CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

July 28, 2010 | Bellevue City Hall
6:30 p.m. | City Council Conference Room 1E-113

COMMISSIONERS PRESENT:	Commissioners Hamlin, Himebaugh, Lai, Mathews, Sheffels, Turner
COMMISSIONERS ABSENT:	Chair Ferris
STAFF PRESENT:	Paul Inghram, Nicholas Matz, Department of Planning and Community Development; Catherine Drews, Carol Helland, Carol Hamlin, Michael Paine, Heidi Bedwell, Development Services Department
GUEST SPEAKERS:	None
RECORDING SECRETARY:	Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Commissioner Lai who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Chair Ferris.

3. PUBLIC COMMENT

Mr. Mike McCorkle, executive director for Sambica Ministries, said he looked forward to working cooperatively with the city in giving consideration to the proposed Camp and Conference Center Land Use Code amendment. He said he received a copy of the staff memo and the draft regulations on July 23, but had not yet thoroughly digested the proposal and all its implications. He asked the Commission to extend the discussion to a later date to allow for additional time to work through the details and submit comments in writing.

Mr. Mike Meriano, 16341 SE 16th Street, a Phantom Lake shoreline resident, suggested the lake needs to be looked at more aggressively. The outfall had a weir installed in the 1980s which has from time to time been monitored by the city. He said in 1997 he helped spearhead an effort to get the property owners along the outlet channel to permit access by city staff to remove sedimentation that had accumulated. Currently the sediments are building up again causing flooding during the winter months; another cleaning is needed and should be completed before the December 15 fish window. The aerator in the lake is checked every Thursday by two people in a canoe, but no one in the neighborhood seems to know exactly what is going on with that device. If there is any information being collected regarding lake quality, the local property owners have not seen it yet.

Mr. Bill Stalzer, 603 Stewart Street, Seattle, said he is a planner who has been working with Sambica for the past few years. He reiterated the call for additional time to comment on the proposed CCC Land Use Code amendment. Overall, the camp and conference center district

concept is excellent. He said Sambica supports having such a designation and zoning for its seven-acre campus. For many years Sambica has believed that the district approach the city has implemented in other areas would be appropriate for its campus. The combination of development standards tailored to the district, with a master development plan and design review, represents a good approach. Additional time is needed to ferret out all of the details and review the specifics.

4. APPROVAL OF AGENDA

The agenda as printed was approved by consensus.

5. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None

6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram thanked Commissioner Hamlin for arranging the location for the Commission's retreat on July 20, and Microsoft for allowing the use of their space. He also thanked Scott Rhodes who brought his Tesla electric car to show the Commissioners prior to the meeting.

7. STUDY SESSION

A. Camp and Conference Center (CCC) Land Use Code Amendment

Commissioner Hamlin disclosed that he is married to Senior Planner Carol Hamlin, the DSD staff person working on the CCC Land Use Code amendment. He said he has no specific interest in the affected property or in the application of the amendment. He added that the property owner had been informed of his relationship to Ms. Hamlin and had indicated their comfort in having him involved in the discussions and the deliberations for the amendment. He said he would evaluate the amendment fairly and openly.

Senior PCD Planner Nicholas Matz commented that while the Sambica property is the catalyst for the proposed amendment, the proposal is for a designation that could be used anywhere in the city. He noted that the amendment is consistent with the Comprehensive Plan amendment that was discussed and recommended by the Commission in 2008 and adopted by the City Council in 2009.

Mr. Matz said the Sambica property is located on the southern end of West Lake Sammamish Parkway and has been in operation as a camp since 1920. The use is well established and highly valued by the community. The existing designations for the site do not align with the current physical facilities or the potential master planning efforts Sambica has been undertaking focused on maintaining their functions while continuing to provide relevant services to their users. The local community desires redevelopment of the site is managed in a way that will minimize impacts to the surrounding residential areas. The CPA process was used in a manner addressing the joint objectives for redeveloping Sambica while at the same time capitalizing on the larger opportunity to create the Camp & Conference Center designation. The current focus is on codifying the policy work into regulation. Once the Land Use Code amendment has been approved, Sambica and any other applicable site would need to rezone to the CCC designation.

The purpose of the proposed regulations is to: distinguish the mix of existing and future land uses proposed for redevelopment with a regulatory framework that relies largely on existing

Land Use Code examples such as the Medical Institution District to transition from current uses to future uses; assure the predominant non-commercial character of a camp and conference center by creating a special district and permitted uses that are unique to the designation; provide predictability in the development processes with a master site planning process, design review, and specific site and building design guidelines; and maintain compatibility with surrounding neighborhoods through the use of dimensional requirements and development standards which are based on existing code and which recognize the typically larger but coherent site pattern of a camp and conference center.

Ms. Hamlin said staff has proposed five specific development review tools. The framework for such tools is a proposed new LUC Special and Overlay Districts section at 20.25M. The tools include first a definition of what the CCC district is in the Land Use Districts and what the CCC use is in the new section 20.25M within the existing Special and Overlay Districts sections of the Land Use Code, respectively. Second, a Master Development Plan (MDP) will be required as the master site planning process for developing or redeveloping CCC-designated parcels. Third, the creation of a permitted CCC use chart at 20.25M.020 which identifies the principally permitted uses in the CCC, and then defines how the range of subordinate uses typically associated with a CCC can be permitted. Fourth, there will be a requirement for dimensional and development standards based on existing regulations. Finally, there will be a requirement for Design Review to implement the MDP through site and building design guidelines.

Ms. Hamlin asked for direction from the Commission relative to conducting an additional study session or going directly to drafting the Land Use Code amendment for public hearing in September.

Commissioner Sheffels asked if Sambica is considered to have access to the shoreline, and if so, how the Shoreline Master Program will apply. She pointed out that the only other site in the city that could possibly be considered for the CCC designation also has shoreline access. Ms. Hamlin said Sambica does have access to the shoreline, and any associated issues will be addressed as part of the Shoreline Master Program update.

Commissioner Sheffels asked if Sambica has any plans for lighting their sports fields, something that could result in spillover light negatively impacting the neighboring residential areas. Ms. Hamlin said staff would be sure and address that situation.

Commissioner Himebaugh asked how the MDP process would work. Ms. Hamlin said it would entail a Process II application which includes an administrative review, and would come in as a design review. The master plan would show the entire bounds of the property; the underlying property lines (the presence of which can be addressed with a Single Site Agreement; where buildings are planned to be, though not necessarily their design or height; parking layout; and landscaping and tree retention.

Commissioner Turner asked what other areas could potentially receive the CCC designation. Mr. Matz said there is no minimum or maximum size, rather the focus is on the intensity of impact that must be measured. The Sisters of St. Joseph of Peace property in southwest Bellevue is one possible site.

Mr. Inghram clarified that the Sambica property is the only site in the city designated CCC in the Comprehensive Plan. Any other property owner desiring the designation would first have to seek a Comprehensive Plan amendment.

Commissioner Turner asked if any City of Bellevue property would qualify for the CCC

designation. Mr. Inghram said if the city identified a property it thought was appropriate, it would have to seek a Comprehensive Plan amendment the same as anyone else. To date, the city has not identified any of its properties that would be appropriate for the CCC designation.

Commissioner Himebaugh called attention to the section of the staff report focused on dimensional requirements and development standards and pointed out that there was no draft code language in place. Mr. Matz explained that the topic was just being introduced and that no draft code language had been written yet for any part of the amendment. One of the reasons Sambica is seeking additional time is to see just what those numbers will be and how they would work for their site. Staff hopes not to reinvent the wheel so will look at existing dimensional standards and development requirements in use in other areas to see if they could be adapted. He said staff has no objection to scheduling another study session prior to the public hearing, by which time some of the particulars could be down on paper.

Commissioner Mathews referred to the top of page 11 of the staff report and asked if it would make sense to add education as a functional use activity. Mr. Matz replied that the word "educational" is used in the definition of the CCC use.

Commissioners agreed that another study session should be scheduled prior to the public hearing in order to see more of the details.

8. STUDY SESSION

A. Shoreline Master Program Update

Associate Planner Heidi Bedwell reported that following the last Commission meeting on the Shoreline Master Program update Utilities staff met with community members and has begun an engagement process to address the issues raised related to lake management. She said the Commission will be kept up to date.

Ms. Bedwell commented that piers, docks, watercraft moorage and bulkheads have been regulated since the original adoption of the Shoreline Master Program. Prior to 2006 the standards for moorage limited the overall length, governed the setback from property lines, and the height above water. Bulkheads were also regulated and limited generally to 30 inches, with an additional allowance for height based on specific circumstances. Currently, most waterfront properties have a dock or a pier, and many but not all have a bulkhead or some form of stabilization. Pictures of docks, piers, boat lifts and bulkheads were shared with the Commission.

Environmental Planning Manager Michael Paine pointed out that vegetation is not uniform across the landscape. Many of the lots along the shorelines are in very good condition, while others are heavily developed. Some have wetland areas that have not been damaged, but others have lawns right down to the water's edge, though they may have wetland soils underneath which, if left alone, would see the wetland plants reassert themselves.

Ms. Bedwell said there are several sections of the WAC guidelines that focus on provisions for docks and piers. In addition to emphasizing that structures be limited to the minimum size necessary, the rules state that docks and piers are intended to allow watercraft access. Single family residences do not have to demonstrate that they need a dock or a pier. The structures must be designed and constructed to avoid impacts, and where that is not possible to minimize and mitigate the impacts. The materials must be approved by other state agencies. The guidelines are intended to serve as general criteria by which local provisions are to be measured

by the Department of Ecology.

Staff drafted the working draft policies while keeping in mind the guidelines and Bellevue's existing and unique conditions. Ms. Bedwell explained that the policies and regulatory concepts describe how regulations should support and allow uses and activities, result in no net loss, require the minimum necessary, generally discourage developments that negatively impact shoreline functions, and provide mechanisms for maintenance and repair of legally existing uses and developments.

Commissioner Lai asked how the city would go about determining what the minimum necessary is. Mr. Paine said certainly one test would be building a pier to accommodate a specific boat. It is not uncommon to see 40-foot sailboats on Lake Washington, and the code would permit the construction of a structure that would accommodate such vessels without penalty, up to a maximum of 150 feet in length.

Ms. Bedwell reminded the Commission that in December 2009 staff from a number of state and federal agencies provided information about their regulatory authority and programs. While it has been suggested by some that the city should simply rely on the standards of those other agencies, their regulatory emphasis is different from the no net loss standard of the Shoreline Master Program. As a local government, Bellevue lacks the legislative authority to dictate how other agencies operate and what their regulations should be. At the same time, the regulatory standards of those other agencies must be kept in mind when crafting local regulations, and where possible, conflicts should be addressed. The standards of the Army Corps of Engineers are particularly applicable to the development of docks and piers; their Regional General Permit applies certain standards. Anyone wanting to develop a dock or a pier on any of Bellevue's lakes must receive a permit from a local agency as well as the Army Corps of Engineers and the Washington Department of Fish and Wildlife; in some cases, authorization from the Department of Natural Resources is also required.

Commissioner Sheffels asked what the permits from the various agencies cost. Ms. Bedwell said she did not have that information.

Mr. Paine said shoreline ecosystems are highly productive, largely because of the exchange of energy and materials across the boundary between the two separate environments of the uplands and the shore lands. The cross-boundary exchange, which was referred to often by Dr. Francis as habitat coupling, enhancing productivity in the ecosystem that is receiving the input. Nutrients from the land go into the water and enhance the productivity of the organizations that live in the water. Functions are in fact services the shoreline provides. When a property owner constructs a dock, in addition to the cost of the materials the non-monetary costs to the environment must be considered. Functions are comprised as processes, such as water delivery, sediment, phosphorous, and woody debris.

Mr. Paine allowed that for the most part, the functions along the shorelines of Lake Washington and Lake Sammamish are impaired; many of them are only partially working. The testimony offered by the public that has suggested there is nothing left to preserve is partially correct. The urban development along the shorelines certainly affects the processes, so they are not all working as they should be. The WAC guidelines contain a very long list of functions. The consultant took the list, pared it down to some degree, and look at the city's shorelines around those requirements.

Interruptions and impacts to functions can take a number of forms. Modifying the landscape, cutting down trees, putting in a lot of pavement and parking cars on it, and structural

modifications can all have impacts. Lake Sammamish is a good example. Water flows down the hillside, and the construction of a foundation or retaining wall can impact how the water flows into the lake. The issue is particularly important where wetlands are involved because the flow to the wetlands can be interrupted. Hardened facilities often foreclose the ability to have a more genuine ecological succession, and urbanization interrupts landscape connections and input. Landscape modifications change the way the inputs to a process occur.

With regard to the notion of functions across a site, Mr. Paine used as an example a site on south Lake Sammamish where there is no bulkhead, some vegetation on the shoreline, some aquatic vegetation present, and an ecosystem that is basically functioning as it should. Mammal and bird habitat functions occur across the entire site, not just in the areas around the shoreline. Other functions occur closer to the shoreline or in the littoral zone itself. The installation of a dock or a bulkhead on the site would trigger the loss of aquatic vegetation through a reduction of light. The operation of jet skis in the shallow water areas will also have an impact on aquatic vegetation. Obstructing light by shading has, according to several studies, some measurable effects on fish behavior that may increase predation on some sensitive fish species. Impacts to the transportation of sediments and sedimentation through the construction of a bulkhead and blocking normal erosion processes can starve a beach of the sediment and cobble it needs. Thus, the impacts should be avoided, minimized or mitigated for.

Mr. Paine said there is ample evidence that motorboats operating in the nearshore area negatively impact aquatic vegetative communities. There is also ample evidence that placing docks in deep water helps to avoid interactions between predators and juvenile salmonids. At certain times of the year during salmonid migration in the lakes, the juveniles tend to hug the shore and look for vegetation in which to hide, particularly during the daytime. Smallmouth bass and other predator fish lurking in those areas are more likely to attack salmonids in the shallow waters. Since bass prefer the structure provided by piers, putting piers out in deep water will serve to protect the salmonids; that is the conclusion reached by a number of different studies conducted across the country.

There is strong evidence that changes in lighting can cause changes in fish behavior and predator/prey interactions. When fish swim from light to dark, it takes them a while to readjust and to be able to see their way. Predator fish like bass that lurk under docks or by pilings are thought to have an advantage by being in the dark and looking out toward the light; there are many studies that suggest that conclusion. Some of the definitive work on Lake Sammamish was done by Dr. Pauley with respect to smallmouth bass and there is no question that they prefer certain kinds of structures. Crafting standards that will result in a positive impact would be a good thing.

It is known that there are a lot of shoreline functions in the shallow water. Whatever other protections are desired, the nearshore environment should be protected at a minimum by focusing on the walkway and the shallow water as a first priority, and worry secondarily about the deep water moorage platform. The emphasis on protecting the nearshore area will allow for more flexibility in deeper water. The overall objectives for the standards will need to be product the shallow water habitat and reduce opportunities for predation.

Mr. Paine suggested that the city's pier standards in place after 2006 were very good. They were designed to align with the Regional General Permit-3 which at the time was a flexible programmatic permit the Corps of Engineers had designed. The idea was that designing to the standards would result in a faster permitting process. The city aligned its standards with those of the Corps of Engineers. Kirkland's recently adopted Shoreline Master Program, which has been touted by the Department of Ecology, has virtually the same standards Bellevue had in 2006.

Mr. Paine said the thinking of staff was that rules should be proposed that are equally protective but which offer more flexibility, though without some of the additional process that was required by the former permitting regime. The prior permitting process had a set of proscriptive standards which if met resulted in a permit. Anyone wanting to depart from those standards was required to produce a critical areas report; that entailed hiring a consultant and showing the city that the departure from the standards would result in a net benefit environmentally.

The proposed approach gives equal flexibility but without the additional process. It was drafted based on four years of permitting experience, feedback from citizens, and input from builders and permit specialists.

Ms. Bedwell said the city's GIS staff were tasked with doing some analysis of existing structures. Based on aerial photography, they looked at the number of properties along each of the lake water bodies. They determined that on Lake Washington there are only 20 lots or so that do not currently have a dock or a pier. On Lake Sammamish there are approximately 26 properties without a structure, and on Phantom Lake there are also approximately 26 properties without a dock or a pier.

The GIS staff also calculated the median overwater coverage for existing structures. For Lake Washington they calculated an average of 641 square feet, 505 square feet for Lake Sammamish, and almost 300 square feet for Phantom Lake. They also calculated the median length of the existing structures. For Lake Washington that worked out to be 69 feet, for Lake Sammamish it was 63 feet, and for Phantom Lake it was 42 feet.

Ms. Bedwell reviewed the proposed standards for docks and piers for sites that do not currently have a dock or a pier. She noted that the standards are prescriptive relative to facility dimensions, materials, and landscape improvements. There are variable improvements for the water bodies and flexible moorage platform dimensions. From a graphics standpoint, the area within the first 30 feet, or at a depth of at least nine feet of water, whichever, is greater, is referred to as a the walkway. To minimize the overwater coverage shading impacts, the proposal is to allow a maximum width of four feet. That aligns with the current provisions which were modeled after the Regional General Permit requirements from the Corps of Engineers. The provisions establish a maximum square footage allowed for the platform but do not specify any dimensions.

The current provisions include a required 12-foot setback from the projected property lines. The dimensional standards for other zones call for either a five-foot setback or a ten-foot setback, and staff believes that to be consistent the 12-foot setback should be reduced to ten feet. There is a provision that does allow a structure closer than 12 feet under the current provisions, provided there is buy off from the neighboring property owner. The proposal sets 150 feet as the maximum length; that is what the current code allows.

The current code allows a maximum of 480 square feet of overwater coverage for a new dock or pier. The proposal, however, allows that limit to be exceeded depending on how far out one must go to reach water 30 feet deep.

In order to provide additional potential for light penetration, the dock surface is proposed to be of a grated material. That is a requirement imposed by other agencies as well. The proposal also includes details relative to pile size and spacing to reduce structures within the nearshore area.

Answering a question asked by Commissioner Lai, Ms. Bedwell explained that the Regional

General Permit has served as an option for regulatory streamlining through the Corps of Engineers. The Regional General Permit-3 allows a maximum of 480 square feet, requires decking, outlines specific standards for the L or the moorage platform, and specifies the materials that are allowed. Commissioner Lai suggested it would be helpful to have a matrix showing the differences and similarities between the Regional General Permit and what is proposed for Bellevue.

Commissioner Turner asked if the section on incentivizing joint use could be drafted to allow for two walkways together for a total width of eight feet instead of four. Ms. Bedwell said that is something staff would contemplate providing.

Ms. Bedwell said for the scenario where a property owner would like to replace or reconfigure an existing dock, that proposal continues to focus on the nearshore environment. Under the current code, a complete rebuild requires a demonstration that all current pier standards will be met, or seek a variance through the critical areas report process. The proposed approach acknowledges that some level of improvement can be made without fully complying with all current standards. The approach allows for the retention of overwater coverage of existing larger facilities while improving the conditions of the nearshore.

Mr. Paine said the scenario would fit the situation where someone has come in and torn down an existing house or completely rebuilt and expanded a residence and then looks to redo their pier because it no longer matches the house in quality of construction and character. In that circumstance, the reconfiguration equates to building a whole new pier.

Commissioner Lai asked what the average lifespan of a pier is in Lake Sammamish. Mr. Paine said he did not have an answer to that question.

Ms. Bedwell said the provisions relative to reconfiguring or replacing a pier require a reduction of the width by 25 percent. In exchange for that increment of improvement in the nearshore area, the square footage of the platform area does not have to be reduced. The proposal does include a requirement to upgrade the decking materials used and reducing the pile size and spacing.

Mr. Paine allowed that it is not known if a walkway of four feet, four and a half feet or five feet is preferable. What is known, however, is that the more light under the pier the better it is for the biology of fish and aquatic vegetation. Four feet probably works because it is a functional width; it is not a magical number but is a reasonable number.

Commissioner Sheffels asked where the nine feet in depth is measured from. Ms. Bedwell said it is measured from the ordinary high water mark.

Commissioner Himebaugh asked if the standard is nine feet in depth or 30 feet in length, or if both must be complied with. Ms. Bedwell answered that it is meant to be the greater of. In some cases nine feet in depth can be reached less than 30 feet from the ordinary high water mark, but the provision allows for going out the full 30 feet.

Mr. Paine clarified that a lot of people want a water depth of nine feet to safely allow diving off of their docks. That water depth provision is best for all concerned, the fish and the humans.

With regard to the repair standards, Ms. Bedwell said for those not choosing to reconfigure their docks or replace more than 50 percent of their pilings, the only requirements would be for improved materials, such as a grated surface, and the use of steel piles over preserved or treated

materials. A property owner could replace an entire deck surface without being required to reconfigure it, provided they upgrade with a grated surface.

Ms. Bedwell said in talking with some of the contractors who work on docks and piers she found that some do not like the critical areas report process and others do. In any event, there may be instances where increased flexibility would be appropriate relative to existing docks and piers, or for suggested designs that do not conform to the proscriptive standards. There is always the shoreline variance for those properties with unavoidable physical constraints which rule out the significant improvement process.

The watercraft lift standards also focus on the protection of the nearshore. The proposed approach would allow for more lifts, though new and replacement lifts would need to be located in deeper water outside of the 30-foot and nine-foot ranges. The preference, where possible, would be for fixed lifts attached to the dock. The translucent covers already allowed by other permitting agencies would continue to be allowed. The current requirement to allow covered structures to be located only within a certain type of triangle has caused challenges for property owners and conflicts with the notion of protecting the nearshore environment by forcing such structures to be located closer to shore. The suggestion of staff is to delete that requirement.

Commissioner Turner asked if boat lifts that allow for bringing a boat onto the shore through the use of rails is allowed by the current code or would be allowed under the proposed approach. Mr. Paine said rail lifts are legally nonconforming uses. The current code does not permit them, nor would the proposed code.

With regard to the approaches taken by area jurisdictions, Ms. Bedwell explained that Kirkland aligned its standards very closely to those of the Regional General Permit. Replacement of a structure does trigger the requirement to meet all new standards under their approach. Overall, their standards look very similar to those adopted by Bellevue in 2006.

Redmond allows docks and piers to be a maximum of 480 square feet, though in some circumstances they can require less depending on various factors. They allow docks to be six feet wide and floats that are ten feet in width. Repairs are allowed, and their nonconforming threshold is based on a valuation standard; exceeding 100 percent of the replacement cost triggers compliance with all current development standards.

Redmond's code has been adopted, and Kirkland is on the verge of adopting its code. The Sammamish approach has not yet been reviewed by the Department of Ecology. Their standards are the least prescriptive. They do not speak to many specific dimensions but do allow docks and piers to be a maximum of 600 square feet. Confusingly, the width provision is tied to 50 percent of the lot width. Their nonconforming standard is triggered by the change of location of an existing structure or an expansion by ten percent; beyond those points structures must comply with the new standards.

Commissioner Hamlin suggested the walkway versus the dock separation is a really good idea. It provides support for the nearshore area while allowing flexibility for having larger docks.

With regard to the proposed shoreline stabilization standards, Ms. Bedwell noted that in the WAC guidelines they are quite specific with regard to detail and direction. A preference is given to non-structural measures over structural measures. Non-structural measures are defined as things such as building setbacks, relocation of structures to protect groundwater management, and other regulatory measures to avoid the need for structural stabilization. A wide range of structural measures are discussed, with preference given to soft stabilization in the form of

vegetation and natural elements over hard stabilization structures. New and replacement stabilization is generally discouraged, but where it is allowed, it is for the protection of primary structures against erosion and threat. A demonstration of need is emphasized in the guidelines.

Ms. Bedwell said the working policies were drafted with the notion of designing first to avoid stabilization structures and then to minimize and mitigate impacts. The proposed approach lists hardened structures as the least preferred. Provisions are included to incentivize the use of softer stabilization techniques.

The guidelines were around when the city adopted updates in 2006. Many of the prescriptive standards in the current code reflect the WAC guidelines. Ms. Bedwell said staff was recommending retention of the current code provisions relative to locating stabilization where there is not currently stabilization in place. The provisions as they relate to repair, maintenance and replacement of existing stabilization structures will be addressed later.

Attention was called to a document titled "Green Shorelines" that was produced by the city of Seattle. The document focuses on alternative shoreline treatments and gives a decision tree. Under Bellevue's current code, a property owner must hire someone to demonstrate the need for stabilization. An attempt is being made to develop some provisions that would at least limit the need to hire outside expertise.

Mr. Paine commented that staff has not formalized their thinking with regard to shoreline stabilization. The key, however, is that one must understand what a bulkhead is and what it is designed to do. If a wall is constructed behind the ordinary high water mark, and in the case of Lake Sammamish outside of the flood plain, it may not really be a bulkhead. There may be ways to put in extra insurance to guarantee that a home will not be affected without impacting the floodplain or the shoreline by putting a bulkhead there.

Commissioner Himebaugh asked how a primary structure is defined and what is protected or not protected by excluding structures that are not primary. Ms. Bedwell said the WAC describes primary structures as those necessary to protect single family residences and appurtenant structures. She allowed that Bellevue's code could do a better job of defining them. Mr. Paine added that appurtenant structures are those that typically are considered part and parcel of a single family use, such as a garage or gazebo.

B. Public Comments

Dr. Marty Nizlek, 312 West Lake Sammamish Parkway NE, said he and others have been reviewing the draft code and suggesting revisions. He said the group had completed half of the task to date and he provided the work to the Commissioners with deletions shown in a strikeout font and insertions underlined. He informed the Commission that Washington Sensible Shorelines Association had paid David Douglas from Integrity Permitting to talk to the group and explain issues, and to provide input to the city. The issues are complex and address the costly aspect of living on the shoreline. He commented that the staff made a very quick jump from "the shoreline needs us" to "you need only four-foot wide piers going out to the dock" and suggested the Commission should not swallow it all too easily. See-through or flow-through grating to reduce the amount of light reduction is already required by the code, and staff are proposing a 25 percent reduction in width. At some point, the width of a walkway becomes a safety concern. WSSA continues to have various distinct and philosophical differences with staff, and continues to seek ways to have effective input in light of the five-minute rule.

Mr. David Douglass with Integrity Shoreline Permitting, and formerly with Waterfront

Construction, said he has been involved in more than 250 projects on Lake Washington and Lake Sammamish. He suggested that the presentation of staff was polished and nice but said he could not picture a property owner trading in an existing dock or pier for either of the reconfigurations shown to the Commission during the presentation. For moorage purposes, the before slide represented a much better structure. He further suggested that neither reconfiguration would likely get approved by the state Department of Fish and Wildlife or the Corps of Engineers. Just because local government allows for a 300-square-foot platform does not negate the need to address the Endangered Species Act issues with the Corps of Engineers. The Kirkland limit of 480 square feet, aligned with the Regional General Permit, is not an absolute; the Kirkland code allows for the addition of four square feet to the main walkway for every foot one must go out to reach a water depth of ten feet at high water. The Regional General Permit allows a six-by-twenty-six foot L and a two-by-twenty foot finger, but if it is necessary to go out 150 feet, the walkway itself would be 144 feet long after subtracting the six-foot platform, and the overall pier would be 772 square feet. That very situation and an 810 square-foot pier was recently approved in Kirkland under the RGP-3 federal guidelines, which are quite flexible. Not all of the standards of the Regional General Permit have to be met. The standard permit issued by the Corp that does not meet the RGP-3 standards is called a letter of permission. An individual permit is far more extensive. All of the shoreline functions take place in salt water, and both Kirkland and Redmond have transferred over language from scientific studies done in salt water and applied them to fresh water. The water and wave activity that takes place on Lake Washington and Lake Sammamish is not the same. With regard to the general standards for docks, he stated that the city should not attempt to dictate when a dock is built. Established in-water construction windows are determined by listed species by the Corps of Engineers, US Fish and Wildlife, National Marine Fisheries Service, and Washington Department of Fish and Wildlife. The city should not seek to put any additional restrictions in place. Locating boat lifts and watercraft lifts on an L or platform is not a good idea because that is where kids play.

Commissioner Lai asked Mr. Douglass to comment on what the average lifespan is for a pier in fresh water. Mr. Douglass said Lake Sammamish is an uncontrolled water body that typically floods a couple of times each year, especially during the winter months. That creates a splash zone. Typically, the piles and decking on a Lake Sammamish dock will not last as long as a dock on Lake Washington, which is controlled by the Army Corps of Engineers and which goes up and down by two feet annually but very slowly. Piles on Lake Sammamish deteriorate much quicker. A treated pile will last 25 to 30 years, and steel piles last almost forever. The lifespan of decking is entirely dependent on where it is located and how much splash it gets, but treated materials typically last a very long time.

Commissioner Turner asked what the difference in cost is between a steel pile and a wooden pile. Mr. Douglass said wooden piles run between $15 and $18 per lineal foot, while a steel pile can run as high as $50 per lineal foot and higher.

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, shared with the Commission copies of a letter written by Mr. Douglass to the Kirkland planning department during the time they were working on their Shoreline Master Program update. Included with the letter were comments made by a Department of Ecology staffer that covered some very salient points, including what constitutes minor repairs, what is meant by no net loss, shade from docks and vegetation, the need to have regulations based on sound science, the fact that regulations are focused on incremental improvements rather than no net loss, the costs to individual homeowners, the percentage of the problem that is due to water quality and impacts from erosion and runoff, and measureable studies showing that waterfront development in Kirkland has harmed the migration of salmonids. A matrix is being produced that will contrast what staff is proposing and what WSSA is proposing relative to docks and stabilization.

Mr. Jeff Hancock, 3110 West Lake Sammamish Parkway SE, said temperature is a major factor affecting quality and habitat in the water. The temperature of Lake Sammamish is determined by the temperature of the earth and the amount of sunlight it absorbs throughout the year. Almost nothing can be done physically around the edge of the lake to generate a long-term temperature effect. The macro climate does not affect the lake's temperature except seasonally in the winter via the surface temperature of the water. The water in Lake Sammamish used to be much clearer and there did not used to be milfoil in the nearshore areas; that is an issue that should be addressed. With regard to habitat, there is no difference between the shade provided by a dock and the shade provided by a tree leaning out over the water. Nearly every lake in the world that exists in its natural habitat has fallen trees in the water around the shorelines that are causing shading. A dock should not be seen as a detrimental thing. The water level in Lake Sammamish has never been as high as it is. He said his home was not previously threatened by high water but now it is. The city should focus on what it can control, including the watershed in general. The waterfront property owners should not be made responsible financially and subjected to the loss of use of their properties for what occurs in the entire watershed.

Dr. Gil Pauley, a Lake Sammamish resident, said the summary of the report he made to the Commission in March left out some important aspects, namely that he had expressed serious reservations about the best available science report the city was using as a basis for the promulgation of rules and regulations; that the staff position did not consider alternative views in many cases; and that the dock and pier report done in 2000 for the city also did not look at alternative views. Referring to page 12 of the latest staff report and the section titled "Impacts of docks, piers, moorage, and boatlifts on shoreline functions," he noted that the bullet headings in the text appear to be stating facts. However, the statement that piers, docks and bulkheads may disrupt the migratory and rearing behavior of juvenile chinook and coho salmon is not true. The migratory patterns of young salmon are not altered by going under docks. With regard to the bullet item reading "The permanent removal of woody debris during pier construction reduces the availability of complex refuge habitat for small fish, and attachment surfaces for periphyton," he countered that woody debris also acts as refuge for predator species. By removing woody debris, opportunities for predators are also removed. The report goes on to state that "while all of these issues are observable, some are documented through past study and publication while some have not been extensively studied and there is little to no literature available" without being clear about which of the bullet points have no scientific documentation available in the lake environments. It would also have been helpful to know which items have been studied relative to lake environments similar to the lakes in Bellevue. In Attachment 6, which is basically a literature review of a large basin system on the Columbia River, there is an extrapolation of one water type to another, which is not really an easy task and which the author states. The author further notes that though numerous research studies have been conducted on predator/prey relations in the Columbia River reservoir, none of them has addressed the use of docks and piers. Clearly, the study data cannot be used to apply to Lake Washington or Lake Sammamish.

Mr. Cole Sherwood, 3270 West Lake Sammamish Parkway SE, said obtaining the necessary permits to construct a dock on his property resulted in a great deal of frustration. The dock has been completed, though there is still vegetation to be planted. The length of time it took to get the permit, the amount of money spent above and beyond the manufacturing of the dock, the hoops that had to be jumped through, was astonishing. The policy of the United States of opening its arms to everyone does not translate into the arena of docks. The ADA standards apply to everything across the county and in Bellevue, but for some reason it does not apply directly to docks. He said his dock has been constructed to be ADA compliant, but it took almost three years to get the permits and build the structure. The total cost for biological

evaluation, legal fees and actual construction was between $70,000 and $80,000. That is just not right. Everyone should have the opportunity to use a dock. A four-foot walkway is not safe for a wheelchair user. Powered chairs are large and have a big turning radius; such a chair simply cannot safely go on a four-foot walkway. In order to obtain the permits, it was necessary to deal with the Department of Ecology, the state Department of Fish and Wildlife, the Army Corps of Engineers, a committee representing Native Americans, and the city. Every additional layer of governmental regulation only complicates things and increases the overall cost.

Mr. Brian Parks, 16011 SE 16th Street, said Utilities staff made a presentation to Phantom Lake residents following the last Commission study session on the Shoreline Management Program update. The staff provided lake level data for record flood events and recent ordinary high water mark data, but no data was presented on which to evaluate the ordinary high water mark previous to construction of the berm, increased flows from the Eastgate commercial area, or the eastern outlet weir construction. The staff data for the past ten years did show a gradual increase. There is no apparent monitoring of inflow in place to stop the continuation of the upward trend. Since the 1971 Shoreline Management Act benchmark, the city has acted to install a dam at the northwest outlet of Phantom Lake in the form of a berm, added the eastern weir, and allowed the doubling of inflow from the Eastgate commercial area. Those actions have resulted in net ecological losses. On July 27 representatives from around Phantom Lake met with Utilities staff and clarified that the concern is the increase of the ordinary high water mark since the mid- to late-1980s. Several non-Shoreline Management Program issues were addressed as well. The lake level matrix submitted to the Commission at its last meeting appears to be top heavy because of the inclusion of the FEMA firm elevation of 264.6 NAVD88. Since then, staff documents have been received which show the FEMA flood plain is two to two and a half feet higher than the berm height. Staff has been unable to provide any ordinary high water mark datum previous to the three actions taken by the city in the 1980s and early 1990s. The staff-supplied records, along with the CH2MHill report, support the claims of a previous ordinary high water mark of about 260.6 NAVD88. The proposed Shoreline Management Program solution for Phantom Lake management calls for the maintaining of proper outflows and shoreline elevations upon which the regulations are based. An outlet maintenance and repair plan should be included in the Shoreline Management Program update. Historical Phantom Lake water level data shows that the previous ordinary high water marks are now the average levels, causing a landward shift. The result is land that was not previously regulated by the Shoreline Management Act now is. The Shoreline Management Program should mitigate and remedy the losses by including the eastern outlet in the shoreline overlay jurisdiction, and include language calling for routine annual maintenance. The Shoreline Management Program should: 1) include the eastern outlet channel, including 25 feet in each direction from its center, in the overlay district as far as the eastern end of the culvert under 148th Avenue SE to Weona; 2) include an annual routine maintenance plan to keep the outflow free of sediment buildup, as well as beaver dam removal when needed; 3) establish the ordinary high water mark for Phantom Lake at 260.6 NAVD88; 4) repair and shoring of trees that are being undercut on the outlet by the widening sediment-laden creek; and 5) possible removal of the weir and housing structure at the main eastern outlet, and reduction of the berm height if the 8.8-foot reduction goal is not reached.

Mr. Mike Mariano, 16341 SE 16th Street, said he has found it difficult to understand the mission and the purpose of the Shoreline Management Program update. The 208-page report includes regulations, standards and guidelines, but is not clear about what is to be physically accomplished by it all. The assumption is that the focus is on protecting and sustaining the resources around the lakes. The problem is that the city has talked the talk but has not walked the walk. Water quality issues have deteriorated in Phantom Lake; a sign is currently posted warning people not to swim in the lake. Habitat is dying, in large part because of past city actions. The storm water discharge from much of the Eastgate area is flowing into the lake. The

weir is desperately in need of being cleaned out; sediment is building up and blocking the outflow. Many of the problems are the result of conditions in place when the area was annexed into Bellevue, and it would simply not be appropriate to try and turn the ecology clock back to before that time. A four-foot-wide ramp is not safe for wheelchairs or anyone else; that is just too narrow. When it comes to drafting regulations, it should be kept in mind that one size does not fit all.

Mr. Mike McCorkle, executive director for Sambica Ministries, 4114 West Lake Sammamish Parkway, said the property has access to Lake Sammamish. He said the ministry and all of the camps depend heavily on the waterfront. Nothing of what is currently done could continue if it were necessary to change the docks to meet the proposed standards.

Ms. Alfy Rahr, 16509 SE 18th Street, said she and her husband used mahogany wood as the decking for their dock and after 45 years it is still in top condition, even though it has been under water many times.

Mr. Dave Radabaugh with the Department of Ecology, said the statement made that his department likes the Shoreline Management Program submitted by Kirkland is true. He noted that earlier in the week the department director signed a letter directing only minor changes to their document. With regard to piers and docks on Lake Washington and Lake Sammamish, he said his department has supported jurisdictions using the standards from RGP3. Kirkland certainly did that, as did Redmond to a large degree. The Shoreline Management Program from the city of Sammamish is still in the review process. The guidelines with regard to shoreline stabilization are very specific. He said his department typically looks for a requirement for a geotechnical assessment documenting the need for shoreline stabilization. He added that he would work with the city's staff on looking at alternatives, but stressed that he could not make any promises one way or another.

Mr. Dallas Evans, 2254 West Lake Sammamish Parkway SE, suggested that the experience and skill Dr. Pauley brings to the process is very important. If the Commission has questions, it should seek answers and direction from him. There does not appear to be much supporting evidence behind what staff has brought to the table. With regard to dock skirting, he noted that there is a reference in the staff report about not allowing it. Depending on how high a dock is off the water, skirting is needed as a safety factor; boats can slip under an elevated dock when hit by a wave and the occupants of the boat can be injured. Skirting prevents that from happening. There is in fact nothing in the entire document that addresses safety for humans relative to dock design. The nine-foot water depth issue can be problematic given that some boat lifts become unstable in water that deep. Metal pilings are more flexible than wood pilings, which means they require extra cross bracing. The cross bracings themselves can prove to be dangerous to kids swimming near or under a dock. The Watershed Company report assumes docks will be about 752 square feet, though the staff say the average is more like 530 square feet. The job done by the GIS staff to analyze existing docks was probably not all that thorough. The Watershed Company was paid $381,442.60 for a report that is hardly even mentioned anymore. In all the city to date has spent $440,000 on the Shoreline Management Program update. The Commission should take all the time it needs in developing the update and should not rush just to meet some artificial deadline.

C. Commission Discussion

Commissioner Turner asked for a report about the meeting between Utilities staff and Phantom Lake residents. Mr. Paine said neither he nor his staff were invited to attend and therefore did not have a report. Commissioner Turner pointed out that several of the Commissioners had

specifically asked to be invited to the meeting and to be kept informed. He expressed disappointment that the meeting went forward without any Commissioners being invited to attend.

Commissioner Mathews agreed with those from the public who suggested four feet is too narrow for the width of a walkway. It appears that both Redmond and Kirkland allow up to six feet. For safety reasons, that width is far more reasonable. More width allows for more maneuverability and more safety. Mr. Paine said that may be a tradeoff the Commission decides to make. The proposal of staff is focused on maximum protection for the nearshore coupled with far more flexibility elsewhere. If a wider walkway is allowed, there will need to be some reductions made at the far end of the dock to make up for the ecological loss in the nearshore.

Commissioner Lai said it appears that the RGP3 standards are fairly commonly adopted regionally and locally. He asked what reasons might exist for deviating from those standards, both in terms of ecological impact and from the point of view of permit processing. Mr. Paine said the action taken in 2006 was to align the city's ecologically sensitive standards with the RGP3, and the idea was to make things easier for property owners. It did not, however, necessarily turn out that way. The Corps of Engineers is acting to meet its Endangered Species Act obligations under Section 10. The Corps makes determinations for individual projects based on whether or not the survival of species will be affected. Of course, if a single project will have such a severe effect that the survival of a species is threatened, then there must be only a few of the species left. Accordingly, the Corps does not look at the same issues local jurisdictions look at. So as things have turned out, the RGP3 standards have proven to be far more flexible; they have found ways to permit docks without pushing the applicant into the individualized process. The benefit to the client resulting from a focus on the RGP3 alone has, therefore, been reduced. It is true, however, that whatever Bellevue approves can be overruled by the Corps of Engineers. The flexibility offered at the federal level may be preferable, particularly for those who are persistent and who want a different configuration than the standard L dimension. The RGP3 focus on the nearshore is excellent, but overall the standards may not be something the city will want to adopt en masse. The fact is that there are very few opportunities remaining for new piers, so in the future the real focus will be on how to deal with repair and replacement issues. The promise of special treatment by going the RGP3 way has just not panned out.

The city's concern primarily is the walkway width and having the platform and moving all moorage activity to deeper water. Staff recognizes that approach will not satisfy everyone. Bellevue was the first to adopt something close to the RPG3 standards back in 2006. The proposal is not a pioneering move so much as it is an extension of what was done then, but with far more flexibility in the deep water. No standards are proposed for the deep water area, nor are there strict requirements for how to configure the deep water portion.

Commissioner Himebaugh commented that a number of walkways are in fact also the dock. He said the proposed approach appears to force the idea of having a dock at the end of a walkway. Mr. Paine said the idea is certainly to avoid large square footage structures in the nearshore area.

Commissioner Hamlin agreed with those who suggested that limiting walkways to four feet might be too restrictive. He said he understood why the proposal was made as it was, but said he did not know if four feet was the right number from a safety point of view.

Commissioner Himebaugh said he was somewhat disconcerted by having so many prescriptive standards without anyone really knowing what the right number is. Four feet seems too narrow, but five feet may not be any better and may in fact be worse for the nearshore, yet no one knows for sure. There has been testimony from those who build docks and those who work to permit

dock projects, and there have been scientific studies referenced that have been challenged by other scientists. It is difficult to know how prescriptive and restrictive to be when no one really knows what is being chased. The prohibition against skirting docks is a case in point. Some have said there is a safety issue involved, others have said one size does not fit all, and there may be some science that says without a skirt there will be more light for the fish. He said he would be very uncomfortable moving ahead with so many rules if there is no solid reason for having them. Furthermore, the Commission may not be in the best position to determine what the best rules are.

Mr. Paine responded to the skirting issue by stating that the prohibition is based on the fact that it limits the amount of light getting to the underside of the pier. Many docks have bumpers, but the issue is how far down skirting should be allowed to go. Skirting often goes down into the water; some of the local marinas have that kind of skirting, and that is clearly not acceptable. Based on what staff understands to be the science, the area under the piers needs light. Of course, a grated deck may offset any damage done by having skirting.

Commissioner Sheffels asked if there are materials that could be used as decking that would allow more light to pass through while still allowing a walkway to be wider than four feet, or skirting materials that would allow more light to pass through. Mr. Paine said there are a number of materials by various manufacturers that can be used as decking, but he said he did not know that any of them would permit as much as 50 percent light penetration. Ms. Bedwell said in the past one technique used was the installation of prisms, but it has been found that they are not effective.

Mr. Paine pointed out that the Commission is free to make any recommendation it wants to. The final authority will be the Department of Ecology; what they approve will be allowed, and what they disapprove will not be allowed. He agreed that the city should seek to limit the number of prescriptive standards to an absolute minimum.

Commissioner Turner applauded the efforts undertaken to protect the environment while trying to be as flexible as possible. He voiced concern, however, over the lack of any real push to address private property rights and to avoid taking property without good reason. More should be done to address some of the issues that have been raised by the public. The Commission has not been brought to the place of knowing what the real answers are, yet it is being asked to set forth some very prescriptive measures and allow for level of flexibility. Clearly water quality is one of the issues to be addressed, and he said he is deeply concerned about the issue based on changes the city itself has made relative to stormwater runoff and septic overflow. That would seem to argue in favor of stepping back from the 200 feet landward of the ordinary high water mark and focusing instead on the entire watershed. Mr. Paine answered that ultimately in any urban area the survival of biological functions is determined by the overall condition of the watershed. However, the work to update the Shoreline Master Program is focused only on the shoreline areas. All over the city there are residents living under the critical areas regulations that are far more onerous than the restrictions being proposed for the waterfront. The critical areas ordinance to some degree addresses the wider watershed issues, as does the city's sophisticated stormwater system.

Legal Planner Catherine Drews said she has extensive experience with the National Pollution Discharge Elimination System (NPDES) permitting and the Clean Water Act. She said the Clean Water Act has several programs that help to manage stormwater, one of which is the NPDES permit in which the city is called a Phase II jurisdiction and permittee. In addition to the Phase II permit, there is a larger permit for the Phase I jurisdictions of which King County is a measure. The larger areas are regulated for their storm water under the federal programs. The

Washington State Department of Transportation is one of the agencies that is also regulated, and that agency is taking steps to address the stormwater issues. However, the issue is a very large one. When the Shoreline Management Act was passed there was a lot of land use development going on that did not take into consideration stormwater control. The vision of the legislature, and indeed that of the people, in 1971 was to protect the state's fragile shoreline resources; that is what the goal of the Shoreline Management Act was and still is. Land use and environmental law are interlaced and subjected to many different layers of regulation. There is a watershed problem that needs to be addressed, but the Shoreline Management Program update is not the legislative vehicle for doing that work.

Commissioner Turner asked if a plan has been or could be developed to specifically address the issues raised by the public in a direct manner. Mr. Paine allowed that one of the main contentions regards the validity of the scientific documents. He suggested that a very long time could be spent dealing with those issues. He suggested that what the Commission should do is sort through the record and make a decision with regard to what the appropriate recommendation should be. There is a wealth of information out there with viewpoints on both sides of every issue; it will not be possible to ever rectify everything to the satisfaction of all involved. The Commission should spend its time sorting out the difficult public policy decisions. There is only so much that can be done given the limited scope of time and resources.

Motion to extend the meeting by fifteen minutes was made by Commissioner Sheffels. Second was by Commissioner Hamlin and the motion carried unanimously.

Commissioner Mathews brought the discussion back to the proposed dock standards. He asked about the proposed timing of construction and was told by Mr. Paine that the proposal follows the timelines established by the federal government. Commissioner Mathews asked why staff was proposing more boat lifts, noting that he would not personally be in favor of that. Mr. Paine said 20 years ago few people needed three-car garages, but now they are the norm. The fact is people have a lot of toys and they need places to put them.

Commissioner Lai asked what consideration should be given in the Shoreline Management Program to safety standards and ADA requirements. Mr. Paine said the city has a reasonable accommodation process in place. In the case of Mr. Sherwood, the standards were not relied on in designing a dock that accommodated his needs. In his case, a critical areas report was required because of the need to access the dock through a riparian buffer, and that is what took most of the time. Whatever Mr. Sherwood determined he believed to be appropriate to meet his needs relative to the dock design was approved, though to the minimum necessary. Changes to the design were required, however, by the state and federal agencies.

Commissioner Sheffels pointed out that the ADA requirements do not apply to private property owners.

Commissioner Lai asked if there is a safety standard that should be applied to docks and piers. Mr. Paine said he was not aware of any residential dock safety standards. There are some safety considerations with respect to marinas, however, which are commercial by their very nature.

Commissioner Himebaugh pointed out that the WAC guidelines do say that the planning function in some circumstances must look beyond the territorial limits of the shorelines of the state. He said he understood that the regulations to be developed are intended to apply to the area 200 feet landward of the ordinary high water mark, but also said issues that fall outside that jurisdiction cannot be completely ruled out.

Commissioner Sheffels referred to page 217 of the staff memo and the proposed USACE criteria for dock design and noted that the it referenced not allowing electricity to docks. She allowed, however, that if boat lifts are to be allowed in Bellevue, certainly there will have to be electrical wiring allowed as well. She asked if the regulations could limit the amount of power for lighting purposes. Mr. Paine said the USACE standard is much stricter than what is being proposed for Bellevue. The USACE proposal comes from the McNary dam article which staff included just to highlight the science they were able to sustain, which was not much. The proposed criteria are for the McNary reservoir. The use of lights at night attracts fish and exposes them to predators. He agreed to look into the notion of limiting light use on docks.

Commissioner Himebaugh asked how staff reached the conclusions it did about piling size. Ms. Bedwell said much of the information came in the form of feedback from the construction industry which cautioned against requiring pilings that are too small. Commissioner Himebaugh suggested that if the city is going to impose a rule about piling size, it should have some good data on which to base it.

Commissioner Turner suggested that if the Commission and planning department can think of areas that should be considered as part of the Shoreline Master Program update, the suggestions should be passed on to the state or federal levels for consideration for future legislation. Mr. Paine said that is fully within the bounds of what the Commission can do.

On the topic of whether or not it would be reasonable to spend additional dollars seeking additional scientific data, Land Use Director Carol Helland pointed out that Mayor Davidson has said the work that started with critical areas is good work and serves as a good starting point for the Shoreline Master Program update. It is the intention of the staff to share the best of their knowledge as they believe it to be; that was in fact the point for conducting the science briefings earlier in the update process. There is not much good that could come from churning up more scientific information in that there will always be someone who disagrees. The role of the Commission is to hear from the public, to hear from staff, and then to roll all of the information into a package that will be the best for the citizens of Bellevue and still meet with the approval of the Department of Ecology. The staff will work with the direction given by the Commission and will be forthright in pointing out where there may be flaws and those areas with which the Department of Ecology may take issue.

Commissioner Turner said many from the public hold the view that the staff are not hearing their specific concerns. It may take some more direct interaction with those people on the part of staff. Ms. Helland said the Shoreline Master Program update process has been one of the most interesting of her career. She pointed out that the staff readily make themselves available to talk with members of the public, and not just during regular business hours. The folks who are most vocal about wanting to make changes to the proposal have so far refused to meet with the staff. Staff stands willing to have one-on-one conversations with those persons so the sticking points can be fully uncovered. Staff are making lists as issues are mentioned during public comment and will be providing feedback on those issues. In the end, the Commission has the latitude to decide for itself what is relevant, who should be believed, what science is most on point, and what the regulations should and should not cover.

Commissioner Himebaugh noted that it has been said that unless the December deadline is met with city will lose access to some state grant money. He asked how much money is on the line. Ms. Bedwell said the remaining grant allotment for the project that remains outstanding is $15,000. A portion of that amount may be in jeopardy if a planning recommendation is not on the table by December.

Mr. Inghram added that there may be other ramifications for not complying with the December deadline. He said staff would research that issue and come back to the Commission with a more complete answer. If the Commission believes more money should be spent on additional science, the notion could be discussed with the Mayor before a formal request is made to the full Council.

Ms. Helland added that delay is a double-edged sword. The issue has been raised that the community is dissatisfied with the inclusion of the requirements that were part of the critical areas code as they apply to the shorelines. The longer the Shoreline Master Program update process takes, the longer those critical areas requirements will stay in effect. Jurisdictions that do not adopt state-mandated programs on time can be taken out of consideration for future grant funding. Additionally, there is a long list of other code amendments waiting to be addressed, all of which the Council has directed and is waiting for. All of that argues in favor of working toward meeting the Shoreline Master Program update deadline.

Motion to extend the meeting for an additional fifteen minutes was made by Commissioner Turner. Second was by Commissioner Lai and the motion carried unanimously.

9. OTHER BUSINESS – None

10. PUBLIC COMMENT

Mr. Marty Nizlek, 312 West Lake Sammamish Parkway SE, said there is a lot of dissatisfaction across the nation with government, and what is happening in Bellevue is only a microcosm of that. One issue of most concern locally related to the Shoreline Master Program update is the repeated inundation of docks during the spring of the year resulting from a 40 percent reduction in the capacity of the slough to empty Lake Sammamish caused by governmental inaction. Dock pilings pop out and can only be put back in if reconfigured, and dock decking must be replaced with something that will let light through. Utilities says the city has its NPDES permit, but what is unsaid is that the city really does not know what is out there and does not own or treat what is coming through the system. The public was told earlier that the critical areas ordinance regulations will not apply to the Shoreline Master Program update, but the Mayor and staff now say the stream-based science that established the critical areas ordinance regulations will in fact be applied. The cry for no net loss should mean maintenance of what exists currently but is being taken to mean restoration. The public clearly is frustrated.

Ms. Anita Skoog Neil, 9302 SE Shoreland Drive, said it feels as though progress is being made. The problem is that the whole Shoreline Master Program thing is first all about science and then it is all about regulation. Because the impetus behind the work is the Department of Ecology, the only information that has been espoused is information that will support the policies and the regulations that the Department of Ecology wants to see applied. Real science presents opposing viewpoints. The Shoreline Master Program update process began in 2007, but seemingly was delayed and did not get going in earnest until the fall of 2009.

Mr. David Douglas with Integrity Permitting said the only safety standards that apply to docks and piers have to do with load requirements. For residential piers the standard is 40 psf. Bellevue has very good plans examiners and pier projects can often go through without having any engineering done, so long as all the load and span requirements are met. Even though the RGP3 requires 60 percent open space for grating, there is no residential grating on the market that meets that standard, nor any that even has 50 percent open space. The two most readily available products have 43 percent and 46 percent open space respectively. Grates utilized in residential pier settings that are not comfortable for the users will eventually just be covered by

mats and outdoor carpeting. The RGP3 is not just for new piers; it also applies to modifications to existing residential overwater structures. The RGP3 has, however, been responsible for replacing some highly impacting piers with better designs even though they exceeded 480 square feet. Eight-inch piles in deep water are not stable; the regulations should only limit the first piling closest to the shore to eight inches. If someone is making a significant improvement to an existing pier, they should not be asked to produce a critical areas report for an extra expense. He added that the only people happy with the Kirkland Shoreline Master Program are the environmentalists and the Department of Ecology.

Mr. Brian Parks, 16011 SE 16th Street, said he was told by a member of the critical areas CAC that they never addressed lake shorelines. Their work was entirely focused on streams and rivers. For staff to make the connection that the Shoreline Master Program should be built on the existing critical areas ordinance is not appropriate. The argument the public has with the science that has been presented is that it is not applicable to the shorelines. It would be good to have some science presented that is actually focused on lakes. Grating material comes in three-foot widths, so allowing walkways that are six-foot wide makes sense. Pile drivers cannot be used on Phantom Lake, so all of the docks are floating. Floating docks that are four feet wide are not very stable. Because the shoreline inclines are so gradual on Phantom Lake, it is necessary for walkways to go out a sizeable distance to reach a depth of nine feet. Combined with the floating dock width factor, up to 350 square feet is needed. A simplified permitting process would seem appropriate for Phantom Lake given that the lake does not have concerns about salmon and other species.

Answering a question asked by Commissioner Sheffels, Ms. Helland explained that the critical areas CAC was quite large. She said their focus was on critical areas, including streams, steep slopes and wetlands. However, the process of updating the critical areas code included dock and bulkhead standards which will continue to apply until the Shoreline Master Program is updated.

Continuing, Ms. Helland said arguments over science are never fruitful, and she said she has been directing her staff not to engage in those arguments. She agreed that in every instance where the staff talks about science it should be tied to a specific citation. The Commission has a free hand to rely on science, on the comments of staff, and on the observations of property owners in directing staff on how to draft the policies and regulations.

Motion to extend the meeting for an additional 15 minutes was made by Commissioner Sheffels. Second was by Commissioner Mathews and the motion carried unanimously.

Mr. Scott Sheffield, 2220 West Lake Sammamish Parkway, suggested that there is a certain level of frustration with the process itself. To date only staff has talked about docks and piers. The Commission and the public should hear from someone like David Douglas, and from homeowners as well. He agreed that ultimately there will not be unanimous agreement relative to the science. The information coming from staff is biased, and the Commission should be given the opportunity to have that information unfiltered. Ultimately the Commission will decide what approach to take.

11. NEXT PLANNING COMMISSION MEETING

A. September 8, 2010

12. ADJOURN

Commissioner Lai adjourned the meeting at 10:30 p.m.

Paul Inghram
Staff to the Planning Commission

9/15/2010
Date

Hal Ferris
Chair of the Planning Commission

9/15/2010
Date