn't touch specifically upon those examples but I talked generally about – when we were talking about communicating with County Commissioners, that's another avenue – that you could have an annual meeting or some sort of regularly occurring meeting where you guys can exchange ideas and information, and the other idea was providing those minority opinions more formally in a report.

Commissioner Knutzen: Oh. And I think after the first two hours of my first meeting, I think that's something we should certainly address. Just my comment.

Chair Raschko: Okay, are there any other question for Julie?

Ms. Nicoll: Commissioner Shea has a comment.

Chair Raschko: Yeah, Commissioner Shea, please.

Commissioner Shea: Yes, I guess less of a question, but I just want to say thanks for your report you put out. It helped me out a lot. I didn't quite know exactly where to start but I got a lot of good tips from that memo you sent out. A lot of it, I personally think that a lot of it's kind of hard to argue with. There's a couple points like the minority report we talked about, and then there's also the online meetings, which is going to be a little bit harder to work out, and then public statements, as well, is another one. Those are the ones I think are going to take more time, but I don't know – I'd like to hear the other Commissioners. But I just want to say thanks for the report. That helped quite a bit and I think it shouldn't be too hard to figure this out. So, yeah.

Ms. Nicoll: Thanks for the feedback.

Chair Raschko: Okay, anybody else?

(silence)

Chair Raschko: Well, thank you, Julie. I really appreciate your presentation.

Vice Chair Mitchell: Tim? Mitchell here.

Chair Raschko: You have one?

Vice Chair Mitchell: Yes.

Chair Raschko: Go ahead, Kathy. Sorry.

Vice Chair Mitchell: Thank you. I concur with what Joseph just said, but I did want to thank Julie very much for what must have taken a lot of time to pull that kind of information for us, especially with so many different examples for possibilities. That's going to allow us to have a much better way to improve what's coming and also where the discussion points may be we need to look for a little bit more on our own, and see where we might want to go. So thank you so much. I appreciate all the extra time you must have spent on that.

Chair Raschko: Okay, anybody else? Thank you, Kathy.

(silence)

Chair Raschko: All right. So where do we begin? And I'm open to suggestions, but looking at Julie's memo it starts out with legislative versus quasi-judicial actions. And since hers is basically a summary of the questions we came up with, perhaps the way to attack this is just go through her memo and just those places in our bylaws where they are to change. And then when we're through with that, which probably will take more than tonight, we can go through the rest of the things not specifically covered by Julie's memo. But I am open to suggestions if somebody else has another idea.

Commissioner Lundsten: I have one.

Vice Chair Mitchell: I do too.

Chair Raschko: Okay. Go ahead, Kathy. Let's hear your idea.

Vice Chair Mitchell: At the risk of everybody saying how much we've done already, this is a lot of information. I'm wondering if maybe now that everybody has all this if we could have the evening end and digest it even more, given everything that we've been through earlier. We may be able to hone in some questions later when we get back to the quasi-judicial/legislative kind of thing with a clearer mind. I don't know about anybody else, but my brain's fried.

Chair Raschko: Well, I think that's a splendid idea. Now I heard another voice. Who else?

Commissioner Lundsten: I have one, too.

Chair Raschko: Okay, Commissioner Lundsten. Pardon me.

Commissioner Lundsten: Thank you. I agree with Commissioner Mitchel and I think that – I was going to suggest that we do exactly that and that we – I have a bunch of stars along all the places where Julie had mentioned the Planning Commission should consider, or the Planning Commission might change. And each of us can do that and have our own outlines and then when we go through it we can vote on those things we want to accept or reject. And in the meantime we have time to call her or staff __ our own questions about quasi-judicial and legislative matters or the Rule of Necessity or whatever those fine points might be. We have time to straighten those out a little bit. So I say we come back next meeting with our own bullet points and hash them out, as Kathy suggested.

Chair Raschko: Okay, Commissioner Candler? Oh, never mind. She changed her mind. Anybody else?

(silence)

Chair Raschko: All right, we're going to do that. We're going to close the session now on bylaws and we're going to move to the Planning Director Updates. So Director Hart, have you something?

(silence)

Chair Raschko: No?

Mr. Hart: Okay, I apologize, Commissioners. Just three quick updates. The first one, if you can all hear me, is the Department (loud cough/sneeze) __ with the Council of Governments. We're

working on the methodologies that Cities are using to determine their urban growth areas in the future. What has happened in the past is that they all had different methodologies and so the idea is to get a more uniform methodology. So we continue to work with the various Cities to come up with a more uniform approach than what we've had in the past. I think that's important for everybody here on the Planning Commission to know that. And the theory is, for everybody, is first you grow in your town. Wherever your comp plan says you're going to grow you follow your comp plan and you grow within the town. Then you begin thinking beyond the downtown and whatever districts you were going to grow in and then you say, Okay, we have to address housing. And what's their approach? How do they then come back to the County down the road and ask for an additional urban growth area? But I think what the County's asking is for a certain amount of accountability of Cities so that we can understand that they have infilled like they're supposed to within the city before they ask for farmland or ask for some other lands outside of the city. So this is a long-term goal. They've been working on it a good part of this year. They'll continue to work on it in the year ahead. And we're trying to be as transparent with that process as possible. So we want them to be able to show their work. _____. How are they identifying that they need more housing or ground for housing or economic development or for jobs? So that's really important and, again, that continues.

Quick update on growth: From what we heard from the Cities, Mount Vernon is hitting records for growth right now. I'm not necessarily seeing it on the ground but I will say that the different subdivisions seem to be full or filling very quickly, especially single-family residential growth. As we all know, there's a project in the downtown which eventually will have additional commercial development.

Burlington is growing very rapidly as well, and their projects are very, very different than the projects we're seeing in Mount Vernon. So both – well, I would say Sedro-Woolley is looking at commercial development this week. They announced another 24 units of housing over in Sedro-Woolley as – I'm sorry – apartments and things of that nature. So each community is growing differently. The County itself, our *commercial* growth has been very strong. There's still a lot more interest in commercial expansion. A lot of businesses want to leave the Seattle area and as they leave the Seattle area they're looking for ground. So the area that they're looking for is our industrial park, but that brings up other issues and concerns including stormwater, traffic, and those kinds of things. So we certainly see that in our day-to-day.

Housing, though, is off considerably since COVID here in the unincorporated county. So that's another trend, but we'll see how that plays out through the end of the year and I'll keep you posted.

Finally, the Boundary Review Board: A board that sits and looks at annexations has come back and said to Sedro-Woolley, Hey, you did not do this annexation properly, this annexation process properly. And they're asking Sedro-Woolley to redo that process again. So we'll see what happens up in Sedro-Woolley. That was an important part of their strategy for housing and so we'll see what happens out of that. I had an hour and a half discussion over time – so a half-hour the last time – with their director about that. And so the way to fix that is to restart that process and do it as quickly as possible.

So in a nutshell – there's one other item to report on and that is statewide right now lots of people are looking at changes to Growth Management. One of the biggest concerns for rural counties such as ours is how – our housing, and how to keep up with housing. They are looking at ideas such as minimum densities in cities so that Cities do a better job of putting housing in there. They are also looking at LAMIRDs. And I listened in to a discussion today – that's a limited area of more

intense rural development, such as Clear Lake or Edison or Alger or places like that. So those limited areas that were defined a couple of decades ago, how could you allow for either jobs or housing to go in there? So they're looking for guidance from our County and lots of other Counties right now on that issue. And the Association of Washington Businesses, the Association of Washington Counties, and others are holding free seminars each month – October 20th, 2020, will be the next one – where they talk about some of these issues. And what they're doing is they're teeing it up for the state legislature to come back and deal with this in January. So they're looking at some real changes to Growth Management and they're also looking at a term called ADUs, or Additional Dwelling Units. So you have one house on the farm lot and then you want to put another house because you may want some rental, and so you get some rental income off of another house. We're doing a lot of those in the county and it's been increasing over years until this year. But prior to COVID it'd been increasing each year as a portion of our overall housing growth. So they may be looking at how to make that easier.

Finally, the federal congressmen were in a meeting today and they said one of the things that they would do is to support housing for low to moderate income and for, like, things like farmworker housing going forward. Because the housing market is particularly tough in Skagit County, and so that would be important to keeping our ag workforce in place going forward.

Okay, that's my report. Thank you very much for your time.

Chair Raschko: Thank you, Hal. Are there any questions for staff?

Commissioner Shea: I have a question, Chair, if I could.

Chair Raschko: Go ahead, please, ___.

Commissioner Shea: Yeah. Not a hard question or anything. What do you mean by the Sedro-Woolley growth is off? Were they, like, up, down? What is "off"?

Mr. Hart: I'm sorry. No, it's not so much Sedro-Woolley. It's the unincorporated County's growth that is off. Sedro-Woolley's problem this week was that their process for annexation was foiled. They took too long in the process, according to their director, and they didn't follow state guidelines for annexation. And because of that they have to redo that process to fix the process. And that hurts because they had developers lined up to provide additional housing and additional subdivisions and things like that. So that took them off their goal. Thank you, Commissioner.

Chair Raschko: Other questions?

(silence)

Chair Raschko: Okay, thank you, Hal.

Mr. Hart: You bet.

Chair Raschko: Is there anything from Peter? No? Okay. We'll go to Planning Commissioner Comments and Announcements. So, Amy, why don't you start out?

(silence)

Chair Raschko: Nothing? Okay. Commissioner Rose?

(silence)

Chair Raschko: Nothing. Commissioner Lundsten?

Commissioner Lundsten: Nothing.

Chair Raschko: Commissioner Woodmansee?

Commissioner Woodmansee: No, nothing.

Chair Raschko: All right, how about Commissioner Shea?

Commissioner Shea: Yeah, just one thing for Peter. I probably should have just emailed you to ask. So why was our last meeting cancelled, by chance, if you could let me know, I guess?

Mr. Gill: Yeah. Chair, this is Peter. We were planning on talking about bylaws but I think we weren't quite ready yet to do so and so we postponed that meeting essentially to this one.

Commissioner Shea: My one comment to that: So I know we've missed a lot of months, I guess, before I came in and there's a lot of things we have to get through, and so I just – I don't know exactly the whole process of who chooses meetings to be cancelled or postponed or moved or what-have-you, but I think it's important that we try to get as many of our meetings done to the end of this year to try to catch up a little bit. And I didn't know exactly who decides meetings or what-have-you and so it may be – so I suggest in the future if meetings are cancelled maybe just add a little note of why they are cancelled just because, you know, we're kind of running out of time ___ of year, so it'd be nice to know that information.

Mr. Gill: Will do. Thank you.

Chair Raschko: Commissioner Candler?

Commissioner Candler: Nothing.

Chair Raschko: Nothing, okay. Commissioner Mitchell?

Vice Chair Mitchell: No, thank you.

Chair Raschko: I've got nothing except to thank Julie for being here tonight and for all the work you put into your presentation in getting ready for this. I really appreciate it. Thank you, too, to the staff and everybody else. So everybody have a good night. The meeting's adjourned.