

**CLARK COUNTY
PLANNING COMMISSION MINUTES
Thursday, November 20, 2014**

**Public Services Center
1300 Franklin Street
BOCC Hearing Room, 6th Floor
Vancouver, WA**

6:30 p.m.

I. CALL TO ORDER 6:30 P.M.

MORASCH: Good evening, and welcome to the Planning Commission hearing for November 20, 2014. Can we have the roll call, please.

II. ROLL CALL & INTRODUCTION OF GUESTS

BENDER: HERE

QUIRING: HERE

USKOSKI: HERE

JOHNSON: HERE

BARCA: HERE

MORASCH: HERE

BLOM: HERE

BARCA: HERE again still

MCCALL: Did I miss someone?

MORASCH: No, but I think you called Ron twice. All right. Thank you.

BARCA: Does that cancel me out?

III. GENERAL & NEW BUSINESS

A. APPROVAL OF AGENDA FOR NOVEMBER 20, 2014

MORASCH: Well, next on our agenda is approval of the agenda. Do I have a motion to approve the agenda?

USKOSKI: Motion to approve.

JOHNSON: Second.

MORASCH: All in favor.

EVERYBODY: AYE

MORASCH: Opposed nay? Motion carries.

B. APPROVAL OF MINUTES FOR OCTOBER 16, 2014

MORASCH: Has the Planning Commission had a chance to review the minutes from our last meeting? I would entertain a motion to approve the minutes.

USKOSKI: Motion to approve.

QUIRING: Second.

MORASCH: All in favor.

EVERYBODY: AYE

MORASCH: Opposed nay? Moving on.

C. COMMUNICATIONS FROM THE PUBLIC

MORASCH: Communications from the public. Last hearing I guess I didn't wait long enough for people to come up because we had some people that came up late, so we will wait a second. If there's anybody in the audience who has an issue they would like to discuss with the Planning Commission that is not on our agenda, now is the time to come forward. Going once, going twice, okay. We will move on to the Title 40 update as our first public hearing item and turn it over to staff for a staff report.

IV. PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

A. TITLE 40 UPDATE: HABITAT CONSERVATION & WETLAND PROTECTION ORDINANCES

TYLER: Good evening, ladies and gentlemen of the Planning Commission. Kevin Tyler with Clark County Environmental Services.

The purpose of my being here in front of you this evening is to have you consider our staff recommendations for updates to the wetland protection and habitat conservation ordinances, to take any public testimony and hopefully to offer a recommendation to the Board of County Commissioners. As you know, we presented this material to you at a work session on November 6th. It was also presented to the Board of County Commissioners on October 1st in a work session.

The wetland protection ordinance changes are being driven by the State Department of Ecology's recent update of the Washington State wetland rating system. In order to stay consistent with that rating system and have the public be able to use the same rating system for State permits and County permits, we're proposing to move forward with those updates to our code.

The changes to the habitat conservation ordinance were minor changes brought up by staff to improve implementation of the ordinance giving us more flexibility in the issuance of permits. SEPA determination of non-significance was issued for the code changes on November 5th, and the comment period ended today with no comments having been received. And the proposed changes were also submitted to the Department of Commerce for a 60-day review as required by RCW.

At this point, I have the draft ordinance up on the screen. If there are any specific portions of it that you have questions about or if there's anything that the public has questions about, anything that I can answer at all.

MORASCH: Did the DEAB ever take a position or make a recommendation on this?

TYLER: So DEAB decided not to make a recommendation. And the discussion at the meeting was basically that it's another unfunded mandate being handed down by the Department of Ecology and our hand has been forced essentially was the discussion, so they opted out of making a recommendation to you.

MORASCH: Does any member of the Planning Commission have a question for staff before we open it up for public testimony?

USKOSKI: I do have just one question quickly.

MORASCH: Sure.

USKOSKI: I notice under the category or the wetlands on Page 7 for the rating system, when you look at Category I wetlands, they've removed that --

HOLLEY: I can't hear you, sorry.

USKOSKI: Under Page 7 of the wetland rating system for the Category I wetlands under Item 2, it looks like they've removed the half acre.

TYLER: Oh, where it says bogs?

USKOSKI: Yes, they've replaced it with bogs.

TYLER: Just bogs in general. Yeah, there's no size limits on those. The Department of Ecology has found that all bogs are considered high value, high quality wetlands in the state of Washington, and I don't know the background on that decision.

USKOSKI: Okay.

BARCA: So, Kevin, in regard to the changes that we're looking at with the point and rating system changing, has staff done any analysis about what that does as far as existing lands that have already been categorized, how much of our land is being shifted up or down in a rating system?

TYLER: Right. The Department of Ecology has done that analysis at the State level. So they reviewed all of the wetlands that they used to develop the rating system in 2004, and they used the new rating system on those same wetlands, and the presentation that I gave to you at the work session showed how that distribution changed.

So if we want to refer back to that, and we could bring it up on the screen I suppose if you guys want to look at it, but essentially their findings were that a majority of the sites remained unchanged. So they looked at 111 wetlands in the state of Washington. They're all over the state on the western side, 111. And this is going to be page -- or one, two, three, this will be the fourth slide down, Marilee. Right there. So back one, yeah.

They looked at 111; 60 of those remained unchanged; 30 sites had a lower category, and 21 sites had a higher category. And if you look at the table on the bottom there, Category I wetlands went down and so did Category II wetlands. Whereas the number of Category III wetlands increased, and the number of Category IV wetlands was roughly the same. So we're seeing less of the high quality wetlands based on this new rating system and a few more of the Category III wetlands.

BARCA: So my question was specifically, has the Clark County staff done any of this? What I'm anticipating is we go ahead, we accept this rating system, it goes forward, it gets passed by the Board of County Commissioners and then somewhere down the road people are starting to say, hey, wait a second, what happened to the quality of the wetlands? Either it's good or it's bad, there's winners and losers in the perception of the change. I guess what I'm looking for is, how much are we going to know in advance of the impact?

TYLER: So Clark County staff have not done that analysis. We simply don't have the staff to support that level of work. We have one biologist on staff to issue all the habitat and wetland permits that the County receives, which is upwards of 150 or so a year.

BARCA: So when will the wetlands be scored in the new scoring system?

TYLER: They'll be scored when they come in for development or any type of permit, right. So basically this code would go into effect January 1st to be consistent with when the State has adopted its wetland rating system, that's the date that they've set. Any new wetlands rated from that point forward will use the new wetland rating system.

So put yourself in the shoes of an applicant. They go out, rate the wetland and bring that in for a permit, and we review that, you know, we review that rating and make a determination whether it's

consistent with the rating system or not, adjust it possibly depending on our expertise. If there's questions about that, Department of Ecology would weigh in on it.

But starting January 1st, any new wetlands that are the subject of a permit would get that wetland rating under the new system. So if we decide not to move forward with it, then an applicant's going to be stuck with using the old system to apply for our permits and the new system to apply for Department of Ecology permits. So that's primarily the reason why we're pursuing the update is to stay consistent and make it easy for applicants to just do one system.

BARCA: Okay. So basically until there's activity, there's no new rating that goes on?

TYLER: Correct.

BARCA: Okay. Thank you.

TYLER: Yeah.

MORASCH: Any other questions? Okay. At this point we will open the public hearing on the amendments to the habitat and the wetland ordinance. And I have a sign-in sheet. I have one person that signed up, David Rogers. I also have a written statement that Mr. Rogers submitted, and I've handed it out to the Planning Commission.

Mr. Rogers, if you'd like to speak on the habitat and wetland ordinance, please come up to the mic. But I'm looking at your written statement, and I'm wondering if you want to talk about surface mining instead, which is a little later on our agenda?

ROGERS: Yes, sir. I signed both of them.

MORASCH: Both of them. All right. Well, please take a seat and talk to us about the -- state your name and address for the record and then talk to us about the habitat ordinance.

ROGERS: David Rogers, 18114 NE 317th Street, Yacolt, Washington 98675. I didn't come prepared tonight to provide you with any evidence, but when a quarry is scheduled for a permit, part of what they're supposed to do in their map is show the wetlands that lay within the vicinity. If wetlands are excused and not written into the permit, then they become subject to the silt and whatever that comes down off the hills into it. There should definitely be some concern from you people about making sure that the wetlands appear in the permit and in the mapping. It's also supposed to be mapped out and we did not see that in our instance. I think it's a very important thing for them wetlands to be protected and not be abused.

MORASCH: Okay. Thank you. And before you go, any questions for Mr. Rogers? No. Okay. Thank you. And did you sign also the other sheet for the surface mining later?

ROGERS: I did.

MORASCH: Okay. Great. Is there anyone in the audience who didn't sign in who would like to talk about the wetland ordinance?

MARTIN: Just a question actually.

MORASCH: Well, please come to the mic and give us your name and address.

MARTIN: Sure. My name is Mark Martin, and I live at 26520 NE 52nd Way in Vancouver, Washington 98682. My question is probably for you. I know that in the Livingston Mountain area in the Livingston Quarry specifically there are two Type IV wetlands, how might re-categorization of those wetlands from Type IV, you know, hypothetically if they became Type III wetlands, I don't know that they did, but if they did, how might that impact the quarry operation there?

TYLER: So the wetland rating system tells us the quality of the wetland, and when we know the

quality of the wetland, we know when it's impacted what we need to replace that area and function, because the State and the Federal, you know, Clean Water Act provisions on wetlands is no net loss of area and function. And so a developer, a quarry owner, would then have to replace that area and function somewhere else by doing wetland mitigation.

So what the Department of Ecology has said is Category IV wetlands are less important than Category III. So to replace a Category III you have a higher ratio of wetland impact or wetland mitigation that you need to perform. So instead of using like the base buffers I believe are six to one for Category IV and they would be eight to one. So if you impact, if your total area of impact is one acre, then you need to provide eight acres of wetland enhancement somewhere else to make up for that.

MARTIN: Okay. So it would be somewhere else if the mine is already operating, is that what you're saying?

TYLER: Typically that's the case, yes. Unless there's an opportunity on the same land that they own, like they're not going to mine a certain portion of the land, they could provide it in another area on the property.

MARTIN: Or make a further setback perhaps?

TYLER: Potentially, yeah. Sure.

MARTIN: Okay. Thank you.

TYLER: Yeah.

MORASCH: All right. Thank you. Anybody else that's not on the sign-in sheet that would like to talk about the wetland habitat ordinance? Okay. With that, I will close the public hearing and turn it over to the staff, or to, excuse me, to the Planning Commission if you have any follow-up questions for staff or for deliberation. Hearing none, unless someone -- John, were you going to say something? All right. Then I would go ahead and ask for a motion if there's no deliberation.

MOTION AND SECOND:

JOHNSON: I move that we accept the Environmental Service Title 40 code changes as written per staff recommendation.

BLOM: Second.

MORASCH: Okay. It's been moved and seconded. Can we have a roll call. I'm looking for Marilee, but she's not here right now.

BARCA: Mr. Chair, before we take the vote, I think I would like just to make the brief statement that says, much like DEAB, I look at what has happened here in the context of the state of Washington implying the new set of standards, there isn't a lot of room for negotiation or discussion on this.

My biggest concern still remains with the citizens who are going to get a new rating system that will inevitably raise or lower a significant number of people's property in a fashion. I think we don't do a good enough job getting the information out to the people that may be affected by this, and I just think it's one of those things that, you know, doing the best we can. The State spends no time or effort to update everybody on this and it's not right. Now we can do roll call.

MORASCH: Thank you, Ron. That was --

JOHNSON: Perfect.

MORASCH: -- very nicely timed. Is there anyone else who would like to make a statement before we do roll call? I was about to do the roll call myself. All right. We'll do roll call then.

MCCALL: I apologize. We had some late submittals and I had to run down and get the copies off the machine.

ROLL CALL:

MORASCH: Okay. Thank you.

MORASCH: AYE

USKOSKI: AYE

BARCA: AYE

QUIRING: AYE

JOHNSON: AYE

BLOM: AYE

BENDER: AYE

MORASCH: All right. Motion carries. Thank you.

TYLER: Thank you.

**B. AMENDMENTS TO PROVISIONS REGARDING MASTER PLANNING
(RURAL INDUSTRIAL LAND BANK)**

MORASCH: Okay. Moving on, the next item on our agenda is public hearing for amendments to provisions regarding master planning, this is regarding two rural industrial land banks. Gordy, you're up.

MCCALL: Which one would you like up there?

EULER: We're good for the moment. Good evening, Planning Commission. Gordy Euler, Clark County Community Planning.

We've had an application in the County for a rural industrial land bank and we haven't had a hearing yet on any of that because we're new to the process, but one of the statutory requirements in terms of processing an application for a rural industrial land bank is a requirement for a master plan for the area. And our master plan code basically makes no provision for planning for a rural industrial land bank, and the amendments that are before you tonight are to amend our code to allow that to happen.

So there's three code sections that we're amending. One is essentially in the current master planned code. We're just making a provision that says if you're going to do a rural industrial land bank master plan, go to this new section. We have a new section that pretty much mirrors the requirements of the old section, it's a new Section 40.520.075. And then we've made reference to map and plan changes for the comprehensive plan that's in the section that's in part of the code that's in Section 40.560.020(S).

So this is pretty much a housekeeping in terms of process, but we can't turn our consultant loose essentially to get on with the master planning process until we establish that we have the authority to do so. So that's the staff report, Mr. Chair.

MORASCH: Okay. Thank you. Any questions for Mr. Euler from the Planning Commission? No. Do we have a sign-in sheet? Yes. Thank you. Okay. We've got six people on our sheet. We'll start at the beginning, Greg Bender. Please state your name and address for the record.

BENDER: Okay. Gregory Bender, 8806 NE 159th Street, Battle Ground, Washington 98604.

MORASCH: All right. Welcome.

BENDER: Thank you. Thank you for your time. I guess my questions, my points, I feel like this is -- Clark County has a lot of very useful and very productive farm and ag land, I don't want to see another Walmart built on ag land or on wetland. So my question is -- well, I have a few questions. So there's rural industrial land banks. Is there a cap on the land banks or are we just going to keep eating up ag land as we see fit for growth or, quote, progress? Is there a farm or agricultural land bank?

And then I apologize if I didn't hear what you had stated the last couple of minutes when you spoke, the minor changes that are proposed, I didn't catch those.

MORASCH: Gordy, do you want to recap those minor changes?

EULER: Sure. We can look at them, they're available on the screen if you want to see them. These have been on our the Clark County website, we have a rural industrial land bank page.

Again, one of the requirements for rural industrial land bank is to do a master plan for the area, and right now our current development code Title 40 has no provision in it. We have a master planning provision, but it doesn't include rural industrial land banks.

The reason for that is the statute, the Growth Management Act, has a section in it, it's 36.70A.367, that allows rural industrial land banks has been seldom used in the state of Washington. There are virtually one, maybe two other facilities like this that have been created using this statute. But we can read, the plain reading of this statute is we have to do a master plan, and our code has no such provision to allow us to do that. So we're amending our code so we can get on with the process.

Now, you have a larger question as to whether we should even have an industrial land bank. That's up for the Board to decide once we get a complete package of materials together that would meet the statutory requirements, and that will be probably towards the end of next year, if not into early 2016.

MORASCH: Thank you. So tonight we're not reviewing, approving or recommending for denial for a land bank itself, we're looking at a code amendment that will amend our master plan process, so that that process may go forward. So there will be another hearing at some point, I think maybe next year. You should come to that hearing if you're concerned about a land bank getting approved or not, because we're not actually doing that tonight.

But with respect to Walmart or commercial uses, if I understand you, Gordy, you can correct me if I'm wrong, the statute is specifically for industrial lands, not for commercial lands, so I don't think it would be something we would do for a commercial use.

EULER: And particularly by County code, if we're successful in establishing the use bank, it will be zoned light industrial, light industrial. So to the extent that a Walmart is allowed in light industrial, which I believe it is not, these will be, these are designed for land producing jobs, so... But not heavy industrial uses, light industrial.

I should also say for anybody who's interested, if you go to the Community Planning web page, which you can get to from the Clark County web page, click on land use and there is a page, a list of projects there that says rural industrial land bank. If you click on that, you get more information about what we've been doing, what we see here, these three code sections, the information is there. There's also a map of the area, so you can see what it looks like. So please visit the web page and get in touch with me or anybody in Community Planning if anybody has further questions.

BENDER: Okay. Thank you.

MORASCH: All right. Thank you. Any questions for Mr. Bender? All right. You're excused.

BENDER: Thank you.

MORASCH: Thank you. Next on our list we have Steve Horenstein. All right. Well, you know the drill.

HORENSTEIN: Thank you, Mr. Chair, members of the Planning Commission. For the record, Steve Horenstein - I know I have to speak slowly, don't I - 500 Broadway, Suite 120 in Vancouver, testifying in support of the proposed amendments to the master plan ordinance to allow for the rural industrial land bank.

The master plan piece of this is one of many criteria in the rural industrial land bank statute. You may be interested to know that this statute is a creature of Clark County. It was drafted by Rich Lowry, Betty Sue Morris and I a long, long time ago now, probably 15 years ago. It's been on verge of sunseting several times and continues to be extended by the legislature. I believe there's only one other in the state that was in Chehalis and in a rock pit, so a very different proposition than this one.

The rural industrial land bank is in the nature of a comprehensive land use plan amendment, but it's unique in character. Its requirements are significantly more than just a normal comp plan amendment, and it can be done out-of-cycle, it doesn't have to be part of the annual comp plan review that you normally see with accumulative analysis and all of that sort of thing. They have to be a minimum of 100 acres in size in the statute and I think the code says that as well. They are truly only for industrial. There could be a little bit of commercial in the project as long as it's convenience commercial to serve the industrial tenants in the park.

This is a key opportunity for Clark County. We are very short on industrial land. The inventory you will see that came with the application, and this being enhanced by the County's consultant, will I think surprise you in our inability to provide large industrial sites for development in the county largely because of wetlands and other kinds of environmental constraints. So this will go a long way to solving that inventory problem and help us create jobs in the community. And I'll have more to say as you get further hearings on this, but with that, I'd be happy to answer any questions.

MORASCH: I just have one. So you support the language that's being proposed today --

HORENSTEIN: I do. I do.

MORASCH: -- without amendments?

HORENSTEIN: Without amendments.

MORASCH: Okay. Thank you. Any other questions for Mr. Horenstein?

BLOM: Off the top of your head, do you know what is the current sunset for the legislation to --

HORENSTEIN: I believe it's the end of 2016.

EULER: Yes. Correct.

HORENSTEIN: December of 2016. And we'd prefer not to have to continue to go out there and get them to re-up it.

MORASCH: Any other questions? All right. Well, thank you.

HORENSTEIN: Thank you.

MORASCH: Next on the list we have Carlene Jorgenson, but it says you do not wish to testify; is that correct?

JORGENSON: Yes.

MORASCH: Okay. Sydney Reisbick.

BARCA: Reisbick.

MORASCH: Reisbick. Sydney Reisbick. I have trouble reading cursive sometimes. Welcome to the Planning Commission.

REISBICK: Thank you. I'm Sydney Reisbick, P.O. Box 339, Ridgefield, Washington. My comments are not directly related to the code. If I can put my personal hat on for just a moment. I would like to see some industrial land banked because it will save it from becoming houses, which will keep encroaching on the industrial land. Okay.

That hat off, Friends of Clark County hat on. Okay.

Good evening, Planning Commissioners. Thank you for the chance to comment on the ILB. We hope you'll consider four main points. The proposal is to de-designate the same ag land that was denied development in the last plan update. Please consider a direct mitigation of the de-designation. We suggest protecting 600 acres of land equivalent or better of agriculture quality as an appropriate mitigation and perhaps the sign of good faith might avoid lawsuits and increase the chance that the ILB will go through.

Second. Usually when a major development is designed -- and I guess I'm thinking Ridgefield for the -- usually there's a developer who funds the designing and funds the development of the plan. In this case, there's no developer and we the citizens are funding it with \$100,000 for the master plan out of our taxpayer supported general fund. These funds will not be available for roads, public safety, parks and other purposes.

In Ridgefield there was a developer, Union Ridge, that came in and took that responsibility and got it partly developed and went all the way through the recession before they started having it again. So it's not always that we the taxpayers have to fund the general, the master plan. I'm going to leave out a part of this, because it really is more related.

I hope that the railroad people and the WSDOT will be included into some of the thinking of the plans, because there are a lot of questions about if this is for a railroad project, the state of the railroad and what kinds and grades are needed to get if you're going to -- there probably isn't enough room there to go over 503 or under it, because railroads need a lot of room to gain height. So there are a lot of things that need to be considered on the basic assumptions.

And, finally, we still argue that agriculture is not dead in Clark County and we need various sizes of land. 20 and 40-acre parcels just as land banks do, and we would really like to see a mitigation of an agricultural land bank if agricultural land is taken. Thanks.

MORASCH: All right. Thank you. Does anyone have any questions? All right. Thank you for coming. Next on our list we have Carolyn Papineau, and it looks like you do not wish to testify; is that correct?

PAPINEAU: Yes.

MORASCH: Okay. Then last we have Dalton Duplissis. Welcome to the Planning Commission. Please state your name and address for the record.

DUPLISSIS: My name is Dalton Duplissis. My address is 809 East 30th Street, Vancouver, Washington 98663. I was coming here tonight to ask you guys if you have 600 acres of viable land, why would you want to use that for an industrial purpose when you could feed 300 families with that land, a family, an average family of four? Because as according to a company called One Block Off Grid it only takes two acres to feed a family, and so you have a possibility to feed 300 families there and you could use that towards welfare and other programs as that. So I was asking you guys to consider that.

MORASCH: Okay. Well, again, we're not approving or denying a land bank tonight, we are amending the code to amend our master plan program so that the process can move forward. So I

would encourage you to stay involved, keep in contact with Gordy, so that you can come back and give us testimony when we do some time next year take up the issue of whether or not to move forward with the actual land bank. Any questions? No. All right. Well, thank you for coming and I hope you come back.

DUPLISSIS: Thank you for your time.

MORASCH: All right. Is there anyone not on the list that wants to talk about the code amendments amending the master plan process? Yes, please come and give your name and address for the record.

DYRLAND: My name is Richard Dyrland, 27511 NE 29th Avenue, Ridgefield, Washington 98642. I'm here speaking for Val Alexander from Friends of Clark County who asked me to read this statement, because she had a medical operation and could not speak and is recovering at this point, so I'll read this directly.

Dear Sirs and Madams,

Friends of Clark County would like to enter into the record the following questions and concerns related to the industrial land bank and the de-designation of what's known as the Lagler property and the Ackerland property. Please respond in writing and enter into the record those responses.

Friends of Clark County opposes this ILB and the resulting land change. These two parcels totaling 601 acres are agricultural lands of long-term commercial significance. According to Washington State Department of Agriculture, Washington Agriculture Strategic Plan 2020 and Beyond, one of the key obstacles to agriculture in Clark County is the limited access to high quality agriculture land at an affordable cost. As the strategic plan concludes, the future farming in Washington is heavily dependent on agriculture's ability to maintain the land resource that is currently available to it. So protecting Clark County's farmland is protecting the budget and economy.

A hurried pace has been set to complete the de-designation of the properties including proposed changes to the master planning process; however, Friends of Clark County cannot find supporting documentation that the de-designation must be completed by December 2014. Could we be provided with that information? In addition, what are the mitigations of adverse effects of de-designation on county ag, forest and rural lands? RCW 36.70A.367(3)(j).

Presuming the additions to the master planning process are adopted and these projects are subject to a Type IV review, our members want to be assured that it is the applicant, not the county, that has afforded the review process. Furthermore, Friends of Clark County wants to enter into the record and known to all that Clark County is paying BERK Consulting to create the master plan, not the appellant. The reason this is significant is there is the possibility of a denial of the de-designation or an appeal, which will result in a waste of county resources. All this during a fee holiday?

Regards, Val Alexander and Bianca Benson. Thank you.

MORASCH: Thank you. Does anyone have any questions?

BARCA: I think just clarifying --

MORASCH: Want to clarify it for them.

BARCA: -- yeah, clarifying for the record as it was stated here tonight, the process sunsets at December 2016 not 2014 from what we heard tonight.

DYRLAND: Okay. Thank you.

MORASCH: All right. Thank you. Is there anyone else in the audience that would like to testify on this matter? I don't see anyone. So we will close the public hearing and turn it back to the

Planning Commission for questions of staff. And, yes.

BENDER: Chris, Futurewise wrote a letter dated 11/18/2014. In the first paragraph they take issue with the legality, quote, we do not believe that the proposed amendments to Clark County Code Sections 40.520.070, 40.520.075, and 40.560.010 adequately address the requirements of RCW 36.70A.365 and RCW 36.70A.367. Are they correct or not? Sorry to put you on the spot.

COOK: I received --

MORASCH: Do you have the letter in front of you? I've got it if you needed a copy.

COOK: Yeah. I thought I had it at one point, but I'm not finding it. It doesn't make a whole lot of difference, because I just got that letter very late this afternoon. So my understanding is that in fact these provisions do comply with State law. And, again, it's important to remember that not -- thank you. I knew I had seen it, but that not only is not the approval of the land bank, it's also not the approval of the de-designation of ag land, it's not the approval of the projects themselves. So I think some of the commenters are conflating the various pieces of --

BENDER: Then it would be safe to believe that that --

COOK: -- this process.

BENDER: This is a future argument then?

COOK: It might be a future argument.

BENDER: Okay. Thank you.

BLOM: Well, while you're at the microphone, is some of this a result that this is, as we've heard tonight, the second land bank, so these issues haven't been flushed out exactly through the court what the RCWs they mention mean, is that a safe assumption?

COOK: That could be. There is one case that has to do with I think it's a major rural industrial development, not a major, not a rural industrial land bank, so there is virtually nothing in the way of precedent about it.

BLOM: So we're charting new ground?

COOK: Yes.

BLOM: All right.

MORASCH: Any other questions of staff?

BARCA: So, Chris, stay there, but I'm going to address this question to Gordy and he may just throw it back at you. Back to the same letter from Futurewise. There is on the second to the last full paragraph talking about our code, 40.560.010, which is the plan amendment procedure, talking about how there are questions in the State code, the RCWs, that they believe should be answered. And we don't appear to have it in any of our text at this time, such as, how will the cities be consulted, how will the need for the proposals be determined, how will the impact on natural resource land be analyzed and mitigated, adjacent buffers, et cetera, et cetera. And I'm going to ask the question, if not here, where would we expect to see the answers to those questions?

EULER: That's a good question. Unless we get the opportunity to do a master plan, which will answer any and most of these questions, if you look at the proposed code, it's a fairly lengthy laundry list of things that need to be considered. We have the people are asking questions about or making comments about the finish line, we haven't gotten to the starting line yet. And until we can go out and apply what we know of the statute, and I'll be the first to admit, I think Chris would be and Mr. Horenstein would say there aren't very many examples, we don't have a cookbook or a textbook to follow for this process.

So we're taking small steps, and one of them is to say we know we have to meet the statutory requirement that says you will master plan the site. Now, we know what the words mean, but we don't -- we can't look and see what a master plan for a rural industrial land bank looks like, because there aren't any.

So we're getting the best minds together including the folks at BERK who have people on their team who have had some experience with both de-designation and transportation planning. I believe Kittelson is part of the team. MacKay Sposito is a local firm here that's familiar with master planning and certainly this area, and I'd be the first to tell you we're making some of this up as we go, because it literally is breaking new ground, you're correct.

But we have to get to the starting line and then we can say, people can say, well, why don't you consider natural resources or parcel size or including other people in this area or making this site smaller, those are all things of actions that are yet to come. We have to get -- we have to allow the people to ask the questions so we can get the information, so we can analyze it.

BARCA: So is it fair to say then that it's our position that all the questions that are being asked now that are expected to be in writing, it's our position that all of that will be laid out in the master plan itself for review at that time and meet the RCW, is that our intent?

EULER: Well, what we need to do, Commissioner, is there are four things that will make up a package. One is de-designation findings where we show our work. There will be a master plan that looks at the utilities, the transportation, basically like a subarea plan which you're familiar with. The third thing is a set of development regulations that will go with the site should it be established. And the fourth thing is a programmatic level of environmental review.

There will be a package of four things that we'll bring forward all together for legislative review, and the timeline calls for that to be done a year from now, maybe even into 2016. So it's that package of things that we will bring you that will constitute responding to the statute in terms, then there will be a legislative process.

This gives us some idea of what some people who are interested in this process are going to want to see in terms of us showing our work, so this is valuable information in terms of what's on the record. But we can't even -- unless we make some changes to our own code that allows us to go out and do some research to answer the questions that people are posing, we're not going to be able to answer them, that's why we're here tonight.

COOK: I was going to kind of echo that and be a little bit more specific now that I've looked at this letter a little more. Futurewise wants the County to first conduct a developable lands inventories. Now, that's part of the process that is occurring, that's part of what BERK is doing.

EULER: We have done that. We have adopted the CREDC land for jobs inventory. Mr. Horenstein can probably provide more information about that. So that part of it's done.

COOK: But in any event, the issues that Futurewise is complaining about are in general pieces of these four processes that Gordy discussed. They're not necessary for the revision of our ordinance to provide for a master plan. You know, a master plan says if you have this designation as a rural industrial land bank, this is what you have to look at to make it available for development, and that's what the ordinance change before you is about. It's not about slapping that designation on the Lagler/Ackerman site or anywhere else at this point.

BARCA: Okay. You did a good job at echoing what he said and I hear that really clearly. I think my question is more along the line of if Futurewise has not misspoken on the RCWs then, and I can't speak to them specifically, but I am anticipating they drew out of those RCWs on items that they would expect to have answered or the RCWs require to be answered.

What I was trying to do is to let whoever asks whether it's Friends of Clark County, Futurewise or

any citizens group out here that those questions will indeed be answered in a specific document or at a specific time, such as, what I thought I was hearing was the master plan document itself would answer those questions, but you're saying no. So then --

COOK: A master plan talks about provision of services and utilities and layout and availability of transportation and things of that nature. It, for example, would not include the developable land inventory, that would not be part of a master plan, nor would de-designation of agricultural land be part of a master plan. So those items will be addressed in this process. The de-designation things will be addressed in the de-designation documents. The developable land inventory is a requirement of the statutes and that will be for the designation as a rural industrial land bank, so it's not necessarily the master plan.

BARCA: So what I'm hoping to hear -- and Mr. Horenstein's continually raising his hand, Oliver has his hand up, so I'll let Oliver go here in a second. I'm just hoping that we can explain to the public where those questions should be answered so they can anticipate the release of those documents at the appropriate time and we don't have to get bombarded with people asking questions that we know we're going to answer, but aren't ready to answer yet, that's what I'm hoping to hear. Oliver.

ORJIAGO: Commissioners, Oliver Orjiago. I don't think there's anything new that I'm going to add to Chris and Gordy except to echo their comment that this is a process. We are at a point where we need to be able to say our code, which you approve allow us to do or there is a provision in our code to allow us to do a master planning for the industrial land bank, that is what is before you.

The statute allows us to consult with the cities -- I'm sorry -- the statute requires that there be a consultation with the affected cities. The statute allows for de-designation in this case of the ag property. The statute calls for mitigation. All this work have been done and will be before you in a hearing, and the statute, as Mr. Horenstein indicated, we have to complete this work by December of 2016. So you have a ton of work to come before you. We have to be able to say in our code this is the authority for us to do master planning and this is how you do it for this property, if we do package all this and come before you.

I must also say that the two cities that are impacted are the cities of Battle Ground and the cities of Vancouver. We have notified them and we are going to continue to consult with them until this project is complete. We are at the beginning, as Gordy used the football metaphor, we are in the fourth quarter, first quarter, we are not near completion. The inventory is yet to be completed. So all that is going to be before you. And if I may say for those who are watching, we are working on responding to those questions and we are going to do this consistent with what the statute calls for.

EULER: Here's another way to look at it. The application essentially is a mega site-specific request, that's basically what this is if you want to boil it down. The applicant has made an application, paid a fee, we have a responsibility to process the application, that's our job. Now, if you don't -- there are people who won't agree with that we even need this or it's ag land and all that, fine, everybody will have their chance to say. But we have a process, we're bound to process the application and it's going to take some time to get it right because we don't have a cookbook. This is not your typical annual review, but that's how we're treating it.

MORASCH: All right. Let me see if I can sum up. My understanding very simply is we're looking at amendments to the master plan ordinance tonight that will allow the master plan component of the application to then move forward.

EULER: That's correct.

MORASCH: The inventory and the de-designation are separate components of the application

from the master plan.

EULER: That's correct.

MORASCH: And those two will come back to the Planning Commission for review before going to the Board for final review and approval.

EULER: That's correct.

MORASCH: Okay. Thank you. Any other questions?

USKOSKI: I guess I just have a quick one in general. So I know we're focused on the Lagler and Ackerman properties just because those are to my understanding the applicant in this process, but this wouldn't preclude somebody else within the county that say had R-5 of 100 acres to come in and make an application under the same master, same process, would it?

EULER: No.

USKOSKI: So it's not necessary like Futurewise I think in their last paragraph is recommending denial of the proposal because it's on agricultural lands of long-term significance, that's not necessarily the case of what's before us tonight, it could be rural or some other zoning or designation.

EULER: That's correct. And the long and the short of it is the application is for 600, conversion of 600 acres of ag land, that's an added hurdle that we're going to have to show our work to get over and above what's in the 367. It just happens that the application in this case is on ag land. So it could be, it could have been rural, it could have been forest, but it's ag.

USKOSKI: Okay.

MORASCH: All right. Thank you. Any further questions? All right. Well, there's been a lot of discussion. Do we want to deliberate individually on this? Eileen, do you want to start or do you have anything to say?

QUIRING: I'm listening closely. And I understand that we're in the process of doing this master plan, and I support the ability to go forward with what's presented here so that we can move forward.

MORASCH: Okay. Karl.

JOHNSON: Yeah, I'm the same way. You know, we're talking about process here, getting the process going. We're not talking about the site-specific right yet, so I'm in support of it.

MORASCH: Valerie.

USKOSKI: I would also say that I'm in support of it. I think like Karl and Eileen have said that this is the first step in a process, and it's something that's part of an application package. And I think we're fixated a little bit on the idea of this de-designation of agricultural land, when in reality even if that application isn't approved, that this what's before us tonight would allow somebody else in another setting to move forward with their plan. So I would be in support of this.

MORASCH: Ron.

BARCA: All right. So let me apologize to the Board for dragging this in the direction that it went. I was just trying to have an understanding of when in the process those questions that the public has put forward would have an opportunity to be answered and in what format they'd be answered. The concept that we don't quite know when or how we're going to answer them yet, I guess I didn't understand that portion of it. So for all the people that have already put in these questions, it's we will wait to see how we formulate the answers and in what document I guess they come in, whether it's staff report or what else. I didn't quite understand that it was still that murky, so I'm cool.

MORASCH: All right. John.

BLOM: Yeah, I'm supportive of continuing to move forward. And I appreciate Ron's questions to make sure that we are covering all our bases so that we can get this done, whether it's this parcel or another parcel and to have it be legally defensible if someone were to challenge it, so, thank you, Ron.

MORASCH: Commissioner Bender.

BENDER: Yes. The rural land bank obviously is a sensitivity area to a lot of people, and I feel that we should proceed in the right direction to lay down a path forward through the master plan being amended.

MORASCH: Thank you. Well, I agree with the other Commissioners. And I guess the only thing that, you know, that I would add was we had testimony from one of the drafters of the statute that the language of the ordinance before us complies with the statute. The Futurewise letter in the part that Commissioner Bender read disagrees with that, but they don't really say why. They go on to talk about issues with the inventory and the de-designation which, you know, aren't really even part of what's being addressed by this code, so...

I look forward to further hearings on the matter and I hope that everybody that came tonight on this matter comes back, because I'd like to hear from both sides as we move forward on this. But I'm in support of these ordinance changes to set the process up so that that further hearing can happen. With that, I guess I would entertain a motion unless anyone has any further discussion.

MOTION AND SECOND:

JOHNSON: Mr. Chairman, I move that we accept staff recommendation for amending the County code to allow for master planning of rural industrial land banks.

BENDER: Mr. Commissioner, I second it.

MORASCH: It's been moved and seconded. Is there any discussion on the motion? All right. Can we have roll call.

ROLL CALL:

QUIRING: AYE YES

JOHNSON: YES

BLOM: AYE

BENDER: YEA

MORASCH: YES

USKOSKI: YES

BARCA: AYE

MCCALL: Unanimous.

MORASCH: All right. Thank you. The motion passes.

IV. PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

C. AMENDMENTS TO PROVISIONS REGARDING MINERAL RESOURCE LANDS

MORASCH: Okay. Now, we are moving on to the last public hearing item on the agenda, the Amendments to Provisions Regarding Mineral Resource Lands. Gordy.

USKOSKI: Before we get started on that --

MORASCH: Oh, yes.

USKOSKI: -- I would like to take this opportunity to recuse myself from this portion of the hearing. Thank you very much.

MORASCH: All right. Thank you. Commissioner Uskoski may be excused.

EULER: Marilee. Marilee. S'il vous plait.

BARCA: Yeah, she gets the standing ovation, and he's snapping his fingers at her.

EULER: Sorry. That's not my intent.

MORASCH: All right. Mr. Euler, you're up.

EULER: Thank you, Mr. Chairman. Again, I am Gordy Euler with Clark County Community Planning. Thank you all for waiting patiently. I know the number of people here who are interested in the surface mining overlay. I need to set the stage for you a little bit.

The purpose of the hearing tonight is to get a recommendation on new code language, which the last time the Planning Commission talked about this, which was last December, did not yet exist. This is relating to monitoring and enforcement going forward and also to get a recommendation on making mining a conditional use as opposed to a permitted use.

What you see on the screen here is the public notice, which advertised this hearing. These are the two things that we're here to talk about. The Planning Commission has already heard, taken testimony, they've made their recommendations, those are on the website, those are dated December 5th, 2013. One of their recommendations was for us before we went to the Board to create a section on monitoring and enforcement. Instead of going straight to the Board, we felt as staff it was important to bring that new language, given the interest in this topic back to the Planning Commission. I pulled up the notice just so you could see what in terms of testimony, certainly please say anything you'd like, but we're asking the Planning Commission to make a recommendation just on these two things.

By way of background, I think everybody has lived and breathed this for quite a while. The Planning Commission made its recommendations on December 5th of last year. There was a joint meeting with the Board of County Commissioners on April 17th with regard to the map. The Board on June 3rd of 2014 agreed in principle with the PC recommendation on the map with one exception, and that's Courtney Pit.

Staff presented the PC recommendation on policies and code to the Board in a work session on August the 27th. The recommendation to the Board included new language on monitoring and enforcement, as well as you'll see up here a number of staff suggestions mostly in the form of some edits and additions, not that our intent was to change what the Planning Commission, but part of this just to make it more Title 40 worthy.

At that point the Board directed staff to meet with stakeholders in an attempt to reconcile any opposing viewpoints that remained or remain I should say on policies and the code language, which is what we've essentially been doing. The Board hearing on all policies will be on Tuesday, November 25th, so that's if there are things you want to talk about, that's anything that's in this document, that's the time to bring it up.

We're hoping to focus tonight just on the enforcement and monitoring piece, that new Section F, and if you have comments about whether or not to make planning a conditional use, which is something the Planning Commission did not recommend. Anyway, that's why we're here.

Commerce has been notified of the new language. The 60-day comment period, which we are required to do, we received no comments. We did not amend the SEPA checklist feeling that this

language was not substantial enough to warrant that. I'll just reiterate that the subject of the hearing is hopefully fairly narrow. And in the interest of the evening, if there are things you want to say about surface mining in general, Tuesday is the chance to show up at the same room, 10:00 a.m., will be before the Board.

With that, we've got the -- Marilee, you want to -- I guess I can do it here. Noting that the notice had the area in blue that we were talking about. This is the -- I'm highlighting it here, because this is the section of the code language that talks about moving mining from a conditional or permitted use to a conditional use. Then further down here, which we can come back to if -- come back to that if you want to. The new section that is under consideration is this section on monitoring and enforcement, so... That's the extent of the staff report, Mr. Chair.

MORASCH: All right. Thank you. Any questions of staff from the Commission?

BARCA: Mr. Chair, I think it's just as important for the Board and for the general public to understand that the document before us now, this is not the Planning Commission recommendations, this is an amalgam of staff and Planning Commission recommendations, and I'm certainly not comfortable adopting the entire document over again. I would like us to make sure that anything that we do specifically states that it's 40.250.020.F and beyond, which is reflective of the screen there, Page 9 of our document, Line 275 is the start. That's just a statement.

MORASCH: Okay. Is there a response to that from staff?

EULER: I think that's --

MORASCH: Is that consistent with what you said, this is in front of us?

EULER: I think Commissioner Barca is --

QUIRING: Restating what you said.

EULER: -- basically restating what we're hoping will happen.

MORASCH: Okay. The conditional use; right?

EULER: Right. Except for the one part of the code further up, which let me take a moment to explain the decision there just so you'll have the background. This was a decision that staff made. Again, these regulations are designed to be prospective; that is, they will not apply to existing operations, although you may hear some testimony, and there will certainly be some testimony at the Board that these should apply to existing mines. What we're putting into place here are for future mining operations.

In a sense if there's a new mine created, it's our opinion that it will require under SEPA probably a full blown EIS. Right now we use the SEPA process to get at conditions that are applied to a conditional use permit. In terms of a process, if you did a conditional use, you're going to be able to tailor conditions to a particular site. If you want to make something permitted outright and leave something permitted outright, we're going to have to fill the code with a whole lot more regulations, requirements, procedures that are better left to a conditional use process. That's the thinking behind why staff is making that change.

Now, that's contrary to what you recommended and the Board is aware of that, will be aware of that. You said leave it as a permitted use, so I just wanted to give you a bit of background as to why we've proposed to make it a conditional use. The thing we've left as a permitted use is stockpiling, temporary stockpiling of materials, that was an industry request, we've left that in as a permitted use in the language above, that doesn't really rise to the level of a conditional use just to bring materials to a job site and leave them there temporarily, so that's a bit of the rationale as to why we came to the recommendation, so...

I would agree with Commissioner Barca, there's a lot of underlining in here. One of the things you'll see in the policies, for example, is we have a matrix right now in the current comprehensive plan that talks about when you designate and when you don't designate. The matrix is going to go away. What we've done is taken the criteria that are listed there and moved them into the policy section, so you see a lot of underlining, but basically that comes right out of current code, current comprehensive plan language, so...

Again, that's beyond the focus of what we're hoping you will accomplish tonight, but in terms of an example of why you're seeing so much writing and rewriting. The basic underlying document without the highlight and the strikeout are your December 5th, 2013, recommendations.

MORASCH: Okay. Let me make sure I understand all of that. You're asking us to make a recommendation on Section F regarding Monitoring and Enforcement.

EULER: Correct.

MORASCH: And to make a recommendation or to reconsider our recommendation as to whether mining should be allowed as a conditional or a permitted use.

EULER: If you choose.

MORASCH: If we choose, but not to get into parsing all the other changes in the --

EULER: That's correct.

MORASCH: Right.

EULER: Again, because that's how we noticed this hearing.

MORASCH: Okay. Does that answer your concern or do you have any other follow up on that, Mr. Barca?

BARCA: I'm hoping we'll tackle these as separate votes.

MORASCH: Okay. That makes sense to me. Any other questions or comments before we open the public hearing?

QUIRING: Actually, I would like to make a comment about how that this is an amalgamation of what the PC did when we went through this very carefully, practically line-by-line. So when the Commission actually sees this, I would like to request that it's very clear what the staff has suggested and what the Planning Commission recommended, and maybe even side-by-side. I know that this is -- you've got it set up this way, but in some ways, I just I think it needs to be very carefully drawn out so that the Commissioners understand what it is that the Planning Commission did act upon and recommend.

You know, even though you have reasons for why you're making these changes, and one of them was to make them more Code 40 worthy, and we do want to make them worthy, but I also would -- we did put a lot of work into it, and in order for us to go through this again, I think is asking a lot.

MORASCH: Okay. Any other comments or questions before we open the public hearing? Yes.

MCCALL: Just for the record, because we received so many comments late, starting yesterday late and going into this afternoon today, I wanted to make sure it was clear of what was received for the public. We did receive a letter from Gendler & Mann, and that was received late yesterday. We received one from a firm called Gordon Thomas Honeywell, it was from an attorney, William Lynn. Received something from Stanley Greene that has been brought up. And there's copies of all of that in your packet today. We have something from Friends of the East Fork Lewis River. And then very late that I ran downstairs during the hearing to get a Washington State Department of

Natural Resources letter. I just wanted to make sure for the record it was clear that those had been received late, but they have been forwarded to you.

MORASCH: Okay. Thank you. All right. Well, with that, we will open the public hearing. We've got quite a few people who signed up to testify, and many of you have signed no, you're just signing in to be on the record but not testifying. I'm not going to read all those names as we go through, but at the end I will give an opportunity for anybody that hasn't signed or I haven't called to come up and testify. If you don't hear me call your name, you're welcome to come up at the end.

I will also thank everyone who's testified so far for keeping their comments brief in the prior hearings. And I will ask that because we have so many people here, that people try to keep their comments to about three minutes just so that, you know, we can all get home at a reasonable hour.

With that, I will open the public hearing and call the first name. Dennis Potter. Welcome to the Planning Commission. Please give your name and address for the record.

POTTER: Thank you. Dennis Potter, 520 SE Columbia River Drive, Vancouver, Washington. I'm here personally to represent what I think is quite a threat to a river that's become quite important in my life, at least, and that's the East Fork of the Lewis River. I've had an opportunity to fish it over the years, and I've noticed a trend in the quality of fishing has been pretty precipitously downward. Since 1977, I noticed just a remarkable drop off in the quality of the fishing.

I've since become involved with a group called Salmon Creek Fly Club, which has attempted to do as part of its structure work to mitigate and do community service, and the mitigation in particular that I'm interested in is the East Fork of the Lewis River.

We've done some small things to help it, but there's this looming issue of the source of water coming into the river. There's lethal high water temperatures in the summer because of very, very low flows, and the thing I consistently hear about why is the Storedahl operation on mining gravel on the river itself.

My request to you is if you have influence on stopping what seems to be ruining one of the major and most remarkable rivers in our state, the state record for the steelhead was taken there, that you give all consideration to the river that you possibly can. If monitoring is part of this and you have that kind of influence, please, please support anything that's going to help that river recover because it's right to a point now where I don't think we have much time, but there is time.

I've had the benefit of being up on a river in Central Washington, the Methow River, that was very close to having, well, the kind of problems that would stop it as being a functioning river. They completely turned it around and it was one of the most marvelous feelings to experience going to a river that had been -- had gone so close to the edge and actually been brought back. If I could recommend the feeling to you of supporting that kind of an idea for bringing this river back and protecting it, I'd be grateful, my kids would be grateful, and if you have children, I'm sure that's part of your consideration as well.

MORASCH: All right.

POTTER: Thank you.

MORASCH: Well, thank you for coming. Any questions? No. All right. Thank you for coming.

POTTER: Yeah.

MORASCH: Mark Martin.

MARTIN: Hi. My name is Mark Martin, 26520 NE 52nd Way, Vancouver, Washington 98682.

Before I begin I just had a question for you, Mr. Morasch. I noticed last year that you weren't here and on these issues and I'm assuming you recused yourself last year?

MORASCH: That's correct.

MARTIN: I was wondering why you didn't recuse yourself tonight?

MORASCH: Because last year I recused myself I represented a small neighborhood, an organization, up Ireland Road that wanted to get off the map and they got off the map, and so I recused myself from any deliberation or decision-making on the map. Tonight we have a code in front of us, not a map, and since they're off the map, whatever we do on the code isn't going to affect that former client of mine, so...

MARTIN: Gotcha. Okay.

MORASCH: That's why I had to recuse myself.

MARTIN: And I knew Mrs. Uskoski's reasons.

MORASCH: Well, she's still -- yeah, her conflict is still existing.

MARTIN: Yeah. Exactly. Okay. Great. Thank you. Oh, sorry. Okay. Good evening, Planning Commissioners, good to see you all again, and Mr. Bender and Mr. Morasch since I've not seen you before. While I don't pretend to know specifically about the roughly 25 SMOs in Clark County or the 15 newly proposed SMOs in Clark County or the 15 or 16 active rock and gravel mines in this second most densely populated county of Washington State, but I have read thousands of pages on the Livingston Mountain quarries, including the conditional use permits and the hundreds of other documents.

I will continue to dig more, because I am certain that these mines are negatively impacting life in Clark County. I also know that this Commission and the County Commissioners have thoughtfully and unanimously voted against further expansion of the surface mine overlay in my neighborhood of Livingston Mountain. For that we are all very grateful. Going forward, we hope these votes are sustained and validated in future resolutions on policy and code that we are discussing tonight.

Specifically, tonight, I'd like to address what I characterize as code enforcement nullification, and that is the failure of Clark County staff to enforce the conditions of use permits for the two mines operating on Livingston Mountain. As has been noted and stated for many months, the County has been in possession of scientific document evidence showing that the maximum noise decibel levels have been breached on dozens and dozens of occasions at Livingston Mountain's two quarries. The maximum noise level allowed by the Hearing Examiner when both mines are operating is 46 decibels. This level was established by acoustical experts and approved in the final order of 2009 for the conditional use permit of Livingston Quarry.

While I have been provided only partial information for my request of public information, even with limited information I have been provided shows major violations of conditional use permits, yet no action has been taken by the County to remedy these violations.

Unfortunately, the County has failed to keep the appropriate records required by the conditions of use agreements, including the noise data, the blasting data, the operating dates of Livingston Quarry and the weather at the Livingston Quarry which the County oversees. And because of the absence of complete records, I will limit my discussion to the incomplete records provided by Storedahl to the County and forwarded to me by Mr. Jan Bazala.

To reiterate, this is not in spite of the fact -- this is in spite of the fact that the County is required to keep these records and does not do so. During the period June 1st to August 5th, 2014, and of the data provided to me for those two months, which was generally on an hourly basis, there were violations of the maximum permissible noise levels on 15 separate occasions during mining

operating hours.

These violations of the maximum decibel levels took place on June 15th at 1:00 p.m., June 18th at 5:00 and 6:00 p.m., June 26th at 9:00 and 10:00 a.m. as well as 4:00 p.m. on the same day. Moving into July 2014, there are violations occurring on July 2nd, 10:57 a.m., July 22nd at 7:00, 8:00 and 9:00 a.m., then again on July 23rd at 12:00, 1:00, 2:00 and 3:00 p.m. Finally, from the last record provided for August there was also a decibel violation noted at 4:07 p.m. on August 5th, 2014.

We should keep in mind that the maximum permissible noise decibel level for one operating mine is 33 decibels. Since virtually 100 percent of the time the noise levels from the recording station exceed 33 decibels, it must be inferred that both mines are operating 100 percent of the time, since at virtually all times decibel levels exceeded 33 decibels. The County is also supposed to keep the data regarding operation of its mine, the current weather conditions as well as the decibel data collection, but it doesn't do so.

When I confronted Mr. Jan Bazala, the land use planner for Clark County for the Livingston mines with this evidence, he made two telling remarks. Quote, it might have been the wind that day, and I don't have time to review all that data. I reminded Mr. Bazala and the Commissioners, in my recent letter to them, that it isn't up to Mr. Bazala to interpret scientific evidence in a way beneficial to J.L. Storedahl.

Obviously these violations should be brought to the attention of the Code Enforcement Manager of Clark County, who apparently is not kept apprised of industry violations of Clark County Code 32.04. If Title 32.04, the Clark County Enforcement Code was followed, the minimum fines for these breaches would amount to \$7,500. Of course repeated violations could nearly double these amounts, yet no fines have ever been imposed. In fact, it was a surprise to me that in all of our recent discussions with Clark County staff, in writing, telephone and person, I've never met or had more than a brief telephone introduction to Paul Scarpelli, the Code Enforcement Manager for Clark County. I think this is an indication of the severity of the problem we are here to address tonight, monitoring and enforcement of the mining industry in Clark County.

MORASCH: Mr. Martin --

MARTIN: Yes.

MORASCH: -- you've gone well beyond the three minutes, you've had over five now --

MARTIN: I understand that.

MORASCH: -- and we've got your thing in writing. I think I might ask if you have any summary comments then --

MARTIN: I do have just a summary, yeah.

MORASCH: I apologize, but I want to make sure that everybody has a chance to come up and talk.

MARTIN: No, I understand. I understand. Yeah. I'll just go to the summary comments. The sad reality in Clark County is that code enforcement by County authorities does not exist, at least not for the mining interest. Instead we have a system of mining self-regulation, which as any student of history will tell you only works for honorable businesses of integrity exists. Storedahl does not rank as an honorable business of integrity by any stretch of the imagination, and our county continues to practice code enforcement nullification.

Knowing the rules and regulations are not applied equally to all and when the enforcement authority refuses to take statutory action against violators and violations, one teaches members of the society there really is no justice. People are then motivated to bypass the failings of the system and take the next step to redress their grievances.

We hope the Planning Commission tonight will help citizens take the first step to real code enforcement by adopting the newly proposed standards, including standards that apply to existing mines in the second highest population density county in Washington State. Please help protect our rural residential neighborhood from the abusive excesses of companies like J.L. Storedahl. Thank you for your time.

MORASCH: All right. Thank you. Thank you for coming. Richard Dyrland.

DYRLAND: My name is Richard Dyrland, and I live at 27511 NE 29th Avenue, Ridgefield, Washington. Earlier I submitted a document which most of it pertains to the upcoming meeting, so I'll get right to the point here. However, I have a great concern in terms of who is this responsible official or what is -- what does this really mean in the different sections of the named document.

Currently Clark County does not have a person or staff individual who is specifically knowledgeable and trained in mining activities and enforcement and effects. It has led to a number of seemingly arbitrary waivers of requirements and enforcement accountability, as well as road regulations that has resulted in unacceptable economic safety and social impacts on the citizens of Clark County, and particularly on those living near some of the ongoing surface mining operations.

There needs to be a recognition of the need, of the urgent need to assign and create a position to take care of this or oversee this. We hope that you will make that kind of recommendation, because right now even in the previous meeting it was acknowledged that these things are scattered all over and that's no way to run the railroad and we know that we can all do much better on that. I hope you'll make that a strong recommendation to the County Commissioners. Thank you.

MORASCH: All right. Thank you. Any questions? All right. Thank you for coming. All right. David Rogers, I think you testified before and here you are again. You know the drill.

ROGERS: Sitting down ain't good for me. I too want to talk about code enforcement. The quarry permit rules demand inspections. Those inspections are to be done by the staff, and any rules that are broken or codes that are broken are supposed to be backed up by code enforcement. We're not seeing this code enforcement. When I've asked who is responsible, I hear Ron Wierenga, that's not the name that was used earlier.

We have -- I've been coming down here for five years trying to get the codes enforced and it isn't happening. The buck is being passed. The County has went ahead and permitted somebody or appointed somebody to go ahead and inspect or find out what's going on with noncompliance. Why are we not shown that there is code enforcement? She came back and said, yes, this, this, this, this, these people, these people don't even return phone calls. Now, we have to make changes in this county if we're going to get along.

Written reports will be that device for issuing now don't exist. The people that are supposed to be going out there and doing these code enforcement things leave the office and come back and they don't even have to report where they've been. There's no inspection of what they want or supposed to do. There's no answer to their supervisor as to what went on. And when we call in from the public, there's no answers for it. There has to be code enforcement if we're going to get along.

The code enforcement will protect the codes and the conditional use permits should be a non-warning condition. When you issue a conditional use permit, it ought to be strong enough to stand on its own legs. If these people do not want to live within the conditional use permit, then it's up to the County to go ahead and pull that one, that conditional use permit until it can be complied with or being totally taken away.

Conditional use permits, if there's ten items on a conditional use permit, you can see that probably five of those conditions were never ever met. They should have been met before they were given the permit. These should be enforced, inspection rulings written up and codes rule. The codes should demand what that inspection man seen and what his advice to his supervisor is.

When you come to issuing a permit, if there's not a road that's satisfactory, it shouldn't be up to all of us to have to pay for that road while the contractor comes in and pays two and a half cents a ton, which doesn't even cover the improvements on the road after they're destroyed by trucks. Paperwork shows that one double trailer truck loaded with rock is the equivalent of 3,000 cars. Why are we the citizens in this county allowing the rock industry to go ahead and demand that you and I as taxpayers have to go ahead and foot the bill for the people wanting to make money on rock?

Noise codes should be enforced at the property lines. That was what was written up in the final decision, and it should be done without a written complaint. The neighbors should not have to go up against someone that owns their contract or lives next to them. It's a written rule. The noise codes should be enforced.

We need enforcement in this county. We need a commission that goes ahead and says I want to hear what the problems are. I don't want you hiding them from us until it becomes a big problem. Conditional use permits again should be denied, if not followed on the final decisions immediately. This waiting four, five years and saying, well, we're working on it, we're working on it. No, there is no working on it. This county needs a good cleaning up. Thank you.

MORASCH: All right. Thank you.

ROGERS: Yes, sir, Mr. Barca.

BARCA: Mr. Rogers, what we have before us in the draft document, have you reviewed the draft document?

ROGERS: I have this afternoon after I got here, yes.

BARCA: Okay. Do you find yourself in agreement and approve of the draft document as written?

ROGERS: No.

BARCA: Okay. Thank you.

ROGERS: I would sustain.

QUIRING: Mr. Chair.

MORASCH: Did you have a question?

QUIRING: No, not a question for him. Actually, just kind of a general statement that what we are doing -- we've already heard, and I appreciate, you know, all of you folks coming and talking to us about this monitoring that you asked us to have the staff come up with last year. We did ask for this because we heard, we heard this testimony about how things were going on, that we're not being monitored.

Now, before us this evening we have a draft of what the County is going to put in place. Actually, it's really just repetition about what happened before. This is a new step forward. We already made the decision based upon what you testified before.

I don't know whether the other Commission members feel this way, but I'd really like to hear what you have to say about this draft, because this is what we're going to be voting on this evening to just get your input about Section F here.

If you have an opportunity to look at it and tell us what you think about what we're doing to put in

place to actually do this monitoring that has not been done according to your testimony last year, and to all of the people that so far have come forward, we're hearing about what has happened in the past, and what we're doing is moving forward hopefully.

I'd just appreciate hearing about Section F here this evening and what you think about the wording, and because what was stated actually right now in Mr. Rogers' testimony is Number 6, somebody who doesn't -- failure to comply means their conditional use permit can be revoked, so that covers that. You know, many of the things you're talking about are covered right here in this Section F. Thank you, Mr. Chair.

MORASCH: Thank you. Good comments. Yeah, to the extent you can direct your public comments to the actual language in front of us today, that would be most helpful to us up here, because that's what we're voting on is the language that's going to go to the Board of County Commissioners for approval.

BENDER: Mr. Chairman.

MORASCH: Yes.

BENDER: What I've been hearing, and I'm new to the team, so excuse me for backpedalling a little bit. There's a lot of anger that I've been hearing here about when the violations occur, there seems to be no mechanism for feedback on the violations when somebody goes out and inspects it. I think that's a question we should bring forward to the Commissioners, what is in place that would be a reliable source of information on what is going on. So I would recommend that that question be raised with the Commissioners at our convenience.

MORASCH: Okay. Well, I think after we're done with the public testimony we can take those issues up during our deliberation.

BENDER: Very good.

MORASCH: Thank you. Any other comments from the Commissioners before we return to public testimony? Okay. Lew Bailen.

BAILEN: Hello. My name is Lew Bailen. I live at 28703 NE Lookout Road in Camas, 98607. In response to the question up there, I read this and it talks great about all this monitoring, but it doesn't talk about enforcement, and that's just what everybody previously said. You can monitor, you can look at it, you can do all you want, but nobody's enforcing it so what good is it. You need to talk about enforcement. That's all I can say. This doesn't mean anything if you don't enforce it. That's all I got to say.

MORASCH: All right. Thank you. Peter Christ.

CHRIST: Peter Christ, 28818 NE Hancock Road in Camas. As has been pointed out, there's been extensive testimony in hearings, we've all gotten tired of them. All these people are coming out all the time and I agree that we need to try to make some of this short.

Most of the things have been already decided on the location of the mining overlay, and tonight we were supposed to talk about enforcement and monitoring and I'm glad that some of the people giving testimony are talking about that. However, when I look at the staff recommendations, I see some things that have kind of been slipped in there. Then I read that, oh, the staff recommendations were written by the suggestion of Mr. Dentler, lawyer for Mr. Storedahl, and that just rang bells right off the bat.

You look at that thing, for instance, specifically Section 3.5.2(d) allows for the expansion of existing mines. This is ridiculous. This almost voids or negates the decision of the County Commissioners to not allow surface mining on several areas, Section 14 for instance. Why can we say that we can't have mining in an area and then allow an existing one to go over to the next property? Of

course once that's over to the next property, oh, it can go over to the property next to it. After that's done, it can go over to the next property. We daisy chain these things until we have the entire mountain surface mined.

This is wrong, and we had decided this in all these meetings here. I thought the Commissioners had decided, the County Commissioners, and you people had decided it. We all talked about this and here it is slipped in there kind of just a little sentence in the middle of a 15-page work there thinking we wouldn't notice it, I guess. I mean, what did the staff think? Just take Mr. Dentler's word there to put that in there. That doesn't fly, it really doesn't.

By the way, the comment earlier saying that there were no public comments, I don't know what you have to do to make a public comment, but as soon as I saw the staff recommendations which was what, three weeks ago, something like that, I wrote a letter to the staff. This isn't a public comment? How can you say there were no public comments.

The other, one other thing in there that is particularly annoying, Mr. Dentler has stated, and he's stated publicly that we should not consider suitability of roads. This came up in all of our previous comments and here it is again in number, what is it, CCC 40.560.010, it is written there that it is crossed out that we should pay attention to roads. In other words, somebody got to the staff and said, hey, forget about roads. We can do with roads whatever we want, they don't have to be suitable at this point. That too is garbage and we talked about this before.

So, yes, we need to talk about enforcement and monitoring in this session, but we also need to make sure that we're not slipping in things that have already been decided. Thank you very much.

MORASCH: All right. Thank you. Stan Greene.

GREENE: Good evening, ladies and gentlemen. My name is Stan Greene. Address is P.O. Box 227, Heisson, Washington 98622. I agree with what the last speaker said because I'm going to talk about the draft, but I'm going to tie it into other issues, which is the public welfare and health issues of the citizens of Clark County and especially how it's affected elderly citizens and youth.

I'll tell you the main reason I became interested in the mining issues in Clark County is that the health issues that occurred in our family. My 13-year-old daughter, we have no history of asthma in our family or lung problems, my 13-year-old daughter had breathing problems and she was diagnosed with asthma. Then it started on my wife, and my wife had breathing problems and she uses a respirator now every day. I didn't understand why this would happen, but then it happened to me. I started wheezing and coughing and having breathing problems, and I saw a pulmonary specialist, I'm on four types of medication.

So what changed in our environment to cause this? Well, we got four loads of rock from the Yacolt Mountain Quarry and had it put on our driveway, and my daughter walks across it when she goes to the bus, I go for walks and the neighbors' cars drive on it and dust is stirred up. We didn't think anything of it until I started doing some research and I had found a record from the Southwest Clean Air Agency that inspected the Yacolt Mountain Quarry and found that unusually fine dust material is present in large quantities.

Willamette Geological tested Yacolt Mountain Quarry rock and they found that mordenite is present in the rock mine from the Yacolt Mountain Quarry. The geologist wrote mordenite had fibrous crystals composition that is similar to asbestos. Mordenite, he also wrote, mordenite has toxic issues because of the fibrous crystals similar to asbestos. So this also affected other people. The neighbor who lives at the intersection of the Yacolt Mountain Quarry haul road and Yacolt Mountain Road has lung problems. I was told that he was coughing up blood.

So the operator of the quarry must have recognized this to some aspect, because they recently spent hundreds of thousands of dollars to pave approximately two wide miles of the quarry haul

road to reduce the rock dust levels. So what do we do? We're low income people, so we can't afford paving our road. We talked to the operator of the mine, they're not going to take any responsibility over us. My adult children got a dozer and they got dirt and we covered over this rock with dirt as best we could and they took some of this other rock and moved it away, so it was away from the driveway.

So I have an issue like the previous speaker that when you -- you people care about the county, I know that. You care about the youth, the citizens and the elderly people in this county, and you make important decisions and you take time. I really believe that the major work is done right here and then it gets passed on to the Commissioners and in my opinion I think they sometimes just rubber stamp it. I have an issue where staff took out important things that in my opinion and the opinion of other people protect the public and help the public welfare.

So we submitted, because things were removed, suggested changes to the surface mining overlay. I'm not going to go through the whole thing, but I want to go to Page 3, and something that I've addressed now and other people have. I remember there was a nurse that from the Livingston Mountain area and she addressed these issues of lung problems. Page 3 at the top, I believe you should include the extraction of mineral resources. In other words, the designation of additional areas with surface mining overlay shall only occur if: a, designation criteria in the comprehensive plan have been met; and extraction of mineral resource is not hazardous to the public, nor detrimental to public safety or to public welfare.

Now, I'm wondering how many other children in the county have gotten lung problems that relate to the dust from this rock, which as far as I'm concerned has caused a lot of pain and suffering to my family. It's not fair that my 13-year-old has to go through what she's had to go through. There was no way that we were informed or knew anything that there was dangerous fibrous materials in that rock dust.

Also on Page 3, the same thing under part 2, item 2, the resource extraction of the resources hazardous to the public, or detrimental to public safety, or to public welfare, that should be reason for removing it from the surface mining overlay.

I'm going to go over to Page 4, and this is real critical because if --

MORASCH: Do you have any -- let me ask you this, do you have any comments on Item F, because that's really what we're looking at tonight?

GREENE: Yes, I do. I'm working up to that.

MORASCH: We've gone beyond three minutes --

GREENE: I'll try to go fast. Thanks for your patience.

MORASCH: -- and I'd ask you to kind of speed it up. And particularly if you could focus on either on the issue of whether or not we should reconsider our recommendation on whether mining should be a conditional or a permitted use or on Item F, the monitoring and enforcement, because that's really what we're looking at here tonight.

GREENE: Here's what I'm just going to say right now to answer your question. Page 4.B, part 2, where it says this, it's not right if we only apply it to new mines and there's people out there with health problems.

The provisions of this section shall apply to all existing surface mines, expansion of existing mines, and to new applications for surface mines and related issues. Now, I think, and I'll read this through, operation of existing surface mines and related uses shall conform to the conditions of approval adopted with their site plan and/or conditional use permit or approval. The operation of all existing surface mines and related uses wherein the operation is not pursuant to a conditional

use permit shall come under Type IV review for conversion to conditional use permit approval.

All the existing mines should be changed over if they're not to conditional use, because these people need to be made responsible for ruining the health of citizens of Clark County.

MORASCH: All right.

GREENE: And I've got two more things and one is in the F section.

MORASCH: Well, you got to kind of say them quick, because we're beyond three minutes here.

GREENE: Okay. Setbacks, that's important. Even the attorney for the operator of the Yacolt Mountain mine stated before us, we all heard it, no one wants a quarry in their backyard. Also, the adjacent landowners should have some say in the siting of the mines and the operation.

And as far as the new items on Page 10, this is important and this is about this -- and this is a good idea to have, to let people that are buying in an area know what the surrounding land is zoned or what can occur there. You know, I believe that you should include please, natural resource, the subject property is adjacent or in close proximity to designated natural resource land on which a variety of commercial, agricultural, forestry, or mining activities may occur, so on and so forth. Because in the summer, the DNR shuts us down if it's hot weather. And logging occurs at night, not falling the timber, but loading the log trucks, 2:30, 3:00 in the morning. There's also skidding and yarding of logs and besides this mining stuff that could go on, so I think that's important.

MORASCH: Okay. I think that section is in Section G already, that language.

GREENE: No, it does not have agricultural and it does not have forestry and it does not have designated natural resource lands, it just says mineral resource lands. You see where I have it and where the mineral is crossed out, that's what the staff had, and this is a good idea to have. But it -- look, I sold real estate, so this would in my opinion reduce the confusion to people that, well, we don't have to worry about that, but they need to know about the agricultural or the forestry also. Thank you very much.

MORASCH: All right. Thank you.

GREENE: Thanks for allowing me to speak.

JOHNSON: Mr. Chairman, may I make a --

GREENE: Thanks for your hard work.

JOHNSON: -- question for the group. Are we able to turn on the timer, so we can just see kind of where we're at down there? And that, again, I'm going to say it and reiterate that we are talking about Section F, and even though these are important points, we are debating on monitoring and enforcement.

MORASCH: Do we have the capability to use this limit timer?

JOHNSON: Just so they can see it.

MORASCH: Do they have that down there? I've been trying to keep track on the clock, but --

JOHNSON: Sometimes it's helpful to see the lights.

MORASCH: -- it's hard for me to keep track based on the clock and hard for the speakers to know.

MCCALL: I haven't used it before and it's not turning on.

PUBLIC: Call Mielke, he knows how to do that. He can make it work.

MORASCH: Okay. We'll go ahead and call another speaker down while we work on our technical.

EULER: Ask Cindy if she needs a break.

MORASCH: Oh, that's a good idea. Do you need a break?

HOLLEY: How many more?

MORASCH: Well, no, I mean, because not everybody said yes. Let me see. We just got done with Stan, so we have one, two, seven -- we got seven, eight, nine, ten. We have about ten more that are signed up, plus there could be others that didn't sign up. It's up to you. All right.

MCCALL: Got it.

PUBLIC: You better stop it or you're taking the other guy's time.

MORASCH: Well, we're going to take that time out of the break. We're going to take a short break, 15 minutes and then come back.

(Pause in proceedings.)

MORASCH: All right. We're going to resume the public testimony at the Planning Commission hearing tonight, and the next person we're going to call is David Mann.

MANN: Good evening. David Mann, 615 2nd Avenue, Suite 560, Seattle, Washington 98101. I'm here on behalf of Friends of Livingston Mountain. I want to first of all thank you for all of your time over this last, I don't know how long we've been going on here, over a year, and thank staff for all their time they've put into this.

I want to focus my comments tonight, you received a letter from our firm, fortunately you do not have to deal with that tonight. That is not for you; that is for the Planning Commission. Normally I love getting up here with lots of fire and brimstone and yell and scream --

MORASCH: You mean the Board of County Commissioners.

MANN: Board of County Commissioners. I'm sorry. Sorry about that.

MORASCH: Thank you.

MANN: I'm not here to rant or rave or anything like that about that tonight, we'll save some of that for the County Commissioners. While we've heard some comments, we certainly support like Mr. Christ, those aren't for you, those are comments that the Board of County Commissioners needs to hear. We do think there were not so subtle changes made to your recommendation that we need to have fixed, but that's for Tuesday.

Tonight I want to focus you purely on Subsection F of the enforcement language. We strongly support that that's all you do tonight is address Section F and go no further. You do not need to re-notice or have another hearing. Let's keep focused on Section F.

We strongly support Section F as proposed by the staff. We think it combined with your already existing Chapter 32 on enforcement will provide the mechanisms and the documentation and the inspections that this county needs. You've heard a lot of testimony about how important enforcement is. Until you get something in place like this combined with your other enforcement mechanisms, all the conditions you put on are just meaningless. This is the time to make these changes now, and we really appreciate you asking staff to do it and for staff to come up with this language.

There are two minor corrections that we do recommend though, and in part it's for consistency under F, Sub 4 and Sub 5. Sub 4 is, the county, it currently says the county will conduct a periodic review, that should be the county shall conduct a periodic review. Will probably means shall, but in terms of just, in terms of drafting and making it more consistent, that's consistent with what you already have up in Subsection 2 where the applicant shall develop a plan, et cetera, et cetera.

Both Section 4 and Section 5 is, it should be the county shall conduct a periodic review and the

county shall conduct an inspection of the mining facility. Again, primarily that's for clarity, that this is a mandatory duty that this gets done. This information is collected and can be used if necessary to bring further enforcement action. With those two minor changes, again, we support your adoption, that you recommend to the County Commissioners adoption of Subsection F and move forward and hopefully we can end this process tonight. Thank you.

MORASCH: Thank you. I had one question.

MANN: Yes.

MORASCH: In addition to the Subsection F, staff has asked us to consider whether we want to reconsider the prior recommendation on whether mines are a conditional use versus a permitted use. Are you asking us not to reconsider our prior decision on that or --

MANN: Well, I don't know if you need -- if you want to reconsider and make that, change that recommendation, then please do. We support the language that staff has come up with on that that it be a conditional use.

(Note: Timer goes off with audible "beeping" noise.)

MORASCH: Can we stop that.

MANN: We thought what we heard from the Board of County Commissioners was they were very supportive of making sure everything was conditioned and had a conditional use permit, so we do support that, but actually we think that the Commissioners can make that change themselves on Tuesday. If you want to make the recommendation, great and we would go with what the staff language is as proposed.

MORASCH: All right. Thank you. Any other questions for Mr. Mann?

MANN: Thank you for your time.

MORASCH: All right. Thank you for your short and concise and definitely to the point testimony, very appreciated.

MANN: Thank you.

BARCA: There was a request in the back to change the coloration on the text making it easier to read. Is this helpful for the people in the back?

PUBLIC: Yes, it is.

BARCA: All right. Thank you.

MORASCH: Okay. Ben Dennis.

DENNIS: I'm Ben Dennis, 2001 NW 127th, Vancouver, 98685. My issue tonight is the gross misuse of 100 or 300 acres of prime agricultural property. As we speak, the aquifer of the East Fork Lewis River is in the process of being destroyed by irresponsible gravel mining, while County, State and Federal agencies look the other way.

As we speak, eroding banks continue to smother the lower river with sediment and silt loads. These come in part from the gravel mining and it comes in part from refusal of permits to correct eroding banks. In one instance over the last five years, actually the last seven years, permits were asked for and they were refused. Since then, that area of the East Fork has lost 30 feet of bank and all this silt, tons and tons of it, is heading up in the lower river and this has got to change.

We've got the most beautiful river in the Southwest Washington area and it's been turned to trash. This river, this is not the way to treat Clark County's only sanctuary stream. Let's make these things really start to turn around. It's a terrible travesty. Thank you.

MORASCH: All right. Thank you. Sigrund Shoemaker.

SHOEMAKER: I'm going to pass. Thank you.

MORASCH: Okay. Thank you for coming. Amy Hansen.

HANSEN: Hi. I'm Amy Hansen. I live at 28400 NE Hancock Road in Camas 98607. I'd like to talk to you about monitoring and enforcement, Section F.

MORASCH: Okay. We'd appreciate that.

HANSEN: I, too, agree with Section F. I think it should be adopted. I have some specific comments about Section F. I am so glad to see Section F finally here. It's been what I've been talking about for over a year now.

The concerns I have about Section F, one part of Section F, and it is not on your agenda for tonight, so it is something that I'll address on Tuesday, but a note that I would like to make is that this section should apply to all mining operations. There's really no reason that it should only apply to new mining operations. It's a general applicability issue.

I'm concerned about how this reads in that when you read the statute, it's not clear as to who is going to -- who are the mining operators going to be submitting their reports to in terms of a statement of operating requirements and standards.

In Section 2, who are they going to be submitting this to? It's a great step in terms of developing a plan for monitoring and compliance, but who are they going to be submitting that to? In Section 4, who at the County is going to be conducting periodic performance reviews of permit requirements? In Section 5, who is going to conduct the inspections of mining facilities?

In Section 5, again, the inspections, it would be nice to see some language that no notice is required when those inspections are being taken of the facilities. I think there's been a lot of testimony before this Board and also the Board of County Commissioners that when notice is given of inspections, the actual sites change. So that might be some language that would be helpful to be inserted in there.

Another little bit of language that I would ask this Board to consider would be referencing to the other code enforcement provisions, just by reference insertion of language to the other code provisions that have to do with monitoring and enforcement. Because we've talked about that, that's where the teeth are. If the only teeth in this statute are that failure to comply is revocation of a conditional use permit, that isn't a lot of teeth. It's an either or, you either do all of this or you have revocation of your conditional use permit. That's a very steep penalty for failure to comply, and I don't think anybody's going to take that step.

If you've got this other provision in the Clark County Code that allows fines and other measures, I think just a reference to that provision would be helpful, not only for the citizens of Clark County, but also for mining operators and anybody looking at these code provisions, so that they could easily reference those provisions and see what's available to them. It would help people to understand the statutes. So just those are my notes on Section F.

And as for the other provision that's before you today, I would ask that you do consider all uses to be considered conditional uses, because that gives you the ability to look at each site individually and it gives them the ability to put these provisions into place. So thank you.

MORASCH: All right. Thank you. Thank you for your testimony. Are there any questions? All right. Thank you.

HANSEN: Thank you.

MORASCH: Karen Pickering.

PICKERING: I'm not going to testify, but I'd like to say that I agree with Amy Hansen, Friends of Livingston Mountain, Friends of the East Fork Lewis River, David Mann, Peter Christ, Mark Martin.

HOLLEY: I got half of it.

MORASCH: Do you want to come down and just say that real quick for the record? Or would you like me to just repeat it for you?

PICKERING: Sure.

MORASCH: Okay. Let me know if I get this right. Karen Pickering just wanted to say that she supported the testimony of David Mann and Mr. Christ, Amy Hansen and the others who have testified. I don't think I got all the list of the names, but the others who have testified tonight. Wendy McCullough.

MCCULLOUGH: I'm good.

MORASCH: Wendy McCullough is good. Tyler McCullough.

MCCULLOUGH: Good evening, Commissioners. My name is Tyler McCullough. I live at 29400 NE 70th Circle, Camas, Washington. I also support the monitoring and enforcement provisions. I'm also president of Friends of Livingston Mountain and would like to thank also staff for the opportunity for their comments over the last months and being a part of the process, that is what you see before you here today.

A few subsections in Subsection F, I just want to point out really kind of the importance in the background of why they're there. And the monitoring, while it's a little weaker, because it relies on a lot of self-monitoring. In discussions it has become apparent when we talked about our concerns and potential violations we have seen when the staff had brought it up to some of the mining operators, their response was that they didn't know that those were even conditions that they were supposed to be adhering to, and that's pretty scary. What this at least starts to force them to do is even know what they're supposed to do to comply with their own permit.

Now, while it's still relying on just self-reporting, now it's going to be a public document which brings up the next most important part which is Subsection 5, that the County will actually conduct an inspection. And this actually gives a little bit of validity to the self-reporting. Because if you're just going to self-report how fast you drive on the highway, the likelihood that you're ever going to tell on yourself is pretty low.

So we need somebody out there at least once a year, if not more, to actually go over and kick the tires a little bit and make sure that these conditions are being met. Because while we can see what's going on outside the quarry, we can't necessarily see what's going on in these mining operations. And up in Livingston Quarry or Livingston Mountain Quarry they actually overshot how deep they were supposed to go and it wasn't being monitored, they went 60 feet below their floor. So we do support this. I just wanted to kind of point out the importance of leaving everything in here, if not making it more stringent. Thank you for your time.

MORASCH: All right. Thank you. David Hill.

HILL: Hello. My name is David Hill. I live at 27511 NE 46th Street. I agree with what's been said by David Mann, Tyler and the others from the East Fork. My Christmas wish is that all of you here lived at ground zero on either Yacolt or Livingston and we'd be dealing with a horse of a different color. We are not telling fibs. We live there. I said a while ago that they're bad neighbors. We are all stewards of the earth. What we pass forward, we all have a responsibility to pass forward something that goes beyond just profit and money. I appreciate the efforts that you guys are making to get the code enforcement where it needs to be. We all appreciate that. Thank you.

MORASCH: All right. Thank you. John Dreuer.

BREUER: Breuer.

MORASCH: It looks like a D. Sorry. John Breuer.

BREUER: John Breuer, B-r-e-u-e-r, 25618 NE 53rd Street, Vancouver. I have just two brief recommendations to improve Section 4, and this is going to sound like an echo of what Amy just said, but... In Section 3.c., the responsible official sounds a little vague to me for legislation. I think we should identify that official or at least the process by which the official will be chosen. And in Section 5, specific recommendation for what Amy was saying that the county will conduct an inspection, insert without prior notice, close insertion, of the mining facility no less than once a year. That's all I have. Thanks.

MORASCH: Okay. Thank you. Any questions?

QUIRING: Mr. Chair.

MORASCH: Oh, do you have a question?

QUIRING: Yeah. Well, not maybe of him, but I think -- I'm just wondering about this giving notice and not giving notice. Does it not saying anything about it indicates that you don't have to give a notice?

PUBLIC: Why should you have to?

QUIRING: I'm not saying you have to. My question was, since nothing is stated about a notice, wouldn't somebody just show up when it was on their schedule to show up and not let the operator know?

PUBLIC: Probably not. That's what I would do if I were doing that.

QUIRING: Yes. Do we have an answer from staff? Or, I mean, is there anything in code enforcement or anywhere else that there has to be a notice that this would be tied to?

EULER: In this code language the way we've drafted it, it could be interpreted either way. It doesn't say we have to give notice; it doesn't say you can surprise.

COOK: My response would be to ask Marty, since you have the iPad. Does Title 32 require a giving of notice before the County comes on somebody's property to inspect? And I would like to introduce you to the responsible official. Mr. Snell is the Director of Community Development, and I believe that the term responsible official is defined in the first section of the code.

EULER: Page 1 of Title 40 defines the responsible official. This is the person who makes the decision. If you look at other code sections, the responsible official term is used throughout.

MORASCH: While you look at that, we'll take another public testimony and you can give us the answer to that when we're done. Greg McKee.

MCKEE: I will pass. Thank you.

MORASCH: All right. Well, that is the end of my list. Is there anybody who would like to come down and testify that didn't sign up? Why don't you come down first and then I'll let you come down.

PUCHRIK: Mine's really short.

MORASCH: Please state your name and address for the record.

PUCHRIK: Cheryl Puchrik, 27719 NE Hancock Road. We're talking about Line 288, and that's the schedule inspection. I'm a chef and the health inspector comes randomly and he doesn't need permission --

QUIRING: That's right.

PUCHRIK: -- and I believe that that's the way that this should be done, because when you're driving on the road, I don't want to wait three years with a gravel truck this far from my back bumper. I'm sort of done. Because they just, they don't care. They'll drive on any road that they want and they drive at any speed that they want, so there you go. Then 295, this periodic, I think it should be, that's arbitrary, it should be three inspections per year randomly, that's what I think. And then I would just like to say, whoever scheduled this Tuesday at 10:30 on Thanksgiving week, that's really not fair to the public. That was it.

MORASCH: All right. Thank you. I think you had your hand up.

CANTRELL: Hold on.

MORASCH: Okay. I think this gentleman had his hand up first, so I'll let him talk first and then you can come down.

ROGERS: I spoke before, but failure to comply with your operating requirements --

BARCA: Dave. Dave.

ROGERS: David Rogers --

BARCA: Thank you.

ROGERS: -- 18114 NE 317th Street. Failure to comply and the standards specified in the conditional use permit may result in revocation of the conditional use permit. If the County is not allowed to go in there, and this is the excuse -- excuse me, this is the excuse that we're being given by the people that are supposed to be doing the inspections, we cannot trespass. Oh, you see this problem? Well, we cannot trespass.

Something has to be done to allow the code enforcement people to be going onto these properties and there shouldn't be one year between inspections. The inspections should be done biweekly, so that things when they're blasting are inspected during that period, when they're crushing and all the noise goes on, it should be inspected. To wait one year is equivalent to what they have been told to do under their sand and gravel permits when they never even completed the inspections. There has to be some enforcement of the inspections, and it has to be done by someone that will come back and say this is wrong, they didn't do it.

MORASCH: All right. Thank you.

CANTRELL: I'm Bill Cantrell, 27202 NE Bradford Road, Vancouver. I'm old enough to have become really cynical. I do believe that what we have in the mining business as it relates to Livingston Mountain and Yacont, but more particularly Livingston, the fox is guarding the henhouse in that as it stands, we allow for the participant to be the reporting official.

Over here we have the staff writing and sometimes slipping in things, but what could that motive be? Well, the County and the operator are in the same business, and in fact cohorts. The County is making money from one of the mines, because they have the lease with DNR. Tapani Underground has the one mine, DNR and Clark County had the other, and Storedahl is the operator for both.

Is the County dipping twice in this thing, writing the rules and making money because of that? Maybe that's why the citizenry thinks that there is something wrong with the process. You folks are the referee and you're refereeing a ball game where both teams are on the same side. Thank you.

MORASCH: Thank you. Is there anyone else who hasn't had a chance to speak that would like to speak?

COOK: When everybody else has spoken.

MORASCH: Sure. Come on down. Give us your name and address for the record, please.

BOYTER: My name is Mark Boyter, B-o-y-t-e-r, at 26906 NE Highland Meadows Road. I'm just wondering on Paragraph 6 where it says the failure to comply may result in revocation of the conditional use permit, and to me it seems like that ought to be will result. Because kind of the way I read that it seems to say, you know, if you break the rules, you know, we might do something about it, and it seems like that doesn't have any teeth. So I would just recommend changing the word may to will. Also, I was going to see if somebody could explain what is Title 40 worthy, what does that mean? I've heard people say that.

MORASCH: Gordy, do you want to answer that, Title 40 worthy.

EULER: There's certain things you do when you write code in terms of how the hierarchy in terms of code construct, partly to make it easier for people to find things in it. There are certain conventions we use in terms of terminology, capitalization, abbreviations, citation of sections. So the idea is that you want the code to read -- remember, this is going to be embedded in it as a section in the entire document of Title 40. This is going to be a new section, 40.250.020, Title 40 is our development code, it's 600 pages. So the idea is you want the same kind of Title 40-ness, if you will, in this section as you do throughout the rest of the code, that's what it means.

BOYTER: Are you talking about the formatting of it?

EULER: Correct. Yes. Technical.

COOK: Partly.

EULER: Technical formatting, yes.

MORASCH: Formatting and detail of language and to make it consistent with the remainder of the County's zoning and development code.

BOYTER: Okay. All right. Hey, that's all I got.

MORASCH: All right. Thank you. Anyone else want to talk on this matter? All right. I don't see anymore hands. So with that, we'll close the public hearing and return it to our legal counsel to answer the Commissioner's question.

COOK: Okay. So first question that I wanted to address was whether notice is required to conduct an inspection. As Section 32.04.040, right of entry, states that whenever it's necessary to make an inspection to enforce the provisions of any land use ordinance, or the director has reasonable cause to believe that property is being used in violation of land use ordinance, and that would include the ordinances that are being suggested as criteria and the conditional use permits that would be issued pursuant to the ordinances, then the director, who is also the responsible official, may seek permission to enter the building structure, et cetera, et cetera.

Now, it says, if permission to inspect is denied by the owner or person in possession of property, or reasonable attempts to contact the owners or persons in possession are unavailing, the director may apply to the court for an order authorizing entry upon the land for the performance of the inspection.

So unlike a certificate from the Health Department to operate a restaurant, there isn't quite the same consent to allow inspection at any time. Though I thought we put something in here about that, though I'm not finding it.

PUBLIC: D.13.

COOK: Say again.

PUBLIC: D.13.

COOK: Thank you so much. D.13. Yeah. Okay. So, yeah, it's on Page 7 of this ordinance right above Approval Process. It says, Consistent with 32.04.040, the operator shall grant access for inspection of the mine operation in order for the county to monitor and, if necessary, enforce the provisions of the conditional use permit.

Now, I would say that means that the County can't trespass. Either we have to get consent from the operator or a court order; however, that leaves open the question of when you have to ask the inspector. Can you just drive up and say knock, knock, here we are, we would like to inspect. And I think that's a question of trespassing, it's a question of notice, it's a question of due process and it's a question of the ability to enforce permits and County Code, and that's a whole bunch of different considerations that would probably have to be balanced in arriving at an answer.

It's not immediately obvious to me that the County can, you know, break the lock on somebody's fence. I'd say it's pretty obvious they can't unless the court says to do it and go on in and inspect, but there are mechanisms for inspection even if the operator would deny access. So that's what I have on that.

JOHNSON: Chris, so just go to the other side of that. So here's a possible scenario. The inspector drives up, the gate's open, it's during the day, drives up, I want to inspect. So it would seem to me that, yes, the operator could say no, we're not going to, you can't do that. Immediately that would be a red flag.

COOK: That would be a violation of this ordinance.

QUIRING: Yes.

JOHNSON: To say no because I drove up --

COOK: Because the ordinance --

QUIRING: Number 13 says they shall.

JOHNSON: So this isn't about notification, this is about if I drive up to your site and I say, as you read it right now, and I say, I'd like to inspect as the inspector, you got to inspect it.

COOK: I would read this right now to think that probably the operator would be required under this code to allow the inspector in.

QUIRING: Shall grant, that's what it says.

COOK: Yeah, shall grant access.

MORASCH: I have a couple of questions. Amy Hansen made what I thought was a good point --

COOK: Yes.

MORASCH: -- about fines and other enforcement, because, you know, revoking the conditional use permit is pretty extreme. So for some violations that may be a little more minor in nature, I think maybe some other enforcement.

COOK: We have some language.

MORASCH: I would assume that you could still do that. Where's the --

COOK: Yeah. We have some language that would refer specifically to the portions of the code that would allow various sorts of things.

MORASCH: Is that in Subsection F here somewhere or is it --

COOK: No. We're suggesting amendments here.

MORASCH: Okay. I was wondering like in Subsection 6 if you could start it off with something like, in addition to other enforcement available to the County pursuant to whatever the other section is or something like that.

COOK: Well, Section 5 says, enforce the provisions of the conditional use permit, which to me directs you to Title 32 which is enforcement which has the fines and the abatement and the other sorts of things that are a step at correction. It's not nothing, it's the correction, if that's possible. And if the operator, you know, is cooperative, that's short of revocation. So our suggestion is to simply refer to Title 32 in Section 5.

MORASCH: 5 instead of Section 6.

COOK: But what you're -- yeah. So I would just add pursuant to Title 32 at the end of 5. It's not the most elegantly worded thing, but it gets the idea across.

And then in Section 6 we would add to the end of that, pursuant to Title 32, which does talk about revocation, and Section 40.520.030, and that's the code section that has to do with revocation of a conditional use permit.

MORASCH: Okay. 40.520.030.

BARCA: Correct.

COOK: Yep.

MORASCH: Okay. All right. Then my next question, David Mann asked to change will to shall in 4 and 5. I assume that there's --

COOK: No objection.

MORASCH: -- no objection to that.

COOK: No.

MORASCH: And then my last question, this one may be a little more difficult to answer. Amy Hansen asked that the enforcement provision may be applicable to existing uses, not just new applicants. Is that something that we have authority to do under like vested rights and things like that?

COOK: Yeah. I don't believe that the County has authority to do that. When an applicant for a permit submits a complete application, that applicant is then what we call vested. That means they are entitled to have their permit judged by the ordinance that's in effect at the time that they submit that complete application. Sometimes people call it the don't move the goal post statute.

You can't tell somebody, well, in order to mine, you have to do this, and somebody starts the business and does the mining and then we say, oh, five years later, nope, you got to do that. That's Washington State law. And, you know, there is just a raft of case law that requires that local governments respect vested rights. So these folks are not only vested, they're operating under their permits. The County cannot change what permit criteria are applicable to any permit holder after the application, except in very dire cases of emergency.

MORASCH: Okay. Thank you. I had one question for the responsible official.

BENDER: I have a question on that.

MORASCH: Okay. Well, let me ask mine first.

BENDER: Okay. Chris, the EPA changes the goal post all the time on coal fire plants, whatever, why do they have the ability and the State doesn't?

MORASCH: I guess I'm next.

COOK: Well, Washington law on vested rights is specifically spelled out in the statutes regarding land divisions, site plans, various permits, that's Washington law that is applicable to Washington. We're not talking about Federal law.

BENDER: No. I'm just saying that --

COOK: That's why, because it's in the statute that that can happen.

BENDER: Which can be changed at the State level?

COOK: Right. That's in the State law and the State courts, you know, enforce that.

MORASCH: Okay. Well, back to my question to the responsible official. I'm assuming the existing operators have permits, and is there anything we can do short of changing the terms of their permits to maybe better enforce the existing conditions of their permits?

SNELL: It's interesting that the groups here and -- is this thing on? So we have enforcement by committee right now. Folks in the audience have heard through Board of County Commissioners work sessions about the not so great system that we have with operating quarries and not a dedicated staff person who knows about how quarries exist, how they operate, what the material is, how long it's going to be mined, all of that kind of thing, so...

This is a resource question of staff. The Board of County Commissioners, not next week, but the week after has a budget hearing. They adopt a two-year budget. And if you want to make some -- if you want to send a message to the Board of County Commissioners that funding some position or part of a position to attend to enforcement issues on existing and future quarries, if there are any, that would be a perfect opportunity.

MORASCH: All right. Thank you. Well, that answers my questions. Is there any other questions from the Planning Commission?

BENDER: Also there --

BLOM: I also have something to say.

BENDER: -- was also a young woman that asked that in Item 6 that the word may be changed to shall or will.

MORASCH: I think that's an issue for deliberation, unless you have a question about it.

BENDER: Excuse me?

MORASCH: I said, I think that's an issue for deliberation, unless you have a question about it.

BENDER: No. No. You indicated Item 4 and 5 shall be changed to shall, and the young lady in the audience --

QUIRING: Very different, very, very different things.

MORASCH: That's a different issue. Yeah. I was asking staff and legal counsel if they had any objection to changing will to shall in Items 4 and 5. We haven't made a decision on it yet, that's for deliberation. Marilee, you had an issue?

MCCALL: It's not an issue, I'm just trying to follow along with -- if you look on your screen, I'm trying to make those in red, so that when you're making your motion you'll be able to watch it, and I've saved this as a different document. But I'm missing the end of what was on --

COOK: For 5.

MCCALL: -- the statement for 5, and I didn't catch that.

COOK: It's just pursuant to Title 32.

MORASCH: All right. Any other questions from the Planning Commission for staff? Okay. In that case, we'll move to deliberation. And, Commissioner Bender, would you like to start.

BENDER: On Item 6 or the overall?

MORASCH: The overall including Item 6 and anything else you'd like to --

BENDER: Well, I think that basically changing 4, 5, and 6 to shall will help strengthen up this overall section.

MORASCH: Anything else?

BENDER: Nope.

MORASCH: All right. John.

BLOM: I think 4 and 5 I definitely agree to change to shall, but I think 6 needs to stay where it's at because there's due process of law that's going to have to follow that, it can't just be an automatic revocation, it needs to go through due process. I'm supportive of the other changes that we have on the board here.

MORASCH: Okay. Ron.

BLOM: Just to be clear, we're just talking about Section F at this point, we're not talking about conditional use?

MORASCH: Yeah, we'll have a separate deliberation on that.

BLOM: Perfect.

MORASCH: Ron.

BARCA: Well, with the discussion that we've had and the further detail added by staff, I'm much more comfortable with Section F now. I do believe the quality of the trained personnel responsible for enforcement is going to be critical toward the effectiveness of this for the public and to give the mining industry some certainty as to how to operate and to understand the boundaries and guidelines.

I think that's very important for all of this is for us to understand that if this is done correctly, there should be certainty on both sides of the fence to make it easier to understand how to run a profitable business and for us to have compatibility within the residential community.

I'm going to suggest whatever the possibilities are that the budget hearing that you heard about, if you can't make it, please put in information into the record for the hearing about your concerns, and be very, very specific that it's in relationship to this Section F of the surface mining overlay for the idea of qualified trained personnel to do the enforcement category.

I believe with that, you know, what we're actually doing now is we're creating some responsibility, we're creating some authority and we're creating some accountability. In the world of business, having good RAAs is it's vital towards the idea of understanding where the buck stops, right, and that's what we've been trying to get to for over a year. I think we're on the verge of getting there. So I completely support what we've got now with the changes that are in red on the overhead screen.

MORASCH: Thank you. Karl.

JOHNSON: You know, this is really quickly. You know, when we started this great haul, and many of you were here, it was rather contentious and there was a lot of people that went it was us against them and kind of we, the County and us, and I only heard that from about two or three people, that contentious deal. And what I want to commend you for is that it was now me or this committee as

a representation of you really trying to figure it out.

I like the analogy of the referee and trying to do the right thing. And in these things, you end up somewhat like Solomon, you know, we're splitting it in half and there are things that you're going to like and I'm sure when you get to the County Commissioners, things that you won't, but we tried to mitigate this.

One of the great things that actually happened tonight, I don't know if you realize this, on Section 6 in the monitoring is that we had two testimonies here that talked about, you know, this revocation of your permit. One person said, you know, that's this and they're just, never going to do that. And I thought, well, that is very interesting, because that is pretty harsh, and then it was the shall to the may.

But what's interesting is John Dentler, the attorney for Storedahl, wrote that maybe they needed to have stop work order, administrative penalties or revocation. So you actually are coming closer together saying, all right, yeah, that's a good thing. I mean, my first soapbox thing is good job for, you know, look, we're trying to get this right. You're not going to be happy with everything, you'll be happy with some.

Tonight, I think the biggest thing that I fear, and I think it's the thing that I tried to talk to Commissioner Madore when we had the joint meeting, was that this is about enforcement. I think a lot of the frustration is driven by past enforcement. Look, people could have made mistakes. I see some of the testimony that is very credible. Some of it, frankly, that I go, wait, that just doesn't sound right, but I look at the response. So that element of this is critical to finding somebody to say, look, whether something happens up there that you don't like, a blast went off in my house, that's too much, too loud, that there should be a requirement for someone to at least answer that. Whether you get it answered the way you want it or not, I think that's the missing component.

So I am encouraged by this. But I hope for the record that the Commissioners see that I think what the community is screaming at the mountain top for is that for someone to respond, mountain top, I didn't mean to do that, I'm funny but I'm not that funny, but I think it's like, listen, these things are happening, come see that. So I, too, support this. There's things I don't like about it. I think there's a lot of extra stuff in there, but, hey, that's splitting it in half and I hope you feel the same. It's probably not everything you need for enforcement, but I think it goes a long ways to something that was not there at all before. I'm off my soapbox. You don't have to clap.

MORASCH: All right. Thank you. Eileen.

QUIRING: Well, I also appreciate everybody coming out and giving their testimony. Although, as you heard at the beginning, I really was hoping we'd stick with Section F, and you did, you did go there. But one of the comments that I heard that we have to live at the bottom of the mountain or near the quarry to believe you, that's -- no, we believe you. We believe you. I believe what you're saying is the truth. It's just that we have to go through this deliberative process and try to balance everything. I do appreciate you coming and testifying, as we all do. I'm satisfied with Section F with the changes that have been made, and, I guess, you know, onward and forward, go see the Commissioners. I agree that the right person for this position for this at the County should be placed there, somebody possibly with a geological background, somebody who understands mining and water and various things, because it's many faceted. So that's it.

MORASCH: All right. Thank you. Well, I, too, would like to thank everyone for coming tonight, and it's been a long night. I want to thank everyone for, you know, being polite to each other and giving good testimony. I, too, support the language of Section F as we've amended it on the board. I don't support changing may to shall in Section 6.

QUIRING: No. You're right.

JOHNSON: I feel the same way.

QUIRING: I feel the same way.

MORASCH: The reason that I don't support that is, you know, some violations may, you know, rise to the level where revocation of a permit might be appropriate, but there could be minor violations that, you know, wouldn't really be appropriate to revoke a permit for. That's why I support adding the language that we have, pursuant to Title 32, that preserves staff discretion to make those judgment calls as to what type of enforcement is appropriate, given the type of violation. So I would support the language as it's written on the board. And with that, I think we've all had our piece. I would ask if there's a motion.

QUIRING: I move that we accept the Section F as written on the board with the amendments that have been made to Number 4, shall; Number 5, shall; and then the references in Number 5 to pursuant to Title 32, as well as in Section 6, pursuant to Title 32 and Section 40.520.030.

BLOM: Second.

MORASCH: It's been made and seconded. Is there discussion on the motion? Hearing none, I will call for the roll call.

BARCA: AYE

QUIRING: AYE

JOHNSON: AYE

BLOM: AYE

BENDER: AYE

MORASCH: AYE

MCCALL: Commissioner Uskoski recused.

MORASCH: All right. That motion carries. Now, to the other, the rest of the ordinance, the conditional use versus permitted use and any other provisions the Planning Commission may or may not want to comment on. We'll start at the other end this time. Eileen, do you have any deliberations on that?

QUIRING: I don't support conditional use for every --

MORASCH: Well, first, do you support even reconsidering the issue or not, and --

QUIRING: Oh, reconsidering it.

MORASCH: -- then what do you think we should do?

QUIRING: Actually, what I support is what I stated earlier in the meeting, and that is that if this goes to the Commissioners, it should be very well stated what we endorsed and recommended and what the staff is saying, so that they can see the difference. I guess, basically, I don't want to reopen it.

MORASCH: Okay. You don't want to change the prior --

QUIRING: No.

MORASCH: -- recommendation?

QUIRING: No.

MORASCH: Okay. Karl.

JOHNSON: So let me get this straight. What we would be changing in C, we would be removing from permitted use extractions of those items in a. This is probably more of a staff question, help me out here, Gordy. We are adding to permitted use short-term stockpiling for materials at a road improvement site or construction site or job site. And then the conditional use, moving to conditional use was extraction. Is that the change?

EULER: That's correct.

JOHNSON: I am inclined to let it lay like it was. I do like that we tried to move things around there. But, again, I think that this ball needs to be set in our Commissioners lap to make a decision on it. I think we gave them a lot of information, and I think in this case I'd be inclined to say I'm not, I would say leave it like --

MORASCH: Leave it as it was.

JOHNSON: Leave it, yeah. I don't think our votes would change their minds.

MORASCH: Ron.

BARCA: I started off the discussion this evening by saying, I propose that we only really deal with Section F as that's new to us. I think we were very clear to the Board of County Commissioners I believe system on the rest of the ordinance, not having that represented here, I don't wish to vote on any other components of it.

MORASCH: Okay. John.

BLOM: That what's been said was my general feeling coming into this conversation. But I think it is telling that the letter from Dentler didn't seem to have any issue with it being moved to a conditional use, their only issue was that they wanted short-term stockpiling a permitted use. I don't know if that's representative of industry. I'm fine with leaving the issue as it is, but I do think it's interesting the one testimony we have from industry is not objecting to it being a conditional use.

MORASCH: All right. Richard.

BENDER: Not formerly being exposed to this, because I wasn't on board, I'm going to basically not vote on it.

MORASCH: Not vote on it?

BENDER: Yeah.

MORASCH: Yeah. I, also, was not at the prior hearing and so I will probably, too, abstain from this issue. I don't really have an opinion on it one way or another. So with that, I guess I would entertain a motion.

JOHNSON: Do we have to make a motion?

MORASCH: Well, I think we should make a motion to whether we're going to do anything or not or send it off with our prior recommendation.

MOTION AND DISCUSSION:

JOHNSON: Help me get this right here. I make a motion that the Planning Commission recommendation on Section C stands as it was before. But also -- well, that's the motion.

BLOM: Can I make a friendly amendment?

JOHNSON: Yeah.

BLOM: Can we specify that all of our recommendations are presented as originally --

JOHNSON: That's -- yeah, that's what I was originally trying to say.

BLOM: -- as originally passed by us last December.

BARCA: We have a legal --

JOHNSON: Yeah.

BARCA: -- issue.

JOHNSON: Help me, legal, clear it up.

COOK: Can I let you know that they have been. The Board of Commissioners has seen your recommendations.

BARCA: We may be concerned about short-term memory and --

COOK: Well, we can give them a really nice packet that has your recommendations as unchanged and then what happened here. Because they said go talk to the neighbors some more and meet with industry some more, and we did those things and that's where this came from. But we, don't worry, we have your recommendations as you passed them and it has gone to the Board and it will go to the Board.

JOHNSON: Are they going to see this recommendation? That's probably a silly question, Gordy. Are they going to see this, specifically B, they're going to see that proposed change still?

EULER: What we will do is there's been a proposal out that started with your recommendations. We will record what you said tonight, and at the end of the staff report, that will go to the Board tomorrow. So whatever action you take tonight, we will include in the staff report that says if your motion is don't make any changes, then that will be accepted in the December 5th report from the Planning Commission as-is. Or if you want to see don't make any changes with the exception of what you asked to do in Section F, that's what we'll end up reporting to the Board.

JOHNSON: Okay. I'd like to clarify my motion, please.

MORASCH: Yeah. I was going to ask you to restate it, since I've now forgotten exactly what the motion was.

JOHNSON: Remember what I said, that was a short-term. Just exactly what Gordy said, that the only changes that we're making tonight are in Section F, that everything is as we have referred or to the County before.

BLOM: Second.

MORASCH: All right. It's been moved and seconded. Is there any discussion on the motion?

BARCA: Does everybody understand it?

QUIRING: Yeah. Let me -- I'd like to understand this a little bit better. So the Commissioners have seen our original report, and I understand they have.

COOK: Oh, yes.

QUIRING: The fact that you have talked with stakeholders and you've come up with these other things, because the Commissioners asked you to do that, I want them to see both. And so that's your motion that they'll see both?

JOHNSON: Well, they will, that was my question to him. All I'm saying is, we're not going to make any changes.

QUIRING: I mean, are they going to see it knowing --

BLOM: What I don't want to happen -- I think this is what you're trying to say as well, is that they

think that we have now approved all of these changes, because there's things in here that have been changed that I don't think I necessarily agree with, but I don't think we need to go through it again, we've done that once.

So let them see it, okay, here's what we said originally, there may be changes, there may be some for the better and there may be some we don't agree with, but for them to know this is what we approved, this is what staff approved.

EULER: Let me restate that you have your original recommendations of December 5th, 2013. We've made this more Title 40 ready if you want in subsequent meetings before we went to the Board in work session. The Board said go deal with stakeholders and make changes that both would agree to get to the point. So we have to take this version forward, because we've done some work along with both industry folks and the other stakeholders where we've tried to get closer than what you came up with back in December. So we'll make sure that the Board gets both versions, but we will also reflect whatever your wishes are as a result of this meeting.

MORASCH: I don't think it's been seconded yet.

BLOM: Yeah, I seconded it. I'll second it again.

BARCA: All right. So everybody's comfortable?

QUIRING: I'm comfortable. I understand.

MORASCH: All right. Then can we have roll call.

ROLL CALL:

BENDER: NO VOTE

BLOM: AYE

JOHNSON: AYE

QUIRING: AYE

BARCA: AYE

MORASCH: ABSTAIN

MCCALL: 4 votes.

MORASCH: All right. The motion carries. And with that, that concludes our public hearing items for tonight.

V. OLD BUSINESS

MORASCH: Do we have any old business?

VI. NEW BUSINESS

MORASCH: Any new business?

VII. COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

MORASCH: Karl, any comments from the Planning Commission?

JOHNSON: I knew it. Thank you very much.

VIII. ADJOURNMENT

MORASCH: All right. Well, with that I think we will adjourn the Planning Commission hearing. Thank you very much.

The record of tonight's hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at: <http://www.clark.wa.gov/planning/PCmeetings.html>.

Proceedings can be viewed on CVTV on the following web page link:

<http://old.cityofvancouver.us/cvtv/cvtvindex.ask?section=25437&catID=13>.

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