CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
ANNUAL RETREAT MINUTES

October 12, 2011
6:00 p.m.

Bellevue Botanical Gardens
12001 Main Street, Bellevue, WA

COMMISSIONERS PRESENT:	Chair Turner, Commissioners Carlson, Ferris, Hamlin, Himebaugh, Sheffels, Tebelius
COMMISSIONERS ABSENT:	None
STAFF PRESENT:	Paul Inghram, Dan Stroh, Department of Planning and Community Development; Carol Helland, Mike Brennan, Development Services Department
OTHERS PRESENT:	Mayor Don Davidson, Councilmember Kevin Wallace
RECORDING SECRETARY:	Gerry Lindsay

1. WELCOME AND INTRODCUTION

The meeting began at 6:20 p.m. with Chair Turner presiding. He welcomed the Commission members, all of whom were present, as well as the staff, Mayor Davidson and Councilmember Wallace.

2. PAST YEAR'S ACCOMPLISHMENTS

Chair Turner allowed that the Shoreline Master Program update was the main issue on the Commission's plate over the last year. He said the feedback received from the public was not as supportive as some may have hoped, but it should be used to drive the process in a direction that will be more acceptable to the public. Other items worked on by the Commission include Land Use Code amendments for the Camp and Conference Center, FEMA, the performing arts center in the downtown, electric vehicle infrastructure, restrictions on heliports in the city, nonconforming single family lots and building height, and Enatai tree preservation, the 130th Avenue NE light rail station planning, and several cleanup items. The Commission also addressed the Comprehensive Plan amendment relating to the Ren-Fu site.

3. COUNCIL REMARKS

Mayor Davidson said he was present primarily to listen and learn. He informed the Commissioners that he serves as chair of the WRIA-8 Salmon Recovery Council and as such has a thorough background on salmon. He said he has been asked many times by those with interests in the lakes about the progress being made by Bellevue in updating its Shoreline Master Program. Bellevue is not the only jurisdiction that has not yet completed its update work. He said he appreciates the work of the Commission and asked the Commissioners to continue to work on it until it has a product ready for the Council.

Mayor Davidson said the work done by the city's various boards and commissions is integral to the overall functioning of the city. Where other governments work through subcommittees, Bellevue has chosen to utilize its boards and commissions to do the work of developing proposals for the full Council to review and act on. The Council highly values the

recommendations it receives from the boards and commissions and depends on them in making its decisions.

Councilmember Wallace said he also appreciates the work of the Commission. The Commission has had some very important and difficult issues on its plate over the past year and will again in the coming year. The Shoreline Master Program certainly is a complicated issue for which the Commission will need to find the right balance.

The challenges the Commission will face in 2012 include reviewing the recommendations of the Eastgate/I-90 study CAC, downtown rezoning actions, and completing the transportation plan and incorporating the transit plan.

Mayor Davidson said he remembered back to the work done in developing the critical areas ordinance. He said many of the same concerns were raised then as are being raised now with regard to the Shoreline Master Program. The intent at the time was to immediately follow up the critical areas work with an update of the Shoreline Master Program, but of course that did not happen. He allowed that it is always difficult to develop environmental programs that will apply to built environments.

Commissioner Ferris said the critical areas ordinance was completed in 2006 and the Shoreline Master Program update work was not begun until 2008. When the study was initiated, it was informed by guiding principles handed down by the Council that essentially directed that the update work should pick up where the critical areas work left off. The effort was supposed to focus on shoreline restoration, public access, and use changes. Things that did not need to be reopened were not going to be addressed. The Commission began its work in that vein but met with a lot of pushback from the community around regulations as a whole.

Continuing, Commissioner Ferris noted that following his election to the Council, Councilmember Wallace came to his first Commission meeting as Council liaison and said the Council would have a greater focus on limiting regulations as they affect private property. That statement appeared to differ from the principles the Council had handed to the Commission regarding the Shoreline Master Program update. At that time it was stated by the Commission that if the Council wanted the update to be moving in a different direction, the Council would need to provide new guidelines. If the Commission were to take up the Shoreline Master Program work on the principles of reducing regulation and keeping the document thin, the staff and the Commission would have taken a different path and would be in different place from where things stand currently. To take that approach would almost require starting over with a different focus, but that direction will have to come from the Council. He asked if the Commission should follow the original guiding principles, which have never been amended, or wait for new direction.

Mayor Davidson said the Commission should work under the principles handed down by the Council and let the Council deal with the Commission's final recommendation. He allowed that the makeup of the Council can and often does change every two years, but where major planning work is involved, it would not make sense to seek new direction every two years; under that approach nothing would ever get done. The principles are mostly general and outcome based, and how to generate a balanced recommendation is up to the Commission.

Commissioner Tebelius said she did not see anything in the Council principles that would preclude the Commission from developing an approach that results in fewer regulations.

Councilmember Wallace agreed that the guiding principles are important for the Commission to

reflect on, but said the Commission should seek to produce a recommendation aimed at getting four Council votes. He allowed that after the makeup of the Council changed and the public made it clear it was not happy with the direction the Shoreline Master Program update was taking, the Council should have taken the opportunity to take another look at the guiding principles. The Commission has been grinding away on the issue for several years and understands the disputed issues better than the Council does currently. He said he hoped a way would be found to try to solve the issues that are in dispute in a way that will meet the expectations of the property owners and the state.

Commissioner Ferris noted that in a recent state supreme court ruling the court found that the involvement of local jurisdictions in developing Shoreline Master Programs is a "benevolent gesture." The Department of Ecology will accept whatever is submitted to them, but they then can simply direct what changes must be made. That is what was done in Sammamish. In many ways it does not make sense to spend time developing program elements the state ultimately will simply reject.

Commissioner Himebaugh allowed that a few months back the Commission had a general discussion about the Council principles, and the conclusion reached was that the Commission was not going in a direction that contradicted the principles. There was also agreement with regard to the need to follow the WAC guidelines which mandate the incorporation of public input. The WAC guidelines also state that local jurisdictions have substantial discretion to do what is in their best interest, and that is what the Commission has been doing. The Commission should move forward toward the development of a document that will represent Bellevue and let the chips fall where they might relative to approval by the Department of Ecology.

Mayor Davidson allowed that the Department of Ecology has been a moving target in many instances. They rely on the best available science, but even that has been a moving target. It is frustrating that the state often hands down mandates without clear direction for how to carry them out. He urged the Commission to listen to the debate, do its best work, make a recommendation, and let the Council do its work.

Chair Turner said it was his opinion that none of the work done to date by the Commission in updating the Shoreline Master Program is contrary to the Council principles. The Commission should strive to develop a document that is clear and that has regulations that will have a positive impact on the environment. The document should include a focus on stormwater runoff.

Commissioner Carlson asked when the Council would like to see a draft Shoreline Master Program submitted to it. Mayor Davidson said the Council currently has a lot on its plate, including elections and the Sound Transit discussions, which will immediately be followed by the budget. He said he would like to see the Shoreline Master Program before the Council during the first quarter of 2012.

Councilmember Wallace said he wanted to see the Commission take the time needed to get the document right. There are still a lot of important issues to wrestle with. Redmond recently had its plan approved and it sets some precedents that could be applicable in Bellevue. At the same time, there are things unique to Bellevue that will need to be addressed on their own. The constituent group that will be heavily impacted is also very well informed, and their opinions should be both heard and honored. The need to protect the environment, to maintain the water quality and to keep the salmon health must all be addressed in light of the mandate for no net loss of ecological function. The programmatic alternatives are very appealing. Bellevue already does a lot of work that improves water quality and the lake environments. The focus should be on the outcome of making water quality healthier rather than on deciding if residents can plant

ferns or rhododendrons in their front yards.

Commissioner Sheffels suggested that the issues of water quality and surface water runoff are not within the purview of the Commission; those issues belong to the utilities department and the Environmental Services Commission. If the Commission takes on those issues it will get even more bogged down. Chair Turner responded by saying if getting the document right means the Commission must coordinate with other commissions and city departments, that is exactly what should be done.

Commissioner Ferris commented that the shoreline jurisdiction extends 200 feet landward of the ordinary high water mark, and that is the area that has been focused on during the work to update the Shoreline Master Program. If stormwater drainage is brought into the mix, the geographic area will be enormous and many more regulations will come into play. There is no question that stormwater drainage has a huge impact on the shorelines and on water quality, but it is outside the scope of the Shoreline Master Program.

Mayor Davidson commented that all of the National Pollutant Discharge Elimination System permitting work is handled by the Environmental Services Commission. Stormwater drainage is also in their hands. The Council does not want to be put in the position of receiving conflicting reports from its boards and commissions. At the very least, there should be some coordination.

Commissioner Ferris agreed and pointed out that the Commission should simply elect to highlight topics outside of its jurisdiction in the transmittal memo and not seek to resolve them. That approach has been taken often in the past by the Commission.

Commissioner Himebaugh said one thing the Commission could recommend to the Council in the transmittal memo would be to strongly suggest to the Department of Ecology that there are many other environmental programs in the city that should be taken into account when reviewing the Shoreline Master Program.

Councilmember Wallace cautioned the Commission from limiting its creative thinking by focusing only on those things within the purview of the Commission. He said the Commission certainly is free to recommend ideas for how to achieve outcomes in a different way. The document once approved will limit the rights of homeowners to use and enjoy their properties, which is a very difficult thing to do and which should be limited as much as possible.

4. PCD REMARKS

Planning Director Dan Stroh said planning for the future is all about the community being served, and noted that the community is in fact changing. The population of the city has grown to more than 123,000 both through natural growth and annexation. Bellevue's rate of growth during the last decade was 11.4 percent, faster than the county as a whole but slower than the state as a whole. The Eastgate annexation is under way and it is the last one the city intends to do; it will add some 4700 residents and should be complete during 2012.

Mr. Stroh pointed out that the level of diversity in the city has increased substantially to where 38 percent of Bellevue residents now speak some language other than English in their homes. Over a third of the residents were born outside the United States. The percentage of children from Caucasian families is now less than 50 percent of the total. The Asian population is by far the largest segment of those residents who were born in another country. The increased diversity of the population says a lot about the city's connection to the global economy.

Bellevue's population is very well educated; 59 percent have Bachelor's degrees or higher. The national average for that category is only 28 percent. The Eastside as a whole is well educated which puts the area in good stead to attract high-paying jobs.

The population under the age of 20 has been stable as a percentage for a long time even as the overall number of residents has grown, which equates to the absolute number of those under 20 has grown. The trend in other cities for that category has been downward as the overall population ages. Since 1990 the trend has been toward a declining share in the 20- to 44-year old group, and an increasing share for the 45-64 and 65 and older demographics. The trend speaks to the need for services but also the need for a walkable community.

Housing affordability continues to be a challenge. In 2010, 35 percent of Bellevue households were spending 30 percent or more of their incomes for housing, up from 28 percent of households in 1990. In the downtown area, 39 percent of the residents are spending 30 percent or more of their incomes for housing, but the numbers are high even for areas of the city where housing costs are lower.

Bellevue continues to be an affluent community overall, but even so there is a significant share of the population that is living below the federal poverty threshold, and that share has trended upward in the last ten years. Kids and older residents fall below the threshold than the population as a whole.

In 1990, 40 percent of Bellevue's residents were employed in management and professional services; the figure rose to 61 percent by 2010. Nationally, the figure is only 36 percent. The percentage says a lot about the type of businesses Bellevue is able to attract.

The Commissioners were shown a diagram indicating the density of residential units in downtown Bellevue. Mr. Stroh said the estimate is that close to 10,000 people make their homes in the downtown, including an estimated 544 children.

In 1990, 23 percent of Bellevue residents commuted to work via some mode other than single-occupant vehicle; by 2010 the percentage had grown to 36 percent.

Mr. Stroh said there was a time not all that long ago when people thought high-tech firms like Microsoft or Expedia would not choose to locate in downtown Bellevue because the highrise office form did not work for them for a variety of reasons. The fact is there has been tremendous growth in the information services sector in the downtown and in other parts of the city. The growth in healthcare and related fields has been impressive as well in the city.

Asked by Commissioner Ferris about average household size, Mr. Stroh answered that within the county and the nation household size has been trending downward. However, in the decade between 2000 and 2010 average household size in Bellevue dropped only slightly.

5. WORK ON THE HORIZON

Development Services Department Director Mike Brennan said there is a lot going on in the background. Direction is being sought from the Council regarding prioritizing the work program. There are areas of interest within the community and the Council to look at some aspects of the Land Use Code. Much of the interest is around economic development, looking for ways to remove barriers, ways to build incentives for low-impact development and green buildings, and making sure nothing in the code inhibits the use of solar panels and wind energy. There are also some issues around processes and making sure work in the most efficient way

possible. The Council is interested in quasi judicial actions and what goes to the Council on appeal. There are some issues relating to the Bel-Red corridor, particularly around existing uses and re-tenanting given that the slow economy is preventing implementation of the plan.

Neighborhood protection is always a theme on the mind of the Council. Property maintenance, particularly with regard to commercial properties, is one topic that may be taken up. The work done to date relative to residential property maintenance has pushed property owners to be responsible and has had a very positive impact.

Mr. Brennan noted that the deployment of wireless technologies into the neighborhoods continues to evolve. The codes that are in place have not been visited for some time and may need another look, particularly with regard to siting wireless facilities.

Commissioner Carlson asked if the financial problems being faced by Wright Runstad have had any bearing on the timeline for Bel-Red. Mr. Brennan said the staff have been having regular meetings with the developer about the master plan for the Spring District. Wright Runstad is continuing to move ahead with its plans for developing its Bel-Red properties, with backing from their financial partner.

Answering a question asked by Commissioner Ferris about the light rail line and station locations in the Bel-Red corridor, Mr. Stroh said the only piece that is fundamentally in play is in the Spring District. He said the anticipated station area planning work will take things to a finer grain of detail. A state grant has been received to conduct the station area work for the 130th Avenue NE station and in fact that work is currently under way. There is still work not yet under way for the Spring District and hospital station area planning. With regard to the hospital station, when the Bel-Red corridor plan was being developed the hospital station was not precisely sited, so there are still some issues to be worked out.

Mr. Stroh said the station area planning work is part of a bundle of issues that are on the horizon that could ultimately involve the Planning Commission. Some of the issues are around light rail and will need Commission attention once direction from the Council is received.

Mayor Davidson commented that way back when the downtown implementation plan was put together, there was more infrastructure available; much of the work simply involved widening roads and putting in sidewalks. The challenge in the Bel-Red corridor is that the infrastructure is not currently existing and must be created. In the future it is unlikely that development will come in big lumps; it will occur slowly over time, and it is very possible that the downtown area will build out first. The current funding package for developing the necessary infrastructure in the Bel-Red corridor is dependent on growth, so the economics will be key to what will happen and when it will occur.

Mr. Stroh said it is a very difficult time to predict what will happen on the economic front, both nationally and locally. Bellevue has a history of trying to stay on top of things in that regard. The challenge is in maintaining the health of what already exists while anticipating trends and attracting new business. In that vein the Eastgate/I-90 corridor study has been under way with a CAC for the past year or so, with Commissioner Hamlin serving as co-chair along with Commissioner Larrivee of the Transportation Commission. The group is expected to have something in front of the Council in the next couple of months.

The downtown transportation planning effort has been kicked off at the Council level. The work is intended to bring the transportation picture for the downtown up to speed with a 2030 horizon year. Development of a new growth forecast for the downtown will be part of the study.

Mr. Stroh said there was a budget proposal was made in 2010 regarding a downtown code update, but direction from the Council has not yet been given. He said staff are expecting to bring the issue before the Council, possibly soon. The fact is the major portions of the downtown code were adopted three decades ago and has not had a systematic overhaul since.

Commissioner Sheffels asked if Bellevue has been meeting its growth management targets. He responded by saying the targets were updated just a year and a half ago. On the employment side, it would appear that the targets are too high across the county. Talks are under way with the Puget Sound Regional Council about what is going to happen in the next update of the countywide employment targets. On the residential front, the city is tracking the targets quite well. Unfortunately, the affordable housing targets are not being met.

Mr. Stroh allowed that neighborhood business continues to be an issue. There is a need to make sure the code does not serve as a barrier to the redevelopment of neighborhood shopping centers. The Council is set to receive a briefing soon and may ultimately result in an assignment for the Planning Commission.

There may also be work for the Commission that flows from the annexation efforts in Eastgate and the three small areas to the south of I-90. Typically there are planning issues that go along with bringing annexed areas into the city, such as subarea plan updates.

** BREAK **

6. SMP PROCESS

Chair Turner said a meeting was held on October 7 which was attended by City Manager Steve Sarkozy, Councilmember Wallace, Comprehensive Planning Manager Paul Inghram, Development Services Department Director Mike Brennan, Commissioner Himebaugh and himself. The focus of the meeting was how to move the update work forward. There was agreement that the process to date has been slow and painful, and the group concluded that there are ways to make things go faster while yielding a more acceptable product. The group concluded that the Commission should talk about the next steps and whether they should include a complete rewrite or just incremental changes, and what major issues as identified by the Commission should be addressed.

Commissioner Himebaugh said the focus of the discussion was the fact that the update work is stuck and a way needs to be found to get it moving again. He allowed that he agreed with the line-by-line approach initially but has concluded that it is not working in that it is taking a very long time. Much of the meeting time is being taken up with Commissioners asking clarifying questions instead of making concrete suggestions for what should be included in the document.

Commissioner Hamlin agreed that the Commissioners have been asking clarifying questions, and allowed that the staff have made clear their willingness to answer those questions outside of the Commission meetings. He agreed that the process has been moving slowly but pointed out that it has been moving forward.

Commissioner Himebaugh said there appear to be a dozen or so big issues. Neither the Commission nor the public appears to have qualms about some parts of the program. The approach of the staff in drafting the document was to begin with concepts about important issues; most of that was done before draft language was in hand. Now that there is draft language, it has proved difficult working through it and making any substantive changes.

Chair Turner said the draft is so complicated it is difficult to truly comprehend it. Changing something in one place can have impacts elsewhere, but identifying those impacts is difficult at best. That is making progress laborious and time consuming.

Commissioner Hamlin noted that the Commission did hear from the community that the document is large. It was drafted comprehensively and everyone has agreed there are ways to trim it down, though how exactly to do that is unclear.

Chair Turner stated that in the final analysis those who will be impacted by the regulations should be able to understand them without taking months on end to study them. The document needs to be clear, concise and precise, but it does not need to be voluminous.

Commissioner Ferris observed that when the update process started, the staff were operating under the Council principles. Work on the critical areas ordinance had just been completed and the direction was not to revisit the items that had already been solved. Questions have been asked about the connections between the proposed regulations and the environmental contribution they are intended to create; those are legitimate questions, largely because the science is admittedly soft. That said, the staff began by accepting and building on the science that served as the basis for the critical areas ordinance, which was the direction given by the Council. To challenge all of the science and the conclusions drawn that served as the base for the critical areas ordinance and for the start of the Shoreline Master Program update would create an entirely different study. Furthermore, the Department of Ecology wanted to see all of the connecting pieces included in the Shoreline Master Program; under that approach, any reference to the storm water code or the areas of the code that affect density, daylighting and other issues would be included. The thinking was that would give shoreline property owners a single place to go whenever they planned changes to their properties. The result, of course, was a very thick document. If the document is pared down, it will necessarily have to include a lot of referencing to other places.

Commissioner Himebaugh said he was less concerned about the volume of the document than about whether or not the document is easily accessible to the public. While conditions are different on Mercer Island, their document is only about 23 pages long. The issues facing Bellevue are far more complex, but the Mercer Island document takes a far more straightforward approach. The Commission set out in the beginning to draft a document that would give property owners immediate and easy options, but that is not what has resulted.

Commissioner Carlson said it appeared to him the only options open to the Commission were to do an edit of the draft document or to completely rewrite the document.

Commissioner Tebelius concurred that those are the only two options from which to choose. She said she has been very frustrated with the process to date and suspected the staff is as well. The Shoreline Master Program should be rational, reasonable and realistic, but in its draft form it is none of those. The Mercer Island document, as small as it is, is, in the words of dock expert David Douglas, a giant in the way it represents the best interests of the property owners without compromising the environment. The plan should not be more restrictive than state or federal regulations, nor should it rely on cautionary principles. In its current iteration, the plan makes everyone in the community unhappy. Either it needs to be edited line by line, or it needs to be completely redrafted. The Commission ultimately is responsible to represent the city's elected officials, and if the Commission concludes the document should be sent back to staff to be redrafted, that is the Commission's right. Going forward the process must be changed or it will not go anyway and the Commission will be exactly where it is now in another year. The

Commission should not worry about whether or not the Department of Ecology will accept the final product; the focus should be on drafting the best possible approach and then let the state have its say.

Chair Turner said the restrictions the Department of Ecology believes it must impose do not seem to come close to anything that will actually make a difference.

Commissioner Hamlin disagreed. He said the fact is the Department of Ecology must in the end approve the plan. As such, it only makes sense to produce a document they will approve. To take a circuitous route and then end up with something they will not approve will only be a waste of everyone's time. He agreed that the document should not be drafted expressly to be approved by the state, but the fact that they have final approval must be taken into consideration.

Commissioner Sheffels said the concept of no net loss of ecological function is not predicated on making a difference, it is rested on the notion of retaining the functions that are already in place.

Commissioner Hamlin noted that the Commission appears divided between two opinions. One group is looking at what the state has directed be done and is focused on meeting that requirement, while the other group is disagreeing with the requirements and would rather proceed on the basis of what is right regardless of what the plan is intended to contain. The two opinions represent the underlying problem that may not be solvable.

Commissioner Himebaugh agreed that the Department of Ecology will have to ultimately approve the Shoreline Master Program. The problem is the Department of Ecology. They have handed down a set of guidelines, which are technically rules in that they are adopted as part of the WAC, but within the document itself they are called standards and guiding parameters, and it says each jurisdiction has substantial discretion. As such, the Commission has the leeway to do what is appropriate for Bellevue. There have been points along the way where representatives from the Department of Ecology have imposed themselves into the process and say that unless something is changed they will not approve it. While that is their prerogative, the fact is there have been many instances where the threats made by the Department of Ecology do not match what the WAC actually says.

Commissioner Hamlin said he has not interpreted the testimony of the Department of Ecology representatives as threats. He said they have come to the table with clear statements about certain approaches not meeting with their approval.

Commissioner Sheffels suggested that property owners are free to challenge the Department of Ecology in court if they want, but the Commission is not. The fact is the regulations that apply currently to shoreline property owners are much more onerous than what the draft proposes.

Commissioner Himebaugh said he agreed that the Department of Ecology will have the final say, but reiterated that their guidelines give cities a lot of room to move, more even that their representatives have led the Commission to believe.

Commissioner Sheffels said the draft represents a move away from very onerous to far more flexible. Commissioner Carlson said if that is the case, the public hearing held in May would have had a different bent. Commissioner Sheffels allowed that there have been a lot of comments received from the public, which is all part of the Commission's process. The same process requires the Commission to filter all comments received and to use good judgment in looking at the city as a whole. The shoreline property owners clearly have a strong lobbying group, which is a good thing, but in the end the Commission must look at the entire city, not just

the shoreline property owners. On the whole the Commission has done a good job of listening to the property owners.

Commissioner Carlson countered that the mood in the room as well as the specific comments made at the May public hearing were anything but favorable toward the draft. Most who spoke have skin in the game, and most of them interpreted the draft as being more restrictive and less flexible.

Chair Turner said if what Commissioner Sheffels said is true, the reaction of the public speaks to the fact that the document is too complicated and not understood.

Commissioner Ferris pointed out that the shoreline property owners have basically discarded the critical areas ordinance and all of their comments are measured against the regulations that were in place prior to adoption of the critical areas ordinance. There is no question that the regulations in the draft Shoreline Master Program are more burdensome than what existed prior to adoption of the critical areas ordinance. The critical areas ordinance was adopted in 2006 and it currently applies, and those regulations are far more rigorous than those in the draft Shoreline Master Program. Regardless of the focus of a public hearing, property owners as a rule do not come to testify about how much they like the idea of having more or new regulations; that just does not happen. The Shoreline Master Program is a thick document, but that is in the very nature of land use codes.

Commissioner Tebelius agreed that the shoreline property owners did not like the critical areas ordinance for a number of reasons, not the least of which was lack of notice and no involvement on the part of property owners. When the Shoreline Master Program process started staff made it clear that the critical areas ordinance would be the starting point, and the property owners objected. Staff conceded the point and agreed not to refer to the critical areas ordinance. However, at no time during the update process have the property owners been unwilling to compromise and make changes. They are willing to have regulations imposed on them and they understand why regulations are needed, but they want regulations that are rational and reasonable.

Commissioner Sheffels pointed out that the draft Shoreline Master Program was put together by the staff according to the direction given to them by the Commission. The staff did not take it upon themselves to decide which direction the document should take. The Commission has made it very clear that the document must be Bellevue specific, not Redmond specific or Mercer Island specific. The document is as thick as it is because the Commission directed that it be comprehensive.

Commissioner Hamlin said it has always been his intention to prune where needed as the document is reviewed. He noted that the Commission had in fact already done that. He voiced his support for retaining the draft document and for working through it page by page, editing it as needed. There are a number of issues not yet settled, including the buffers and setbacks, which the Commission has not yet even talked about.

Commissioner Ferris pointed out that while by far the highest percentage of the Bellevue shoreline is residential, only a fraction of the draft Shoreline Master Program affects residential. He suggested that after working through the entire document it might be a good idea to format a pull-out or separate section that is residential specific; it would be part of the larger document but would be the only one residential property owners would have to refer to.

Chair Turner said the idea was interesting but said he kept coming back to the question of

whether or not the restrictions in the Shoreline Master Program are reasonable based on the lack of science. Commissioner Ferris said solving that disconnect will be problematic. The Department of Ecology expected the city to use the 2006 critical areas ordinance science. An approach might be to complete the plan, submit it to the Department of Ecology, let them say which areas they will not approve, and then set up a scientific group to dissect those specific issues.

Chair Turner said his primary concern is using flimsy science as the basis for comprehensive regulations.

Answering a question asked by Mr. Inghram regarding the Redmond Shoreline Master Program process, Commissioner Tebelius said things went nowhere at all until a new mayor came on board who involved the community in working out an agreement. Things moved rather quickly after that. The Redmond plan is not perfect and some who were involved in the process have since come to understand some of the issues better since its approval. The process was not anywhere near as contentious as the Bellevue process has become. The community has offered a number of compromises, but those compromises, for whatever reason, have not been viewed favorably. As a result the community holds the view that their opinions have not been listened to. The Mercer Island document is not perfect either, but it is written clearly and to the point. The community was involved in that process as well. The Bellevue draft contains a number of issues that are simply ridiculous, such as the type of hand tools to be used when removing weeds from the shoreline.

Commissioner Sheffels said she was more than willing to avoid designating specific hand tools. Commissioner Himebaugh said the unknown is whether or not the staff will later claim the specific hand tools must be designated because the Department of Ecology says they must.

Mr. Brennan suggested that at a minimum the Commission will need to agree on some assessment criteria. He said he had heard a call for understandability, the need to make comparisons to other jurisdictions to make sure there is alignment, the need for balance between environmental protections and property rights, and finding the right level of regulations that will preserve what the community values the most. The staff are in the position of trying to help the Commission move things forward, but they are as stuck as the Commissioners.

Commissioner Ferris reiterated that the Council principles got the ball rolling on its current path, which is predicated on the 2006 critical areas ordinance. If there is to be a rewrite of the document, there will necessarily need to be a rewrite of the principles.

Chair Turner said he felt comfortable working from within the current principles. The Commissioners all agreed.

Chair Turner said what is needed is a clear vision for what the Shoreline Master Program is ultimately to accomplish. If the goal is to please the Department of Ecology, that should be clearly stated. If the goal is to improve water quality or salmon spawning, those topics should be cleared stated. If the Department of Ecology is pushing science that is not good, and if the document is 400 pages of regulations that the people will have to somehow deal with, and if the precautionary principle is used to push the agenda, the general public will have problems with the final program.

Commissioner Hamlin said going in that direction would represent a major change and would involve a complete rewrite of the document. Chair Turner said he would support a rewrite; the principles are good, but the science foundation on which the regulations rest is shaky.

Mr. Inghram said if the rewrite path is chosen, it will be absolutely necessary to be clear about the ultimate goal. He allowed that there are ten or so key issues that need to be addressed, and he suggested that the Commission should take the time to development a list. Even with disagreement about exactly how the science supports or fails to support a specific regulation, it may be possible to get to a compromise where the regulation can be accepted based on the understanding that some regulation is necessary.

Commissioner Tebelius stressed that waterfront property owners are obviously supportive of protecting the environment. Their properties represent huge investments, and they want clean water and fish in the lake. The things in the document that just do not make sense need to be rewritten or removed.

Mr. Inghram said once the staff is given direction about the top ten or so issues, they could begin the task of making them more understandable. Commissioner Himebaugh commented that once the substance is right, getting the language right will be much easier.

Chair Turner allowed that there will always be arguments about the validity of science. He suggested going forward the focus should be on negotiating reasonable approaches predicated on the fact that those who live along the shorelines are good stewards of the environment. That can be done under the guiding principles and will result in something that is Bellevue appropriate. It will also be inclusive while balancing preservation of the environment and property rights.

Commissioner Sheffels reminded the Commission that from the start of the process there was recognition of the fact that the shoreline property owners are good stewards of the land. There are going to have to be regulations, but to say the Commission is working against the property owners is just not right. Commissioner Hamlin agreed that the point was an underlying assumption made by the Commission.

Chair Turner said he did not believe the work of the Commission has in any way been focused on working against the property owners. Commissioner Himebaugh agreed. He added that everyone is trying to get to the same place but there is no agreement that what the draft contains will get there. The May public hearing was a watershed moment and confirmed the suspicions that the draft is not acceptable to the public.

Mr. Brennan agreed the issues should be broken up into manageable pieces. He said the residential segment would be a good place to test the negotiating approach. The factors that need to be considered in looking at the concepts and negotiating the appropriate application for Bellevue will need to be identified. For each key piece, there should be a definition of the concept, the rationale, a comparison against what others have done, and a review against what the guidelines say must be done.

Commissioner Carlson commented that nearly every other planning commission in the area has been going through similar debates and discussions. While they may not all have had a 4-3 split in their thinking, in every case they have encountered anxiety and concern on the part of shoreline property owners, and they have found the Department of Ecology to be very pushy. The WAC guidelines do give local jurisdictions leeway, but they also give the Department of Ecology leeway. The Commission should simply keep its focus on what will be best for Bellevue and move forward with all deliberate speed.

Commissioner Himebaugh said the Commission should have a serious discussion about what it will and will not accept on the dozen or so major issues. That could lead to a rewrite, but it

might not. The staff should make a presentation with regard to each issue outlining what they have done to date and why they made their proposal; that will serve as a baseline or starting point for a Commission discussion from a policy perspective.

Chair Turner agreed but said in his view the document needs to be rewritten. Once the focus turns to reviewing the major issues, the various pieces will start to unravel.

Commissioner Himebaugh said once a list of the major issues is developed, the Commission will need to get down to the business of deciding actual policy direction.

Commissioner Hamlin agreed. He said instead of continuing through the document line by line, the issues should be paraded out and talked about individually. He allowed that in fact the Commission had taken that approach prior to the makeup of the Commission changing.

Commissioner Tebelius argued that if the Commission were to review the issue of the vegetation setback and determine that it should be a particular size, the entire section would still need to be rewritten. The same is true for every section.

Commissioner Himebaugh agreed that for issues that have particular disagreement the end result could be a rewrite.

Commissioner Carlson suggested that from a structural perspective, leaving aside the issue of content, it is often faster to start from scratch.

Mr. Inghram suggested that the discussion of document usability and understandability should follow the discussions of the substantive issues.

Mr. Brennan said he would like the opportunity to test one or two of the key issues all the way through to give staff a sense of the new norm.

Mr. Inghram allowed that a number of issues had been previously identified. He proposed having staff focus on developing a list to be emailed out to the Commissioners for review and editing. Commissioner Hamlin agreed and suggested one of the topics should be selected for discussion at the Commission meeting on October 26; rather than looking at the specific language, the focus should be on policy and standards. Commissioner Himebaugh reiterated that once the Commission has clear policy direction in hand, drafting the language will be a relatively simple matter.

Mr. Brennan pointed out that huge amounts of time and money have been invested in the process to date. Every effort will need to be put into being as efficient as possible through to the completion of the document. He agreed that the proposed process should be applied to a single issue as a test case to see what it will entail.

Answering a question asked by Commissioner Tebelius, Land Use Director Carol Helland explained that under the terms of the city's code, persons seeking a building permit for the construction of a bulkhead must establish the ordinary high water mark. The Department of Ecology in the 1980s required the city to not use the ordinary high water mark datum for setting a bulkhead on the determination that the ordinary high water mark is not a static mark on the land and is determined only by the presence of wave action on the shore. Under the law, the mark must be professionally identified.

Commissioner Tebelius pointed out that the almost intentional act of allowing the Sammamish

Slough to plug up and raise the overall level of the lake will result in a higher ordinary high water mark.

7. MEETINGS AND STAFF SUPPORT

Due to lack of time, the Commission did not discuss this item.

8. ADJOURN

The meeting ended at 9:51 p.m.

Paul Inghram
Staff to the Planning Commission

1/25/2012
Date

Kevin Turner
Chair of the Planning Commission

1/25/2012
Date