

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

March 28, 2012  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Turner, Commissioners Ferris, Hamlin, Laing, Sheffels, Tebelius

COMMISSIONERS ABSENT: Commissioner Carlson

STAFF PRESENT: Paul Inghram, Mike Bergstrom, Department of Planning and Community Development; Carol Helland, Department of Development Services, Patrick Foran, Camron Parker, Parks and Community Services; Nav Otal, Phyllis Varner, Tony Marcum, Department of Utilities

GUEST SPEAKERS: Chair Brad Helland, Environmental Services Commission; Chair Lynne Robinson, Parks and Community Services Board;

COUNCIL LIAISON: Deputy Mayor Jennifer Robertson

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:38 p.m. by Chair Turner who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Carlson who was excused.

3. PUBLIC COMMENT

Mr. Marty Nizlek, 312 West Lake Sammamish Parkway, spoke as a member of the board of the Washington Sensible Shorelines Association (WSSA). He noted that a number of issues have yet to be resolved, including Phantom Lake and the Lake Sammamish ordinary high water mark. The WAC and the RCW allow water quantity and flood damages to be appropriately addressed. Unstable water levels trigger significant impacts to the shorelines, limiting safe access and use of the shorelines as well as the waters of the lakes. Government agencies, not shoreline property owners, retain the primary control for the effective management of such issues. A range of changes in the Shoreline Master Program as currently drafted are needed, including regulation from historic, acceptable water levels; assured maintenance of the water levels going into the future, including monitoring of appropriate measures; and policy and program support, including support of appropriate capital improvements which preserve, among other things, safe, navigable waterways on the lakes and rivers. The Shoreline Master Program regulations should not be imposed on shoreline property owners until the historic water levels are returned. If that is not feasible, at the very least repair and replacement of impacted structures in shorelines should be accommodated. There is no better place to start than on Phantom Lake.

Commissioner Sheffels noted that Mr. Nizlek had sent to the Commission a packet of information and asked if the same information had been sent to the cities of Redmond and Sammamish, and if so what they did with it. Mr. Nizlek said he had not sent the information to those jurisdictions. Commissioner Sheffels said the information might be particularly interesting to Redmond given that the Lake Sammamish outflow is in their jurisdiction.

Commissioner Tebelius asked if the city of Redmond has engaged in discussions with King County regarding lowering the water level of Lake Sammamish. Mr. Nizlek said Redmond Mayor Marchione has voiced support for immediate action and long-term correction to the problems in the transition zone. It would be fair to say that Redmond is aware of WSSA's position that the water level is affecting the ordinary high water mark.

Mr. Mike Mariano, 16341 SE 16<sup>th</sup> Street, spoke on behalf of the Phantom Lake Homeowners Association. He said the Association fully supports the positions and concerns outlined by WSSA. While on a different scale, the positions and concerns outlined are directly relevant to Phantom Lake. Issues of lake management, the artificial setting of the ordinary high water mark, the resulting inundation of the shorelines and the resulting taking of private property, water quality, and upholding prior commitments to shoreline residents are all critically important to the Association. City staff have made a concerted effort to suggest the Phantom Lake concerns should be addressed outside of the Shoreline Master Program process, but the Association takes a strong exception to that as a way of ducking responsibility for what happens in Phantom Lake. Prior studies have shown that the role of Phantom Lake in the city's storm water system has a finite and limited capacity, yet the city has continued to ignore its own conclusions. The studies show that the outlet channel was never intended to carry the volumes imposed on it. Old maps of the kettle lake clearly show it as having natural inlets and outlet creeks. With those gone, discharge of the lake water occurs generally by groundwater migration and evaporation. It is not a lake to direct polluted point source stormwater into. Utilities has frequently stated they are not concerned with flooding lawns and yards, only primary structures. As recently as February 6, the Utilities director stated that the department has no targeted lake level, yet in recommending an outflow weir design to the city, a consultant stipulated that the lake level should be no higher than 260.7, a level which the residents support. The inability of the city to set a lake level target is perplexing. There has been a persistent failure of the Eastgate land use plan to address storm flow into Phantom Lake. The Eastgate advisory committee presented to the Council the fact that there are water quality and traffic concerns, but neglected to mention the primary concern of having large, uncontrolled volumes of storm water flowing into Phantom Lake without a corresponding outflow compensation. The lake is simply over-tasked. City staff continue to pursue a failed lake management district strategy for the Phantom Lake. The same approach has been tried and has failed several times in the past. The ability of residents and the public to safely access and utilize the lake has been altered by actions beyond the control of local residents. The city should mitigate both historic and potential new impacts of development prior to the imposition of shoreline regulations solely on shoreline residents. All staff efforts to fractionalize the Shoreline Master Program process by excluding Phantom Lake issues should be halted. The Lake Management District strategy as currently defined should be taken off the table. Finally, an EIS should be required for final approval of the Eastgate plan.

Mr. Norman Baullinger, 16226 SE 24<sup>th</sup> Street, voiced concern with the Eastgate redevelopment activities. He said it appears that there has been very little coordination between the various city departments regarding activities that would impact Phantom Lake and the surrounding residential areas, including redevelopment of the Eastgate area, the Airport Park being planned by the Parks department, and the Shoreline Master Program. In order for the Eastgate development to be successful, a direct off-ramp from westbound I-90 to northbound 148<sup>th</sup> Avenue NE is needed; just improving the intersections at 156<sup>th</sup> Avenue NE and 148<sup>th</sup> Avenue NE will not take care of the problem. Redevelopment is okay provided there is sufficient mitigation,

but the current planning process for the area does not do that. The city should work with the state to get additional funding for a direct off-ramp, and if that is not possible, the city should require developers wanting to redevelop the area to fund the direct off-ramp. No redevelopment should be allowed until funding is made available to construct the off-ramp. Redevelopment in the Eastgate area has the potential to impact the surface water flows into Phantom Lake by raising water quality and flow issues; no additional water flows should be allowed into the lake. Adequate inflow and outflow and lake quality measurements are needed. All redevelopment planning should strongly discourage or prevent additional traffic coming off of I-90 from continuing northbound on 156<sup>th</sup> Avenue SE. The roadway crosses a greenbelt area that cannot support additional traffic over the peat base it is built on. As drafted, the Shoreline Master Program is not applicable to Phantom Lake as its main focus is on Lake Sammamish and Lake Washington, both of which are water bodies wholly unlike Phantom Lake. Phantom Lake should be separated from the Shoreline Master Program as it has been drafted. Phantom Lake homeowners should not have the same restrictions and regulations imposed on them.

Mr. Jerry Laken, 4847 Lakehurst Lane, spoke as a member of the Meydenbauer Yacht Club. He thanked the Commission and the staff for working closely with the Club over the last three years. He said the Club received a letter from staff on March 21 which outlined all of the issues raised by the Club and identified the resolution for each. He said the Club is pleased with the resolutions and hopes they will be incorporated into the next version of the Shoreline Master Program. Most of Bellevue's shorelines, including Meydenbauer Bay, were developed prior adoption of the state Shoreline Management Act in 1974. It was only after the Act was implemented in Bellevue through the initial Shoreline Master Program were setbacks imposed. The dimensional requirements for recreational facilities like the Meydenbauer Yacht Club call for a 50-foot setback, which will not enhance the shoreline ecology. The setback should be no more than 25 feet.

Commissioner Ferris asked about the youth sailing program offered by the Club, for which the Club has sought an exemption for expansion of the use. Mr. Laken said the program is open to all residents of Bellevue, not just Club members. He said much of the training is conducted in the yacht club building, but consideration has been given to constructing a small accessory structure underneath the overhang of the current moorage facility in which to conduct the training.

Commissioner Ferris noted that some of the parking for the Club is right up next to the edge of the water. He asked if the Club would be willing not to allow any expansion within a certain distance of the water's edge. Mr. Laken said the Club has very little room in which to expand. The code requirements could serve to limit any expansion.

Commissioner Tebelius asked if the Club disagreed with any of the responses by staff to the requests made by the Club found on pages 4, 5, 6 and 7 of the Commission packet. Mr. Laken said he had not reviewed the packet information but had no disagreement with the responses provided by staff in the March 21 letter to the Club.

Mr. Charlie Klinge, 11100 NE 8<sup>th</sup> Street, spoke representing the Meydenbauer Bay Neighbors Association. He said the implementation principles are important to the Association. Staff says the principles were developed as a result of a Council discussion to guide the implementation of certain design and operational details that are appropriately addressed at future design and permitting phases. Permitting is part of the Shoreline Master Program. Apparently the implementation principles were needed because the steering committee and the Parks and Community Services Board understood at the early planning stage that it would not be realistic or advisable to specify precise solutions for every concern. The park will be developed over many years and in multiple phases, and the implementation principles are needed to make sure

things are looked at more carefully in the future. The sixth principle requires more public involvement. With regard to having development of the park following the conditional use permit process, the staff report says requiring a shoreline conditional use permit after adoption of the park master plan would impose a redundant public process on a project the City Council has already reviewed and approved. That statement does not mesh with the principles. A conditional use permit involves a hearing before the hearing examiner and a potential appeal to the City Council. If the park department does its job, the community will be in full support, so there will be no harm in having another public hearing. The alternative of a shoreline substantial development permit has less public input, and the only option is to appeal directly to the state Shoreline Hearings Board. The conditional use permit process makes the most sense. All uses must be consistent with the park master plan. Staff holds that what they have done is good enough, but the Association does not support what the staff has done and would like the staff to sit down with them to address the issues.

Answering a question asked by Chair Turner, Mr. Klinge said the concern stated by staff is that a conditional use permit requires approval of the Department of Ecology, but that would be after approval by the hearing examiner. The fact is if staff does their job in bringing about environmental improvements, the Department of Ecology will be supportive. In any event, the Department of Ecology will be involved.

Commissioner Sheffels asked if the Association wants to see a conditional use permit required for all of the park, or just for the part that falls under the jurisdiction of the Shoreline Master Program, which would mean different processes would govern different parts of the same park. Mr. Klinge said the courts have looked at that issue and because of the criticality of the shoreline and shoreline permitting, whenever a project touches the 200 feet in which shoreline permitting is required, the approval process must look at the entire project, even if some of it is outside of the 200 feet. Accordingly, the entire project will fall within the shoreline jurisdiction.

Commissioner Tebelius asked who the applicant is in the case of a conditional use permit or a shoreline substantial development permit. Mr. Klinge said the park department would be the applicant and would submit its application to the Development Services Division for the necessary permits. The community is asking for the conditional use permit process because that would require the city to follow a different process involving more public involvement. The master plan contains details about how to do the park, but there still is the permitting issue where the Development Services Division must review the application and make sure the proposal complies with the rules.

Commissioner Tebelius asked if water quality would be better protected under a conditional use permit than under the substantial shoreline development permit. Mr. Klinge suggested there would not be much of a difference on water quality under one approach versus the other.

Commissioner Laing noted that in the use charts for the various shoreline environments a number of things require conditional use except where an adopted master plan is in place. He asked what advantage, other than taking out the public involvement process, the city might have in utilizing the substantial shoreline development permit approach over the conditional use permit approach. Mr. Klinge said he could not see any big advantage to using the substantial shoreline development permit process; it could in fact be more confusing where conditions arise for which there is no specific rule.

Commissioner Laing asked Mr. Klinge if it had ever encountered a project, especially a private project, the size and magnitude of the park project that has not been required to go through the conditional use permit. Mr. Klinge said he has never come across any such project.

Commissioner Laing said his reading of the sixth implementation principle was that the city will re-engage with the neighborhood and the greater community at each phase of any proposed buildout. He asked if utilizing the substantial shoreline development permit process would in fact be contrary to the implementation principle. Mr. Klinge said according to the implementation principle, each phase of development is supposed to include more public participation to make sure the community is happy. The substantial development permit process includes a public notice of an application but does not include a public hearing.

Commissioner Hamlin said his reading of the staff report was that there has been extensive public involvement in the park planning stage and that the public can raise issues at any step along the way. He suggested that covers everything. Mr. Klinge said a public hearing is a much different level of public involvement than a presentation before the hearing examiner.

Mr. Rondi Eganess-Home, 9320 SE Shoreland Drive, yielded her time to Ms. Anita Skoog-Neil.

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, said the Parks and Community Services Board approved the park master plan after it came out of the steering committee process, and it took them only two meetings to reach that decision. Clearly the Parks and Community Services Board was minimally involved. Mr. Klinge brought up the conditional use process in a Meydenbauer Bay Neighbors Association meeting with staff, but the staff response was no on all accounts. She said residents worked for more than three years to achieve a park master plan that would be appropriate for the very small scale of Meydenbauer Bay. Some elements of the master plan were not fully resolved as the actual development of the park and marina will occur in several phases over several years at some unknown and unfunded point in the future. The Association, the city manager, the park director, and finally the City Council in a 7-0 vote agreed on guiding principles that would facilitate reasonable application of the master plan as development proceeds. The Association has expressed to planning staff and to the Commission that there are three tweaks needed in the Shoreline Master Program to assure seamless and unambiguous processing of the master plan in keeping with the goals of environmental protection required under the Shoreline Master Program: the use charts need a footnote specific to Meydenbauer Bay and the marina; the permitting process should be the shoreline conditional use permit to ensure a higher level of environmental protection and to ensure that the community will have appropriate input; and the reference in the Shoreline Master Program should be to the Council-adopted master plan and the Council-adopted implementation principles. Implementing the fix could be as easy as adding the phrase, "Regarding Meydenbauer Park and marina, all of the above uses and development is/are subject to the Council-adopted park/marina master plan and the Council-adopted implementation principles, and must be processed through a shoreline conditional use permit." In the use chart, the Shoreline Master Program draft cites uses fully removed from consideration from park planning, uses that were never discussed, and uses that are inappropriate for the small scale of the bay, including wholesale/retail uses, retail boat sales, eating and drinking establishments, public gas docks, public sewer pump-outs, motorized boat ramps, boat storage, commercial float planes, and ferry terminals. There are some provisions that simply say if a use or expansion is identified in a Council-adopted master plan it may be permitted. The statement that the park is to be developed solely consistent with the terms of the Council-adopted master plan puts the Shoreline Master Program and the planning department in direct conflict with procedural provisions governing the park department; there needs to be consistency. In a recent presentation by Parks staff, current immediate term requirements for the city to implement a requirement of 14 stalls of transient moorage, and a requirement to remove two homes and conduct interim planning, were outlined. The reason for the actions was due to conditions under separate grant funding for the two components. A few members of the Association's executive committee recently met with Utilities staff prior to a planned public meeting regarding immediate term replacement of a section of the now in-water aging sewer line within the park/marina property. It is what is in writing that counts. There are gaps in the

current Shoreline Master Program draft that potentially create not only ambiguity but also outright conflicts with what other departments in the city are doing or are required to do. Other provisions need to be remedied, including the requirement for on-site mitigation, no development within the shoreline setback should be promoted, no public access should be required on the portion of piers leased to moorage holders, and no transportation provisions in direct conflict with the approved implementation principles should be promoted.

Mr. Aaron Dichter, 10000 Meydenbauer Way SE, spoke as president of the Meydenbauer Bay Neighbors Association, reminded the Commission that the Association is composed of at least eight condominium projects in the immediate Meydenbauer neighborhood that are home to some 1300 on-shore and off-shore residents, as well as the Meydenbauer Bay Yacht Club. He voiced support for the comments made by Mr. Klinge and Ms. Scoog-Neil. With regard to item six of the implementation principles, he stressed its importance. He said the Association has recently enjoyed excellent cooperation with city staff precisely because of implementation principle item six. The Commission should incorporate the implementation principles in its deliberations.

#### 4. APPROVAL OF AGENDA

Commissioner Laing reported that as a land use attorney he represented one of the upland property owners with respect to the moratorium the city imposed on upland properties as it began the park planning process. The shoreline regulations do not in any way implement his client's property, and furthermore there is no ongoing representation of that person. He added that because the Commission does not act in a quasi-judicial capacity, he is not actually under any obligation to disclose such relationships. He noted, however, that he made the disclosure because he believes in open government and would be happy to answer any questions.

Commissioner Ferris noted that he served on the steering committee that worked on developing a recommendation for the Meydenbauer Bay park plan. He commented that the upland area of the plan would change the way the land use and the density is allowed within the park. That has never come before the Commission. Adoption of the plan would by extension create an increased density capacity for the upland properties without direction from the Commission, which would benefit Commissioner Laing's former client and others. Commissioner Tebelius pointed out that once the attorney/client relationship is severed there is no ongoing relationship.

Chair Turner suggested addressing the Meydenbauer Bay park issue prior to discussing the Phantom Lake issues. Comprehensive Planning Manager Paul Inghram said no change to the agenda would be needed to address the issues in that order.

Motion to approve the agenda was made by Commissioner Tebelius. Second was by Commissioner Laing and the motion carried unanimously.

5. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None
6. COMMITTEE REPORTS – None
7. STAFF REPORTS – None
8. STUDY SESSION
  - A. Shoreline Master Program Update

Land Use Director Carol Helland noted that questions had been raised regarding the use charts in

20.25E.030 in the recreation chart. She clarified that when a city department stands in the position of an applicant, they must submit permits to the Development Services Department and they are then engaged as any other applicant. Both Parks and Utilities have been asked to provide feedback on the use charts, the performance criteria, and the permit process, and where inconsistencies between their processes and those of Development Services have been identified, they have been eliminated. It is true that Development Services is placed in the sometimes unenviable position of playing cop over the things other city departments do in pursuing the construction of capital projects. In many cases the Council adopts master plans, always in conjunction with a great deal of public input, and the process as outlined is intended to provide deference in those cases where the permit process would be redundant to the significant outreach and process undertaken by the Council in adopting a master plan. Where a master plan is not involved, a conditional use permit would be required, along with a robust permitting process. It would not be appropriate for Development Services staff to impose additional conditions on a project already approved by the Council.

Ms. Helland provided the Commissioners with copies of the materials sent to the Meydenbauer Yacht Club regarding changes to the code to address their concerns.

Comprehensive Planning Manager noted that at the previous meeting on March 14, the Planning Commission asked to invite a representative of the Parks and Community Services Board to review the Meydenbauer Bay park plan and a representative from the Environmental Services Commission to discuss Phantom Lake issues. Mr. Inghram introduced Parks and Community Services Board Chair Lynne Robinson.

Ms. Robinson said there are over a dozen Bellevue parks that are within the shoreline jurisdiction. With regard specifically to the Meydenbauer Bay park, she said parks and recreation activities have existed in Meydenbauer Bay for more than a hundred years. The current vision for the Meydenbauer Bay park has been in existence for at least 30 years and has always included the grand vision for how to connect downtown to the waterfront. In 2007 the city had acquired enough property to begin a master planning process, which has been and will continue to be an extraordinary process for public engagement; it has occurred over the course of four years at a cost of \$1.5 million. The process included a steering committee appointed by the mayor comprised of 13 Bellevue residents, including representatives from boards and commissions, local business owners, residents from inside and outside the Meydenbauer Bay area, a boat owner, and a former Councilmember. The steering committee conducted 21 public meetings, six public workshops or open houses, and two public hearings, and its final report was transmitted by the Council to the Parks and Community Services Board.

Ms. Robinson allowed that issues regarding the plan continue to be raised. She said she has personally spoken with many people in Bellevue, including business owners along old Main Street, condominium residents in the Meydenbauer Bay area, boat owners, and residents of the surrounding areas. The Parks and Community Services Board devoted ten meetings and hosted one public hearing before recommending the master plan to the Council. The Council has been and will continue to be highly involved. The plan was discussed with the Council at 17 public meetings and two public hearings before it was unanimously adopted in 2010. At the time of adoption, the Council added a set of implementation principles that commit the city to additional community outreach at every phase of the project to address specific issues.

Ms. Robinson voiced concern over making changes to the Shoreline Master Program that would shift the decision making away from the Council and the community to shoreline code regulators and hearing examiners. She said she is confident that the decision making structure as outlined in the master plan and implementation principles is the best way to make future decisions about what should be built at the park. It allows for making the decisions locally at every phase of the

project in collaboration with the community.

The Parks and Community Services Board will continue to track the Shoreline Master Program process and will be interested to understand how a new Shoreline Master Program may impact park planning or public access at the Meydenbauer Bay park or any other waterfront park in Bellevue.

Answering a question asked by Chair Turner, Senior Planner Camron Parker said the Council directed through the implementation principles that there be public outreach for each of the five phases of park development. That directive is already being carried out irrespective of the Shoreline Master Program. The regulatory conditional use permit process and preparing for the hearing examiner process would move things into more of a judicial environment and limit the degree to which the Council can engage in the process. Outside of the regulatory process, public outreach can be structured in a more collaborative manner, giving the city more control over how to design the cooperative planning process for each phase.

Commissioner Laing asked what would be the appropriate way to incorporate the implementation principles into the Shoreline Master Program. Ms. Robinson said the implementation principles guide the parks plan more than the Shoreline Master Program should. They cover all of the issues the public has or can raise and results in more of a public process while allowing the Council to make the final decisions.

Commissioner Laing asked if the implementation principles have any regulatory effect outside of the Shoreline Master Program. Mr. Parker said the implementation principles were resolved by the Council and therefore they will be carried out. Commissioner Laing asked why there should be any aversion to putting them in the Shoreline Master Program. Ms. Robinson said if included in the Shoreline Master Program, any changes to them directed down the road by the public will be required to go through the quasi-judicial process, and the ultimate decision will be made by the hearing examiner rather than by the Council. The public would have only one opportunity to weigh in rather than a number of times through a collaborative process.

Commissioner Laing asked who would make the final decision on a shoreline substantial development permit as opposed to a conditional use permit. Ms. Helland said the shoreline substantial development permit process is administered by Development Services. The review process includes making sure that permits submitted are consistent with the master development plan. Development Services will not, however, be administering the public process; the Council, the Parks and Community Services Board and the Parks department staff would handle that element as directed and funded by the Council. The conditional use process is more in-depth and ultimately has to be approved by the Department of Ecology. Incorporating the implementation principles into the Shoreline Master Program would require a shoreline code amendment in order to amend the plan in any way, which is inflexible given that community outreach can generate new and excellent ideas for the Council to review and approve.

Commissioner Laing said it was his understanding that if SSDP as opposed to a CUP process were adopted, the permitting process would involve Parks staff submitting permits to Development Services. Public notices would go out to residents within a certain proximity to the park. If the Council has the money and the inclination to engage in a public process, principal stakeholders will be invited to participate. Ultimately under the shoreline substantial development permit process, the staff would make the final decision as to whether or not to approve and issue the permit. At that point if someone in the community were to find out that what was approved is not consistent with the Meydenbauer Bay park plan, they could file an appeal to the Shoreline Hearings Board.

Ms. Robinson pointed out that all of the meetings regarding the Meydenbauer Bay park have been very well attended, and said she was confident that the Meydenbauer Bay community will always be concerned about what is going on in their community and will always have a platform in which to express their concerns. There is absolutely no indication that the park is going to stray from the adopted Meydenbauer Bay park master plan.

Commissioner Ferris noted that he served as a member of the steering committee representing the Planning Commission and commented that the park plan allows for restaurant and commercial uses in the area east of 100<sup>th</sup> Avenue NE. A portion of the area is publicly owned, but most of it is privately owned. The park master plan outlines a vision for how a public/private partnership might result in a beneficial development for the entire community. He said based on the input offered earlier in the meeting it appeared to him the community wants to exclude any retail or commercial uses from all areas covered by the park plan, but that is not what was approved by the steering committee or adopted by the City Council. The Commission, however, has not been fully informed with regard to what is in the park plan and it is therefore problematic to adopt implementation principles into a plan about which the Commission is unfamiliar.

Ms. Robinson said a restaurant use in the park was considered by the steering committee and was ultimately rejected. She also referred to the viewing pier, about which there has been so much controversy, is what enables the park to be classified as an age-friendly design. Anyone with any mobility will be able to access the entire park in an equal way.

Parks and Community Services Director Patrick Foran offered to come before the Commission to provide a full briefing on exactly what the park plan includes and how it relates to the current draft of the Shoreline Master Program. There are reasons why the language has been drafted as is.

Answering a question asked by Commissioner Tebelius, Ms. Robinson said creating a quasi-judicial process will involve the public less, not more. Diverging from the master plan without the approval of the Council will not be possible.

Commissioner Tebelius said the Commission does not need to have a full understanding of every detail of the Meydenbauer Bay park plan in order to reach decisions regarding process. She asked if the substantial development permit is provided for under the present park plan. Mr. Foran said that indeed is the permit route. Commissioner Tebelius commented that the Meydenbauer Neighborhood Association was recommending a stricter permit process, namely the conditional use permit. Mr. Foran agreed that that opinion had been voiced. He said the draft language for the Shoreline Master Program states that for park development on the waterfront within the jurisdiction of the Shoreline Master Program the permitting process is a conditional use permit, unless there has been a process undertaken that has resulted in a Council-approved master plan. All of the city's parks are subject to the conditional use permit process. The master plan process involves a great deal of public outreach as well as review by the Parks and Community Services Board and the City Council, and a Council-adopted master plan can be deemed to be an approval of the proposed use. To go back through the conditional use process would be redundant. The master plan process is far more extensive and restrictive, and involves the public far more, than any official jurisdictional processes.

Commissioner Tebelius asked what would be the harm of requiring the conditional use permit process even where a master plan has been approved. Mr. Foran pointed out that the Parks department, and by extension the public, is the largest property owner of waterfront property in Bellevue. No property owner wants to see redundant regulatory processes imposed, especially where no value is added to what has already transpired under a full public involvement process. Commissioner Tebelius pointed out that the very citizens who in fact own the land entrusted to

the city have asked for the conditional use permit process.

Ms. Robinson clarified that those citizens who are asking for the conditional use permit process are not the only citizens in Bellevue who are interested in the park. The process involves a decision by the hearing examiner, who is required to be objective and from outside the city. It is offensive to think someone who does not even care about the city would be asked to make the final decision. That would take things completely out of the hands of the public. Mr. Foran said the decision of the hearing examiner can be appealed, and the appeal goes through the City Council. In hearing appeals, the Council plays a quasi-judicial role and is very limited in its ability to interact with the public regarding the appeal, or to come up with any sort of different opinion.

Commissioner Laing asked what the objection would be to adding an express reference to the implementation principles to the Shoreline Master Program. Ms. Robinson said the Council adopted the master plan with the provision that the implementation principles be included. As such the implementation principles are in fact part of the park master plan.

Senior Planner Mike Bergstrom said he served as one of the project managers for the Meydenbauer Bay Park planning process. He said the master plan adopted by the Council by resolution specifically contains the implementation principles. Regardless of the type of permit involved, to include language in the Shoreline Master Program stating that development or permitting activity must comply with the master plan is to say that the implementation principles must be followed as well. The implementation principles are included as a numbered section of the plan, and to call them out specifically would beg the question of why some other section of the plan should not be specifically called out as well.

Mr. Aaron Dichter, president of the Meydenbauer Bay Neighborhood Association, intervened in the Commission's discussion and stated that the implementation principles are buried on page 96 of the park master plan document. He said the people in the Parks department he originally dealt with did not even know of their existence. Once they discovered them, they became extremely cooperative.

Chair Turner closed the discussion on the topic. The Commission thanked Ms. Robinson for attending the Planning Commission meeting.

Comprehensive Planning Manager Paul Inghram introduced Environmental Services Commission Chair Brad Helland. Nav OtaI introduced herself as the director of the Utilities department.

Mr. Helland said the seven-member commission advises the Council regarding water, wastewater, solid waste, and storm and surface water programs. With regard to water quality and quantity issues associated with Phantom Lake, he said the commission is the appropriate place for citizens to voice their concerns and receive feedback and direction.

Mr. Helland distributed to the Commissioners copies of the stormwater management system guide and noted that the document offers a high-level overview of the stormwater management process followed in the city. He added that it discusses the history of stormwater management in the city and the complexity of the system, but stressed that it is not to be considered a master index of everything there is to know about stormwater in Bellevue.

Phantom Lake is one of 26 drainage basins in the city and is relatively small. The surrounding property boundaries extend out into the lake; all of the Phantom Lake aquatic is private property with the exception of the parcels owned by the Parks department. By contrast there are only a

few property boundaries that extend out into Lake Sammamish or Lake Washington.

Phantom Lake is different in several ways from both Lake Washington and Lake Sammamish. In addition to being a private lake with private access, it is a peat bottom lake and is very shallow. It has no publicly controlled outlet; Lake Washington has locks and Lake Sammamish can be managed through the Sammamish Slough. At issue is drainage law under which every property owner has the right to develop their property within certain constraints, and under which downstream property owners are obligated to conceive and convey stormwater runoff that historically has drained toward their properties. It is not within the purview of the city to redirect flows away from historic courses; to do so entails complying with some very extensive permitting requirements, including federal permits.

The city through the Utilities department manages surface water within the right-of-way and on properties it either owns or for which it has easements. Utilities is legally constrained from spending utility ratepayer funds on private property or for the specific benefit of a small group of individuals.

Mr. Helland said lake management districts were established by the state for public and private lake area property owners who have a common interest in improving the water quality or other enhancements. There are at least 16 active lake management districts in Western Washington. Lake Management Districts can be any size, for example, lakefront property owners only or entire basins with a fee structure determined by members based on what they wish to accomplish. The city's policy, at the direction of the Council, states that the Utilities department is to take a lead role in lake management for water quality and flood control purposes only. It is also city policy to take maximum advantage of outside funding sources such as grants and financial cooperation from benefited lake property owners. The Council affirmed by resolution the lake management policy in 1995. Specifically regarding Phantom Lake, all future city funding of additional watershed studies and projects are to be contingent on the implementation of a lake management district in which the city will participate as a partner along with other stakeholders in the watershed.

Between 1985 and 1993 approximately \$2.1 million, primarily from grants, were spent on Phantom Lake and Larson Lake projects in response to resident concerns regarding water quality and water quantity. Between 1994 and 1996 a watershed committee formed by Council identified \$1.4 million in additional activities that could be funded through a lake management district. Lakeshore property owners were active participants on the committee. The assertion that the process failed is true in that the committee itself decided not to take the issue to the ballot because the members did not think it would pass. It was his observation that it failed because it was too big and there were too many people involved, and that not enough of the non-lakefront property owners saw a benefit from it.

Mr. Helland said there have been some ongoing annual costs associated with operating and maintaining the capital improvements constructed between 1985 and 1993. Utilities Director Nav Otal said those costs have been on the order of \$25,000 to \$50,000 per year.

Commissioner Sheffels asked if the capital projects proved successful and if ongoing maintenance or upgrades were planned at the time the project was constructed. Ms. Otal said the project achieved the intended water quality benefit. The project was entirely paid for using grant dollars. The ongoing obligation was focused on maintenance of the weir and the aerator for water quality purposes; the aerator is no longer functional.

Commissioner Sheffels said what the Commission has been told by Phantom Lake property owners is that the weir, its height and how it is maintained, is the defining issue. She asked if the

weir project was constructed incorrectly or if it is simply not functioning properly. Ms. Otal said Utilities department engineers have held meetings with the representatives of the Phantom Lake property owners and explained that the weir was constructed and is functioning exactly as it was designed. The weir is a water quality feature intended to maintain the hydrostatic pressure. The main problem with Phantom Lake is the peat bottom, which is a phosphorus rich environment. The weir was designed to keep the phosphorus from the wetlands from coming into the lake. The weir is operational for only a short period of time each year; it is only for a short window in the spring, and the channel is completely dry in the summer months.

Commissioner Hamlin asked about the aerator and was told by Ms. Otal that the idea behind the aerator was to introduce oxygen to the lake environment. In the original design, the aerator was supposed to be on the surface of the lake, but because the public did not want it on the surface it was immersed. As a result, the aerator did not provide its intended benefit and at the request of the Phantom Lake homeowners its operation was discontinued. The aerator is still in place because it would be very costly to remove, but it is no longer functioning.

Commissioner Tebelius said the Phantom Lake property owners who have lived on the lake for a long time have seen the lake level slowly rise over the years; where it was previously not even close to their homes, now it is much closer and it is causing the death of trees along the shorelines. The Phantom Lake residents believe that simply allowing the lake level to continue rising will mean real problems for them. They want the lake included in the Shoreline Master Program. There is good evidence that upland development is causing water to flow down into Phantom Lake. It would seem that the only way to reduce the lake level and maintain a reasonable water level is to provide a way for the water to get out of the lake. The city maintains that actions of that sort should be done through a lake management district, but the property owners believe the problem, which is water flowing into the lake from uphill developments, should be resolved by the City.

Mr. Helland said lakeshore property owners, including those along Phantom Lake, pay less in stormwater rates than other ratepayers due to the fact that their properties drain directly into a receiving water body. A sediment removal project was undertaken in Pond A, a stormwater water quality and detention facility, just upstream of Phantom Lake. The project was completed in September 2011 with approximately 1000 cubic yards of sediment removed at a cost of close to \$200,000. In response to concerns voiced by residents about water quality, a thorough source control investigation was completed upstream of Pond A to determine if there were any source pollutants entering the stormwater system; only minor housekeeping issues were identified and were covered under the existing NPDES permit. Also in response to residents' concerns, the city hired a consultant to determine whether Eastgate Landfill pollutants were entering the drainage system or groundwater table and having a negative impact on Phantom Lake. The consultant found no evidence of contamination of Phantom Lake from the landfill. In addition, in response to recent concerns, a grant obtained from the King Conservation District was used to conduct a one-time clean out of the outlet channel to Phantom Lake to address the lake level concerns; the outfall channel is entirely on private property.

Mr. Helland said the outreach plan for all of the above Phantom Lake projects included periodic mailings throughout the summer as key milestones were met. There were biweekly meetings with Phantom Lake Homeowners Association members to keep them informed and to share information.

Consistent with city policy, future work above and beyond the services the city already provides will be dependent on residents forming a lake management district. The city has repeatedly shared this direction with the Phantom Lake homeowners. Because the city is a property owner on the lake, it would contribute funding and be a willing and active participant in a lake

management district.

The Environmental Services Commission has reviewed the concerns voiced by the Phantom Lake property owners, and has also reviewed the applicable city policies. The Environmental Services Commission agrees with the City Council's direction and staff recommendation relative to the formation of a lake management district to address ongoing concerns.

Mr. Helland said there is evidence that increased runoff is occurring into Phantom Lake. One issue is the equity issue with drainage law in the area. So long as upstream projects met code when they were constructed, the drainage conveyed cannot be challenged. That may not be fair, but it is the law.

Chair Turner said the situation is that the Phantom Lake property owners and the city are at odds regarding the formation of a lake management district; the citizens believe there have been things done to artificially create the problem, that the problem is not of their making, and that they should not have to put time, effort and money into effecting a solution. The rising lake level is consuming more and more of the lakefront homeowners' property.

Ms. Otal said water always flows downhill, and Phantom Lake lies in a bowl, so water has always been flowing into it. Every property has a right to develop, including those at the base of the lake and those upstream; water from all of those developments flows into the lake. There has been no water that has been redirected into the lake; the water flowing into the lake is the result of natural action. The city exercises water quality and water quantity control through its regulations. All development is constrained through those regulations. The core mission of both the Utilities department and the Environmental Services Commission is caring for the environment and to protect all property. Under the NPDES permit, as redevelopment and new development occurs, even more constraints are imposed relative to detention and water quality controls. The residential development that happened in the basin had no requirement for onsite detention, but all of the upstream commercial development did. Pond A is a water detention and water quality facility; it basically cleans the water that goes into Phantom Lake.

Ms. Otal said more than half of the city's storm system is privately owned. The system includes streams that run through backyards and city parks, and the system is maintained and upgraded by the ratepayers, which includes the city. The level of service the Phantom Lake homeowners are asking for cannot be supported by the rates, and the city is legally restricted in how it can use rate revenues for one group of customers. That is why local improvement districts, special benefit districts, and lake management districts get formed. She said she worked hard in 2011 to obtain a grant of funds from the Council that were used to get the private channel and the private culvert cleaned. In making the grant, the Council made it clear that any ongoing commitments would need to be from the property owners. It has been estimated that controlling the lake level will require \$25,000 to \$30,000 every seven to eight years; that calculates out to \$50 per year for each lakeside property owner, which would mean \$1000 annually for the city because of the property it owns on the lake. The Environmental Services Commission has oversight of the Utilities operating budget and recommends utility rates to the Council. The Phantom Lake issue is a budget and rates issue, under the purview of the Environmental Services Commission, not a Shoreline Master Program issue.

Commissioner Ferris agreed that no additional waters are being directed into Phantom Lake, but with all the upland development the water seems to be finding its way into the lake much quicker than it would otherwise, and that is why the water level rises quickly and then drains back down. The lake is in effect acting as a drainage basin for the area. He asked if the regulations that have been put in place for detention and retention over the past ten years will over time reduce the rate of flow to the Phantom Lake basin. Ms. Otal said the greatest environmental benefit will come

from the NPDES permit as development and redevelopment occurs under those new regulations, including residential.

Commissioner Ferris said he had not previously understood that the peat bottom is a major generator of the phosphorus that is in the lake. Phosphorus also flows into the lake as a constituent of the stormwater runoff from the developed basin, and some properties around Phantom Lake are still on septic systems, which could also be contributing to the phosphorus problem. Ms. Otal said runoff is not a major source of phosphorus, and said the degree to which the septic fields are contributing to the lake is unknown. The primary source of phosphorus in Phantom Lake is the lake bottom itself.

NPDES permit manager Phyllis Varner said lake bottom peat soils contribute 57 percent of the phosphorus loading. The wetland area adjacent to the lake contributes 21 percent, the lake watershed, excluding the inlet at the Phantom Swim Club, contributes 11 percent, the inlet that discharges into the lake near the swim club is seven percent, and groundwater from residential development contributes five percent.

Commissioner Sheffels said the Commission has heard testimony about the outlet being on private property and that the owner of that property has been reluctant to permit maintenance of the outlet. She asked if a lake management district would solve that problem by being able to compel the property owner to allow work to be done to maintain the outlet. Ms. Otal said she did not know just how that would play out. The city sought and obtained permission from the private property owner to clean out the channel and culvert. Commissioner Sheffels asked what a lake management district would do if it could not address that critical issue. Ms. Otal said the district could take over the responsibility of the maintenance work for the homeowners. Commissioner Sheffels countered that absent being granted the authority to keep the outlet channel maintained, the benefits of a district would be greatly obviated.

Chair Turner asked if the Phantom Lake property owners can have any say with regard to inflows and outflows given the fact that the lake is entirely privately owned. Ms. Otal said the property owners are obligated to accept the water that flows downhill into the lake, and they are obligated to convey the waters to the next downhill property. Chair Turner said the testimony has been that water is flowing into the lake at a much faster rate than it has in the past, and that the weir is keeping the water from flowing right back out. The result is the lake fills up quickly but drains out slowly, flooding properties in the meantime. Ms. Otal said the weir is not the problem. The bottleneck is the culvert that flows under a private road. If the weir were to be removed, the water quality issues the weir was designed to address will arise once more, and the yards around the weir would flood.

Commissioner Laing said a weir is a lake level control device. As the water level exceeds the height of the weir, it flows over it and out of the lake. Removing the weir would take away the thing that maintains the level of the lake, assuming the inflow does not exceed the capacity of the outflow. Because the culvert has a set diameter, it can only handle so much water, and it is also the problem. There are technical issues at stake that are not Shoreline Master Program issues. The issue is how the ordinary high water mark is defined in the Shoreline Master Program based on lake levels that occur naturally. However, it appears that the changes in water level in Phantom Lake are not occurring naturally, rather it is upstream development driven. Ms. Otal said that is not what the science is saying. Phantom Lake has never had an ordinary high water mark established for it. Utilities has the lake level history for 2000 to 2010 and only once during that decade did the lake level rise above the flood plain established for the lake. The data does not support the notion that the properties around Phantom Lake have suddenly become bogs.

Commissioner Laing said the property owners around the lake clearly believe something is going

on, particularly increasing inundation. The likely cause is development, especially residential development that has not been required to detain stormwater onsite and release it in a controlled manner. One would expect the lake level to rise during heavy rainstorms, but one would also expect it to fall back down to the level of the weir in time. Ms. Otal said there is no big stream flowing into the lake. The runoff comes from all around the basin, including groundwater recharge.

Mr. Helland said if it were taken as a given that there is more flooding occurring that has occurred in years past, the issue would be whether there are any developments not constructed to code that are the cause. In the absence of a code infraction, the responsibility lies with the property owners to convey the flow. While that may in fact be unfair, it is the law. One way for the city to help the Phantom Lake property owners is by participating in a lake management district to help fund the necessary operating and maintenance costs to maintain lake levels.

Commissioner Laing asked if anything changed for the better following the cleaning of Pond A and the maintenance done on the outlet channel. Ms. Otal said she did not have any data in that regard. Mr. Helland added that the one thousand yards of sediment removed from Pond A is a very small amount compared to the surface area of the lake; even if there were a one-to-one relationship, which there is not, it would be unlikely to trigger a noticeable difference.

Commissioner Tebelius suggested that both sides in the argument have valid points. She suggested that there has to be a solution. She asked if the Commission could ask the Council to bring in a mediator to seek a solution everyone can agree to. Deputy Mayor Robertson approached the Commission and said she personally has been involved in looking into the issue both with staff and with Phantom Lake property owners. She said she referred the Phantom Lake Homeowners Association to mediation about a year and a half ago. The Council discussed Phantom Lake about a month ago and directed the City Manager to find some forum in which to address the issues.

Commissioner Ferris said the Commission is free to forward to the Council a recommendation urging mediation or some other approach aimed at getting to a reasonable solution. That can be done even if Phantom Lake does not fall within the jurisdiction of the Shoreline Master Program.

Ms. Otal offered to get the Parks department involved as owners of property along the Phantom Lake shoreline. She allowed that Utilities is very restricted in what it can do as a storm utility. She agreed that mediation could be a good approach.

The Commission thanked Mr. Helland for attending the Planning Commission meeting.

**\*\*BREAK\*\***

There was agreement to hold continued detailed discussions of both Meydenbauer Bay and Phantom Lake for a future Commission meeting.

Commissioner Tebelius and Commissioner Ferris discussed whether the Commission should be provided with a presentation of the Meydenbauer Bay park plan and the proposed uses it includes. She said she also would like to hear from those in the community who would be affected. The process will be better served by having more citizens involved. Beyond the use issue the Commission still must address the issue of which process to use, and the issue of the ordinary high water mark.

Ms. Helland said the code issues previously identified by the Commission that are not yet

resolved include the land use and use charts, specifically those involving Meydenbauer Bay park. The issues raised by the Meydenbauer Bay Yacht Club appear to have been resolved to everyone's satisfaction. Other issues yet to be resolved include Phantom Lake, the ordinary high water mark, and maintenance of the weir in Lake Sammamish slough.

There was consensus agreement to direct staff to include in the draft language those items agreed to with the Meydenbauer Bay Yacht Club.

Commissioner Ferris asked if some leniency should be given for accessory uses allowing the Club to construct more than 200 square feet or an overwater structure to accommodate a youth sailing program, provided once constructed there would be no repurposing of the structure. Ms. Helland said a nexus could be created.

Commissioner Ferris reiterated that before diving into the uses associated with the Meydenbauer Bay park plan, the details of the plan should be shared with the Commission. The master plan has already been adopted by the Council and the Commission is not charged with changing it, and whatever is in the master plan is what should be incorporated in the Shoreline Master Program.

Commissioner Laing said if there are uses contemplated in the adopted park plan, it would be problematic for the Commission to suggest imposing limitations through the Shoreline Master Program that would essentially prohibit uses the Council has specifically allowed. Process is not the same as substance, however, so determining which process to follow would be appropriate.

Commissioner Tebelius asked if staff had any objection to including a footnote in the use charts referring to the master plan. Ms. Helland pointed out that the footnote already exists in the draft. It states that parks require conditional use permits unless they have gone through a Council-approved master plan. There is a separate footnote for Meydenbauer Beach Park that requires consistency with the approved master plan. The implementation principles could be added to the Shoreline Master Program, but referencing the master plan in the Shoreline Master Program already includes the implementation principles, which are part and parcel of the master plan. Including the implementation principles in the Shoreline Master Program would make it more difficult for the Council to change them because of the Ecology approval process involved in amending the Shoreline Master Program.

Mr. Inghram suggested that if the Commission intends to defer to the Council relative to the uses the Council has said are appropriate for the master plan, the only question to be addressed is whether the process should be conditional use permit or not.

Commissioner Laing noted that there are different environments within the confines of the Meydenbauer Bay park master plan. The wholesale and retail uses shown would be allowed as accessory uses to a public or private marina or a city park. If they were not in a master plan, which is referred to in the footnote on the recreation chart, there could be an inconsistency.

Chair Turner asked if Meydenbauer Bay could simply be made an exception in the Shoreline Master Program. Ms. Helland said that is essentially what has been done in the code by calling it out specifically in the footnote. The code is broad and applies to all uses. The Council-adopted master plan ratchets those uses down relative to Meydenbauer Bay park.

Mr. Inghram said staff could take the other use chart tables and modify the language to make it clear that the master plan applies to all shoreline environments. Ms. Helland said that would be inconsistent with the way the code was drafted, but if the Commission feels that would be clearer staff can add a footnote to every chart.

Commissioner Laing said zoning is to be strictly construed in favor of the free use of property. Where the use charts are written to make it appear as though something is outright permitted, but through a footnote that same something is not in fact permitted, the argument could be made that the absence of the making the use prohibited in the park plan would conflict with the fact that the use is outright permitted in the use chart. Adding footnote 3 to the other tables would resolve the conflict.

There was agreement to include the footnote on all of the use charts. As a result, it was agreed the Commission would not need a briefing from Parks regarding the uses allowed in the park under the master plan.

With regard to the conditional use permit process, Commissioner Ferris asked if the approved park master plan would serve as the baseline against which modifications to the approved plan would be measured. Mr. Inghram said the process selected will apply to all new development within the existing park. Commissioner Ferris pointed out that the park master plan essentially backdoors a rezone of the upland properties. The park plan converts those properties to an FAR calculation, which was done intentionally to give them more density than can be achieved under the current zoning. That upzone did not go through the normal process to revise the Land Use Code. Ms. Helland said the shoreline overlay only applies to the first 200 feet upland of the shoreline. There still would be an issue with what is on the other side of the property and any Land Use Code changes that might be necessary to support the non-shoreline portion of the plan. The master plan cannot supersede the Land Use Code; the master plan can restrict the Land Use Code, but it cannot expand it.

8. OTHER BUSINESS – None

9. PUBLIC COMMENT

Mr. Jerry Laken, 4847 Lakehurst Lane, clarified that the Meydenbauer Bay Yacht Club does not agree with the verbiage in the material relative to the Club. The list of issues is not complete, and the resolution of the issues are not included. However, the information provided to the Commission by Ms. Helland does include all of the issues and a resolution for each. He reported that the Club is in agreement with the staff. He stressed that the Club favors retaining the structural setback at 25 feet rather than expanding it to 50 feet.

Mr. Charlie Klinge, 11100 NE 8<sup>th</sup> Street, stressed that the park master plan has not been approved and remains a conceptual plan. The details are yet to be worked out. The Council has not handed down a directive with specific plans for the park to be constructed. If the Council had in fact been specific, a short and simple permit process would make more sense. Under the circumstances, the conditional use permit process is the preferred option. With regard to Phantom Lake, he noted that the residents who listened to the presentation by staff were distressed because of all the misstatements that were made. It is the residents who really know what is going on. Phantom Lake was a natural lake in 1971 but now it is a mess. A way must be found as a requirement of the Shoreline Master Program to restore the lake to improved conditions. Mediation or something like it needs to happen, but not with the Commission refereeing it.

Ms. Jill Marr, 16604 SE 17<sup>th</sup> Place, agreed that the statements made by staff during the presentation were incorrect. There is a large uncontrolled volume of stormwater entering Phantom Lake without a corresponding outflow capacity. The lake level should not be allowed to exceed 260.7 feet. If Utilities is not responsible for flooding the natural habitat of Phantom Lake, steps should be taken to determine who is. The lake management district approach is not

supported by the property owners because the problem is excess stormwater runoff into the lake. The homeowners did not create the problem. There is a holding pond that does not have any water in it. The city built a berm on the other side, but no one knows why; it was probably because of flooding on the roadway, but it was not done at the request of the homeowners. An independent study done showed an increase in metals coming out of Pond A. In 1980 there was a concomitant agreement for the I-90 Business Park which states that the city must mitigate any adverse impacts resulting from the rezone as per RCW 43.21C; that has not been upheld. The Commission should act to protect Phantom Lake.

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, stated that the staff report contained a number of inaccuracies. She said the Commission did not mean that legally established structures would not be automatically nonconforming. The staff report also says it has been decided that for an expanded dock there would be a limitation of 480 square feet, but the Commission actually said for new or expanded docks the limit would be whatever the Corps of Engineers would approve. With regard to Meydenbauer Bay park, she agreed that each chart needs footnote 3, though it should read "Regarding Meydenbauer Bay park and marina, all above uses and development is subject to the Council-adopted park/marina master plan and Council-adopted implementation principles and must be processed through a shoreline conditional use permit." During the steering committee process, a four-month hiatus was called for by the park director. Prior to the hiatus the committee was not in agreement, but following the hiatus there was consensus as to what the park master plan should contain. That sort of activity is why the citizens want to see the implementation principles specifically references, and why the shoreline conditional use permit should be the process.

Mr. Mike Mariano, 16341 SE 16<sup>th</sup> Street, said Jill Marr has taken the brunt for a lot of the activity on Phantom Lake. He said she and her husband are the ones who entered into the agreement with the city that provides for the weir. Some very large trees have toppled over in their yard, they have seen the crawl space of their home completely flooded, and some cracks in their structure have been created. He apologized for walking out during the staff presentation, which he said was due to some of the comments that were made, both in terms of context and fact. The residents are rightly skeptical. The city has acted against the citizens so often that they view the lake management district concept with a wary eye. The resolution referenced in the staff presentation was taken completely out of context in that it referred to a basin-wide management district, not a shoreline management district. There have been artificial alterations to the system. Upstream development and redevelopment has intensified and the result has been increased runoff into the lake. Both 148<sup>th</sup> Avenue SE and 156<sup>th</sup> Avenue SE used to flood on a regular basis; the berm was put in to stop that from happening and it has been successful, but all the water is being trapped in Phantom Lake. The lake is being used as a detention pond. A solution can be found if all parties can sit down and talk facts and not just rhetoric.

Mr. Aaron Dichter, 10000 Meydenbauer Way SE, congratulated the Commission for allowing for some dialog with the public. The Meydenbauer Bay park steering committee process was arrogant to the point of embarrassment. The park plan came from consultants and staff, and the public input was totally ignored.

## 10. APPROVAL OF MINUTES

### A. January 11, 2012

There was agreement to approve the minutes at the next Commission meeting.

11. NEXT PLANNING COMMISSION MEETING

A. April 11, 2012

12. ADJOURN

Chair Turner adjourned the meeting at 10:32 p.m.



Paul Inghram  
Staff to the Planning Commission

6/22/2012  
Date



Kevin Turner  
Chair of the Planning Commission

6/22/2012  
Date

