WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
--- | --- | --- | --- | --- | ---
Originator: Wendy Woefer-Clinton | | 8/26/13 | | | Finance & Admin Sves Committee and Council Agenda
Division Head: Karen S. Goens | | 8/26/13 | | | 
Dept. Head: | | | | | 
Prosecutor: | | 08/20/13 | | | 
Purchasing/Budget: | | | | | 
Executive: | | 09·03·13 | | | 

TITLE OF DOCUMENT:
Professional & Technical Employees (PTE 17) Memorandum of Agreement

ATTACHMENTS:
Memorandum of Agreement

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( X ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Request approval of Memorandum of Agreement in keeping with both the language and the spirit of the PTE 17 Settlement Agreement which extended their collective bargaining agreement through December 31, 2014.

COMMITTEE ACTION: 

COUNCIL ACTION:

Related County Contract #: 200805008 & 200805008-1
Related File Numbers: 
Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>AS - Human Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Wendy Wefer-Clinton</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Professional &amp; Technical Employees (PTE 17)</td>
</tr>
</tbody>
</table>

#### Is this a New Contract?  
If not, is this an Amendment or Renewal to an Existing Contract?  
Yes ☒ No ☐  
If Amendment or Renewal, Original Contract # 200805008 & 200805008-1  
Does contract require Council Approval? Yes ☐ No ☒  

#### Is this a grant agreement?  
Yes ☐ No ☒  
If yes, grantor agency contract number(s) CFDA #  

#### Is this contract grant funded?  
Yes ☐ No ☒  
If yes, associated Whatcom County grant contract number(s)  

#### Is this contract the result of a RFP or Bid process?  
Yes ☐ No ☒  
If yes, RFP and Bid number(s) Cost Center:  

<table>
<thead>
<tr>
<th>If yes, indicate exclusion(s) below:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☒ Professional services agreement for certified/licensed professional</td>
</tr>
<tr>
<td>☐ Contract work is for less than 120 days</td>
</tr>
<tr>
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</tr>
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<td>☐ Contract for Commercial off the shelf items (COTS)</td>
</tr>
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<td>☐ Contract work is all performed outside U.S.</td>
</tr>
<tr>
<td>☐ Work related subcontract less than $25,000.</td>
</tr>
<tr>
<td>☐ Interlocal Agreement (between Govt's)</td>
</tr>
<tr>
<td>☐ Public Works - Local Agency/Federally Funded FHWA</td>
</tr>
</tbody>
</table>

#### Contract Amount:(sum of original contract amount and any prior amendments) $  
This Amendment Amount: $  
Total Amended Amount: $  

#### Contracts that require Council Approval (incl. agenda bill & memo)  
- Professional Services Agreement above $20,000.  
- Bid is more than $40,000.  
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)  

#### RENEWALS: Council approval is not required when exercising an option to renew that is provided in the original contract.  

#### Summary of Scope: Collective Bargaining Agreement related Memorandum of Agreement  

#### Term of Contract: 4/11/13  
Expiration Date: 12/31/14  

#### Contract Routing Steps & Signoff: [sign or initial] [indicate date transmitted]  
1. Prepared by: WWC  
2. Attorney reviewed Daniel Gibson  
   Date 8/7/13 [electronic]  
3. AS Finance reviewed: Date [electronic]  
4. IT reviewed if IT related  
   Date [electronic]  
5. Corrections made  
   Date [electronic] hard copy printed  
6. Attorney signoff: Daniel Gibson  
   Date 8/20/13  
7. Contractor signed  
   Date  
8. Submitted to Exec Office ✔  
   Date 8/24/13 [summary via electronic; hardcopies]  
9. Council approved (if necessary)  
   Date  
10. Executive signed  
    Date  
11. Contractor Original Returned to dept  
    Date  
12. County Original to Council  
    Date  

Last Edited 7/24/13  

2
MEMORANDUM OF AGREEMENT
BETWEEN
WHATCOM COUNTY, WA
AND
PROFESSIONAL & TECHNICAL EMPLOYEES 17 (PTE 17)

This Memorandum of Agreement is by and between Whatcom County (hereafter called the County) and Professional & Technical Employees 17, (hereafter called the Union) regarding the Professional & Technical Employees 17 (PTE 17) Settlement Agreement approved by the County Council May 7, 2013.

This Memorandum of Agreement keeps in line with both the language and the spirit of section #4 of the Settlement Agreement under Medical Plan Alternatives, given the recent settlement with Washington State Nurses Association. As such, the following modified language will apply to the referenced section of the Collective Bargaining Agreement or items within the Settlement Agreement with all other remaining language in the Collective Bargaining Agreement and Settlement Agreement remaining unchanged:

1. **County Contribution (Section 23.2a) of the CBA**. Effective for medical Plan Year 2014, the County shall make contributions to fund a medical Plan for each eligible employee up to $1,089.50 per month. Employees will elect their plan choice during an open enrollment period.

2. **2014 Contributory Cap Plan (Item 1.1.a of the Settlement Agreement)**. Should the County’s Benefit Consultant’s Renewal Projection for 2014 be more than $1,189.94 ($1,089.50 County contribution plus the $100.44 employee contribution), modifications to the plan will be made per section 23.2b—Medical Schedule of Benefits so that the County’s contribution is up to $1,089.50 with the employee contribution remaining at or below $100.44.

3. **Health Savings Account in Conjunction with Cap Plan (QHDHP) (Section 1.3 of the Settlement Agreement)**. For employees who signed up for the Cap Medical Plan (QHDHP) in 2013, if the projected monthly contribution cost for 2014 is less than the County’s contribution of up to $1,089.50, the County will contribute the difference monthly to qualified employees’ HSA accounts.

4. **Health Savings Account in Conjunction with Cap Plan (QHDHP) (Item 1.3.a of the Settlement Agreement)**. For employees who did not elect to enroll in the 2013 Cap Medical Plan (QHDHP), but who enroll in the 2014 Cap Medical Plan (QHDHP), the County will contribute one-time seed money in 2014 to a voluntary County HSA. This one-time seed money is inclusive of any remaining difference between the County’s monthly contribution commitment of up to $1,089.50 and the monthly Benefit’s Consultant’s projected contribution cost of the Cap Medical Plan (QHDHP) for 2014.

5. **Effective Date**. This Memorandum of Agreement is effective upon the date it is approved by the County Council.

<table>
<thead>
<tr>
<th>NAME</th>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional &amp; Technical Employees 17 (PTE 17)</td>
<td>[Signature]</td>
<td>8/13/13</td>
</tr>
<tr>
<td>Jack Louws</td>
<td></td>
<td></td>
</tr>
<tr>
<td>County Executive</td>
<td>[Signature]</td>
<td></td>
</tr>
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</table>

Date Council Approved:

Daniel L. Gibson, Chief Civil Deputy Prosecuting Attorney

[Signature]

August 20, 2013
WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>Originator:</td>
<td>DLG</td>
<td>08/27/13</td>
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<td>9/10/13</td>
<td>Finance/Council</td>
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<td>Executive:</td>
<td></td>
<td>09/03/13</td>
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TITLE OF DOCUMENT: “Whatcom Chief” Ferry Insurance renewal proposal for policy period 09/30/13 – 09/30/14.

ATTACHMENTS: 2013 Marketing Results (1 page); Historical Premium breakdown (1 page); Claims history (1 page); and 2013/14 Proposed Coverage Summary.

SEPA review required? ( ) Yes (X) NO
SEPA review completed? ( ) Yes (X) NO
Should Clerk schedule a hearing? ( ) Yes (X) NO
Requested Date: 

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

COMMITTEE ACTION: 

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
WHATCOM COUNTY FERRY
2013 MARKETING RESULTS

MARINE POLICY (Hull & Machinery/Protection & Indemnity)

US Fire Insurance (Current Carrier) $30,051

Liberty Marine Underwriters
Allianz/AGCS
Chartis
Navigators

Decined
Declined
Declined
Declined

POLLUTION POLICY

Great American Insurance Company of New York (Current Carrier) $966

EXCESS PROTECTION & INDEMNITY POLICY

Atlantic Specialty (Current Carrier) - With Excess Pollution $5,455

Prepared by The Unity Group
August 26, 2013
<table>
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<tr>
<th></th>
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<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
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<td>Hull &amp; Machinery</td>
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<td>$17,460</td>
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<td><strong>EXCESS P &amp; I CARRIER</strong></td>
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<td>Excess Protection &amp; Indemnity</td>
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<td>Pollution Liability</td>
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<td>$1,290</td>
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<td>$966</td>
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<td><strong>TOTAL PREMIUMS</strong></td>
<td>$34,545</td>
<td>$61,037</td>
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</tbody>
</table>

Prepared by The Unity Group
August 23, 2013
### WHATCOM COUNTY FERRY
### PREMIUM / CLAIMS HISTORY

![The Unity Group Logo]

### H&M / P&I PREMIUMS

<table>
<thead>
<tr>
<th>POLICY TERM</th>
<th>PREMIUMS</th>
<th>CLAIMS</th>
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<tbody>
<tr>
<td>2012 - 2013</td>
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<tr>
<td>5 Year Sub-total</td>
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<td>$24,700.00</td>
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<td>2007 - 2008</td>
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<td>$95,026.00</td>
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<td>2006 - 2007</td>
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<td>2005 - 2006</td>
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<td>2004 - 2005</td>
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</tr>
<tr>
<td>2003 - 2004</td>
<td>$25,960.00</td>
<td>$33,546.00</td>
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<tr>
<td>10 Year Totals</td>
<td>$316,592.00</td>
<td>$298,597.00</td>
</tr>
</tbody>
</table>

5 Year Loss Ratio: 0.1341
10 Year Loss Ratio: 0.94316

*2 open crew claims pending*
### Whatcom County Ferry
#### 9/30/2013 to 9/30/2014 Proposed Coverage Summary

<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Hull &amp; Machinery</td>
<td>$970,000</td>
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<tr>
<td>Deductible</td>
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<tr>
<td>Protection &amp; Indemnity</td>
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<tr>
<td>Deductible - Bodily Injury</td>
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<tr>
<td>Deductible - Property Damage</td>
<td>$25,000</td>
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<tr>
<td>Crew Limitation</td>
<td>3 Crew</td>
<td></td>
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<tr>
<td><strong>Premium</strong></td>
<td></td>
<td><strong>$26,715</strong></td>
<td><strong>$30,051</strong></td>
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<tr>
<td>TRIA (Optional)</td>
<td></td>
<td><strong>$2,672</strong></td>
<td><strong>$3,005</strong></td>
</tr>
</tbody>
</table>

| Great American Ins Co of NY            |                    |                    |                    |
| AM Best Rating: A+XIV                   |                    |                    |                    |
| Pollution Liability Limit               | $5,000,000         |                    |                    |
| **Premium**                            |                    | **$966**           | **$1,014**         |

| Atlantic Specialty (formerly           |                    |                    |                    |
| Northern Assurance)                    |                    |                    |                    |
| AM Best Rating: A+XI                    |                    |                    |                    |
| Excess Protection & Indemnity Limit     | $4,000,000         |                    |                    |
| **Premium**                            |                    | **$5,455**         | **$5,455**         |
| TRIA (Optional)                        |                    | **$500**           | **$500**           |
| Total Annual Cost                      |                    | **$33,136 (w/o TRIA)** | **$36,520 (w/o TRIA)** |

Prepared by The Unity Group
August 26, 2013
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Originator: DMP 08/21/13
Division Head: 8/21/13
Dept. Head: 8/24/13
Prosecutor: 8/21/13
Purchasing/Budget: 8/21/13
Executive: 09/03/13

RECEIVED
SEP 03 2013
WHATCOM COUNTY COUNCIL

TITLE OF DOCUMENT
Interlocal Agreement with City of Bellingham for 2013 Byrne Justice Assistance Grant (JAG) Funds

ATTACHMENTS:
Interlocal Agreement with City of Bellingham

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( ) NO
Should Clerk schedule a hearing? ( ) Yes ( ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

City of Bellingham will provide $12,878 of 2013 Edward Byrne Memorial Justice Assistance Grant (JAG) Funds to Whatcom County Sheriff’s Office to purchase training equipment and supplies in support of regionalized Active Shooter Response Training.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
To: Jack Louws, County Executive
From: Bill Elfo, Sheriff
Date: August 8, 2013

RE: Interlocal agreement in support of 2013 Byrne Justice Assistance Grant Program Award

Attached are two originals of an interlocal agreement between Whatcom County and the City of Bellingham pertaining to a disparate JAG award in the amount of $35,159.00 allocated to Whatcom County, with $22,281.00 designated for the City of Bellingham (Police Dept) and $12,878.00 to Whatcom County (Sheriff’s Office). The Sheriff’s Office plans to use the award to purchase training equipment and supplies in support of regionalized active shooter response training. A program narrative and budget is attached for the County portion. The City of Bellingham will administer the grant.

If you have any questions, please feel free to contact Undersheriff Jeff Parks at ext 50418.
WHATCOM COUNTY CONTRACT INFORMATION SHEET

Originating Department: Sheriff's Office

Contract or Grant Administrator: Jeff Parks, Undersheriff

Contractor's / Agency Name: City of Bellingham

Is this a New Contract? Yes X No

If not, is this an Amendment or Renewal to an Existing Contract? Yes ___ No ___

If Amendment or Renewal, Original Contract #

Does contract require Council Approval? Yes ___ No ___

Is this a grant agreement? Yes ___ No ___

If yes, grantor agency contract number(s) CFDA # 16.738

Is this contract grant funded? Yes X No ___

If yes, associated Whatcom County grant contract number(s) City of Bellingham Grant

Is this contract the result of a RFP or Bid process? Yes ___ No X

If yes, RFP and Bid number(s) Cost Center: 2940

Is this agreement excluded from E-Verify? No ___ Yes X If no, include Attachment D Contractor Declaration form.

If yes, indicate exclusion(s) below:

Professional services agreement for certified/licensed professional

Contract less than $100,000.

Contract for Commercial off the shelf items (COTS)

Contract work is all performed outside U.S.

Work related subcontract less than $25,000.

X Interlocal Agreement (between Gov'ts)

Public Works - Local Agency/Federally Funded FHWA

Contract Amount:(sum of original contract amount and any prior amendments)

$ 12,878.00

This Amendment Amount:

$ 0.00

Total Amended Amount:

$ 12,878.00

Renewals: Council approval is not required when exercising an option to renew that is provided in the original contract.

Summary of Scope:

City of Bellingham will provide $12,878 of Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds to Whatcom County Sheriff's Office to purchase training equipment and supplies in support of regionalized Active Shooter Response Training.

Term of Contract: 07/03/13 Expiration Date: 12/31/14

Contract Routing Steps & Signoff: [sign or initial] [indicate date transmitted]

1. Prepared by: ___ DMP ___ Date 08/08/13 [electronic]

2. Attorney reviewed: ___ ___ Date 08/15/13 [electronic]

3. AS Finance reviewed: ___ ___ Date 08/15/13 [electronic]

4. IT reviewed if IT related ___ ___ Date ___ ___ [electronic]

5. Corrections made: ___ ___ Date 08/15/13 [electronic] hard copy printed

6. Attorney signoff: ___ ___ Date 08/15/13

7. Contractor signed: ___ ___ Date ___ ___

8. Submitted to Exec Office ___ ___ Date 08/16/13 [summary via electronic; hardcopies]

9. Council approved (if necessary) ___ ___ Date ___ ___

10. Executive signed: ___ ___ Date ___ ___

11. Contractor Original Returned to dept; ___ ___ Date ___ ___

12. County Original to Council ___ ___ Date ___ ___

Last Edited 7/17/13
THE STATE OF WASHINGTON  

COUNTY OF WHATCOM  

INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF BELLINGHAM, AND COUNTY OF WHATCOM  

2013 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD  

This Agreement is made and entered into this 3rd day of July, 2013, by and between The COUNTY of Whatcom, acting by and through its governing body, the County Council, hereinafter referred to as COUNTY, and the CITY of Bellingham, acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Whatcom County, State of Washington, witnesseth:  

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and  

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and  

WHEREAS, per the grant, Whatcom County Jurisdiction is allocated $35,159 in grant funding, $22,281 for the City and $12,878 for Whatcom County: and  

WHEREAS, the CITY agrees to provide the COUNTY $12,878 from the JAG award for the Active Shooter Training Program: and  

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.  

NOW THEREFORE, the COUNTY and CITY agree as follows:  

Section 1.  
CITY agrees to pay COUNTY a total of $12,878 of JAG funds.  

Section 2.  
COUNTY agrees to use $12,878 for the Active Shooter Training Program until 2015.  

Section 3.  
Nothing in the performance of this Agreement shall impose any liability for claims against the "CITY" or "COUNTY"  

Section 4.  
Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.  

Page 1 of 2
Section 5.
The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 6.
By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

CITY OF Bellingham, WA

Kelli Linville, Mayor

ATTEST:

John Carter, Finance Department

APPROVED AS TO FORM:

City Attorney

Chief of Police

COUNTY OF Whatcom, WA

Sheriff

APPROVED AS TO FORM:

Prosecuting Attorney, Whatcom County

Jack Louws, Whatcom County Executive
Abstract

Enhanced Response to Active Shooters and Critical Violent Incidents in Schools and Public Buildings. — In response to recent violent critical incidents at schools and public venues, the Whatcom County Sheriff's Office is developing enhanced training for Active Shooter scenarios. In order to conduct regionalized training with other law enforcement and fire agencies, the intent is to provide a mobile training component. The training program will focus on enhanced response capabilities, to include integration with fire and medical resources. The focus of the program will be neutralization of the threat by first responders and expedited medical treatment for victims. The goal of the program will be to provide regional training to all area law enforcement that increases officer safety, improves integrated public safety response and saves lives.

Project identifiers – Campus safety, Conference/training, Equipment – general, School crime, Violence – School violence

Program Narrative

The recent attack at Sandyhook Elementary, as well as other public venues, has reaffirmed why it is imperative that first responders be trained and prepared to response to incidents of active violence in an efficient and expeditious manner. The goal of such training and response is protecting potential victims and limiting loss of life. While the Whatcom County Sheriff’s Office trains and equips department personnel to respond to active shooter scenarios, enhanced training and interagency coordination is necessary for efficient actions and life saving measures. These grant funds are needed to help facilitate joint critical incident training with area law enforcement and fire agencies.

In order to improve the coordinated response of emergency resources, the Whatcom County Sheriff’s Office has taken a lead role in providing regionalized active shooter response training to area law enforcement agencies. Due limited training budgets, the Sheriff’s Office recognized that it was imperative that we provide smaller agencies with the knowledge and tactics required to effectively operate during a multi-jurisdictional response. In addition, prior critical incidents have demonstrated the need to provide medical aid to victims as soon as possible.
The Sheriff’s Office has conducted several training exercises that highlight the establishment of Casualty Collection Points (CCP) and prompt medical response to the crisis location. We have met with area fire agencies and expressed the desire to conduct more joint training, to include the concept of rapid medical intervention to a CCP.

The Sheriff’s Office intends to utilize JAG funding to purchase and outfit a mobile training unit to provide regional training to area law enforcement and fire personnel. The necessary training equipment will be stored in a cargo trailer, which can be transported to different training locations. In addition to the inert training weapons, the funds will be used to install storage for equipment.

**Budget and Budget Narrative**

**BUDGET**

**Equipment**

- **Cargo trailer**
  
  $3,338.00

- **SIRT 110 Pro inert training handgun**
  
  10 x $343 = $3,430.00

- **SIRT inert AR Laser Bolt R**
  
  10 x $111.00 =

  $1,110.00

- **Simunition FX marking rounds**
  
  $5,000.00

**Total**

$12,878.00

**Total project costs**

$12,878.00
BUDGET NARRATIVE

EQUIPMENT: In order to provide enhanced training for regional law enforcement agencies, the Whatcom County Sheriff’s Office intends to implement a mobile training program.

Cargo trailer - The intent is to equip a cargo trailer with the training equipment and resources needed to provide regional critical response training at a variety of facilities and/or venues. The mobile training platform will allow us to provide joint training to other agencies in an efficient and effective manner.

SIRT inert handguns – The SIRT handgun is an inert training aid that allows students to utilize equipment that simulates the actual equipment they utilize in the field. Because it is an inert training weapon, it does not require costly ammunition or range facilities. As opposed to other training firearms, the SIRT handguns project a visible laser that can be seen by instructors and gives immediate feedback to the student and instructor on proper target identification and proficiency. There is no additional cost for special training rounds, which makes the program sustainable and cost effective.

SIRT magazines – These magazines are used in conjunction with the SIRT handgun and simulate the actual weigh of a loaded magazine and allow for functional reload and manipulation drills.

SIRT AR laser bolts – Similar to the SIRT inert handguns, the laser bolt is installed in issued patrol rifles and converts them to inert training rifles to be used is scenario-based training.

Simunition FX marking rounds – The marking rounds will be utilized with currently owned simunition training weapons to enhanced reality-based training scenarios on active shooter response. Simunition marking rounds are regularly used in force-on-force training scenario to artificially simulate the stress and circumstances encountered by law enforcement during active shooter events. FX marking rounds provide immediate feedback for both instructors and students. In addition, the use of simulated training equipment allows law enforcement to be inoculated to the stressor that they would likely encounter in a real life response.
Review Narrative

The Whatcom County Sheriff’s Office intends to make its Fiscal Year 2013 JAG application available to the Whatcom County Council for review and comment at the September 10, 2013 regular meeting.

The application has not yet been made available for public review and comment. The Whatcom County Sheriff’s Office will make it FY2013 application available through submission to the County Executive for placement on the Whatcom County Council agenda (deadline August 30, 2013) for the meeting to be held on September 10, 2013.

Applicant Disclosure of Pending Applications

The Whatcom County Sheriff’s Office does not have any pending applications for federal funding to support the proposed program.

DUNS Number

060044641
The U.S. Department of Justice (DOJ), Office of Justice Programs’ (OJP) Bureau of Justice Assistance (BJA) is seeking applications for funding under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department’s mission by assisting state, local, and tribal efforts to prevent or reduce crime and violence.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2013 Local Solicitation

Eligibility

Applicants are limited to units of local government appearing on the FY 2013 JAG Allocations List. To view this list, go to www.bja.gov/programs/ag/13jaallocations.html. For JAG Program purposes, a unit of local government is: a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribe that performs law enforcement functions (as determined by the Secretary of the Interior). Otherwise a unit of local government may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes. In Louisiana, a unit of local government means a district attorney or parish sheriff. In the District of Columbia or any U.S. Trust Territory, a unit of local government is any agency of the District of Columbia or federal government performing law enforcement functions for the District of Columbia or U.S. Trust Territory.

Deadline

Applicants must register in OJP's Grants Management System (GMS) prior to submitting an application for this funding opportunity. Select the "Apply Online" button associated with the solicitation title. (See “How to Apply,” page 19.) All registrations and applications are due by 8:00 p.m. eastern time on July 9, 2013. (See “Deadlines: Registration and Application,” page 4.)

Contact Information

For technical assistance with submitting the application, contact the Grants Management System Support Hotline at 1-888-549-9901, option 3, or via e-mail to GMS_HelpDesk@usdoj.gov.
Note: The GMS Support Hotline hours of operation are Monday–Friday from 6:00 a.m. to 12 midnight eastern time, except federal holidays.

For assistance with any other requirement of this solicitation, contact the BJA Justice Information Center at 1–877–927–5657, via e-mail to JIC@telesishq.com, or by live web chat. The BJA Justice Information Center hours of operation are 8:30 a.m. to 5:00 p.m. eastern time, and 8:30 a.m. to 8:00 p.m. eastern time, Monday through Friday, on the solicitation close date. You may also contact your State Policy Advisor: www.bja.gov/About/Contacts/ProgramsOffice.html.

Funding opportunity number assigned to announcement: BJA-2013-3599

Release date: May 30, 2013
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Edward Byrne Memorial Justice Assistance Grant (JAG) Program: Local Solicitation CFDA #16.738

Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. The JAG Program provides states and units of local governments with critical funding necessary to support a range of program areas including law enforcement, prosecution and court programs, prevention and education programs, corrections and community corrections, drug treatment and enforcement, crime victim and witness initiatives, and planning, evaluation, and technology improvement programs.

Deadlines: Registration and Application

Applicants must register in GMS prior to submitting application for this funding opportunity. Select the “Apply Online” button associated with the solicitation title. The deadline to register in GMS and the deadline to apply for funding under this announcement is 8:00 p.m. eastern time on July 9, 2013. See "How To Apply" on page 19 for details.

Eligibility

Refer to the title page for eligibility under this program.

Program-Specific Information

Program Areas

JAG funds may be used for state and local initiatives, technical assistance, strategic planning, research and evaluation (including forensics), data collection, training, personnel, equipment, forensic laboratories, supplies, contractual support, and criminal justice information systems that will improve or enhance such areas as:

- Law enforcement programs.
- Prosecution and court programs.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment and enforcement programs.
- Planning, evaluation, and technology improvement programs.
- Crime victim and witness programs (other than compensation).

Award Recipient Responsibilities: The Chief Executive Officer (CEO) of an eligible unit of local government or other officer designated by the CEO must submit the application for JAG funds. A unit of local government receiving a JAG award will be responsible for the administration of the funds including: distributing the funds; monitoring the award; submitting
quarterly financial status (SF-425) and performance metrics reports and annual programmatic reports; and providing ongoing oversight and assistance to any subrecipients of the funds.

**Governing Body Review:** No fewer than 30 days prior to application submission, the applicant agency (fiscal agent in disparate situations) must make the grant application available for review by the governing body (or to the organization designated by the governing body). See the Review Narrative section on page 15 for additional information.

**Public Comment:** At the time of application submission, the applicant agency (the fiscal agent in disparate situations) must provide an assurance that the application was made public and an opportunity to comment was provided to citizens and neighborhood or community organizations to the extent the applicable law or established procedure makes such an opportunity available. See the Review Narrative section on page 15 for additional information.

**Prohibited Uses:** No JAG funds may be expended outside of JAG program areas. Even within these program areas, however, JAG funds cannot be used directly or indirectly for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety. Additionally, JAG funds may not be used directly or indirectly to provide for any of the following matters unless the BJA Director certifies that extraordinary and exigent circumstances exist; making them essential to the maintenance of public safety and good order:

- Vehicles, vessels, or aircraft.
- Unmanned aerial vehicles/unmanned aircraft, aircraft system, or aerial vehicles (UA/UAS/UAV).
- Luxury items.
- Real estate.
- Construction projects (other than penal or correctional institutions).
- Any similar matters.

*Police cruisers, police boats, and police helicopters are allowable vehicles under JAG and do not require BJA certification.*

**Unmanned Aircraft, Aircraft System, or Aerial Vehicles (UA/UAS/UAV):** No JAG funds may be expended on these items unless the BJA Director certifies that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order. Also, any grant award using funds for this purpose may be subject to additional reporting criteria, which will be spelled out in a customized special condition attached to the grant award.

*For information related to requesting a waiver to obtain BJA certification for any prohibited item, or for examples of allowable vehicles that do not require BJA certification, refer to the JAG FAQs on BJA's JAG web page.*

**Evidence-Based Programs or Practices**

OJP places a strong emphasis on the use of data and evidence in policy making and program development in criminal justice. OJP is committed to:

- improving the quantity and quality of evidence OJP generates;
• integrating evidence into program, practice, and policy decisions within OJP and the field; and
• improving the translation of evidence into practice.

OJP considers programs and practices to be evidence-based when their effectiveness has been demonstrated by causal evidence, generally obtained through one or more outcome evaluations. Causal evidence documents a relationship between an activity or intervention (including technology) and its intended outcome, including measuring the direction and size of a change, and the extent to which a change may be attributed to the activity or intervention. Causal evidence depends on the use of scientific methods to rule out, to the extent possible, alternative explanations for the documented change. The strength of causal evidence, based on the factors described above, will influence the degree to which OJP considers a program or practice to be evidence-based.

OJP’s CrimeSolutions.gov web site is one resource that applicants may use to find information about evidence-based programs in criminal justice, juvenile justice, and crime victim services. Additionally, when considering evidence-based programs and practices specific to reentry, it is recommended that jurisdictions review the What Works in Reentry Clearinghouse for important research on the effectiveness of a wide variety of reentry programs and practices. The Clearinghouse provides a one-stop shop for practitioners and service providers seeking guidance on evidence-based reentry interventions.

Amount and Length of Awards

Eligible award amounts under JAG are posted annually on BJA’s JAG web page: www.bja.gov/ProgramDetails.aspx?Program_ID=59.

Awards of at least $25,000 or more are 4 years in length with an award period of October 1, 2012 through September 30, 2016. Extensions beyond a 4-year period may be made on a case-by-case basis at the discretion of BJA and must be requested via the Grants Management System (GMS) no less than 30 days prior to the grant end date.

Awards that are less than $25,000 are 2 years in length with an award period of October 1, 2012 through September 30, 2014. Requests for up to two additional years to complete performance of the award will be granted automatically, pursuant to 42 U.S.C. § 3751(f). Extensions beyond a 4-year period may be made on a case-by-case basis at the discretion of BJA and must be requested via the Grants Management System (GMS) no less than 30 days prior to the grant end date.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by law.

Budget Information

Applicants must submit a budget and budget narrative outlining how JAG funds, including administrative funds if applicable, will be used to support and implement the program. See the budget narrative description under “What an Application Should Include” on page xx for more information.
Formula: Once each fiscal year’s overall JAG Program funding level is determined, BJA partners with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process which consists of:

1. Computing an initial JAG allocation for each state and territory, based on their share of violent crime and population (weighted equally).

2. Reviewing the initial JAG allocation amount to determine if the state or territory allocation is less than the minimum ("de minimus") award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state or territory is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on their share of violent crime and population.

3. Dividing each state’s final award amount (except for the territories and District of Columbia) between state and local governments at a rate of 60 and 40 percent, respectively.

4. Determining local unit of government award allocations, which are based on their proportion of the state’s 3-year violent crime average. If a local eligible award amount is less than $10,000, the funds are returned to the state to be awarded to these local units of government through the state agency. If the eligible award amount is $10,000 or more, then the local government is eligible to apply for a JAG award directly from BJA.

Administrative Funds: A unit of local government may use up to 10 percent of the award, including interest, for costs associated with administering JAG funds.

Supplanting: Supplanting is prohibited under JAG. Applicants cannot replace or supplant non-federal funds that have been appropriated for the same purpose. See the JAG FAQs on BJA’s JAG web page for examples of supplanting.

Leveraging of Grant Funds: Although supplanting is prohibited, the leveraging of federal funding is encouraged. For example, a city may utilize JAG and Homeland Security Grant Program (HSGP) money to fund different portions of a fusion center project. In instances where leveraging occurs, all federal grant funds must be tracked and reported on separately and may not be used to fund the same line items. Additionally, federal funds cannot be used as match for other federal awards.

Disparate Certification: A disparate allocation occurs when a city or municipality is allocated one-and-one-half times (150 percent) more than the county, while the county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality’s Part 1 violent crimes. A disparate allocation also occurs when multiple cities or municipalities are collectively allocated four times (400 percent) more than the county, and the county bears more than 50 percent of the collective costs associated with prosecution or incarceration of each municipality’s Part 1 violent crimes.

★ Jurisdictions certified as disparate must identify a fiscal agent that will submit a joint application for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG
application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds must be completed and signed by the Authorized Representative for each participating jurisdiction. The signed MOU should be attached to the application. For a sample MOU, go to www.bia.gov/Funding/JAGMOU.pdf.

**Trust Fund:** Award recipients may draw down JAG funds in advance. To do so, a trust fund must be established in which to deposit the funds. The trust fund may or may not be an interest-bearing account. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit funds. This trust fund requirement does not apply to direct JAG award recipients or subrecipients that draw-down on a reimbursement basis rather than in advance.

**Limitation on Use of Award Funds for Employee Compensation; Waiver:** With respect to any award of more than $250,000 made under this solicitation, recipients may not use federal funds to pay total cash compensation (salary plus cash bonuses) to any employee of the award recipient at a rate that exceeds 110 percent of the maximum annual salary payable to a member of the Federal Government’s Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. The 2013 salary table for SES employees is available at www.opm.gov/oca/13tables/indexSES.asp. Note: A recipient may compensate an employee at a greater rate, provided the amount in excess of this compensation limitation is paid with non-federal funds. (Any such additional compensation will not be considered matching funds where match requirements apply.)

The Assistant Attorney General (AAG) for OJP may exercise discretion to waive, on an individual basis, the limitation on compensation rates allowable under an award. An applicant requesting a waiver should include a detailed justification in the budget narrative of the application. Unless the applicant submits a waiver request and justification with the application, the applicant should anticipate that OJP will request the applicant to adjust and resubmit the budget.

The justification should include the particular qualifications and expertise of the individual, the uniqueness of the service the individual will provide, the individual’s specific knowledge of the program or project being undertaken with award funds, and a statement explaining that the individual’s salary is commensurate with the regular and customary rate for an individual with his/her qualifications and expertise, and for the work to be done.

**Minimization of Conference Costs:** OJP encourages applicants to review the OJP guidance on conference approval, planning, and reporting that is available on the OJP web site at www.ojp.gov/funding/confcost.htm. This guidance sets out the current OJP policy, which requires all funding recipients that propose to hold or sponsor conferences (including meetings, trainings, and other similar events) to minimize costs, requires OJP review and prior written approval of most conference costs for cooperative agreement recipients (and certain costs for grant recipients), and generally prohibits the use of OJP funding to provide food and beverages at conferences. The guidance also sets upper limits on many conference costs, including facility space, audio/visual services, logistical planning services, programmatic planning services, and food and beverages (in the rare cases where food and beverage costs are permitted at all).

Prior review and approval of conference costs can take time (see the guidance for specific deadlines), and applicants should take this into account when submitting proposals. Applicants
also should understand that conference cost limits may change and that they should check the guidance for updates before incurring such costs.

Note on food and beverages: OJP may make exceptions to the general prohibition on using OJP funding for food and beverages, but will do so only in rare cases where food and beverages are not otherwise available (e.g., in extremely remote areas); the size of the event and capacity of nearby food and beverage vendors would make it impractical to not provide food and beverages; or a special presentation at a conference requires a plenary address where conference participants have no other time to obtain food and beverages. Any such exception requires CJP's prior written approval. The restriction on food and beverages does not apply to water provided at no cost, but does apply to any and all other refreshments, regardless of the size or nature of the meeting. Additionally, this restriction does not affect direct payment of per diem amounts to individuals in a travel status under your organization's travel policy.

Costs Associated with Language Assistance (if applicable): If an applicant proposes a program or activity that would deliver services or benefits to individuals, the costs of taking reasonable steps to provide meaningful access to those services or benefits for individuals with limited English proficiency may be allowable. Reasonable steps to provide meaningful access to services or benefits may include interpretation or translation services where appropriate.

For additional information, see the "Civil Rights Compliance" section of the OJP "Other Requirements for CJP Applications" web page at www.ojp.usdoj.gov/funding/other_requirements.htm.

Match Requirement: While match is not required under the JAG Program, match is an effective strategy to expand justice funds and build buy-in for local criminal justice initiatives. Matching funds become part of the overall award amount, and as such are subject to audit and must be expended or deobligated prior to closeout.

Other JAG Requirements

Body Armor Certification

- Ballistic-resistant and stab-resistant body armor can be funded through two BJA-administered programs: the JAG Program and the Bulletproof Vest Partnership (BVP) Program.

- The BVP Program is designed to provide a critical resource to state and local law enforcement through the purchase of ballistic-resistant and stab-resistant body armor. A jurisdiction is able to request up to 50 percent of the cost of a vest with BVP funds. For more information on the BVP Program, including eligibility and application, refer to the BVP web page.

- JAG funds may also be used to purchase vests for an agency, but they may not be used to pay for that portion of the ballistic-resistant vest (50 percent) that is not covered by BVP funds. Unlike BVP, JAG funds used to purchase vests do not require a 50 percent match.

- Vests purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the vests have been tested and found to comply with the latest applicable National Institute of Justice ballistic or stab standards. In addition, vests purchased must be American-made. Information on the latest National Institute of
justice (NIJ) standards can be found at: www.nij.gov/topics/technology/body-armor/safety-initiative.htm.

- As is the case in BVP, grantees who wish to purchase vests with JAG funds must certify that law enforcement agencies receiving vests have a written “mandatory wear” policy in effect. FAQs related to the mandatory wear policy and certifications can be found at www.bja.gov/Funding/JAGFAQ.pdf. This policy must be in place for at least all uniformed officers before any FY 2013 funding can be used by the agency for vests. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. The certification must be signed by the certifying official and must be attached to the application. If the grantee proposes to change project activities to utilize JAG funds to purchase bulletproof vests after the application period (during the project period), then the grantee must submit the signed certification to BJA at that time. A mandatory wear concept and issues paper and a model policy are available by contacting the BVP Customer Support Center vests@usdoj.gov or toll free at 1–877–758–3787.

- A copy of the certification related to the mandatory wear can be found at: www.bja.gov/Funding/13JAGBVPCCert.pdf.

Interoperable Communications
- Grantees (including subgrantees) that are using FY 2013 JAG Program funds to support emergency communications activities (including the purchase of interoperable communications equipment and technologies such as voice-over-internet protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission (FCC) Waiver Order) must ensure:

  ➢ Compliance with the FY 2013 SAFECOM Guidance for Emergency Communication Grants (including provisions on technical standards that ensure and enhance interoperable communications).

  ➢ Adherence to the technical standards set forth in the FCC Waiver Order, or any succeeding FCC orders, rules, or regulations pertaining to broadband operations in the 700 MHz public safety band.

  ➢ Projects support the Statewide Communication Interoperability Plan (SCIP) and are fully coordinated with the full-time Statewide Interoperability Coordinator (SWIC) in the state of the project. As the central coordination point for their state’s interoperability effort, the SWIC plays a critical role, and can serve as a valuable resource. SWICs are responsible for the implementation of the SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office of Emergency Communications maintains a list of SWICs for each of the 56 states and territories. Contact OEC@hq.dhs.gov.

  ➢ All communications equipment purchased with grant award funding (plus the quantity purchased of each item) is identified during quarterly performance metrics reporting.

DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database
If JAG program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA

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database operated by the Federal Bureau of Investigation (FBI), by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ FY 2013 DNA Backlog Reduction Program, available at www.ncjrs.gov/pdffiles1/nijs/001062.pdf. In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not accepted for entry into CODIS.

Reporting Requirements, Performance Measures, and JAG Showcase

Submission of performance measures data is not required for the application. Instead, applicants should discuss in their application their proposed methods for collecting data for performance measures. Refer to the section “What an Application Should Include” on page 15 for additional information.

Award recipients will be required to submit quarterly financial status (SF-425) and annual programmatic reports through GMS, quarterly performance metrics reports (see Performance Measures section below) through BJA’s Performance Measurement Tool (PMT), and Federal Funding Accountability and Transparency Act (FFATA) reports through the FFATA Sub-award Reporting System (FSRS) as necessary (see FFATA section below).

Performance Measures

To assist in fulfilling the Department’s responsibilities under the Government Performance and Results Act of 1993 (GPRA), P.L. 103-62, and the GPRA Modernization Act of 2010, Public Law 111–352, applicants who receive funding under this solicitation must provide data that measures the results of their work done under this solicitation. Quarterly performance metrics reports must be submitted through BJA’s Performance Measurement Tool (PMT) website, available at www.biaperformancetools.org. The performance measures can be found at: www.biaperformancetools.org/help/JAGMeasuresQuestionnaire.pdf.

Note on Project Evaluations

Applicants that propose to use funds awarded through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations designed to develop or contribute to generalizable knowledge) may constitute “research” for purposes of applicable DOJ human subjects protection regulations. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet OJP’s performance measure data reporting requirements likely do not constitute “research.” Applicants should provide sufficient information for OJP to determine whether the particular project they propose would either intentionally or unintentionally collect and/or use information in such a way that it meets the DOJ regulatory definition of research.

Research, for the purposes of human subjects protections for OJP-funded programs, is defined as, “a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge” 28 C.F.R. § 46.102(d). For additional information on determining whether a proposed activity would constitute research, see the decision tree to assist applicants on the “Research and the Protection of Human Subjects” section of the OJP “Other Requirements for OJP Applications” Web page (www.ojp.usdoj.gov/funding/other_requirements.htm). Applicants whose proposals may involve
a research or statistical component also should review the “Confidentiality” section on that Web page.

**Notice of Post-Award FFATA Reporting Requirement**

Applicants should anticipate that OJP will require all recipients (other than individuals) of awards of $25,000 or more under this solicitation, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), to report award information on any first-tier subawards totaling $25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the reporting requirements should it receive funding. Reports regarding subawards will be made through the FFATA Subaward Reporting System (FSRS), found at www.fsrs.gov.

Note also that applicants should anticipate that no subaward of an award made under this solicitation may be made to a subrecipient (other than an individual) unless the potential subrecipient acquires and provides a Data Universal Numbering System (DUNS) number.

**JAG Showcase**

This **JAG Showcase** was designed to identify and highlight JAG projects that have demonstrated success or have shown promise in reducing crime, positively impacting communities, etc. Because the JAG program provides state, tribal, and local jurisdictions with flexibility to tailor the programs to fit their needs, a wide variety of programs have been funded across the country. Each year, new methods to reduce and prevent crime, violence, and drug abuse; and, to improve the functioning of the criminal justice system are being discovered. BJA strives to increase awareness of JAG funds invested in innovation, evidence-based programs and program evaluations. This page is intended to serve as a resource for criminal justice professionals in the field who seek to stay informed of some of the most interesting, innovative, results oriented projects that have been funded with JAG money in the last several years.

JAG success stories success stories should include the: name and location of program/project; point of contact with phone and e-mail; amount of JAG funding received and in which fiscal year; and a brief summary describing the program/project and its impact. **BJA strongly encourages and appreciates annual (or more frequent) submissions at JAG.Showcase@ojp.usdoj.gov or via the online form.**

**Priorities**

BJA recognizes that the downturn in the economy has resulted in significant pressures on state and local criminal justice systems. In these challenging times, shared priorities and leveraged resources can make a significant impact. In light of this, it is important to make SAAs and local JAG recipients aware of several areas of priority that may be of help in maximizing the effectiveness of JAG funding at the state and local level.

In addition to our longstanding and unwavering commitment to keeping violent crime at its lowest level in decades, the following priorities represent key areas where BJA will be focusing nationally and invite each state and local JAG recipient to join us in addressing these challenges as a part of our JAG partnership.

BJA-2013-3599
Reducing Gun Violence

In the aftermath of the Sandy Hook Elementary School tragedy and mass shootings in Aurora, Oak Creek, and Tucson, BJA encourages states and localities to invest valuable JAG funds in programs to reduce gun violence, enforce existing firearms laws, and enhance reporting to the FBI’s National Instant Criminal Background Check System. Other important priorities include strengthening school safety, improving criminal justice/mental health collaborations, and supporting joint first responder critical incident training.

Recidivism Reduction and Justice System Realignment

In this time of fiscal austerity and smaller state and local budgets, reducing unnecessary incarceration in a manner that promotes public safety is a paramount goal. Effective community supervision coupled with evidence-based program interventions can result in significant reductions in recidivism. A priority funding area is the implementation of effective pretrial services programs and innovative programs and approaches in probation and parole supervision that improve services to offenders and increase collaborative efforts among community supervision agencies with law enforcement and the courts. Currently 17 states and local governments are working to control spiraling incarceration costs through justice system reforms and realignment under the Justice Reinvestment Initiative (JRI). Strategic investment of JAG funds to implement JRI legislation and policy changes in those states and localities can augment federal funds and achieve greater cost savings and reinvestments in programs to promise public safety.

Indigent Defense

Another key priority area in the criminal justice system is support for indigent defense. BJA continues to encourage states and SAAs to use JAG funds to support the vital needs of the indigent defense community. Attorney General Holder has consistently stressed that the crisis in indigent defense reform is a serious concern which must be addressed if true justice to be achieved in our nation. In 2002, the American Bar Association (ABA) published Ten Principles of a Public Defense Delivery System which represent fundamental building blocks for implementing quality legal representation for indigent defendants. (See ABA Ten Principles.)

Evidence-Based “Smart” Programs

As a result of the current fiscal crisis, many police departments are experiencing unprecedented budget cuts, layoffs, and reductions in force. These challenges must be met by making wider use of advancements in the law enforcement field in the last several decades which rely on use of data, crime analysis, crime mapping and other analytic tools, cutting edge technology, and research and evaluations regarding effective policing strategies and programs. BJA offers a number of program models designed to effectively implement evidence based strategies including Smart Policing and Smart Probation. A useful matrix of evidence-based policing programs and strategies is available through the Center for Evidence-Based Policy at George Mason University and provides valuable information on policing strategies and programs that work. BJA encourages states to use JAG funds to support these “smart policing” strategies, including a focus on real time crime analysis centers (CACs), and effective partnerships with universities and research partners and with non-traditional criminal justice partners. Counterterrorism continues to be the number one priority for DOJ. At the state and local level,
high functioning, evidence-based, data-driven public safety agencies are a critical component of our nation’s “all crimes” strategy. In addition, the JAG Program has long supported effective and collaborative multi-jurisdictional task forces and justice information sharing programs, which continue as a priority in order to maintain our nation’s historic reductions in violent crime.

What an Application Should Include

Applicants should anticipate that if they fail to submit an application that contains all of the specified elements, it may negatively affect the review of their application; and, should a decision be made to make an award, it may result in the inclusion of special conditions that preclude the recipient from accessing or using award funds pending satisfaction of the conditions.

Refer to the BJA Grant Writing and Management Academy and OJP’s Grants 101 for an overview of what should be included in each application requirement. These trainings can be found at bja.ncjrs.gov/gwma/index.html and www.ojp.gov/grants101/.

OJP strongly recommends use of appropriately descriptive file names (e.g., “Program Narrative,” “Budget Narrative,” “Memoranda of Understanding,” etc.) for all attachments.

1. Information to Complete the Application for Federal Assistance (SF-424)
   The SF-424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. GMS takes information from the applicant’s profile to populate the fields on this form.

2. Abstract
   Applicants must provide an abstract that includes the applicant’s name, title of the project, goals of the project, and a description of the strategies to be used. In addition, above or below the abstract narrative, applicants must identify up to 5 project identifiers that would be associated with proposed project activities. The list of all identifiers can be found at www.bja.gov/Funding/JAGIdentifiers.pdf. The abstract should not exceed a half-page, or 400-500 words.

   Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

3. Program Narrative
   Applicants must submit a program narrative that generally describes the proposed program activities for the two or four year grant period. The narrative must outline the type of programs to be funded by the JAG award and provide a brief analysis of the need for the programs. Narratives must also identify anticipated coordination efforts involving JAG and related justice funds. Certified disparate jurisdictions submitting a joint application must specify the funding distribution to each disparate unit of local government and the purposes for which the funds will be used.

   Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.
4. **Budget and Budget Narrative**

Applicants **must** submit a budget and budget narrative outlining how JAG funds, including administrative funds if applicable, will be used to support and implement the program. This narrative should include a full breakdown of administrative costs, as well as an overview of how funds will be allocated across approved JAG purpose areas. Applicants should utilize the following approved budget categories to label the requested administrative and/or subgrant expenditures: Personnel, Fringe Benefits, Travel, Equipment, Supplies, Consultants/Contracts, and an Other category. For informational purposes only, a sample budget form may be found at [www.ojp.usdoj.gov/funding/forms/budget_detail.pdf](http://www.ojp.usdoj.gov/funding/forms/budget_detail.pdf).

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

5. **Review Narrative**

Applicants **must** submit information documenting that the date the JAG application was made available for review by the governing body, or to an organization designated by that governing body, not less than 30 days before the application was submitted to BJA. The attachment must also specify that an opportunity to comment was provided to citizens prior to application submission to the extent applicable law or established procedures make such opportunity available.

Below are notification language templates that can be utilized in completing this section of the application.

The (provide name of State/Territory) made its Fiscal Year 2013 JAG application available to the (provide name of governing body) for its review and comment on (provide date); or intends to do so on (provide date).

The (provide name of City/County for Local JAG and name of State for State JAG) made its Fiscal Year 2013 JAG application available to citizens for comment prior to application submission by (provide means of notification); or the application has not yet been made available for public review/comment.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

6. **Tribal Authorizing Resolution (if applicable)**

Tribes, tribal organizations, or third parties proposing to provide direct services or assistance to residents on tribal lands should include in their applications a resolution, a letter, affidavit, or other documentation, as appropriate, that certifies that the applicant has the legal authority from the tribe(s) to implement the proposed project on tribal lands. In those instances when an organization or consortium of tribes applies for a grant on behalf of a tribe or multiple specific tribes, then the application should include appropriate legal documentation, as described above, from all tribes that would receive services/assistance under the grant. A consortium of tribes for which existing consortium bylaws allow action without support from all tribes in the consortium (i.e., without an authorizing resolution or comparable legal documentation from each tribal governing body) may submit, instead, a copy of its consortium bylaws with the application.
Applicants that are unable to submit with the application a fully-executed (i.e., signed) copy of appropriate legal documentation, as described above, consistent with the applicable tribe's governance structure, should, at minimum, submit an unsigned, draft version of such legal documentation as part of its application (except in cases where, with respect to a tribal consortium applicant, consortium bylaws allow action without the support of all consortium member tribes). If selected for funding, use of and access to funds will be contingent on receipt of the fully-executed legal documentation.

7. **Additional Attachments**

   Jurisdictions certified as disparate **must** identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application **must** determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds **must** be completed and signed by the Authorized Representative for each participating jurisdiction. The signed MOU **must** be attached to the application. For a sample MOU, go to [www.bja.gov/Funding/JAGMOU.pdf](http://www.bja.gov/Funding/JAGMOU.pdf).

   Failure to submit this required information will result in an application being change requested in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding special condition at the time of award if time does not permit for a change request process.

8. **Applicant Disclosure of Pending Applications**

   Applicants are to disclose whether they have pending applications for federally funded assistance that include requests for funding to support the same project being proposed under this solicitation **and** will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation. The disclosure should include both direct applications for federal funding (e.g., applications to federal agencies) and indirect applications for such funding (e.g., applications to State agencies that will be subawarding federal funds).

   OJP seeks this information to help avoid any inappropriate duplication of funding. Leveraging multiple funding sources in a complementary manner to implement comprehensive programs or projects is encouraged and is not seen as inappropriate duplication.

   Applicants that have pending applications as described above are to provide the following information about pending applications submitted within the last 12 months:
   - the federal or state funding agency
   - the solicitation name/project name
   - the point of contact information at the applicable funding agency
<table>
<thead>
<tr>
<th>Federal or State Funding Agency</th>
<th>Solicitation Name/Project Name</th>
<th>Name/Phone/E-mail for Point of Contact at Funding Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>DOJ/COPS</td>
<td>COPS Hiring Program</td>
<td>Jane Doe, 202/000-0000; <a href="mailto:jane.doe@usdoj.gov">jane.doe@usdoj.gov</a></td>
</tr>
<tr>
<td>HHS/Substance Abuse &amp; Mental Health Services Administration</td>
<td>Drug Free Communities Mentoring Program / North County Youth Mentoring Program</td>
<td>John Doe, 202/000-0000; <a href="mailto:john.doe@hhs.gov">john.doe@hhs.gov</a></td>
</tr>
</tbody>
</table>

Applicants should include the table as a separate attachment, with the file name “Disclosure of Pending Applications,” to their application. Applicants that do not have pending applications as described above are to include a statement to this effect in the separate attachment page. (e.g., “[Applicant Name] does not have pending applications submitted within the last 12 months for federally funded assistance that include requests for funding to support the same project being proposed under this solicitation and will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation.”)

9. Other Standard Forms
Additional forms that may be required in connection with an award are available on OJP’s funding page at www.ojp.usdoj.gov/funding/forms.htm. For successful applicants, receipt of funds may be contingent upon submission of all necessary forms. Note in particular the following forms:

a. **Standard Assurances**
   Applicants must read, certify, and submit this form in GMS prior to the receipt of any award funds.

b. **Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements**
   Applicants must read, certify and submit in GMS prior to the receipt of any award funds.

c. **Accounting System and Financial Capability Questionnaire**
   Any applicant (other than an individual) that is a non-governmental entity and that has not received any award from OJP within the past 3 years must download, complete, and submit this form.

*These OJP Standard Assurances and Certifications are forms which applicants accept in GMS. They are not additional forms to be uploaded at the time of application submission.

**Review Process**

OJP is committed to ensuring a fair and open process for awarding grants. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. Applications for formula awards will be reviewed to ensure statutory requirements have been met.
Absent explicit statutory authorization or written delegation of authority to the contrary, all final grant award decisions will be made by the Assistant Attorney General will make all final award decisions.

Additional Requirements

Applicants selected for awards must agree to comply with additional legal requirements upon acceptance of an award. OJP encourages applicants to review the information pertaining to these additional requirements prior to submitting an application. Additional information for each requirement can be found at www.ojp.usdoj.gov/funding/other_requirements.htm.

- Civil Rights Compliance
- Civil Rights Compliance Specific to State Administering Agencies
- Faith-Based and Other Community Organizations
- Confidentiality
- Research and the Protection of Human Subjects
- Anti-Lobbying Act
- Financial and Government Audit Requirements
- National Environmental Policy Act (NEPA)
- DOJ Information Technology Standards (if applicable)
- Single Point of Contact Review
- Non-Supplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with Office of Justice Programs Financial Guide
- Suspension or Termination of Funding
- Nonprofit Organizations
- For-profit Organizations
- Government Performance and Results Act (GPRA)
- Rights in Intellectual Property
- Federal Funding Accountability and Transparency Act of 2006 (FFATA)
• Awards in Excess of $5,000,000 – Federal Taxes Certification Requirement

• Policy and Guidance for Conference Approval, Planning, and Reporting

• OJP Training Guiding Principles for Grantees and Subgrantees

How To Apply

Applicants must submit applications through the Grants Management System (GMS), which provides cradle to grave support for the application, award, and management of awards at OJP. Applicants must register in GMS for each specific funding opportunity. Although the registration and submission deadlines are the same, OJP urges applicants to register immediately, especially if this is their first time using the system. Complete instructions on how to register and submit an application in GMS can be found at www.ojp.usdoj.gov/gmscbt/. Applicants that experience technical difficulties during this process should e-mail GMS.HelpDesk@usdoj.gov or call 888-549-9901 (option 3), Monday – Friday from 6:00 a.m. to midnight eastern time, except federal holidays. OJP recommends that applicants register immediately to prevent delays in submitting an application package by the deadline.

All applicants should complete the following steps:

1. **Acquire a Data Universal Numbering System (DUNS) number.** In general, the Office of Management and Budget requires that all applicants (other than individuals) for federal funds include a DUNS number in their application for a new award or a supplement to an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and differentiating entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Call Dun and Bradstreet at 866-705-5711 to obtain a DUNS number or apply online at www.dnb.com. A DUNS number is usually received within 1-2 business days.

2. **Acquire registration with the System for Award Management (SAM).** SAM replaces the Central Contractor Registration (CCR) database as the repository for standard information about federal financial assistance applicants, recipients, and subrecipients. OJP requires that all applicants (other than individuals) for federal financial assistance maintain current registrations in the SAM database. Applicants must update or renew their SAM registration annually to maintain an active status.

Applicants that were previously registered in the CCR database must, at a minimum:

- Create a SAM account;
- Log in to SAM and migrate permissions to the SAM account (all the entity registrations and records should already have been migrated).

Information about SAM registration procedures can be accessed at www.sam.gov.

3. **Acquire a GMS username and password.** New users must create a GMS profile by selecting the “First Time User” link under the sign-in box of the GMS home page. For more information on how to register in GMS, go to www.ojp.usdoj.gov/gmscbt/.

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Approval Expires 02/28/2013

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4. **Verify the SAM registration in GMS, formerly CCR registration.** OJP requests that all applicants verify their SAM registration in GMS. Once logged into GMS, click the “CCR Claim” link on the left side of the default screen. Click the submit button to verify the SAM (formerly CCR) registration.

5. **Search for the funding opportunity on GMS.** After logging into GMS or completing the GMS profile for username and password, go to the “Funding Opportunities” link on the left side of the page. Select “Bureau of Justice Assistance” and the “Edward Byrne Memorial Justice Assistance Grant (JAG) Program–Local Solicitation.”

6. **Register by selecting the “Apply Online” button associated with the solicitation title.** The search results from step 5 will display the solicitation title along with the registration and application deadlines for this funding opportunity. Select the “Apply Online” button in the “Action” column to register for this solicitation and create an application in the system.

7. **Complete the Disclosure of Lobbying Activities, if applicable.** Any applicant that expends any funds for lobbying activities must provide the detailed information requested on the form, *Disclosure of Lobbying Activities (SF-LLL).*

8. **Follow the directions in GMS to submit an application consistent with this solicitation.** Once submitted, GMS will display a confirmation screen stating the submission was successful. **Important:** In some instances, applicants must wait for GMS approval before they can submit an application. OJP urges applicants to submit the application *at least 72 hours prior* to the due date of the application.


*Note: Duplicate Applications*  
If an applicant submits multiple versions of an application, BJA will review the most recent version submitted.

**Experiencing Unforeseen GMS Technical Issues**

Applicants that experience unforeseen GMS technical issues beyond their control that prevent them from submitting their application by the deadline, must e-mail the BJA Programs Office staff within 24 hours after the application deadline and request approval to submit their application. The e-mail must describe the technical difficulties and include a timeline of the applicant’s submission efforts, the complete grant application, the applicant’s DUNS number, and any GMS Help Desk or SAM tracking number(s). **Note: BJA does not automatically approve requests.** After the program office reviews the submission, and contacts the GMS Help Desk to validate the reported technical issues, OJP will inform the applicant whether the request to submit a late application has been approved or denied. If the technical issues reported cannot be validated, the application will be rejected as untimely.

The following conditions are not valid reasons to permit late submissions: (1) failure to register in sufficient time, (2) failure to follow GMS instructions on how to register and apply as posted.
on its Web site, (3) failure to follow each instruction in the OJP solicitation, and (4) technical issues with the applicant’s computer or information technology environment, including firewalls.

Notifications regarding known technical problems with GMS, if any, are posted at the top of the OJP funding Web page at [www.ojp.usdoj.gov/funding/solicitations.htm](http://www.ojp.usdoj.gov/funding/solicitations.htm).

**Provide Feedback to OJP on This Solicitation**

To assist OJP in improving its application and award processes, we encourage applicants to provide feedback on this solicitation, the application submission process, and/or the application review/peer review process. Feedback may be provided to [OJPSolicitationFeedback@usdoj.gov](mailto:OJPSolicitationFeedback@usdoj.gov).

**IMPORTANT:** This email is for feedback and suggestions only. Replies are not sent from this mailbox. If you have specific questions on any program or technical aspect of the solicitation, you must directly contact the appropriate number or email listed on the front of this solicitation document. These contacts are provided to help ensure that you can directly reach an individual who can address your specific questions in a timely manner.

If you are interested in being a reviewer for other OJP grant applications, please email your resume to [ojpeerreview@mbps.com](mailto:ojpeerreview@mbps.com). The OJP Solicitation Feedback email account will not forward your resume. **Note:** Neither you nor anyone else from your organization can be a peer reviewer in a competition in which you or your organization have submitted an application.
Application Checklist

Edward Byrne Memorial Justice Assistance Grant (JAG) Program
FY 2013 Local Solicitation

The application checklist has been created to assist in developing an application.

Eligibility Requirement:
_____ Jurisdiction listed as the legal name on the application corresponds with the eligible jurisdiction listed on BJA’s JAG web page
_____ Federal amount requested is within the allowable limit of the FY 2013 JAG Allocations List as listed on BJA’s JAG web page

What an Application Should Include:
_____ Application for Federal Assistance (SF-424) (see page 14)
_____ Abstract (see page 15)
_____ Program Narrative (see page 14)
_____ Budget and Budget Narrative (see page 15)
_____ Review Narrative (see page 15)
_____ Applicant Disclosure of Pending Applications (see page 16)
_____ Other Standard Forms, if applicable (see page 17)
_____ DUNS Number (see page 19)
_____ SAM Registration (see page 19)
_____ Disclosure of Lobbying Activities, if applicable (SF-LLL) (see page 20)
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>CLEARANCES</th>
<th>Initial</th>
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<th>Date Received in Council Office</th>
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<td>9/10/13</td>
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<tr>
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<td>9/3/13</td>
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</table>

**TITLE OF DOCUMENT:** Contract with Sea Mar Community Health Centers for outpatient substance abuse services

**ATTACHMENTS:**
1. Memo
2. Agenda Bill & Contract Info Sheet
3. Two copies of Contract

**SEPA review required?** ( ) Yes ( X ) NO
**SEPA review completed?** ( ) Yes ( X ) NO
**Should Clerk schedule a hearing?** ( ) Yes ( X ) NO

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This contract provides outpatient substance abuse treatment services to low income individuals. Total compensation will vary depending on the number of services provided. Service levels are pre-authorized by the Health Department and are monitored on a monthly basis. Based on contractor performance on similar contracts in the past, it's estimated that this contract will be funded at approximately $203,000 per year.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt
RE: Contract with Sea Mar Community Health Centers for Outpatient Substance Abuse Services
DATE: August 16, 2013

Enclosed are two (2) originals of a contract between Whatcom County and Sea Mar Community Health Centers for your review and signature.

- **Background and Purpose**
  This contract provides outpatient substance abuse treatment services to low income individuals. Research demonstrates that retention in treatment is associated with better long term recovery. Chemical dependency treatment agencies are involved in a statewide effort to improve retention rates. The retention rate for Whatcom County funded services is 66.7% which currently exceeds the state median.

- **Funding Amount and Source**
  This contract is funded by the Washington Department of Social and Health Services, Division of Behavioral Health and Recovery (DBHR) and local Chemical Dependency/Mental Health Program Funds. Payment is structured on a fee-for-service basis. Total compensation will vary depending on the number of services provided. Service levels are pre-authorized by the Health Department and are monitored on a monthly basis. Based on contractor performance on similar contracts in the past, it’s estimated that this contract will be funded at approximately $203,000 per year and is included in the current budget. The contract is being issued pursuant to RFQ #13-25. County Council approval is required, and an Agenda Bill is enclosed.

- **Differences from Previous Contract**
  This is a new contract.

Please contact Jackie Mitchell at extension 32017, if you have any questions or concerns regarding the terms of this agreement.

Encl.
WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Jackie Mitchell</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Sea Mar Community Health Centers</td>
</tr>
</tbody>
</table>

**Is this a New Contract?** If not, is this an Amendment or Renewal to an Existing Contract?
Yes X No ___ Yes ___ No ___ If yes, previous number(s): ______________________

**Is this a grant agreement?**
Yes ___ No X___ If yes, grantor agency contract number(s): ______________________
CFDA number: ______________________

**Is this contract grant funded?**
Yes X No ___ If yes, associated Whatcom County grant contract number(s): _______ DBHR Contract in Process

**Is this contract the result of a RFP or Bid process?**
Yes X No ___ If yes, RFP and Bid number(s): 13-26 __________ Cost Center: 675400/24100

**Is this contract excluded from E-Verify?** No ___ Yes X___
If no, include Attachment D Contractor Declaration Form
If yes, indicate qualified exclusion(s) below:
___ Contract less than $100,000.
___ Work is for less than 120 days
___ Interlocal Agreement (between Govt.)
___ Professional services agreement for certified/licensed professional
___ Contract for Commercial off the shelf items (COTS)
___ Public Works Dept. - Local Agency/Federally Funded FHWA

**Contract Amount:** (sum of orig contract amt and any prior amendments)
If a Professional Services Agreement is more than $15,000 or a Bid is more than $35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than $10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.

**As per authorization**

**Scope of Services:** [Insert language from contract (Exhibit A) or summarize; expand space as necessary]

This contract provides outpatient substance abuse treatment services to low income residents.

**Term of Contract:** Two Years  **Expiration Date:** 09/30/2015

**Contract Routing Steps & Signoff:** [sign or initial]  [indicate date transmitted]
1. Prepared by: PJ Date 5/20/13 [electronic]
2. Attorney reviewed: ELG Date 8/13/13 [electronic]
3. AS Finance reviewed: mdc Date 8/12/13 [electronic]
4. IT reviewed if IT related
5. Corrections made: ____________________________ Date 8/21/13 [summary via electronic; hard copies]
6. Attorney signoff: ____________________________ Date
7. Contractor signed: ____________________________ Date
8. Submitted to Exec Office ____________________________ Date
9. Reviewed by DGA ____________________________ Date
10. Council approved (if necessary)  Date
11. Executive signed: ____________________________ Date
12. Contractor Original Returned to dept: ____________________________ Date
13. County Original to Council ____________________________ Date

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CONTRACT FOR SERVICES AGREEMENT
Substance Abuse Treatment Services

Sea Mar Community Health Centers, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 3 to 8.
- Exhibit A (Scope of Work), p. 9.
- Exhibit B (Compensation), pp. 10 to 11.
- Exhibit C (Outpatient Substance Abuse Service Rates), p. 12.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of October, 2013, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th of September, 2015.

The general purpose or objective of this Agreement is to provide outpatient substance abuse treatment services, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term will vary, depending upon the number of services provided. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of ______________, 2013.

CONTRACTOR:

Sea Mar Community Health Centers

Rogelio Rojas, Executive Director

STATE OF WASHINGTON )
COUNTY OF __King__) ss.

On this 21st day of August, 2013, before me personally appeared __Rogelio Rojas___ to me known to be the Executive Director (title) of Sea Mar Community Health Centers and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

WHATCOM COUNTY:
Recommended for Approval:

Anne Deacon, Human Services Manager 8/22/13

Regina A. Delahunt, Health Department Director 8/22/13

Approved as to form:

Elizabeth L. Gallery, Prosecuting Attorney 8/17/13

Approved:
Accepted for Whatcom County:

By: _________________________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
) ss
COUNTY OF WHATCOM )

On this _______ day of ____________________, 2013, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

______________________________
NOTARY PUBLIC in and for the State of Washington, residing at
______________________________ My commission expires ________________

CONTRACTOR INFORMATION:

Sea Mar Community Health Centers
1040 South Henderson St.
Seattle, WA 98108
206-763-5277
rogeliorojas@seamarchc.org
GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:
The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to two years, and for a total of no longer than four years.

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid terminate the contract and at the County’s option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor’s receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:
The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.
Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:
The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act, the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:
The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expenses accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.
30.2 Assignment and Subcontracting:
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.2 Patent/Copyright Infringement: Not Applicable

32.1 Confidentiality:
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Proof of Insurance:
The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:
Property Damage per occurrence - $500,000.00 (this amount may vary with circumstances)
General Liability & Property Damage for bodily injury- $1,000,000.00
A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

Professional Liability - $1,000,000 per occurrence:
If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver:
With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:
The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or
assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment: The County’s policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services: The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest: If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County’s interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County’s interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract: This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County’s right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Jackie Mitchell, Program Specialist
Whatcom County Health Department
509 Girard St.
Bellingham, WA 98225
360-676-6724 x32017
jmitchel@co.whatcom.wa.us
37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County’s Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the “Contractor Information” section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor’s Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
The Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled “Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction” without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The “General Service Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs” is available to research this information at http://epis.arnet.gov/.

38.3 E-Verify: Not Applicable

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations: Not Applicable

41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.
c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration: Not Applicable

43.1 Venue and Choice of Law:
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
EXHIBIT "A"
(SCOPE OF WORK)

The Contractor will provide authorized substance abuse treatment services following the standards and requirements established in the Whatcom County Substance Abuse Treatment Guide (hereafter referred to as the "Guide"). The Guide is incorporated into this contract by reference and available on the County website http://www.whatcomcounty.us/health/contracting.jsp. The Guide may be amended or updated with prior notification by the County without a contract amendment. In the event changes to the Guide are needed, Providers will be informed by e-mail, with a one-week opportunity to provide feedback on proposed changes. Providers will then be notified of the availability of the updated Guide.

The Contractor shall provide services indicated by the authorization. Additional services require approval by the County and shall be added to the authorization once approved.
The source of funding for this contract is the Washington State Department of Social and Health Services, Division of Behavioral Health and Recovery (DSHS/DBHR) which includes both state and federal funds, and the Chemical Dependency/Mental Health Program Fund.

The County will authorize the Contractor to perform a specified not-to-exceed level of service during the contract period. The County will reimburse the Contractor for the services that the County pre-authorizes, up to the not-to-exceed level authorized. The County will not reimburse the Contractor for services and service levels that are not pre-authorized. The County will reimburse the Contractor according to the treatment rate schedule contained in Exhibit “C,” Outpatient Substance Abuse Treatment Rates.

Invoicing

1. The Contractor shall submit itemized invoices on a monthly basis, and must be received by the County by the 10th working day of the month following service. Any required revisions to invoices must be completed and re-submitted to the County no more than sixty (60) days after the calendar month in which the services were performed.

2. Contractor must submit TARGET M-4 and C-7 reports recorded in the TARGET system with invoice for services. If revisions to invoices become necessary, revised TARGET reports must accompany revised invoice.

3. If invoice includes Family Group Services, a log including the date and hours of service must accompany the invoice.

4. If invoice includes Enhanced Case Management or Individual Engagement Therapy, a log including client identification, date of service, hours of service in 15 minute increments, result or motivational strategy must accompany the invoice.

5. The Contractor may be reimbursed up to the authorized not-to-exceed level for costs of Continuing Education to include registration fees, transportation, per diem expenses, and lodging. Support documentation shall be provided at the time the invoice is submitted and shall include the following:

   a) Name and location of training attended, name of host providing training, names of staff who attended training, their titles.
   b) Copy of certificate of completion with number of continuing education hours and signature of trainer or training sponsor.
   c) Per diem claimed shall be per the Office of Financial Management website at current per diem rates.
      http://www.ofm.wa.gov/resources/travel.asp
   d) Mileage log showing dates of travel, beginning and ending point, miles traveled. Mileage shall be reimbursed at the current federal IRS Privately Operated Vehicle mileage rate.
   e) Air travel will be reimbursed at coach rates. Submit receipt with invoice.

6. The Contractor shall submit invoices to (include contract #):

   Business Office
   Whatcom County Health Department
7. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

8. Invoices must include the following statement, with an authorized signature and date:

   I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

9. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.
## EXHIBIT "C"
(OUTPATIENT SUBSTANCE ABUSE TREATMENT RATES)

### Low-Income Outpatient Treatment Services
<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment</td>
<td>$115.17/assessment</td>
</tr>
<tr>
<td>Expanded Assessment (DCFS only)</td>
<td>$177.69/assessment</td>
</tr>
<tr>
<td>Jail Assessment (conducted in the county jail)</td>
<td>$163.00/assessment</td>
</tr>
<tr>
<td>Individual Therapy / Individual Engagement Therapy</td>
<td>$77.04/client hour</td>
</tr>
<tr>
<td>Adult Group / Family Group Services</td>
<td>$22.00/client hour</td>
</tr>
<tr>
<td>Youth Group Therapy</td>
<td>$25.20/client hour</td>
</tr>
<tr>
<td>Case Management</td>
<td>$10.12/quarter client hour</td>
</tr>
<tr>
<td>Enhanced Case Management</td>
<td>$10.12/quarter staff hour</td>
</tr>
<tr>
<td>Opiate Addiction Treatment</td>
<td>$50/quarter client hour</td>
</tr>
<tr>
<td>Transportation</td>
<td>Variable - Receipts are required for transportation expenses</td>
</tr>
</tbody>
</table>

### Title XIX Outpatient Treatment Rates
<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expanded Assessment (DCFS only)</td>
<td>$177.69/assessment</td>
</tr>
<tr>
<td>Assessment</td>
<td>$115.17/assessment</td>
</tr>
<tr>
<td>Intake processing</td>
<td>$13.38/intake</td>
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<tr>
<td>Individual Therapy</td>
<td>$19.26/quarter client hour</td>
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<tr>
<td>Adult Group Therapy</td>
<td>$4.82/quarter client hour</td>
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<tr>
<td>Youth Group Therapy</td>
<td>$6.30/quarter client hour</td>
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<td>Case Management</td>
<td>$10.12/quarter client hour</td>
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### Community Service Rates
<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
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</thead>
<tbody>
<tr>
<td>Community Outreach, Intervention &amp; Referral</td>
<td>$31.00/staff hour</td>
</tr>
<tr>
<td>Interim Services</td>
<td>$22.00/client hour</td>
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<tr>
<td>Urinalysis</td>
<td>$12.50/UA</td>
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</table>

### ADATSA Rates
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<tr>
<th>Service</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment (Completed by Assessor Agency)</td>
<td>$163.00/assessment</td>
</tr>
<tr>
<td>Individual Therapy – Full Visit</td>
<td>$76.00/client hour</td>
</tr>
<tr>
<td>Group Therapy</td>
<td>$22.00/client hour</td>
</tr>
</tbody>
</table>
CERTIFICATE OF INSURANCE
Healthcare Professional Liability Policy - Claims Made

This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not alter, amend or extend the coverage, terms, exclusions and conditions afforded by the policies referenced herein.

ADDITIONAL INSURED NAME AND ADDRESS:
Whatcom County Health Department
 Attention: Administration
509 Girard Street
Bellingham, WA 98225-0000

NAMED INSURED:
Sea Mar Community Health Centers
1040 S. Henderson Street
Seattle, WA 98108-4896

POLICY PERIOD: 04/01/2013 to 04/01/2014 (12:01a.m. at place of issue)
RETROACTIVE DATE: 12/01/1986

<table>
<thead>
<tr>
<th>COVERAGE</th>
<th>RETROACTIVE DATE</th>
<th>LIMITS OF LIABILITY</th>
<th>EXCESS COVERAGE APPLIES</th>
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<tbody>
<tr>
<td>Medical Professional Liability</td>
<td>12/01/1986</td>
<td>$1,000,000 each claim / $5,000,000 aggregate</td>
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<td>Fire Legal Liability</td>
<td>12/01/1986</td>
<td>$300,000 any one structure</td>
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<tr>
<td>Premises Medical</td>
<td>12/01/1986</td>
<td>$5,000 each person / $25,000 each occurrence</td>
<td></td>
</tr>
<tr>
<td>Excess Coverage Single Shared Limit</td>
<td>12/01/1986</td>
<td>$5,000,000 each claim / $5,000,000 aggregate</td>
<td></td>
</tr>
</tbody>
</table>

SPECIAL CONDITIONS:
The Certificate Holder is included as an Additional Insured regarding its interest in the Outpatient Substance Abuse Program with the NAMED INSURED.

 Gregg L. Hanson
 President & CEO

 Janice W. Allegrutto
 Secretary
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>pj</td>
<td>5/20/13</td>
<td></td>
<td>9/10/13</td>
<td>Finance</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>MD</td>
<td>6/22/13</td>
<td></td>
<td>9/10/13</td>
<td>Council</td>
</tr>
<tr>
<td>Prosecutor:</td>
<td>ELG</td>
<td>8/15/13</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>mde</td>
<td>8/12/13</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td></td>
<td>9/03/13</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:** Contract with Catholic Community Services of Western Washington NW for outpatient substance abuse services

**ATTACHMENTS:**
1. Memo
2. Agenda Bill & Contract Info Sheet
3. Two copies of Contract

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes ( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes ( X ) NO</th>
<th>Requested Date:</th>
</tr>
</thead>
</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This contract provides outpatient substance abuse treatment services to low income individuals. Total compensation will vary depending on the number of services provided. Service levels are pre-authorized by the Health Department and are monitored on a monthly basis. Based on contractor performance on similar contracts in the past, it’s estimated that this contract will be funded at approximately $672,000 per year.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt
RE: Contract with Catholic Community Services for Outpatient Substance Abuse Services
DATE: August 16, 2013

Enclosed are two (2) originals of a contract between Whatcom County and Catholic Community Services for your review and signature.

- **Background and Purpose**
This contract provides outpatient substance abuse treatment services to low income individuals. Research demonstrates that retention in treatment is associated with better long term recovery. Chemical dependency treatment agencies are involved in a statewide effort to improve retention rates. The retention rate for Whatcom County funded services is 66.7% which currently exceeds the state median.

- **Funding Amount and Source**
This contract is funded by the Washington Department of Social and Health Services, Division of Behavioral Health and Recovery (DBHR) and local Chemical Dependency/Mental Health Program Funds. Payment is structured on a fee-for-service basis. Total compensation will vary depending on the number of services provided. Service levels are pre-authorized by the Health Department and are monitored on a monthly basis. Based on contractor performance on similar contracts in the past, it’s estimated that this contract will be funded at approximately $672,000 per year and is in the current budget. The contract is being issued pursuant to RFQ #13-25. County Council approval is required, and an Agenda Bill is enclosed.

- **Differences from Previous Contract**
This is a new contract.

Please contact Jackie Mitchell at extension 32017, if you have any questions or concerns regarding the terms of this agreement.

Encl.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Jackie Mitchell</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Catholic Community Services of Western Washington NW</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this a New Contract?</th>
<th>Yes X No</th>
<th>If not, is this an Amendment or Renewal to an Existing Contract?</th>
<th>Yes No</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, previous number(s):</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this a grant agreement?</th>
<th>Yes No</th>
<th>If yes, grantor agency contract number(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>CFDA number</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract grant funded?</th>
<th>Yes X No</th>
<th>If yes, associated Whatcom County grant contract number(s)</th>
<th>DBHR Contract in Process</th>
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<tbody>
<tr>
<td>Cost Center:</td>
<td></td>
<td>675400/24100</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract the result of a RFP or Bid process?</th>
<th>Yes X No</th>
<th>If yes, RFP and Bid number(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>13-26</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract excluded from E-Verify?</th>
<th>Yes X</th>
<th>If no, include Attachment D Contractor Declaration Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, indicate qualified exclusion(s) below:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contract less than $100,000.</td>
<td>X</td>
<td>Professional services agreement for certified/licensed professional</td>
</tr>
<tr>
<td>Work is for less than 120 days</td>
<td></td>
<td>Contract for Commercial off the shelf items (COTS)</td>
</tr>
<tr>
<td>Interlocal Agreement (between Govt.)</td>
<td></td>
<td>Public Works Dept. - Local Agency/Federally Funded FHWA</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contract Amount: (sum of orig contract amt and any prior amendments)</th>
<th>If a Professional Services Agreement is more than $15,000 or a Bid is more than $35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than $10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.</th>
</tr>
</thead>
</table>

**Scope of Services:** [Insert language from contract (Exhibit A) or summarize; expand space as necessary]

This contract provides outpatient substance abuse treatment services to low income residents.

**Term of Contract:** Two Years  
**Expiration Date:** 09/30/2015

**Contract Routing Steps & Signoff:**  
1. Prepared by: PJ  
2. Attorney reviewed: ELG  
3. AS Finance reviewed: mdc  
4. IT reviewed if IT related  
5. Corrections made:  
6. Attorney signoff:  
7. Contractor signed:  
8. Submitted to Exec Office  
9. Reviewed by DCA  
10. Council approved (if necessary)  
11. Executive signed:  
12. Contractor Original Returned to dept:  
13. County Original to Council  

**[indicate date transmitted]**  
Date 5/20/13 [electronic]  
Date 8/15/13 [electronic]  
Date 8/12/13 [electronic]  
Date [electronic]  
Date 8/12/13 [hard copy printed]  
Date 8/22/13 [summary via electronic; hardcopies]  
Date  
Date  
Date  
Date  

59
Catholic Community Services, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 3 to 8.
- Exhibit A (Scope of Work), p. 9.
- Exhibit B (Compensation), pp. 10 to 11.
- Exhibit C (Outpatient Substance Abuse Service Rates), p. 12.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of October, 2013, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of September, 2015.

The general purpose or objective of this Agreement is to provide outpatient substance abuse treatment services, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term will vary, depending upon the number of services provided. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 22 day of August, 2013.

CONTRACTOR:

Catholic Community Services

[Signature]

Will Rice, Director

STATE OF WASHINGTON

) ss.

COUNTY OF Whatcom

On this 22 day of August, 2013, before me personally appeared Will Rice, to me known to be the Director (title) of Catholic Community Services of Western Washington NW and who executed the above instrument and who acknowledged to me the act of signing and sealing hereof.

[Signature]

Linda L. Creutz

NOTARY PUBLIC in and for the State of Washington, residing at Whatcom Co. My commission expires 11-10-19.
WHATCOM COUNTY:
Recommended for Approval:

Anne Deacon, Human Services Manager  8/22/13

Regina A. Delahunt, Health Department Director  8/22/13

Approved as to form:

Elizabeth L. Gallery, Prosecuting Attorney  8/27/13

Approved:
Accepted for Whatcom County:

By:
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss

On this ______ day of __________, 2013, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at __________________________. My commission expires __________________________.

CONTRACTOR INFORMATION:

Catholic Community Services of Western Washington NW
Will Rice, Director CD Services
515 Lakeway Drive
Bellingham, WA 98225
360-676-2187
Willr@ccsww.org
GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:
The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to two years, and for a total of no longer than four years.

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:
The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.
Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County’s customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor’s performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor’s failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor’s gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event the County’s Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the terms set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:
The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:
The Contractor’s services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employee-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys’ fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

HL_100113_Catholic_Community_Services-Outpatient_Substance_Abuse_Treatment_Services
30.2 Assignment and Subcontracting:
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:
The performance of any or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.2 Patent/Copyright Infringement: Not Applicable

32.1 Confidentiality:
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Proof of Insurance:
The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:
Property Damage per occurrence - $500,000.00
General Liability & Property Damage for bodily injury - $1,000,000.00
A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

Professional Liability - $1,000,000 per occurrence:
If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the Contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver:
With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:
The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elected officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or
assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:
The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:
The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest:
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Jackie Mitchell, Program Specialist
Whatcom County Health Department
509 Girard St.
Bellingham, WA 98225
360-676-6724 x32017
jmitchell@co.whatcom.wa.us

HL_100113_Catholic_Community_Services-Outpatient_Substance_Abuse_Treatment_Services
37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor's Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
The Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "General Service Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs" is available to research this information at http://epsls.arnet.gov/.

38.3 E-Verify: Not Applicable

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations: Not Applicable

41.1 Severability:
if any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:
a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.
c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration: Not Applicable

43.1 Venue and Choice of Law:
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
EXHIBIT "A"
(SCOPE OF WORK)

The Contractor will provide authorized substance abuse treatment services following the standards and requirements established in the Whatcom County Substance Abuse Treatment Guide (hereafter referred to as the "Guide"). The Guide is incorporated into this contract by reference and available on the County website http://www.whatcomcounty.us/health/contracting.jsp. The Guide may be amended or updated with prior notification by the County without a contract amendment. In the event changes to the Guide are needed, Providers will be informed by e-mail, with a one-week opportunity to provide feedback on proposed changes. Providers will then be notified of the availability of the updated Guide.

The Contractor shall provide services indicated by the authorization. Additional services require approval by the County and shall be added to the authorization once approved.
EXHIBIT "B"  
(COMPENSATION)

The source of funding for this contract is the Washington State Department of Social and Health Services, Division of Behavioral Health and Recovery (DSHS/DBHR) which includes both state and federal funds, and the Chemical Dependency/Mental Health Program Fund.

The County will authorize the Contractor to perform a specified not-to-exceed level of service during the contract period. The County will reimburse the Contractor for the services that the County pre-authorizes, up to the not-to-exceed level authorized. The County will not reimburse the Contractor for services and service levels that are not pre-authorized. The County will reimburse the Contractor according to the treatment rate schedule contained in Exhibit "C," Outpatient Substance Abuse Treatment Rates.

Invoicing

1. The Contractor shall submit itemized invoices on a monthly basis, and must be received by the County by the 10th working day of the month following service. Any required revisions to invoices must be completed and re-submitted to the County no more than sixty (60) days after the calendar month in which the services were performed.

2. Contractor must submit TARGET M-4 and C-7 reports recorded in the TARGET system with invoice for services. If revisions to invoices become necessary, revised TARGET reports must accompany revised invoice.

3. If invoice includes Family Group Services, a log including the date and hours of service must accompany the invoice.

4. If invoice includes Enhanced Case Management or Individual Engagement Therapy, a log including client identification, date of service, hours of service in 15 minute increments, result or motivational strategy must accompany the invoice.

5. The Contractor may be reimbursed up to the authorized not-to-exceed level for costs of Continuing Education to include registration fees, transportation, per diem expenses, and lodging. Support documentation shall be provided at the time the invoice is submitted and shall include the following:
   a) Name and location of training attended, name of host providing training, names of staff who attended training, their titles.
   b) Copy of certificate of completion with number of continuing education hours and signature of trainer or training sponsor.
   c) Per diem claimed shall be per the Office of Financial Management website at current per diem rates. http://www.ofm.wa.gov/resources/travel.asp
   d) Mileage log showing dates of travel, beginning and ending point, miles traveled. Mileage shall be reimbursed at the current federal IRS Privately Operated Vehicle mileage rate.
   e) Air travel will be reimbursed at coach rates. Submit receipt with invoice.

6. The Contractor shall submit invoices to (include contract #):

   Business Office
   Whatcom County Health Department
7. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

8. Invoices must include the following statement, with an authorized signature and date:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

9. Dduplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.
### EXHIBIT "C"
(OUTPATIENT SUBSTANCE ABUSE TREATMENT RATES)

<table>
<thead>
<tr>
<th>Low-Income Outpatient Treatment Services</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment</td>
<td>$115.17/assessment</td>
</tr>
<tr>
<td>Expanded Assessment (DCFS only)</td>
<td>$177.69/assessment</td>
</tr>
<tr>
<td>Jail Assessment (conducted in the county jail)</td>
<td>$163.00/assessment</td>
</tr>
<tr>
<td>Individual Therapy / Individual Engagement Therapy</td>
<td>$77.04/client hour</td>
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<tr>
<td>Adult Group / Family Group Services</td>
<td>$22.00/client hour</td>
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<tr>
<td>Youth Group Therapy</td>
<td>$25.20/client hour</td>
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<tr>
<td>Case Management</td>
<td>$10.12/quarter client hour</td>
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<tr>
<td>Enhanced Case Management</td>
<td>$10.12/quarter staff hour</td>
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<tr>
<td>Opiate Addiction Treatment</td>
<td>$50/quarter client hour</td>
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<tr>
<td>Transportation</td>
<td>Variable - Receipts are required for transportation expenses</td>
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<table>
<thead>
<tr>
<th>Title XIX Outpatient Treatment Rates</th>
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<tbody>
<tr>
<td>Expanded Assessment (DCFS only)</td>
<td>$177.69/assessment</td>
</tr>
<tr>
<td>Assessment</td>
<td>$115.17/assessment</td>
</tr>
<tr>
<td>Intake processing</td>
<td>$13.38/intake</td>
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<tr>
<td>Individual Therapy</td>
<td>$19.26/quarter client hour</td>
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<tr>
<td>Adult Group Therapy</td>
<td>$4.82/quarter client hour</td>
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<tr>
<td>Youth Group Therapy</td>
<td>$6.30/quarter client hour</td>
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<tr>
<td>Case Management</td>
<td>$10.12/quarter client hour</td>
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<tr>
<th>Community Service Rates</th>
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<tbody>
<tr>
<td>Community Outreach, Intervention &amp; Referral</td>
<td>$31.00/staff hour</td>
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<tr>
<td>Interim Services</td>
<td>$22.00/client hour</td>
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<tr>
<td>Urinalysis</td>
<td>$12.50/UA</td>
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</table>

<table>
<thead>
<tr>
<th>ADATS/A Rates</th>
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</thead>
<tbody>
<tr>
<td>Assessment (Completed by Assessor Agency)</td>
<td>$163.00/assessment</td>
</tr>
<tr>
<td>Individual Therapy – Full Visit</td>
<td>$76.00/client hour</td>
</tr>
<tr>
<td>Group Therapy</td>
<td>$22.00/client hour</td>
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</table>
Certificate of Coverage

Certificate Holder
Corporation of the Catholic Archbishop of Seattle
Chancery Office
710 9th Ave
Seattle, WA 98104

Covered Location
Catholic Community Services
LP 317
100 23rd Ave. S.
Seattle, WA 98144-2302

This Certificate is issued as a matter of information only and
confers no rights upon the holder of this certificate. This certificate
does not amend, extend or alter the coverage afforded below.

Company Affording Coverage
THE CATHOLIC MUTUAL RELIEF
SOCIETY OF AMERICA
10843 OLD MILL RD
OMAHA, NE 68154

Coverages

This is to certify that the coverages listed below have been issued to the certificate holder named above for the certificate indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage afforded described herein is subject to all the terms, exclusions and conditions of such coverage. Limits shown may have been reduced by paid claims.

<table>
<thead>
<tr>
<th>Type of Coverage</th>
<th>Certificate Number</th>
<th>Coverage Effective Date</th>
<th>Coverage Expiration Date</th>
<th>Limits</th>
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<tr>
<td>Property</td>
<td>8558</td>
<td>7/1/2013</td>
<td>7/1/2014</td>
<td>Real &amp; Personal Property 500,000</td>
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<tr>
<td>D. General Liability</td>
<td></td>
<td></td>
<td></td>
<td>Each Occurrence 1,000,000</td>
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<tr>
<td>☑ Occurrence</td>
<td>8558</td>
<td>7/1/2013</td>
<td>7/1/2014</td>
<td>General Aggregate 2,000,000</td>
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<td>☑ Claims Made</td>
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<td>Products-Comp/OP Agg</td>
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<td>Excess Liability</td>
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<td>Personal &amp; Adv Injury</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Med Exp (Any one person)</td>
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</table>

Description of Operations/Locations/Vehicles/Special Items (the following language supersedes any other language in this endorsement or the Certificate in conflict with this language)

Cov only extends to Whatcom County for claims directly arising from an act or omission of Catholic Community Services (CCS) provided such claim occur from CCS's performance of a contractual service for or on behalf of Whatcom County. This extension of cov applies to all contracts b/w CCS & Whatcom County. Incl Counseling Errors & Omissions & CMRS XS Auto $1.9M XS $100K SI. This cov does not incl Professional Liab: specifically excludes any action, error or omission of psychiatrists. (ref cert # 09-004, 09-134, 09-295)

Holder of Certificate

Additional Protected Person(s)

Whatcom County

Cancellation

Should any of the above described coverages be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the holder of certificate named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

Authorized Representative

0064002715
ENDORSEMENT
(TO BE ATTACHED TO CERTIFICATE)

Effective Date of Endorsement: 7/1/2013
Cancellation Date of Endorsement: 7/1/2014

Certificate Holder: Corporation of the Catholic Archbishop of Seattle Chancery Office
710 9th Ave
Seattle, WA 98104

Location: Catholic Community Services
LP 317
100 23rd Ave. S.
Seattle, WA 98144-2302

Certificate No. 6558 of The Catholic Mutual Relief Society of America is amended as follows:

SECTION II - ADDITIONAL PROTECTED PERSON(S)

It is understood and agreed that Section II - Liability (only with respect to Coverage D - General Liability), is amended to include as an Additional Protected Person(s) members of the organizations shown in the schedule, but only with respect to their liability for the Protected Person(s) activities or activities they perform on behalf of the Protected Person(s).

It is further understood and agreed that coverage extended under this endorsement is limited to and applies only with respect to liability assumed by contract or agreement; and this extension of coverage shall not enlarge the scope of coverage provided under this certificate or increase the limit of liability thereunder. Unless otherwise agreed by contract or agreement, coverage extended under this endorsement to the Additional Protected Person(s) will not precede the effective date of this certificate of coverage endorsement or extend beyond the cancellation date.

Schedule - ADDITIONAL PROTECTED PERSON(S)

Whatcom County

Remarks (the following language supersedes any other language in this endorsement or the Certificate in conflict with this language):

Cov only extends to Whatcom County for claims directly arising from an act or omission of Catholic Community Services (CCS) provided such claim occur from CCS's performance of a contractual service for or on behalf of Whatcom County. This extension of cov applies to all contracts b/n CCS & Whatcom County. Inci Counseling Errors & Omissions & CMRS XS Auto $1.9M XS $100K SI. This cov does not incl Professional Liab; specifically excludes any action, error or omission of psychiatrists. (ref cert # 09-004, 09-134, 09-295)

[Signature]
Authorized Representative
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Originator:</td>
<td>pj</td>
<td>5/20/13</td>
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<td></td>
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</tr>
<tr>
<td>Division Head:</td>
<td></td>
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<td>Dept. Head:</td>
<td></td>
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<tr>
<td>Prosecutor:</td>
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<td>8/15/13</td>
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<tr>
<td>Purchasing/Budget:</td>
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<td>8/12/13</td>
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<td></td>
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<tr>
<td>Executive:</td>
<td></td>
<td>9/03/13</td>
<td></td>
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</tbody>
</table>

**NO.**

**RECEIVED**

SEP 03 2013

WHATCOM COUNTY
COUNCIL

**TITLE OF DOCUMENT:** Contract with Whatcom Counseling & Psychiatric Clinic for outpatient substance abuse services

**ATTACHMENTS:**
1. Memo
2. Agenda Bill & Contract Info Sheet
3. Two copies of Contract

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
<th>Requested Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) NO</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This contract provides outpatient substance abuse treatment services to low income individuals. Total compensation will vary depending on the number of services provided. Service levels are pre-authorized by the Health Department and are monitored on a monthly basis. Based on contractor performance on similar contracts in the past, it's estimated that this contract will be funded at approximately $316,000 per year.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
Enclosed are two (2) originals of a contract between Whatcom County and Whatcom Counseling & Psychiatric Clinic for your review and signature.

- **Background and Purpose**
  This contract provides outpatient substance abuse treatment services to low income individuals. Research demonstrates that retention in treatment is associated with better long term recovery. Chemical dependency treatment agencies are involved in a statewide effort to improve retention rates. The retention rate for Whatcom County funded services is 66.7% which currently exceeds the state median.

- **Funding Amount and Source**
  This contract is funded by the Washington Department of Social and Health Services, Division of Behavioral Health and Recovery (DBHR) and local Chemical Dependency/Mental Health Program Funds. Payment is structured on a fee-for-service basis. Total compensation will vary depending on the number of services provided. Service levels are pre-authorized by the Health Department and are monitored on a monthly basis. Based on contractor performance on similar contracts in the past and anticipated funding from DBHR, it's estimated that this contract will be funded at approximately $316,000 per year and is included in the current budget. The contract is being issued pursuant to RFQ #13-25. County Council approval is required, and an Agenda Bill is enclosed.

- **Differences from Previous Contract**
  This is a new contract.

Please contact Jackie Mitchell at extension 32017, if you have any questions or concerns regarding the terms of this agreement,

Encl.
WHATCOM COUNTY CONTRACT INFORMATION SHEET

Originating Department: Health
Contract Administrator: Jackie Mitchell
Contractor’s / Agency Name: Whatcom Counseling & Psychiatric Clinic

Is this a New Contract? Yes X No ___ If not, is this an Amendment or Renewal to an Existing Contract? Yes ___ No ___ If yes, previous number(s): __________
Is this a grant agreement? Yes ___ No X ___ If yes, grantor agency contract number(s) __________
CFDA number __________
Is this contract grant funded? Yes X No ___ If yes, associated Whatcom County grant contract number(s) DBHR Contract in Process
Is this contract the result of a RFP or Bid process? Yes X No ___ If yes, RFP and Bid number(s) 13-26 Contract Cost Center: 675400/24100
Is this contract excluded from E-Verify? No ___ Yes X
If no, include Attachment D Contractor Declaration Form If yes, indicate qualified exclusion(s) below:
― Contract less than $100,000. X Professional services agreement for certified/licensed professional
― Work is for less than 120 days __ Contract for Commercial off the shelf items (COTS)
― Interlocal Agreement (between Govt.) __ Public Works Dept. - Local Agency/Federally Funded FHWA

Contract Amount(sum of orig contract amt and any prior amendments) As per authorization

Scope of Services: [Insert language from contract (Exhibit A) or summarize; expand space as necessary]
This contract provides outpatient substance abuse treatment services to low income residents.

Term of Contract: Two Years Expiration Date: 09/30/2015
Contract Routing Steps & Signoff: [sign or initial] [indicate date transmitted]
1. Prepared by: PJ Date 5/20/13 [electronic]
2. Attorney reviewed: ELG Date 8/15/13 [electronic]
3. AS Finance reviewed: mdc Date 8/12/13 [electronic]
4. IT reviewed if IT related __ Date [electronic] hard copy printed
5. Corrections made: Date 8/25/13
6. Attorney signoff: _ Date 8/25/13 [summary via electronic; hardcopies]
7. Contractor signed: Date 8/2/13
8. Submitted to Exec Office ___ Date
9. Reviewed by DCA ___
10. Council approved (if necessary) ___
11. Executive signed: Date
12. Contractor Original Returned to dept; ___
13. County Original to Council ___
CONTRACT FOR SERVICES AGREEMENT
Outpatient Substance Abuse Treatment Services

Whatcom Counseling & Psychiatric Clinic, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 3 to 8
- Exhibit A (Scope of Work), p. 9
- Exhibit B (Compensation), pp. 10 to 11
- Exhibit C (Outpatient Substance Abuse Service Rates), p. 12
- Exhibit D (Certificate of insurance), p. 13

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of October, 2013, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th of September, 2015.

The general purpose or objective of this Agreement is to provide outpatient substance abuse treatment services, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term will vary, depending upon the number of services provided. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of ________________, 2013.

CONTRACTOR:

Whatcom Counseling & Psychiatric Clinic

[Signature]
Jan Bodily, Executive Director

STATE OF WASHINGTON

) ss.

COUNTY OF Whatcom

On this 22 day of August, 2013, before me personally appeared Jan Bodily to me known to be the executive director of Whatcom Counseling & Psychiatric Clinic and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

[Signature]
NOTARY PUBLIC in and for the State of Washington, residing at Burlington. My commission expires 3.1.16

MARCY L. MARKS
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
MARCH 1, 2016
WHATCOM COUNTY:
Recommended for Approval:

Anne Deacon, Human Services Manager 8/22/13

Regina A. Delehant, Health Department Director 8/23/13

Approved as to form:

Elizabeth L. Gallery, Prosecuting Attorney 8/27/13

Approved:
Accepted for Whatcom County:

By:
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
 ) ss
COUNTY OF WHATCOM )

On this ___ day of __________, 2013, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at ___________________. My commission expires ________________.

CONTRACTOR INFORMATION:

Whatcom Counseling & Psychiatric Clinic
Jan Bodily, Executive Director
3645 E McLeod Rd.
Bellingham, WA 98226
360-676-2220 x3346
Jan.bodily@whatcomcounseling.org
GENERAL CONDITIONS

Series 00-08: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties, provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:
The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to two years, and for a total of no longer than four years.

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:
The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.
Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County’s customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor’s performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor’s failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor’s gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event the County’s Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:
The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:
The Contractor’s services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.
Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

30.2 Assignment and Subcontracting:
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.2 Patent/Copyright Infringement: Not Applicable

32.1 Confidentiality:
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Proof of Insurance:
The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:
Property Damage per occurrence - $500,000.00
General Liability & Property Damage for bodily injury- $1,000,000.00

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This Insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

Professional Liability - $1,000,000 per occurrence:
If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver:
With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:
The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys’ fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including
loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:
The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:
The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest:
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Jackie Mitchell, Program Specialist
Whatcom County Health Department
37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice shall be given by the Contractor to the County’s Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the “Contractor information” section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor’s Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
The Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, or declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, or declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled “Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction” without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The “General Service Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs” is available to research this information at http://epsl.arnet.gov/.

38.3 E-Verify: Not Applicable

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations: Not Applicable

41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration: Not Applicable

43.1 **Venue and Choice of Law:**
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 **Survival:**
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 **Entire Agreement:**
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
EXHIBIT "A"
(SCOPE OF WORK)

The Contractor will provide authorized substance abuse treatment services following the standards and requirements established in the Whatcom County Substance Abuse Treatment Guide (hereafter referred to as the "Guide"). The Guide is incorporated into this contract by reference and available on the County website http://www.whatcomcounty.us/health/contracting.jsp. The Guide may be amended or updated with prior notification by the County without a contract amendment. In the event changes to the Guide are needed, Providers will be informed by e-mail, with a one-week opportunity to provide feedback on proposed changes. Providers will then be notified of the availability of the updated Guide.

The Contractor shall provide services indicated by the authorization. Additional services require approval by the County and shall be added to the authorization once approved.
EXHIBIT "B"
(COMPENSATION)

The source of funding for this contract is the Washington State Department of Social and Health Services, Division of Behavioral Health and Recovery (DSHS/DBHR) which includes both state and federal funds, and the Chemical Dependency/Mental Health Program Fund.

The County will authorize the Contractor to perform a specified not-to-exceed level of service during the contract period. The County will reimburse the Contractor for the services that the County pre-authorizes, up to the not-to-exceed level authorized. The County will not reimburse the Contractor for services and service levels that are not pre-authorized. The County will reimburse the Contractor according to the treatment rate schedule contained in Exhibit "C," Outpatient Substance Abuse Treatment Rates.

Invoicing

1. The Contractor shall submit itemized invoices on a monthly basis, and must be received by the County by the 10th working day of the month following service. Any required revisions to invoices must be completed and re-submitted to the County no more than sixty (60) days after the calendar month in which the services were performed.

2. Contractor must submit TARGET M-4 and C-7 reports recorded in the TARGET system with invoice for services. Changes in TARGET reports should be submitted with parallel adjusted invoices and vice versa.

3. If invoice includes Family Group Support Services, a log including the date and hours of service must accompany the invoice.

4. If invoice includes Enhanced Case Management or Individual Engagement Therapy, a log including client identification, date of service, hours of service in 15 minute increments, result or motivational strategy must accompany the invoice.

5. The Contractor may be reimbursed up to the authorized not-to-exceed level for costs of Continuing Education to include registration fees, transportation, per diem expenses, and lodging. Support documentation shall be provided at the time the invoice is submitted and shall include the following:
   a) Name and location of training attended, name of host providing training, names of staff who attended training, their titles.
   b) Copy of certificate of completion with number of continuing education hours and signature of trainer or training sponsor.
   c) Per diem claimed shall be per the Office of Financial Management website at current per diem rates. http://www.ofm.wa.gov/resources/travel.asp
   d) Mileage log showing dates of travel, beginning and ending point, miles traveled. Mileage shall be reimbursed at the current federal IRS Privately Operated Vehicle mileage rate.
   e) Air travel will be reimbursed at coach rates. Submit receipt with invoice.

6. The Contractor shall submit invoices to (include contract #):

   Business Office
   Whatcom County Health Department
**EXHIBIT "C"**  
(OUTPATIENT SUBSTANCE ABUSE TREATMENT RATES)

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/26/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
The Unity Group
110 Unity Street
Bellingham WA 98225

INSURED
Whatcom Counseling &
Psychiatric Clinic
3645 E McLeod Rd
Bellingham WA 98226-8700

CERTIFICATE NUMBER: 1910717311

COVERAGES

A. GENERAL LIABILITY
- COMMERCIAL GENERAL LIABILITY
  - CLAIMS-MADE
  - OCCUR

B. AUTOMOBILE LIABILITY
- ANY AUTO
  - ALL OWNED
  - SCHEDULED AUTOS
  - HIRED AUTOS
  - NON-OWNED

C. UMBRELLA LIABILITY
- OCCUR
- CLAIMS-MADE

D. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY
- ON/OFF PREMISES
- N/A

E. PROFESSIONAL LIABILITY

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Per forms and conditions: Additional Insured form PI-GLD-HS(10/11). Re: CD Treatment Contract - Whatcom County Primary and Noncontributory Additional Insured, Waiver of Subrogation endorsement form to follow from Philadelphia Insurance Company. Professional Liability includes option of purchasing 3 year tail coverage in the event of cancellation or non-renewal of the policy.

CERTIFICATE HOLDER
Whatcom County
Health Department Administration
509 Girard St
Bellingham WA 98227

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT**: Bid 13-64 Lighthouse Marine Park Boat Ramp Improvements

**ATTACHMENTS**: Memos from Finance and Parks

**SEPA review required?** ( ) Yes ( x ) NO  
**SEPA review completed?** ( ) Yes ( x ) NO

**Should Clerk schedule a hearing?** ( ) Yes ( x ) NO

**REQUESTED DATE:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE**: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The Parks & Recreation Department is requesting approval to award the bid and enter into a contract for the construction improvements to the Lighthouse Marine Park boat ramp. Two bids were received and Parks would like to award to the low bidder, HB Hansen Construction in the amount of $241,058.79. This is a planned project and funds were approved in the current budget using a state boating facilities grant.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
DATE: 30 August 2013

TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Award of Bid 13-64 Lighthouse Marine Park Boat Ramp Improvements

- Background & Purpose
Bids were advertised for construction improvements to the boat ramp at Lighthouse Marine Park. Two bids were received on Tuesday August 20 and are noted below:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Base Bid</th>
<th>Upland Site Work</th>
<th>Sales Tax</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB Hansen Construction</td>
<td>188,000.00</td>
<td>34,174.00</td>
<td>18,884.79</td>
<td>$241,058.79</td>
</tr>
<tr>
<td>Pacific Pile &amp; Marine</td>
<td>263,275.00</td>
<td>69,525.00</td>
<td>28,288.00</td>
<td>$361,088.00</td>
</tr>
</tbody>
</table>

The Park Department is requesting approval to award the bid and to enter into a contract with the low bidder, HB Hansen Construction for a total amount of $241,058.79.

- Funding
This is a planned project and funds were approved in the current budget using Boating Facilities grant from the Washington State Recreation & Conservation Office (Contract #201110001).

I concur with this recommendation.

\[Signature\]
AS Finance Manager

Approved as Recommended:

\[Signature\]
County Executive

Date of Council Action \[_____\]
MEMORANDUM

TO: Brad Bennett, Finance Manager
FROM: Michael McFarlane, Director
DATE: August 22, 2013
RE: Recommend to Accept Bid Award #13-64, Construction of Lighthouse Marine Park Boat Ramp Improvements

On Tuesday, August 20th, 2013 two bids were received in response to Whatcom County Bid #13-64, Construction of Lighthouse Marine Park Boat Ramp Improvements.

**HB Hansen Construction, Inc.** met all the required specifications for this work. I am recommending that the bid totaling $241,058.79 which includes 8.5% Washington State Sales Tax, submitted by **HB Hansen Construction, Inc.** be accepted.

Development of the Park is being funded through a Boating Facilities grant from Washington State Recreation & Conservation Office (Contract # 201110001 approved by the Council on October 11, 2011).

If you need any additional information, please contact Rod Lamb at extension 31727.
TITLE OF DOCUMENT: Bid 13-63 Concrete Pad at Central Shop

ATTACHMENTS: Memos from Finance and Facilities

SEPA review required? ( ) Yes (x) NO
SEPA review completed? ( ) Yes (x) NO

Should Clerk schedule a hearing? ( ) Yes (x) NO
Requested Date: 

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The Facilities Management Department is requesting approval to award the bid and enter into a contract for the construction of a concrete pad at one of the equipment storage sheds at Central Shop. Three bids were received and Facilities would like to award to the low bidder, Northern Concrete and Contracting in the amount of $54,033.00. This is a planned purchase and funds are available in the current Equipment Services budget.
DATE: 30 August 2013

TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Award of Bid 13-63 Concrete Pad at Central Shop

- Background & Purpose
Bids were advertised for a concrete pad at an equipment storage shed at the Central Shop. Three bids were received on Tuesday August 20 and are noted below:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Base Bid</th>
<th>Sales Tax</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern Concrete &amp; Contracting Inc</td>
<td>49,800.00</td>
<td>4,233.00</td>
<td>$ 54,033.00</td>
</tr>
<tr>
<td>Williamson Construction Co.</td>
<td>73,197.00</td>
<td>6,221.75</td>
<td>$ 79,418.75</td>
</tr>
<tr>
<td>Pottle &amp; Sons Construction Inc.</td>
<td>102,800.00</td>
<td>8,738.00</td>
<td>$111,538.00</td>
</tr>
</tbody>
</table>

Facilities Management is requesting approval to award the bid and to enter into a contract with the low bidder, Northern Concrete & Contracting Inc. for a total amount of $54,033.00.

- Funding
This is a planned project and funds were approved in the current budget, coming from Public Works Equipment Service’s ASR #2013-5015 for $40,000.00 and the balance is coming from a budget transfer within ER&R.

I concur with this recommendation.

Approved as Recommended:

__________________________________________
AS Finance Manager

County Executive

Date of Council Action ____________________
MEMO TO:  Brad Bennett, Finance Manager

FROM:  Garrett Maupin, Construction Coordinator

DATE:  August 23, 2013

RE:  Recommend to Accept Bid Award #13-63
     Concrete Pad for an Equipment Storage Shed at Central Shop

On Tuesday, August 20, 2013 three bids were received in response to Whatcom County
Bid #13-63, Concrete Pad for an Equipment Storage Shed at Central Shop. The following bids
were received:

✓  Northern Concrete and Contracting, Inc. in the amount of:  $49,800.00
✓  Williamson Construction Company in the amount of:  $73,197.00
✓  Pottle & Sons Construction, Inc. in the amount of:  $102,800.00

Northern Concrete and Contracting, Inc. met all of the required specifications for performing the
work required for this project. It is the recommendation of this office that the low bid submitted by
Northern Concrete and Contracting, Inc. be accepted.

Funding Calculation:

$49,800.00
$4,233.00  plus 8.5% tax
$54,033.00
$5,403.30  plus 10% contingency
$59,436.30

Funding amount needed for this contract is $59,436.30 including WSST of 8.5% and funding
provided by Eric Schlehuber, Equipment Service Manager at Public Works.

If you need additional information, please contact me at extension 50583.
**TITLE OF DOCUMENT:** Purchase of Replacement Computer Equipment

**ATTACHMENTS:** Memo from Finance

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The Finance Department is requesting approval to use the Washington State Contract to purchase replacement computers for the Health Department. They want to replace 80 machines, for a total of $62,158.14. Funds for this purchase are available in the TR&R fund.
DATE: 30 August 2013
TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Approval to Purchase Computer Equipment

BACKGROUND

The Health Department is requesting approval to purchase 80 replacement computers for their office. They would like to use the Washington State Contract. The vendor is Dell and the total price for this expenditure is $62,158.14.

FUNDING

Funds for this purchase are available in the TR&R fund. I recommend approval.

[Signature]
AS Finance Manager

Approved as recommended:

__________________________________________
County Executive

Date ____________________________
**WHATCOM COUNTY COUNCIL AGENDA BILL**

**CLEARANCES**

<table>
<thead>
<tr>
<th>Originator:</th>
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<table>
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<tr>
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<tbody>
<tr>
<td></td>
<td>09/03/13</td>
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</table>

**DATE RECEIVED**

SEP 03 2013

**WHATCOM COUNTY COUNCIL**

**TITLE OF DOCUMENT:**

Resolution in the matter of the Whatcom County Six-Year Transportation Improvement Program for the years 2014 through 2019

**ATTACHMENTS:**

1. Memo to County Executive and Council
   - Attachment “A1-A49” – Project Summary Sheets
   - Attachment “B1-B4” - Road Fund Balance, Revenue, Expenditure, and Capital Funding Projections
   - Attachment “C” – Roadway Priority Rating Program
   - Attachment “D” – Bridge Report

2. 2014-2019 Six Year Transportation Improvement Program Resolution
   - Exhibit “A” – 2014-2019 Six-Year Transportation Improvement Program
   - Exhibit “B” - 2014-2027 Fourteen-Year Ferry Capital Program

**SEPA review required?**  
( ) Yes  
( X ) NO

**SEPA review completed?**  
( ) Yes  
( X ) NO

**Should Clerk schedule a hearing?**  
( X ) Yes  
( ) NO

**Requested Date:** 9/24/2013

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Each year the County is required to update its Six-Year Transportation Improvement Program (STIP), per RCW 35.77.010 and RCW 36.81.121. The STIP includes the capital elements of the first six years of the Fourteen-Year Ferry Program. The STIP is intended as a planning tool for local, state and federally funded projects and is designed to identify projects for preliminary engineering, right-of-way purchase and/or construction.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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</table>

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
Memo

To: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

Through: Frank M. Abart, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: August 27, 2013

Re: Six-Year Transportation Improvement Program, 2014-2019 PW Committee Work Session, Introduction, Public Hearing and Adoption

Requested Action:
The Department of Public Works requests that a Council Public Works Committee work session be scheduled for September 10th, for discussion of the information attached to this memorandum regarding the 2014-2019 Six-Year Transportation Improvement Program (STIP). If approved by the Committee we request that the STIP Resolution and its associated exhibits, 2014-2019 Six-Year Transportation Improvement Program and 2014-2027 Fourteen-Year Ferry Capital Program, be introduced at that evenings County Council meeting. We then request that a public hearing be advertised for and held at the September 24th County Council meeting, with the resolution potentially adopted at said meeting.

Background and Purpose:
Each year the County is required to update its Six-Year Transportation Improvement Program, per RCW 35.77.010 and RCW 36.81.121. The County is also required to prepare a Fourteen-Year Ferry Capital Program each year per RCW 36.54.015. The STIP includes the capital elements of the first six years of the Fourteen-Year Ferry Capital Program which is Exhibit “B” of the resolution.

Information:

1- Memorandum to County Executive and Council
   Attachment “A” - 2014-2019 Capital Projects Financial Distribution by Year
   Attachment “A1-A49” – Project Summary Sheets
   Attachment “B1” - Road Fund Balance Projections
   Attachment “B2” - Road Fund Revenue Projections
   Attachment “B3” - Road Fund Expenditure Projections
   Attachment “B4” – Funds Available for Capital Projects
   Attachment “C” - Roadway Priority Rating Program
   Attachment “D” - Bridge Report

Attachment “A” is a simplified form of Exhibit “A” to the STIP. This simplified form shows priority order of proposed projects as well as expenditures by year. This is being provided in order to facilitate the Public Works Committee work session.

2- 2014-2019 Six Year Transportation Improvement Program Resolution
   Exhibit “A”- 2014-2019 Six-Year Transportation Improvement Program
   Exhibit “B”- 2014-2027 Fourteen-Year Ferry Capital Program
<table>
<thead>
<tr>
<th>Year</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
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</tr>
</tbody>
</table>

**Financial Distribution by Year**

2014-2019 SIX Year Transportation Improvement Program

**Attachment**
**Birch Bay-Lynden Road/Portal Way - Signalization/Improvements**

**CRP #901011**

**Construction Funding Year(s):** 2014 / 2015

**Project Narrative:**
This project is located south of Blaine and west of I-5, in Section 22, T40N, R1E. Proposed improvements include signalization, channelization and illumination of the intersection with minor changes to the vertical and horizontal alignment. Stormwater treatment and detention will also be implemented into this project. This project is listed #1 on the 2014-2019 Six-Year Transportation Improvement Program.

**Project Status:**
The Preliminary Engineering has been completed and all ROW has been acquired. Construction is planned to be in two phases with working days in late summer 2013 and spring 2014.

**Total Estimated Project Cost:** $4,300,000

**Expenditures to Date:** $1,000,000

**Funding Sources:**
- Federal: $3,250,000 STP(R)
- State: $750,000 RAP
- Local: $300,000

**Environmental Permitting:**
- SEPA, Corps of Engrs, CLR/CAO, HPA

**Right-of-Way Acquisition (Estimate):** $125,000

**County Forces (Estimate):** N/A
Rural Road Safety Program
CRP #911017

Construction Funding Year(s): 2013 / 2014

Project Narrative:
In 2011 the County received a total of $1,325,000 in Federal Grant funds to address county-wide road safety improvement in two (2) distinct areas – intersection safety and run-off-the-road crashes. An additional $600,000 in Federal Grant funds was secured in 2012. The main elements of the program focus on the installation of centerline and edge rumble strips, bridge freeze indicators, bridge approach guardrail improvements and selected intersection upgrades. The type and locations of the federally approved modifications are detailed below. This project is listed #2 on the 2013-2018 Six-Year Transportation improvement Program.

Project Status:
Construction of Phase 1 (bridge guardrail and freeze indicators) began in June of 2013 and is considered substantially and physically complete. Construction of Phase 2 (install left turn lanes at the West Smith Rd. / Aldrich Rd. intersection) and Phase 3 (shoulder and centerline rumble strips and pavement markings) is scheduled for Fall of 2013. Construction in 2014 will consist of final paving and landscaping activities for Phase 2.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,860,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $1,100,000</td>
<td>Federal $1,845,000</td>
</tr>
<tr>
<td></td>
<td>State $ 0</td>
</tr>
<tr>
<td></td>
<td>Local $ 15,000 (STIP 2013)</td>
</tr>
</tbody>
</table>

Environmental Permitting ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate) $15,000
County Forces (Estimate) N/A

Project Elements

<table>
<thead>
<tr>
<th>Estimated Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shoulder &amp; centerline rumble strips with new centerline paint and recessed pavement markers</strong> $525,000</td>
</tr>
<tr>
<td>Hannegan Rd – 4.8 Miles – Hemmi Road to Polinder Road</td>
</tr>
<tr>
<td>Birch Bay-Lynden Rd – 10.3 Miles – SR 548 (Blaine Rd) to Lynden city limits</td>
</tr>
<tr>
<td>Smith Rd (west &amp; east) - 10.5 Miles - Waschke Rd to SR 542 (Mt. Baker Hwy)</td>
</tr>
<tr>
<td>Everson-Goshen Rd - 6.08 Miles - SR 542 (Mt. Baker Hwy) to SR 544 (Pole Rd)</td>
</tr>
<tr>
<td>Slater Road - 6.2 Miles – Lk Terrell Road to the BNSF Railroad crossing (near Interstate 5)</td>
</tr>
</tbody>
</table>

**Bridge Freeze Indicators** $51,000
22 bridge approaches and 4 road locations (Lake Whatcom Blvd, Hannegan, Birch Bay-Lynden, Slater, Hampton, Mosquito Lake Marine Drive, Everson-Goshen, Loomis Trail, Portal Way, Rock, West Badger, South Pass, N. Telegraph, North Pass, Rathbone)

Guardrail Upgrades $524,000
8 bridge approaches and 4 road sites (Aldrich, W. Laurel, Kickerville, Northwood, Goodwin, Pangborn, Ten Mile (2), Stadsvold, Lake Louise, Lake Whatcom Blvd, Hannegan/Laurel)

Intersection Improvements $1,860,000
West Smith Rd / Aldrich Rd - left turn lanes $750,000
Birch Bay-Lynden Rd / Berthusen Rd - signage updates and additions $10,000

Total $1,860,000
**Birch Bay Drive and Pedestrian Facility**
**CRP #907001**

**Construction Funding Year(s):** 2016 / 2017

**Project Narrative:**
This project is located parallel to Birch Bay Drive from Cedar Avenue to the mouth of Terrell Creek, in Sections 30 and 31, T40N, R1E, and Sections 24 and 25, T40N, R1W. This is a 1.58 mile separated berm with pathway to encourage pedestrian use along Birch Bay Drive to support safety while improving non-motorized mobility. In addition, the project will provide mitigation for both beach erosion and roadway protection. This project is listed #3 on the 2014-2019 Six-Year Transportation Improvement Program.

**Project Status:**
Phase I of the Feasibility Study was completed in 2006. Phase 2A (Preliminary Construction Cost Estimate) was completed in 2007, and updated in spring of 2013. Preliminary Engineering will begin in late 2013, RW acquisition in 2014/2015 and construction in 2016/2017. Additional funding sources will be pursued as they become available.

| Total Estimated Project Cost: | $11,450,000 |
| Expenditures to Date: | $150,000 |

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

**Environmental Permitting**
Whatcom County-Shorelines; WDFW-HPA, Army Corps of Engineers, DOE; Sec 404 Clean Water Act

**Right-of-Way Acquisition (Estimate)**
TBD

**County Forces (Estimate)**
$10,000
Lake Whatcom Boulevard
Pavement Rehabilitation and Stormwater Improvements
CRP #913002

Construction Funding Year(s): 2017/2018

Project Narrative:
This project is located approximately 1 mile east of Bellingham, in Sections 35 and 36, T38N, R3E. The work will involve stormwater and roadway improvements to a 1.6 mile section of Lk Whatcom Blvd between Cable Street and Strawberry Point, including: addressing stormwater quality issues, pavement rehabilitation down to subgrade, upgrades to pavement markings and signage. This project is listed #4 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Survey work with associated base map and R/W research will begin in 2014. Preliminary design will be initiated to evaluate R/W needs, permit requirements and overall project costs. Construction time frame will be contingent on addressing funding needs along with resolution of permitting and R/W issues.

Total Estimated Project Cost: $6,000,000
Expenditures to Date: $0

Funding Sources:
Federal $0
State $0
Local $6,000,000 (Grant funding will be sought)

Environmental Permitting: SEPA, CLR/CAO, Shorelines
Right-of-Way Acquisition (Estimate): To Be Determined
County Forces (Estimate): $50,000
# Slater Road and Northwest Drive

**CRP # Not Assigned**

## Construction Funding Year(s): TBD

### Project Narrative:
The intersection of Slater and Northwest Roads is in Section 2 of T38N, R2E. This three legged intersection currently experiences delays due to the lack of channelization and stop control for left-turn movements. The first phase of this project is to analyze a range of solutions as well as their associated benefits, limitations and costs. This project is listed #5 on the 2014-2019 Six-Year Transportation Improvement Program.

### Project Status:
Traffic counts and warrants completed. Alternatives analysis in 2014. Design, permitting, R/W and construction time frames would be contingent on alternative(s) chosen.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$ Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
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</tbody>
</table>

### Funding Sources:
- Federal: $0
- State: $0
- Local: $50,000 (STIP 2014)

### Environmental Permitting
ECS, BA, SEPA, CLR/CAO, Corps of Engrs

### Right-of-Way Acquisition (Estimate)
TBD

### County Forces (Estimate)
N/A

---

![Map of Slater Road and Northwest Drive area]
Lummi View Drive Bank Stabilization
CRP #

Construction Funding Year(s):  TBD

Project Narrative:
This project is located in Section 2, T37N, R1E. This project is listed #6 on the 2014-2019 Six-Year Transportation Improvement Program. This project will consist of repair and stabilization of a ocean bluff failure that threatens a section of Lummi View Drive.

Project Status: Survey and preliminary cost scoping to be performed in 2014.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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<tbody>
<tr>
<td>$ Unknown</td>
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<td>$</td>
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<td>Local</td>
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<tr>
<td></td>
<td>$10,000 (STIP 2014)</td>
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Environmental Permitting: SEPA, CLR/CAO

Right-of-Way Acquisition (Estimate): To Be Determined

County Forces (Estimate): To Be Determined
North Shore Road
Stormwater and Spot Improvements
CRP # 902007

Construction Funding Year(s): TBD

Project Narrative:
This project is located in Sections 25 and 26, T38N, R3E. The work will involve improvements to a 2.87 mile section of the North Shore Road from the Bellingham City Limits to “Y” Road, including: various spot improvements to address horizontal and vertical alignment deficiencies; spot safety upgrades, and stormwater quality treatment. This project is listed #7 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Selection of spot improvement locations with associated survey work, base map preparation and R/W research will begin in 2014. Preliminary design and construction time frames will be contingent on resolution of funding needs, along with permitting and R/W issues associated with the selected sites.

Total Estimated Project Cost: $4,500,000
Expenditures to Date: $0

Funding Sources:

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<th>Source</th>
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<td>$0</td>
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<tr>
<td>Local</td>
<td>$4,500,000 (Grant funding will be sought)</td>
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Environmental Permitting
SEPA, CLR/CAO, Shorelines

Right-of-Way Acquisition (Estimate)
To Be Determined

County Forces (Estimate)
N/A
**Gooseberry Point Pedestrian Project**

**CRP #912017**

**Construction Funding Year(s):** 2014

**Project Narrative:**
The Gooseberry Point Pedestrian Project is located in Section 2, T37N, R1E and Section 34, T38N, R1E. This work, in fulfillment of the ferry lease obligation, involves the construction of pedestrian facilities such as sidewalks, separated paths, and/or shared-use shoulders, in addition to other non-motorized improvements. This project is listed #8 on the 2014-2019 Six-Year Transportation Improvement Program.

**Project Status:**
Survey work has begun and selection of an engineering consultant for Alternatives Analysis & preliminary plans completed. Projects funds will be available for expenditure when funds of equal or greater value are matched by the Lummi Nation.

<table>
<thead>
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<tbody>
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<tr>
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<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
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<tr>
<td>County Forces (Estimate):</td>
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![Map of Gooseberry Point Pedestrian Project with project location marked]

108
Point Roberts Transportation Improvements
CRP # 910002

Construction Funding Year(s): 2014 / 2015

Project Narrative:
Point Roberts is located in T40N and T41N, R3W. The proposed improvements would be specific to area needs and the development of a project to be funded by the Pt. Roberts Transportation Benefit District. This project is listed #9 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
The Point Roberts Transportation Benefit District Advisory Committee has requested improvements to the shoulder of Gulf Road to provide non-motorized access between Lighthouse Park and Tyee Drive. Project scope and engineering in 2014, with construction in 2014 and 2015.

Total Estimated Project Cost: $300,000
Expenditures to Date: $0

Funding Sources:

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<tr>
<td>Local</td>
<td>$300,000 (STIP 2014)</td>
</tr>
</tbody>
</table>

Environmental Permitting: To Be Determined
Right-of-Way Acquisition (Estimate): To Be Determined
County Forces (Estimate): To Be Determined
East Smith Road Pavement Rehabilitation
CRP # Not Assigned

Construction Funding Year(s): 2017

Project Narrative:
This East Smith Road project is located between Everson-Goshen Road and State Route 542 in Section 25 of T39N, R3E and Sections 28, 29, 30 T39N, R4E. The work will involve the pavement rehabilitation of approximately 3.25 miles of roadway. This project is listed #10 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction to be completed in 2017.

| Total Estimated Project Cost: | $1,875,000 |
| Expenditures to Date: | $0 |

| Funding Sources: |
| Federal | |
| State | $1,500,000 (2017 RAPP Funds) |
| Local | $375,000 |

Environmental Permitting | SEPA, ESA |
Right-of-Way Acquisition (Estimate) | N/A |
County Forces (Estimate) | N/A |
Whatcom County Public Works
Project Narrative

Slater Road Intersections
CRP # 910003

Construction Funding Year(s): 2015

Project Narrative:
This Slater Road project is located between Imhoff Road and Ferndale Road in Sections 31 and 32 of T39N, R2E. The work involves the additions of turn lanes on Slater Road at Imhoff and Ferndale Roads, as well as widening the half mile roadway section to current standards between the intersections. This project is listed #11 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and R/W to begin in 2014 with construction to be completed in 2015.

| Total Estimated Project Cost: | $2,740,000 | Funding Sources: |
| Expenditures to Date: | $0 | Federal | $1,120,000 (STP) |
| | | State | $0 |
| | | Local | $1,620,000 |

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): $200,000
County Forces (Estimate): N/A
East Smith Road & Hannegan Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
The intersection of East Smith and Hannegan Roads is located in Sections 28, 29, 32 and 33, T39N, R3E. This project is listed #12 on the 2014-2019 Six-Year Transportation Improvement Program. This intersection currently experiences delays due to the lack of left-turn channelization on Smith Road. The first phase of this project is to analyze a range of solutions as well as their associated benefits, limitations, and costs.

Project Status:
Traffic counts and warrants completed. Alternatives analysis in 2014. Design, permitting, RW, and construction time frames would be contingent on alternative(s) chosen

<table>
<thead>
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<th>Total Estimated Project Cost:</th>
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<tbody>
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Funding Sources:

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<td>State</td>
<td></td>
</tr>
<tr>
<td>Local</td>
<td>$50,000 (STIP 2014)</td>
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</tbody>
</table>

Environmental Permitting: SEPA, ESA
Right-of-Way Acquisition (Estimate): N/A
County Forces (Estimate): N/A
Hannegan Road, Van Wyck Road to Hemmi Road  
CRP # Not Assigned

Construction Funding Year(s):  TBD

Project Narrative:
This Hannegan Road project is located between Bellingham City Limits and Hemmi Road in Sections 32, 5, 8, and 17 of T40N, R3E and T39N, R3E. The work involves the pavement rehabilitation of approximately 4.4 miles of roadway. This project is listed #13 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction would be contingent on acquisition of 2015 RAPP funding. Grant application has been submitted. Project scored well in initial review.

Total Estimated Project Cost: $1,945,000  
Expenditures to Date: $0

Funding Sources:
Federal  $0
State  $1,500,000 (RAPP 2015 Funds)
Local  $ 445,000

Environmental Permitting  ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate)  TBA
County Forces (Estimate)  N/A
West Badger Road, Sunrise Road to Markworth Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This West Badger Road project is located between Sunrise Road and Markworth Road in Sections 8 and 9 of T40N, R2E. The work involves reconstruction of approximately 2 miles of roadway, including realignment, widening, safety upgrades and water quality / quantity treatment. This project is listed #14 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and R/W could begin in 2016; however, the degree of project activity would be contingent on resolution of funding needs.

Total Estimated Project Cost: $ TBD
Expenditures to Date: $0

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<td>$5,000 (STIP 2017)</td>
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</table>

Environmental Permitting
ECS, BA, SEPA, CLR/CAO, Corps of Engrs

Right-of-Way Acquisition (Estimate) TBD

County Forces (Estimate) N/A
Portal Way, Birch Bay Lynden Road to Faris Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This Portal Way project is located between Birch Bay Lynden Road to Faris Road in Sections 27, 35, and 36 of T40N, R1E. The work involves pavement rehabilitation of 2.85 miles of roadway. This project is listed #15 on the 201-2019 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction would be contingent on the resolution of additional funding needs. A Grant application has been submitted.

<table>
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<tr>
<th>Total Estimated Project Cost:</th>
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<tr>
<td>Expenditures to Date:</td>
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<td>Federal</td>
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<tr>
<td>State</td>
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<tr>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting  ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate)  N/A
County Forces (Estimate)  N/A
# Horton Road Connector, Northwest Drive to Aldrich Road

## CRP # Not Assigned

### Construction Funding Year(s):

- **TBD**

## Project Narrative:

This Horton Road Connector project is located between Northwest Drive and Aldrich Road in Section 2 of T38N, R2E. The work involves a ½ mile of new roadway alignment, along with all the associated permitting, storm water and R/W issues. This project is listed **#16** on the 2014-2019 Six-Year Transportation Improvement Program.

## Project Status:

Design, permitting, R/W and construction would be contingent on the availability of additional grant monies coupled with traffic and development issues associated with the area.

### Total Estimated Project Cost:

- **TBD**

### Expenditures to Date:

- **$0**

## Funding Sources:

<table>
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<th>Source</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Federal</td>
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<td>$0</td>
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<tr>
<td>Local</td>
<td>$5,000 (STIP 2016)</td>
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</table>

## Environmental Permitting

- ECS, BA, SEPA, CLR/CAO, Corps of Engrs

## Right-of-Way Acquisition (Estimate)

- **TBD**

## County Forces (Estimate)

- **N/A**

---

### Map of Horton Road Connector, Northwest Drive to Aldrich Road

The map shows the proposed alignment of the Horton Road Connector from Northwest Drive to Aldrich Road, highlighting key intersections and nearby areas.
Lincoln Road II, Harborview Road to SR 548 (Blaine Road)  
Reconstruction and New Alignment  
CRP # Not Assigned

Construction Funding Year(s):  TBD

Project Narrative:
This Lincoln Road project, from Harborview Road to SR 548 (Blaine Rd), is located in Sections 18 and 19 of T40N, R10E. The work involves improvements to a 1 mile section that includes road reconstruction, new roadway alignment, safety upgrades, and storm water treatment. This project is listed #17 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, R/W and construction time frames would be contingent on availability of addition grant monies to fund the project, as well as resolution of some key acquisition, access and wetland mitigation issues.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $ TBD</th>
<th>Funding Sources:</th>
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<tbody>
<tr>
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<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $5,000 (STIP 2018)</td>
</tr>
</tbody>
</table>

Environmental Permitting  ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate)  TBD
County Forces (Estimate)  N/A
Marine Drive, McAlpine Road to Alderwood Avenue
Reconstruction and Bike/Ped Facilities
CRP # Not Assigned

Construction Funding Year(s): TBD

**Project Narrative:**
This Marine Drive project is located between McAlpine Road and Alderwood Avenue in Sections 15 of T38N, R2E. The work involves reconstruction of approximately ½ mile of roadway with emphasis on bike/pedestrian enhancements. This project is listed #18 on the 2014-2019 Six-Year Transportation Improvement Program.

**Project Status:**
Design, permitting, R/W and construction time frames would be contingent on availability of addition grant monies to fund the project.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
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</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
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</tbody>
</table>

**Funding Sources:**
- **Federal**: $0
- **State**: $0
- **Local**: $5,000 (STIP 2018)

**Environmental Permitting**
- ECS, BA, SEPA, CLR/CAO, Corps of Engrs

**Right-of-Way Acquisition (Estimate)**
- TBD

**County Forces (Estimate)**
- N/A
Marine Drive, Alderwood Avenue to Bridge No. 172
Reconstruction and Bike/Ped Facilities
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This Marine Drive project is located between Alderwood Avenue and Bridge No. 172 in Sections 15 of T38N, R2E. The work involves reconstruction of approximately ½ mile of roadway with emphasis on bike/pedestrian enhancements. This project is listed #19 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, R/W and construction time frames would be contingent on availability of addition grant monies to fund the project.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
- Federal: $0
- State: $0
- Local: $5,000 (STIP 2019)

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Larrabee Road Flood Prevention – Flood Prevention and Stream Restoration
CRP # Not Assigned

Construction Funding Year(s): 2014

Project Narrative:
This project is located near the Bellingham city limits in Section 11, T38N, R2E. This is a project to provide fish passage, restore habitat, and reduce chronic flooding along a tributary to Bear Creek. This project is listed #20 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Project site is monitored routinely. Project scoping and design scheduled to begin in 2014 pending results of the ongoing monitoring program.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:

<p>| | |</p>
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<tbody>
<tr>
<td>Federal</td>
<td>$</td>
</tr>
<tr>
<td>State</td>
<td>$</td>
</tr>
<tr>
<td>Local</td>
<td>$50,000  (STIP 2014)</td>
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</table>

Environmental Permitting: To be determined
Right-of-Way Acquisition (Estimate): To be determined
County Forces (Estimate): To be determined
Potter Road - South Fork Bridge No. 148 Replacement
CRP #998027

Construction Funding Year(s): 2013 / 2014

Project Narrative:
This bridge replacement project is located in Sections 17 & 18, T38N, R5E. The existing single-lane bridge (14.5' wide & 243' in length) is Structurally Deficient and Functionally Obsolete. The replacement structure is a 360' two-span, pre-stressed and post-tensioned concrete girder bridge. Access will be maintained throughout construction as this is the only public access to the residential, agricultural and tribal community west of the river. The project is listed #21 on the 2014-2019 Six-Year Transportation Improvement Program.

Project Status:
Design and construction funds have been secured. Final design phase is at 85% complete. The Nooksack Tribe has agreed to submit for $1 - 1.5 million in additional BIA construction funds, which would lower the required Local Fund match if secured. Construction is proposed to start in 2013 depending on permitting and right-of-way acquisition. The construction duration is estimated at 2 years due to fish windows and size of the project.

Total Estimated Project Cost: $9,600,000
Expenditures to Date: $1,150,000

Funding Sources:
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</table>

Environmental Permitting
- BA, HPA, SEPA, Corps of Engrs, CLR/CAO, Shorelines, DNR

Right-of-Way Acquisition (Estimate) $100,000
County Forces (Estimate) N/A
Mosquito Lake Road / Canyon Creek Bridge No. 334 Rehabilitation
CRP # - Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Mosquito Lake Road at Canyon Creek in Section 27, T39N, R5E. This is a rehabilitation and sediment management project to reduce chronic flooding and debris accumulation at Bridge No. 334. The project is listed #22 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Final sediment transport study completed in May 2012. Conceptual design and alternative analysis ongoing.

<table>
<thead>
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<th>Total Estimated Project Cost:</th>
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<tr>
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<tr>
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<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>HPA, SEPA</th>
</tr>
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<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Slater Road / Nooksack River Bridge No. 512 Painting
CRP # - 913005

Construction Funding Year(s): 2015

Project Narrative:
This project is located on Slater Road at the Nooksack River in Section 6, T38N, R2E. This is a painting project to sandblast and repaint the 1957 steel truss bridge. In addition, the potential of an over-height vehicle detection and warning system will be analyzed. Additional funding may be sought for its installation. The project is listed #23 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
The project was awarded BRAC funding in 2013. Construction scheduled to begin in 2015.

<table>
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<th>Total Estimated Project Cost: $1,810,000</th>
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<tr>
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<tr>
<td></td>
<td>State $0</td>
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<td></td>
<td>Local $0</td>
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</table>

Environmental Permitting: HPA, NEPA, County Shorelines
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A

Map of the Slater Road area showing the bridge location and surrounding roads.
**Project Narrative:**
This project is located near the Bellingham city limits in Section 8, T38N, R2E. This is a rehabilitation project to replace the bridge deck, strengthen the girders and cross beams, and remove the existing load restrictions on the bridge. The project is listed #24 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**
The project was submitted for BRAC funding in May 2012. Construction pending acquisition of BRAC funds.

| Total Estimated Project Cost: | $3,000,000 |
| Expenditures to Date:          | $0         |

<table>
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<tr>
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<tr>
<td>Local</td>
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<table>
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<tr>
<th>Environmental Permitting</th>
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<td>Right-of-Way Acquisition (Estimate)</td>
<td>None Required</td>
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<tr>
<td>County Forces (Estimate)</td>
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</table>

![Map of Marine Drive / Little Squalicum Creek - Bridge No. 1 Rehabilitation CRP #910017](image-url)
Hannegan Road / Nooksack River - Bridge No. 252 Scour Mitigation
CRP #911002

Construction Funding Year(s): 2015

Project Narrative:
This project is located just south of the Lynden city limits in Section 20, T40N, R3E. This is a rehabilitation project to mitigate scour on the existing bridge. This project is listed #25 on the 2014-2019 Six Year Transportation Program.

Project Status:

| Total Estimated Project Cost: | $274,000 |
| Expenditures to Date: | $40,000 |

Funding Sources:

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Environmental Permitting
HPA, SEPA, SEC 404, NEPA, County Shorelines

Right-of-Way Acquisition (Estimate)
None Required

County Forces (Estimate)
None
South Pass Road / Saar Creek - Bridge No. 212 Replacement
CRP #911004

Construction Funding Year(s): 2014

Project Narrative:
This project is located southeast of Sumas in Section 17, T40N, R5E. This is a project to replace the existing 31 foot bridge with a 40 foot voided slab bridge. This project is listed #26 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
To be completed by County Forces in 2014.

Total Estimated Project Cost: $250,000
Expenditures to Date: - 0 -

Funding Sources:
- Federal $
- State $
- Local $250,000 (STIP 2014)

Environmental Permitting: HPA, SEPA, SEC 404, County Shorelines
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): $120,000
Portal Way / Dakota Creek - Bridge No. 500 Seismic Retrofit
CRP #910001

Construction Funding Year(s): 2014

Project Narrative:
This project is located south of Blaine in Section 8, T40N, R1E. This is a seismic retrofit project to mitigate the risk of failure in the event of a seismic event. This project is listed #27 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Design is complete. BRAC funding acquired. Permitting is ongoing. Construction scheduled for 2014.

Total Estimated Project Cost: $3,000,000
Expenditures to Date: $300,000

Funding Sources:
- Federal: $2,800,000
- State: $0
- Local: $200,000

Environmental Permitting: HPA, SEPA, SEC 404, NEPA, County Shorelines
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): None
Jackson Road / Terrell Creek - Bridge No. 81 Replacement
CRP # Not Assigned

Construction Funding Year(s):
2016

Project Narrative:
This project is located near Birch Bay in Section 31, T40N, R1W. This is a project to replace the existing 62-foot functionally obsolete bridge. This project is listed #28 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 2014.

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<th>Total Estimated Project Cost: $ 620,000</th>
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<td>State $0</td>
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<td>Local $620,000 (STIP 2015-2016)</td>
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Environmental Permitting: To be determined
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): To be determined
Stein Road / Dakota Creek Tributary - Bridge No. 91 Replacement
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located east of Blaine in Section 13, T40N, R1E. This is a project to replace the existing 50-foot bridge. This project is listed #29 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 2016.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:

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<th>Source</th>
<th>Amount</th>
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<td>State</td>
<td>$0</td>
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<td>Local</td>
<td>$10,000 (STIP 2016)</td>
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Environmental Permitting: To be determined
Right-of-Way Acquisition (Estimate): To be determined
County Forces (Estimate): To be determined

[Map of the area showing Stein Road, Dakota Creek, and other nearby roads and landmarks]
Whatcom County Public Works
Project Narrative

Mosquito Lake Road / Porter Creek - Bridge No. 141 Replacement
CRP # Not Assigned

Construction Funding Year(s):
TBD

Project Narrative:
This project is located south of Welcome in Section 11, T38N, R5E. This is a project to replace the existing 31-foot bridge in order to mitigate ongoing scour and debris issues. This project also affords an opportunity to address geometric issues that arose from the emergency realignment of Mosquito Lake Road in 2004. This project is listed #30 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 2017.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
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<tbody>
<tr>
<td>Expenditures to Date:</td>
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Funding Sources:

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<tr>
<td>State</td>
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Environmental Permitting
To be determined

Right-of-Way Acquisition (Estimate)
To be determined

County Forces (Estimate)
To be determined
N. Lake Samish Road / Lake Samish - Bridge No. 107 Rehabilitation
CRP # Not Assigned

Construction Funding Year(s): 
TBD

Project Narrative:
This project is located on Lake Samish in Section 27, T37N, R3E. This is a project to rehabilitate the deteriorating timber deck on the existing 250-foot bridge. This project is listed #31 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Project will be submitted for funding during the next BRAC grant cycle (estimated 2014)

<table>
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<th>Total Estimated Project Cost:</th>
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Funding Sources:

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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$50,000 (STIP 2014)</td>
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</tbody>
</table>

Environmental Permitting | To be determined
Right-of-Way Acquisition (Estimate) | None required
County Forces (Estimate) | To be determined
Hannegan Road / Ten Mile Creek - Bridge No. 236 Replacement
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Hannegan Road between Central and Ten Mile Roads in Section 16, T39N, R3E. This is a project to replace the last 31-foot channel beam bridge on the Hannegan Road. This old design is not suited for the volume of truck traffic present on the Hannegan Road. This project is listed #32 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Project design will be completed in 2013. Construction funding will be sought once the design is complete.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
- Federal: $0
- State: $0
- Local: $20,000 (STIP 2014)

Environmental Permitting: To be determined
Right-of-Way Acquisition (Estimate): None required
County Forces (Estimate): None
Roberts Road/Anderson Creek, Bridge No. 249
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located west of Deming in Section 19, T39N, R4E. This is a bridge replacement project. This project is listed #33 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 2017.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $ 0 |

| Funding Sources: |
| Federal | $0 |
| State | $0 |
| Local | $10,000 (STIP 2017) |

Environmental Permitting | To be determined |
Right-of-Way Acquisition (Estimate) | To be determined |
County Forces (Estimate) | To be determined |

[Map with location marked as #33]
### Massey Road/Sumas River, Bridge No. 291
**CRP # Not Assigned**

**Construction Funding Year(s):** TBD

**Project Narrative:**
This project is located east of Everson in Section 5, T39N, R4E. This is a bridge replacement project. This project is listed #34 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:** Preliminary design and permitting to begin in 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$ 0</td>
</tr>
</tbody>
</table>

**Funding Sources:**

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$10,000 (STIP 2016)</td>
</tr>
</tbody>
</table>

**Environmental Permitting**
To be determined

**Right-of-Way Acquisition (Estimate)**
None required

**County Forces (Estimate)**
To be determined

![Map of Massey Road/Sumas River, Bridge No. 291](image-url)
Mosquito Lake Road/N. Fork Nooksack River, Bridge No. 332
CRP # Not Assigned

Construction Funding Year(s):
TBD

Project Narrative:
This project is located east of Deming in Section 27, T39N, R5E. This is a preliminary engineering study on the existing bridge. This project is listed #35 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status: Preliminary analysis to begin in 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$ 0</td>
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<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting
To be determined

Right-of-Way Acquisition (Estimate)
None required

County Forces (Estimate)
None
Refurbish / Upgrade of the Whatcom Chief
CRP #910012

Construction Funding Year(s): TBD

Project Narrative:
This project involves the upgrade and preservation of the current ferry to Lummi Island, M/V Whatcom Chief. The project definition will address safety, accessibility and reliability concerns associated with the approximately 50 year old ferry. This project is listed #36 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Opportunities for project funding will be reviewed as they become available.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $2,000 |

| Funding Sources: |
| Federal | $0 |
| State | $0 |
| Local | $10,000 (STIP 2014-2015) |

Environmental Permitting | None Required
Right-of-Way Acquisition (Estimate) | None Required
County Forces (Estimate) | N/A

M/V Whatcom Chief
Ferry Dock Improvements
CRP #912004

Construction Funding Year(s): 2014 - 2019

Project Narrative:
This project includes improvements to the ferry docks. This project is listed #37 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Design, permitting, and construction activities are ongoing.

Total Estimated Project Cost: $1,500,000
Expenditures to Date: N/A

<table>
<thead>
<tr>
<th>Funding Sources</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$</td>
</tr>
<tr>
<td>State</td>
<td>$</td>
</tr>
<tr>
<td>Local</td>
<td>$1,500,000 (STIP 2014-2019)</td>
</tr>
</tbody>
</table>

Environmental Permitting: HPA, SEPA, CORPS 404, COUNTY SHORELINES
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A
**Replacement of the Whatcom Chief**

**CRP # Not Assigned**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>TBD</th>
</tr>
</thead>
</table>

**Project Narrative:**
This project involves replacement of the current ferry to Lummi Island, M/V Whatcom Chief. This project is listed **#38** on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**
Opportunities for project funding will be reviewed as they become available.

<table>
<thead>
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<th>Total Estimated Project Cost:</th>
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**Funding Sources:**

<p>| | |</p>
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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$10,000 (STIP 2016)</td>
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<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
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</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>None</td>
</tr>
</tbody>
</table>

**M/V Whatcom Chief**

![Image of M/V Whatcom Chief]](image-url)
**Various Bridges Rehabilitation / Replacement**
**CRP #912007**

**Construction Funding Year(s):** 2014 - 2019

**Project Narrative:**
This item provides funding to address unanticipated bridge rehabilitation and/or replacement. It is listed #39 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction to occur as necessary.

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<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$1,200,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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<table>
<thead>
<tr>
<th>Funding Sources:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$</td>
</tr>
<tr>
<td>State</td>
<td>$</td>
</tr>
<tr>
<td>Local</td>
<td>$1,200,000 (STIP 2014-2019)</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>To Be Determined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>To Be Determined</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>To Be Determined</td>
</tr>
</tbody>
</table>

Due to the nature of this item, no map exists. Council review and prioritization will be sought at the appropriate times.
Subdivision Overlays
CRP # Not Assigned

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2016</th>
</tr>
</thead>
</table>

**Project Narrative:**
This item addresses the placement of HMA (Hot Mix Asphalt) on County Roads in dense residential areas. Locations to be determined. This project is #40 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction to occur as necessary.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$800,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td></td>
</tr>
<tr>
<td>Funding Sources:</td>
<td></td>
</tr>
<tr>
<td>Federal</td>
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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$800,000</td>
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<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>N/A</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Whatcom County Public Works
Project Narrative

**Structural Overlays**
**CRP # Not Assigned**

**Construction Funding Year(s):** 2016

**Project Narrative:**
This item addresses the placement of HMA (Hot Mix Asphalt) on County Roads classified as major and minor collectors. Locations to be determined. This project is #41 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction of various roadways will be initiated in 2016 and extend through 2019.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,200,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

| $0               |
| $0               |
| $1,200,000 (STIP 2016-2019) |

<table>
<thead>
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</thead>
<tbody>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Right-of-Way Acquisition (Estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>County Forces (Estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Right of Way Acquisition  
CRP # Not Assigned

**Construction Funding Year(s):**  
2014-2019

**Project Narrative:**  
This item addresses the unanticipated need for Right-of-Way that may arise during a given year that requires immediate action. This project is listed #42 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**  
N/A

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$120,000 / Yr</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
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<tr>
<td></td>
</tr>
<tr>
<td>$0</td>
</tr>
<tr>
<td>$0</td>
</tr>
<tr>
<td>$120,000/year (STIP 2014 - 2019)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>To Be Determined</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Right-of-Way Acquisition (Estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To Be Determined</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>County Forces (Estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Unanticipated Site Improvements  
CRP # Not Assigned

**Construction Funding Year(s):**  2014

**Project Narrative:**  
This Annual Construction Program item addresses the unanticipated project(s) that may arise during a given year that require immediate action due to safety concerns, environmental factors, traffic volumes, accident history, funding or grant availability and other issues not related to an existing program project. This project is listed #43 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**  
Design and construction will be completed in 2014.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$1,800,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$1,800,000 (STIP 2014 thru 2019)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>To Be Determined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>To Be Determined</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Roadway Frost Depth Detectors  
CRP # Not Assigned

| Construction Funding Year(s): | 2014 - 2015 |

**Project Narrative:**
This item provides funding to address replacement of the County’s aging network of roadway frost depth detectors. These detectors are critical for implementing appropriate roadway restrictions to prevent structural damage following periods of deep frost. It is listed #44 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction to occur in 2014 - 2015.

| Total Estimated Project Cost: | $100,000 |
| Expenditures to Date:         | N/A      |

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

**Environmental Permitting**
To Be Determined

**Right-of-Way Acquisition (Estimate)**
To Be Determined

**County Forces (Estimate)**
To Be Determined

Due to the nature of this item, no map exists. Location of the new roadway frost depth detectors will be determined in 2014.
Stormwater Quality Improvements
CRP # Not Assigned

Construction Funding Year(s): 2015

Project Narrative:
This project varies in location. Identification and prioritization to be addressed and reviewed through County Council. This project is listed #45 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Design and construction will be completed in 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$500,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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<table>
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</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
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<tr>
<td>Local</td>
<td>$500,000 (STIP 2014-2019)</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
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</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>To Be Determined</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>To Be Determined</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Non-motorized Transportation Improvements
CRP # Not Assigned

Construction Funding Year(s): 2014

Project Narrative:
This program item addresses the need to identify and prioritize non-motorized projects for future consideration. Projects would include pedestrian and bike facilities (e.g. sidewalks, trails, shoulder widening) in various locations around the county. This project is listed #46 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Design and construction will be completed in 2014.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$600,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$600,000 (STIP 2014 - 2019)</td>
</tr>
</tbody>
</table>

Environmental Permitting  | To Be Determined |
Right-of-Way Acquisition (Estimate) | To Be Determined |
County Forces (Estimate) | To Be Determined |

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Fish Passage Project
CRP #912014

**Construction Funding Year(s):** 2016 - 2019

**Project Narrative:**
This project is for the design and construction of fish passage projects. This project is listed #47 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction will begin in 2016

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$800,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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</table>

<table>
<thead>
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</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$800,000 (STIP 2016-2019)</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>To Be Determined</th>
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<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
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</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Railroad Crossing Improvements
CRP # Not Assigned

Construction Funding Year(s): 2014

Project Narrative:
Locations to be determined. Identification and prioritization to be addressed. This project is listed #48 on the 2014-2019 Six Year Transportation Improvement Program.

Project Status:
Design and construction will be completed in 2014.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>Funding Sources:</th>
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</thead>
<tbody>
<tr>
<td>$300,000</td>
<td>Federal</td>
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<tr>
<td></td>
<td>State</td>
</tr>
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<td></td>
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<table>
<thead>
<tr>
<th>To Be Determined</th>
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</thead>
<tbody>
<tr>
<td>Environmental Permitting</td>
</tr>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Neighborhood Traffic Calming  
CRP # Not Assigned

**Construction Funding Year(s):** 2014

**Project Narrative:**  
Locations to be determined. Identification and prioritization to be addressed. This project is listed #49 on the 2014-2019 Six Year Transportation Improvement Program.

**Project Status:**  
Design and construction will be in 2014.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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</tr>
</thead>
<tbody>
<tr>
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<table>
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<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
<tr>
<td></td>
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<table>
<thead>
<tr>
<th>Environmental Permitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>To Be Determined</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Right-of-Way Acquisition (Estimate)</th>
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<table>
<thead>
<tr>
<th>County Forces (Estimate)</th>
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</thead>
<tbody>
<tr>
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</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
<table>
<thead>
<tr>
<th>Year</th>
<th>Fund</th>
<th>Balance</th>
<th>Reserve</th>
<th>Emergency</th>
<th>Non-Expenditure</th>
<th>Net Revenue</th>
<th>Construction Capital Program</th>
<th>Consolidated Non-Expenditure</th>
<th>Cash Flow Projections ($ in millions)</th>
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<tbody>
<tr>
<td>2023</td>
<td>$11.067</td>
<td>$11.067</td>
<td>$11.067</td>
<td>$11.067</td>
<td>$11.067</td>
<td>$11.067</td>
<td>$11.067</td>
<td>$11.067</td>
<td>$32.359</td>
</tr>
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</table>

**Fund Balance**

8/26/2013

*Attachment B'*

Whitcom County Public Works

DRAFT
<table>
<thead>
<tr>
<th>Year</th>
<th>Road Fund</th>
<th>Tax Revenue</th>
<th>General Fund</th>
<th>Current Charges</th>
<th>Other Charges</th>
<th>Bond Amortization</th>
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Notes: Revenue from Projects 6 in millions.

Draft 8/26/2013

Watauga County Public Works

ATTACHMENT B

Year Revenue Total Revenue Charges General Fund Current Charges Other Charges Bond Amortization Capital Outlay Total Revenue

Road Fund

Cash Flow Projections (in millions)
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**Expenditures**

Road Fund

Watson County Public Works

**ATTACHMENT "B"**

Cash Flow Projections ($ in millions)

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8/26/2013
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Funds Available for Capital Projects

Watcom County Public Works
Attachment B4
Road Fund Draft
8/26/2013

Cash Flow Projections (in millions)
Road Fund

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### 2013

**Whatcom County**

**Priority Rating Program**

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# 2013

## Whatcom County

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<td>County I.D. Number</td>
<td>State I.D. Number</td>
<td>Bridge Name</td>
<td>Intersecting Feature or Road</td>
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<tr>
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<td>334</td>
<td>Canyon Creek</td>
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<td>Rehab and sediment control</td>
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<tr>
<td>Capital</td>
<td>3 Federal</td>
<td>512</td>
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<tr>
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<td>1</td>
<td>Little Squalicum</td>
<td>Marine Drive</td>
<td>Cap Beam Strengthening/Deck Rehab.</td>
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<td>252</td>
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<td>Capital</td>
<td>10 Capital</td>
<td>332</td>
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<td>Rehab/Replacement Study</td>
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<tr>
<td>Capital</td>
<td>11 Capital</td>
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**Maintenance**

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<tr>
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<th>County I.D. Number</th>
<th>State I.D. Number</th>
<th>Bridge Name</th>
<th>Intersecting Feature or Road</th>
<th>Proposed Work</th>
<th>Proposed Date of Work</th>
<th>Bridge Length / spans - length</th>
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<td>507</td>
<td>8001300</td>
<td>Lummi Is. Ferry Slip</td>
<td>Lummi Island</td>
<td>Transfer Span Aprons/Misc</td>
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<td>7999600</td>
<td>Gooseberry FS</td>
<td>Lummi View Dr.</td>
<td>Transfer Span Aprons/Misc</td>
<td>2013</td>
<td>70'/1</td>
<td>Replace</td>
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<td>120</td>
<td>8364300</td>
<td>Fir Creek</td>
<td>South Bay Road</td>
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<td>20'</td>
<td>Scour Repair-Grade Control</td>
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<td>510</td>
<td>8056800</td>
<td>Gallop Creek</td>
<td>Coal Creek Road</td>
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<td>2015</td>
<td>65' / 1-40',2-12.5'</td>
<td>Permit Ongoing</td>
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<td>329</td>
<td>8420700</td>
<td>Lenthart RD</td>
<td>Lenthart RD</td>
<td>Replace Bridge in kind</td>
<td>2016</td>
<td>31'/1</td>
<td>Replace in kind</td>
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**Other M&O Work**

<table>
<thead>
<tr>
<th>Priority</th>
<th>Project Name</th>
</tr>
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</table>
PROPOSED BY: ______________
SPONSORED BY: Public Works
INTRODUCED: ____________________

RESOLUTION NO. _______

WHATCOM COUNTY SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM
FOR THE YEARS 2014 THROUGH 2019

WHEREAS, pursuant to RCW 36.81.121, Whatcom County is required to prepare and
adopt a Six-Year Transportation Improvement Program each year; and

WHEREAS, pursuant to RCW 36.54.015, Whatcom County is required to prepare a
Fourteen-Year Ferry Capital Program each year; and

WHEREAS, following adoption of the Six-Year Transportation Improvement Program, the
law required an annual review of the work accomplished under the program and a
determination of current transportation needs; and

WHEREAS, based upon the findings of the annual review, and after a public hearing, a
revised Six-Year Transportation Improvement Program shall be adopted; and

WHEREAS, pursuant to RCW 36.81.121, the Six-Year Transportation Improvement
Program and Fourteen-Year Ferry Capital Program must be consistent with the County
comprehensive plan pursuant to RCW 36.70A; and

WHEREAS, the Six-Year Transportation Improvement Program attached hereto as Exhibit
“A” has been reviewed and determined to be consistent with the County’s comprehensive plan;
and

WHEREAS, the Fourteen-Year Ferry Capital Program attached hereto as Exhibit “B” has
been reviewed and determined to be consistent with the County’s comprehensive plan;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council as follows:

Page 1
1. That the Whatcom County Six-Year Transportation Improvement Program for the years 2014 through 2019, which is attached hereto as Exhibit "A", including the capital elements of the first six-years of the Fourteen-Year Ferry Capital Program, which is attached hereto as Exhibit "B", is hereby adopted.

2. That the County Engineer is directed to file a copy of the same with the County Road Administration Board and the State Secretary of Transportation.

APPROVED this ____ day of __________, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

Dan Gibson, Chief Civil Deputy Prosecutor
<table>
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<tr>
<th>Date</th>
<th>-budgeted</th>
<th>actual</th>
<th>change</th>
<th>year-end</th>
<th>physical</th>
<th>program</th>
<th>status</th>
<th>percent complete</th>
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<td>500</td>
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<td>1/1/2017</td>
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<td>1000</td>
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<tr>
<td>1/1/2019</td>
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<td>1000</td>
<td>2000</td>
<td>2000</td>
<td>1000</td>
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<td>1000</td>
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**Six Year Transportation Improvement Program**

From 2014 to 2019
### Six Year Transportation Improvement Program

**From 2014 to 2019**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Total LF</th>
<th>Total CF</th>
<th>Total Projected Funding</th>
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<tr>
<td>2014</td>
<td>6000</td>
<td>9000</td>
<td>4000</td>
<td>20000</td>
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<td>2015</td>
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<td>2019</td>
<td>1000</td>
<td>2000</td>
<td>6000</td>
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**Project Costs in Thousands of Dollars**

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<tr>
<th>Project Code</th>
<th>Project Name</th>
<th>Total Length</th>
<th>Status</th>
<th>Funding Source Information</th>
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<tr>
<td>P123</td>
<td>Road Improve</td>
<td>0.5</td>
<td>Completed</td>
<td>Local Match</td>
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<tr>
<td>P456</td>
<td>Bridge Repair</td>
<td>0.2</td>
<td>In Progress</td>
<td>State Aid</td>
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<tr>
<td>P789</td>
<td>Transit Line</td>
<td>0.3</td>
<td>Planned</td>
<td>Federal Grant</td>
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</table>

**Notes:**
- **6000**: MWRA (Massachusetts Water Resources Authority)
- **9000**: Local Match
- **4000**: State Aid
- **2000**: Federal Grant
- **25000**: Total Projected Funding
- **30000**: Total Projected Funding (including all sources)

**Program Summary:**
- **Worcester County:** 6000
- **E. Bridge No. 6:** 2000
- **A. Bridge No. 8:** 9000

**Program Identification:**
- **City No.:** 0000
- **Co. No.:** 27
- **Agency:** Department of Transportation

**Res. Date:** 03/03/2015

**Co Name:** Wrenco Co.
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<tr>
<th>Project Name</th>
<th>Funding Source</th>
<th>Total Funds</th>
<th>Federal Funds</th>
<th>Total Length</th>
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<tr>
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**Six Year Transportation Improvement Program**
<table>
<thead>
<tr>
<th>No.</th>
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<th>Description</th>
<th>Status</th>
<th>Completion Date</th>
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<td>2</td>
<td>678901</td>
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<td>Pending</td>
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<td>246810</td>
<td>Utility Upgrade</td>
<td>In Progress</td>
<td>02/15/2023</td>
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### Rollout Schedule

- **Phase 1**: Planning and Design (09/01/2022 - 12/31/2022)
- **Phase 2**: Construction (01/01/2023 - 05/31/2023)
- **Phase 3**: Operation and Maintenance (06/01/2023 - 11/30/2023)

---

**Six-Year Transportation Improvement Program**

City: Seattle  | Zip: 98101  | MPO: NWMOC  | CO: WA  | Name: Washington State Department of Transportation

---

**From 2014 to 2019**

- Enhanced safety features
- Increased capacity
- Reduced congestion
<table>
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<th>Project No.</th>
<th>Priority Proj. No.</th>
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<th>Project Location</th>
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<th>Estimated Construction Start Date</th>
<th>Estimated Completion Date</th>
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<td>01/01/2022</td>
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<td>City of Seattle</td>
<td>2,000,000</td>
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*Total Cost Estimated in Thousands of Dollars.*
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**Six Year Transportation Improvement Program**

*From 2014 to 2019*
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<th>Amended Date</th>
<th>Hearing Date</th>
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<td>--</td>
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</table>

From 2014 to 2019

Six Year Transportation Improvement Program
Six Year Transportation Improvement Program
Instructions for Completing the Form

Complete the form for the six year program in accordance with the following instructions. Include all transportation-related projects regardless of location or source of funds.

**Heading**

- **Agency**: Enter name of the sponsoring agency.
- **County Number**: Enter the OFM assigned number (see LAG Appendix 21.44).
- **City Number**: Enter the OFM assigned number (see LAG Appendix 21.45).
- **MPO/RTPO**: Enter the name of the MPO (if located within urbanized area) or RTPO (if in the rural area).
- **Hearing Date**: Enter the date of the public hearing.
- **Adoption Date**: Enter the date this program was adopted by council or commission.
- **Resolution Number**: Enter Legislative Authority resolution number if applicable.
- **Amendment Date**: Enter the date this program was amended by council or commission.

**Column Number**

1. **Functional Classification.** Enter the appropriate 2-digit code denoting the Federal Functional Classification. (Note: The Federal Functional Classification must be approved by FHWA.)

   **Description**
   
   **Rural (under 5,000 population)**
   
   - 00 - No Classification
   - 01 - Interstate
   - 02 - Principal Arterial
   - 06 - Minor Arterials
   - 07 - Major Collector
   - 08 - Minor Collector
   - 09 - Local Access

   **Urban (over 5,000 population)**
   
   - 11 - Interstate
   - 12 - Freeways & Expressways
   - 14 - Other Principal Arterials
   - 16 - Minor Arterial
   - 17 - Collector
   - 19 - Local Access

2. **Priority Numbers.** Enter local agency number identifying agency project priority (optional).

3. **Project Identification.** Enter (a) Federal Aid Number if previously assigned; (b) Bridge Number; (c) Project Title; (d) Street/Road Name or Number/Federal Route Number; (e) Beginning and Ending Termini (Mile Post or Street/Road Names); and (f) Describe the Work to be Completed.

4. **Improvement Type Codes.** Enter the appropriate federal code number(s).

   **Description**
   
   **01 - New construction on new alignment**
   - 07 - Resurfacing
   - 08 - New Bridge Construction
   - 09 - Bridge Replacement
   - 10 - Bridge Rehabilitation
   - 11 - Minor Bridge Rehabilitation
   - 12 - Safety/Traffic Operation/TSM
   - 13 - Environmentally Related
   - 14 - Bridge Program Special
   - 21 - Transit Capital Project
   - 22 - Transit Operational Project
   - 23 - Transit Planning
   - 24 - Transit Training/Admin
   - 31 - Non Capital Improvement
   - 32 - Non Motor Vehicle Project

5. **Funding Status.** Enter the funding status for the entire project which describes the current status.
   
   **S** - Project is 'selected' by the appropriate selection body & funding is secured.
   **P** - Project is subject to selection by an agency other than the lead and is listed for planning purposes and funding has not been determined.

6. **Total Length.** Enter project length to the nearest hundredth mile (or code "00" if not applicable).

7. **Utility Code(s).** Enter the appropriate code letter(s) for the utilities that would need to be relocated or are impacted by the construction project.

   - **C** - Cable TV
   - **G** - Gas
   - **O** - Other
   - **P** - Power
   - **S** - Sewer (other than agency-owned)
   - **T** - Telephone
   - **W** - Water
Six Year Transportation Improvement Program

Instructions for Completing the Form

8. Project Phase. Select the appropriate phase code of the project.

   PE - Preliminary Engineering, including Design (or Planning)
   RW - Right of Way or land acquisition
   CN - Construction only (or transit planning or equipment purchase)
   ALL - All Phases from Preliminary Engineering through Construction
       (Use only in Years 4, 5, & 6)

9. Phase Start Date. Enter the month/day/year (in MM/DD/YY format) that the selected phase of the project is actually expected to start.

10. Federal Fund Sources. Enter the Federal Fund Source code from the table below.

| CBI    | Combined Border Infrastructure          | 5307 | - FTA Urban Areas |
| BIA    | Bureau of Indian Affairs                | 5309(Bus) | - Bus |
| BR     | Bridge Replacement or Rehab.            | 5309(FG) | - Fixed Guideways |
| CBDG   | Community Development                   | 5309(NS) | - New Starts |
| CMAQ   | Congestion Mitigation Air Quality       | 5310 | - FTA Elderly/Disabled |
| DEMO   | TEA-21 Demo Projects (Selected)        | 5311 | - FTA Rural Areas |
| Discretionary | Ferry Boat Discretionary, Public Lands | 5316 | - FTA JARC Rural |
| Highway, Scenic Byways, etc. |              | 5317 | - FTA New Freedom |
| DOD    | Department of Defense                   | REV | - Rural Economic Vitality Program |
| IC     | Interstate Construction                 | SRTS | - Safe Routes To Schools |
| IM     | Interstate Maintenance                  | STP(C) | - STP Statewide Competitive Program |
| IRR    | Indian Reservation Roads                | STP(E) | - STP Transportation Enhancements |
| NHS    | National Highway System                 | STP(L) | - STP Legislative Earnmarks |
| 3037   | FTA Job Access/Reverse Commute          | STP(S) | - STP Safety Including Hazard and RR |
|        |                                          | STP(R) | - STP Rural Regionally Selected |
|        |                                          | STP(U) | - STP Urban Regionally Selected |
|        |                                          | STP   | - STP (WSDOT Use Only) |

11. Federal Cost. Enter the total federal cost (in thousands) of the phase regardless of when the funds will be spent.

12. State Fund Code. Enter the appropriate code for any of the listed funds to be used on this project.

| CAPP   | - County Arterial Preservation Program | PWTF | - Public Works Trust Fund |
| CHAA   | - Route Transfer Program              | RAP  | - Rural Arterial Program |
| (formerly City Hardship Assistance Account) | | SCP  | - Small City Arterial Program |
| TPP    | - Transportation Partnerships Program | SCPP | - Small Cities Pavement Preservation |
| AIP    | - Urban Arterial Program              | FMSIB | - Freight Mobility Strategic Invest. Board |
| (formerly Arterial Improvement Program) | | WSDOT | - WSDOT funds |
| PSMP   | - Sidewalk Program                    | OTHER | - Any other unlisted state fund codes |
| (formerly Pedestrian Safety & Mobility Program) | | |

13. State Funds. Enter all funds from the State Agencies (in thousands) of the phase regardless of when the funds will be spent.

14. Local Funds. Enter all the funds from Local Agencies (in thousands) of the phase regardless of when the funds will be spent.

15. Total Funds. Enter the sum of columns 10, 12, and 14. (This will auto-total in the STIP software program.)

16-19. Expenditure Schedule - (1st, 2nd, 3rd, 4th thru 6th years). Enter the estimated expenditures (in thousands) of dollars by year. (For Local Agency use.)

20. Environmental Data Type. Enter the type of environmental documentation that will be required for this project. Environmental determination must be completed before the Right-of-Way/Construction phase(s) can be obligated. (This is required for Federally funded projects.)

   EIS - Environmental Impact Statement
   EA  - Environmental Assessment
   CE  - Categorical Exclusion

21. R/W Certification. If Right of Way acquisition is required, enter R/W Certification Date, if known. (This is required for Federally funded projects.)
Exhibit B to the Six-Year Transportation Improvement Plan

WHATCOM COUNTY
2014-2027 FOURTEEN-YEAR FERRY CAPITAL PROGRAM
Overview

This program provides a blueprint for the effective, efficient, and continuing operation of the Whatcom County Ferry System within existing financial constraints. Capital improvements are scheduled based on many years of experience operating and maintaining the system, while complying with applicable regulations.

Inevitably, priorities and available funds for the ferry system will change over the fourteen years projected in this program. Therefore, the intention of the program is to be a guide indicating long-range improvements and anticipated revenues and expenditures. Strict adherence is not required.

Enacted in 1975, Revised Code of Washington (RCW) 36.54.015 states “The legislative authority of every county operating ferries shall prepare, with the advice and assistance of the county engineer, a fourteen year long range capital improvement plan embracing all major elements of the ferry system. Such plan shall include a listing of each major element of the system showing its estimated current value, its estimated replacement cost, and its amortization period.”

Table 1: Ferry System Current and Replacement Values – 2011 meets applicable requirements, showing the current value, replacement cost, and amortization periods for the vessels and facilities. The current value of the M/V Whatcom Chief is the book value, calculated from the depreciated original construction cost and any depreciated improvements/major repairs. The facilities’ current value is book value; original cost less depreciation plus depreciated improvements.

RCW 36.81.121 (1) states “…the legislative authority of each county, after one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years….and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county road administration board and the secretary of transportation not more than thirty days after its adoption by the legislative authority…” Subsection (2) requires expanded information on how a county will spend all its money on the various facets of the transportation program. This RCW Section was enacted in 1961. The capital expenditure portion of Subsection (1) is satisfied by:

Table 2: Projected Revenues defines the known and/or anticipated sources of operating and capital project funding for the 14-Year Plan.

Table 3: Projected Expenditures includes all other expenditures on the system that meet Subsection (2) requirements. Operational expenditures are delineated between vessel and non-vessel costs. U.S. Coast Guard regulations currently
require the ferries to be dry-docked every two years, however to extend the life, improve reliability and protect our capital investment Whatcom County schedules dry-docking every year for its vessel. The landings are inspected regularly as required by the National Bridge Inspection Standards administered through the Washington State Department of Transportation. The inspection report helps identify and schedule major maintenance and replacement of these facilities.

This RCW section also provides the reporting requirement and timing of program submission, as well as establishing the annual update requirement.

Additionally, the Federal Highway Administration requires all agencies within a Metropolitan Planning Organization to develop and annually update the long range Transportation Improvement Plans and their Biennial Element. Whatcom County updates this 14-Year plan each year and incorporates the results into the Six-Year Transportation Improvement Program.

**Major Project Analysis**

Gooseberry Point dock improvements include dolphin replacement work which is in the preliminary planning stages for 2014 (est. $200,000). Electrical system upgrades and terminal painting which are in the preliminary planning stages for 2015 (est. $175,000). In 2017, preliminary plans are being developed for replacement of the approach span and transfer span decks (est. $300,000).

Lummi Island dock improvements include dolphin replacement and breakwater repair which are in the preliminary planning stages for 2014 (est. $200,000). In 2015 preliminary plans are being developed for electrical system upgrades and terminal painting (est. $175,000) and in 2016 preliminary plans are being developed for the replacement of the approach span and transfer span decks (est. $450,000).

**Major Maintenance/Reconstruction**

Pile, dolphin & fender work:
Major pile dolphin and fender work replacement is scheduled as funding and operational periods allow.

**Vessel dry-docking:**
US Coast Guard regulations require periodic inspections of all ferry vessels. In addition to yearly certifications, each vessel is required to be dry-docked every two years, with an underwater hull survey required as part of the annual certification between dry dockings. Whatcom County schedules dry-docking every year. The engine overhaul, vessel painting, hull repairs, and other major and minor repairs occur during dry-docking. Propulsion engine overhauls occur every third year. Generator engines are overhauled on a six-year cycle. Engines
are replaced every ten to twelve years. Every three to five years, a vessel survey
is conducted to assess the vessel’s overall condition, establish the fair market
value, estimate replacement cost, and provide a detailed hull strength
assessment. This survey is used in part to determine the requirements for hull
plating and framing replacement, and is also a requirement of the current
insurance carrier.

**Minor Maintenance**

General minor maintenance is continual on the ferry, landings, aprons, and
waiting facilities. The costs and extent of the work is unpredictable and
frequently, problems must be repaired immediately upon detection. Routine
maintenance such as building painting and roof cleaning is more predictable and
scheduled in advance.

**History of the Ferry System**

The ferry system is the only public transportation link for the majority of Lummi
Island residents and vehicles to the mainland at Gooseberry Point.

Following is a brief chronology outlining the history of the Whatcom County Ferry
System.

**YEAR EVENT**

1926 Lummi Shore Road from Bellingham was completed and a ferry, the
Central, owned by Whatcom County and large enough to hold six small
Model-T Fords started making scheduled runs between Lummi Island and
Gooseberry Point.
1929 The slightly larger Chief Kwina replaces the Central.
1950 Gooseberry Point terminal built.
1962 The M/V Whatcom Chief begins service.
1978 Lummi Island terminal is relocated.
1982 New lift mechanism installed on transfer span at Lummi Island.
Gooseberry Point pier refurbished
1987 Gooseberry Point Transfer span, wing walls and dolphins replaced
1997 Major refurbishment of Gooseberry point landing accomplished
2002 20-Year Plan Phase 1 Process and report completed.
2005 Major Status Report on Ferry System
2006 Lummi Island Dock preservation project (Bearing Seats Rebuild).
Major corrosion repair to vessel hull.
Completed design package for a 35-car replacement vessel.
Completed design package for urgent electrical/structural terminal repairs.
First Rate Increase in 5 years.
2008 Rate Increase
2009 Rate adjustment
2009 Emergency wing wall replacement on Lummi Island
2010 Emergency wing wall replacement on Lummi Island
2011 Rate increase and long term lease with the Lummi Nation
2012 Planning and design for the remote control installation at Lummi Island and the wing wall replacement at Gooseberry Point.
2013 Gooseberry Point terminal wooden wingwalls replaced with modern steel-pile supported wingwalls.
2013 Lummi Island terminal transfer span and apron remote control system installed.
# Ferry System Current and Replacement Values - 2011

## Vessels

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<tr>
<th>Current Statistics</th>
<th>M/V Whatcom Chief</th>
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**TOTAL CURRENT VALUE - 2011** $950,000

## Replacement Statistics

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**REPLACEMENT VALUE - 2011** $4,840,000

**TOTAL - REPLACEMENT VALUE - 2011** $4,840,000

## Facilities

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<th>Year</th>
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**TOTAL FACILITIES VALUE** $2,261,000 **TOTAL VESSEL & FACILITIES VALUE** $3,211,000

## Notes:

1. Depreciated Columbia Sentinel Engineers (2011) Value plus Depreciated Improvements
2. Appreciated Columbia Sentinel Engineers (2011) Replacement Value
3. Replace with Steel Pilings
4. Estimated using a 40-year life and straight-line depreciation (including depreciated improvements)
5. Replacement value based on cost estimates by Art Anderson Associates (2009)
### Lummi Island Ferry 14-Year Capital Program

#### All $ in 000's Revenues 2014-2020

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### Lummi Island Ferry 14-Year Capital Program

#### All $ in 000's Revenues 2021-2027

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Note 1: After Subtracting the MVFT Deficit Subsidy. Budgeted for 57% fare recovery based on historical results.
Note 2: As Shown On Table 2, including capital expenditures.
Note 3: Equal to 80% of Fares
Note 4: Equal to 20% of Fares
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<td><strong>Total Costs</strong></td>
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Jail Planner Consultant, DLR Group to present Jail Planning Update

ATTACHMENTS: No attachments

SEPA review required? ( ) Yes (x) NO
SEPA review completed? ( ) Yes (x) NO
Should Clerk schedule a hearing? ( ) Yes (x) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

DLR Group to present an update of Whatcom County’s Jail Planning Process.
   Summary review of SEIS
   Summary of Construction Cost and Project Cost Analysis

COMMITTEE ACTION:
6/04/2013: Presented. Next presentation in July or August
8/06/2013: Presented. Next presentation on September 10 at 3 p.m.

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Briefing on the 2016 urban growth area review process.

**ATTACHMENTS:**

1. Cover letter

**SEPA review required?**  ( ) Yes  ( X ) NO

**SEPA review completed?**  ( ) Yes  ( X ) NO

**Should Clerk schedule a hearing?**  ( ) Yes  ( X ) NO

**Requested Date**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Under the Growth Management Act, Whatcom County and the seven cities within the County must update their comprehensive plans and review their urban growth areas by June 30, 2016. The County and cities are coordinating these reviews. County Planning and Development Services would like to provide a quarterly update to the Council.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
August 27, 2013

To: The Honorable Jack Louws, Whatcom County Executive  
   The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: 2016 Urban Growth Area Review – Quarterly Briefing

Whatcom County has initiated a multi-year project to update the Whatcom County Comprehensive Plan and conduct the Urban Growth Area (UGA) review by June 30, 2016, as required by the Growth Management Act. The Comprehensive Plan update and UGA review will be conducted in close coordination with the seven cities in Whatcom County.

The County and cities entered into a cost sharing agreement to provide funds for consultant services to assist with the planning process. The consultant, BERK, completed a report entitled “Whatcom County Population and Employment Projections and Urban Growth Area Allocations – Phase I Technical Report” on July 22, 2013. This report relates to:

- County-wide population projections and allocations to UGAs and other areas; and
- County-wide employment projections and allocations to UGAs and other areas.

This report provides preliminary technical growth allocations based on state forecasts, historical data and other factors. After reviewing the consultant report, the cities and County will consider preliminary policy-based growth allocations to UGAs. These preliminary policy-based allocations will take into consideration factors such as city goals, public input, infrastructure capacity and land availability.

The County Planning Commission will hold a public hearing and make initial recommendations on these projections and allocations by the end of 2013. It is anticipated that the County Council and city councils will consider a multi-jurisdictional resolution relating to preliminary population and employment allocations in the first quarter of 2014. This would provide a common starting point for conducting environmental review, analyzing land capacity, developing draft land use planning proposals and developing draft capital facility plans. Final growth allocations would be adopted in the 2016 Comprehensive Plan update.

We look forward to discussing the comp plan update and UGA review process with you.
### WHATCOM COUNTY COUNCIL AGENDA BILL

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<th>CLEARANCES</th>
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<th>Agenda Date</th>
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<td>7-30-13</td>
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### TITLE OF DOCUMENT:

A Resolution approving recommendations on applications for open space current use assessment.

### ATTACHMENTS:


### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

In accordance with Whatcom County Code, Section 3.28.020 which establishes procedures for processing applications for open space current use taxation, Whatcom County Planning Commission recommendations are hereby forwarded to the Whatcom County Council to approve in whole or in part or to deny 3 applications for open space current use assessment as authorized by the Open Space Taxation Act (Chapter 84.34 RCW). A draft resolution has been prepared to initiate Council action should they wish to approve Planning Commission recommendations.

* Distribution Request: Assessors Office – Jean Eastman

### COMMITTEE ACTION:

8/06/2013: Introduced

### Related County Contract #:

Related File Numbers: OS2013-1

### Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

THROUGH: Mark Personius, Long Range Planning Division Manager

FROM: Erin Osborn, Planner

DATE: July 26, 2013

SUBJECT: 2013 Open Space Current Use Program Applications, and Planning Commission Comments on a PBRS Update

Three applications for Open Space Current Use Assessment have been reviewed by the Whatcom County Planning Commission and PDS staff, and the results of this review and subsequent recommendations are presented here in an attached packet.

A draft resolution has been prepared for Council should they wish to adopt findings that were made by the Whatcom County Planning Commission at a July 11, 2013 work session. Also included is staff’s report and recommendations, along with maps, aerial photos, and other supporting documents.

Staff would like to request that this item be introduced on August 6, 2013 for review in Planning and Development Committee on September 10, 2013, with a public hearing held on these applications in the evening of the same day.

Staff would also like to relay concerns expressed by the Planning Commission at their July 11, 2013 meeting, indicating that the County’s adopted Public Benefit Rating System (PBRS) which is used to evaluate applications for Open Space Land and Farm & Agricultural Conservation Land may be in need of an update. The PBRS received its last significant update approximately 24 years ago, and the Planning Commission has indicated that the PBRS in its current form may no longer be adequate to assess the public benefit of preserving open space lands.

Staff would like direction from Council on how they would like to proceed on this matter, and would welcome further discussion on this topic in Planning & Development Committee on September 10, 2013.

Thank you for your consideration.
APPROVING RECOMMENDATIONS ON APPLICATIONS FOR OPEN SPACE CURRENT USE ASSESSMENT

WHEREAS, The Open Space Taxation Act codified as Chapter 84.34 RCW, gives counties authority to approve applications for current use classification and reclassification for the following classifications: Farm and Agricultural Land, Open Space Land, Farm & Agricultural Conservation Land, and Timber Land; and

WHEREAS, Pursuant to Whatcom County Code, Section 3.28.020, applications for the classification of Open Space Land, Farm & Agricultural Conservation Land and Timber Land are received and evaluated by Whatcom County Planning and Development Services Department staff, and the results of this evaluation are then presented to the Whatcom County Planning Commission for their review and consideration in making recommendations to the County Council on whether to approve the applications in whole or in part; and

WHEREAS, Pursuant to RCW 84.34.055 and WAC 458-30-330 Whatcom County has adopted a Public Benefit Rating System (PBRS) by Ordinance # 95-040, which is used by staff to rate applications for Open Space Land and Open Space Farm & Agricultural Conservation Land; and

WHEREAS, Applications for Open Space Land and Open Space Farm & Agricultural Conservation Land are evaluated with the Public Benefit Rating System and assigned a Public Benefit Rating (PBR) that corresponds with a staff recommendation of approval or denial, and must receive a score of 45 or above for a staff recommendation of approval; and

WHEREAS, In accordance with the Whatcom County Open Space Policies and Public Benefit Rating System, public access is a condition of approval for Open Space Land applications, except that this requirement may be waived by the Council when the purpose of the classification is for the conservation of wetlands; or when there is a documented occurrence of: State or Federal Threatened Endangered
Species, Federal Proposed Endangered or Threatened Species, State Sensitive or Monitor Species; or when there is a known or potentially significant archaeological site; and

WHEREAS, On September 10, 2013, the Whatcom County Council held a public hearing and considered recommendations from the Whatcom County Planning Commission, staff recommendations, and considered all input from the public on applications referenced in Master File Number OS2013-1; and

WHEREAS, Pursuant to WAC 197-11-800(6)(c), matters relating to Open Space Current Use Assessment are determined not to be major actions and thus exempt from environmental review under the State Environmental Policy Act (SEPA); and

WHEREAS, Pursuant to RCW 36.70.390, the statutory requirements regarding legal notice have been met; and

WHEREAS, The County Council has adopted the following Findings of Fact and Reasons for Action:

1. In 2012, Whatcom County Planning and Development Services received three applications to classify or reclassify land under the open space current use program (Chapter 84.34. RCW) on lands located within the jurisdiction of Whatcom County. These applications were processed as a group under Master File Number OS2013-1.

2. Of the three applications referenced in OS2013-1: one is for Open Space Land (OSL), and two applications are for the classification of Open Space Timber Land (OST). Upon receipt of these applications, Planning and Development Services staff evaluated the open space land application with the Public Benefit Rating System (PBRS), and evaluated applications for timber land with Whatcom County Timber Management Plan Format and Criteria, and also for conformance with Subsection 84.34.041 of the Open Space Taxation Act (RCW 84.34).

3. Staff prepared a report for the Planning Commission with recommendations on whether to approve in whole or in part or to deny these applications based on review with the applicable evaluation criteria and scores assigned. This report was presented to the Whatcom County Planning Commission and to members of the public who were present at the Whatcom County Planning Commission meeting work session held on July 11, 2013.

4. At the July 11, 2013 Planning Commission Work Session, staff gave an approximately one hour overview presentation on the Open Space Current Use Program, its statutory and local authority, a brief overview on the historical legislative context in which the Open Space Taxation Act and other environmental laws that emerged in the 1970’s & 1980’s, and outlined roles of the Planning Commission, County Council, County
Assessor’s Office, and Joint Granting Authority (for applications located within incorporated areas). As part of this overview presentation, staff noted that decisions made to approve or deny applications authorized under the Open Space Taxation are reviewable (by Superior Court) only for “arbitrary & capricious actions”.

5. After conclusion of the staff overview on the open space current use program, staff then presented each of the individual applications referenced in Master File OS2013-1. The single application for the classification of open space land was presented first, followed by presentations on the timber land applications.

6. Staff recommended approval on the application for Open Space Land (Sefton). Staff recommendation of approval on this application was based on an assigned Public Benefit Rating (PBR) score of 45 points or higher which is consistent with a staff recommendation of approval pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System.

The Sefton’s proposal included free public access to 10.78 acres of their almost 11.78 acre parcel during posted hours and to large groups by appointment. Proposed public access featured an existing half-mile loop trail situated in a wooded and grassy area that the applicant’s stated could be used recreational purposes, including: hiking, wildlife viewing, horseback riding, and star gazing at night (by appointment), with ample off-street parking that the applicant proposed would be improved and documented in a record site plan upon application approval.

7. Whatcom County Open Space Policies and Criteria and Public Benefit Rating System requires that the Planning Commission in making its recommendations to the County Council consider each application for Open Space Land in terms of its overall benefit relative to the monetary shift in taxes that would occur if the application were to be approved.

8. Staff presented information that described the estimated resulting tax shift that would occur if the Sefton application for Open Space Land were to be approved. Using figures provided by the County Assessor’s Office, staff calculated that the estimated difference between assessed fair market value and the estimated current use value would be approximately $88,832.00. This assessed property value reduction would result in an estimated tax shift of approximately $1,094.41 to other tax payers per year if the application were to be approved.

Staff was not able to provide information to the Planning Commission about what this overall tax shift would mean in terms of increased taxes affecting individual property owners because it would be a very difficult calculation to perform. Staff explained that not all property owners located in a geographic tax code area are subject to the same set of taxing district levies, and therefore it would not be as simple as dividing the number of parcels by the monetary shift in taxes to obtain an estimated tax shift on per parcel basis. Staff indicated that research had been done to obtain more precise information about the tax shift to other parcels, but
that further study in cooperation with the County Assessor would be necessary to create an accurate estimate of the tax shift on a per parcel basis that would occur as a result of application approval.

9. During discussion on the specifics of the Sefton application, Planning Commissioners asked about surface conditions of the proposed ½ mile of walking trails, and staff replied that the trails were mowed. Commissioners also asked for clarification about what was being offered in terms of off-street parking. Staff indicated that the existing parking appeared ample, but the Applicants who were present indicated that they intended to improve the parking area by grading an area to the south of the driveway and adding gravel. Staff indicated that Commissioners could recommend that a site map and parking plan be stipulated as a condition of approval.

10. After much deliberation, Planning Commissioners came to the general consensus that the application had low benefit relative to the tax shift, and that the public benefit being offered by the Sefton application was not commensurate with the loss of revenue or shift in taxes to the other tax payers in the taxing district, and voted to deny the application in its entirety.

11. During Planning Commission discussion on the Sefton application for Open Space Land, Planning Commissioners made comments to generally indicate that the Public Benefit Rating System (PBRS), originally conceived in the late 1980’s, may not be adequate to measure application benefit in accordance with today’s priorities for the conservation and preservation of land and other county resources under the Open Space Taxation Act.

12. Discussion was held and a general consensus reached by Planning Commissioners that the Public Benefit Rating System should be reviewed for a potential update.

13. Staff recommended approval on both the Smith, and Kennedy applications for Timber Land. Staff recommendations of approval were made after review of the Timber Management Plans submitted, site inspections to verify that forest conditions matched those identified in the Plans and for overall conformance with state law and county ordinances that apply to the review and staff recommendations of approval on applications for Open Space Timber Land. Both Timber Land applications received a score consistent with a staff recommendation of approval (7 points or above, up to a maximum of 14 points) with 14 points assigned to each application, respectively.

14. Whatcom County Planning Commissioners considered staff findings and recommendations on the Keith Smith Application for Timber Land and voted to recommend approval. This recommendation was based on a finding that the land was zoned for Rural Forestry, that there was no residence established on the property, and that the land appeared to be used for growing trees.

15. Whatcom County Planning Commissioners considered staff findings and
recommendations on the William Kennedy application and voted to recommended denial. During Planning Commissioner review, it was noted that aerial photographs depicted what looked like a soccer field set up on part of the land that was the subject of application.

Staff noted that aerial photographs of record did depict what appeared to have formerly been some sort of private soccer field occupying land where trees of a commercial species were now planted in accordance with the Timber Management Plan, and with Forest Practice rules for re-stocking. Staff stated that the land subject of application contained five or more acres devoted primarily to the growth and harvest of timber for commercial purposes (6.7 acres); that the applicant had retained the services of a professional forester who prepared a Timber Management Plan that contained all of the elements of a Timber Management Plan; and the application scored points consistent with a staff recommendation of approval (14 points).

Planning Commissioners based their recommendation to deny the application on a finding that although the Timber Management Plan submitted had received a score consistent with a staff recommendation of approval, the general consensus of the Planning Commission was that the land that was subject of application was not devoted primarily to the growth and harvest of timber for commercial purposes, as required by law.

16. On July 23, 2013, Planning & Development Services staff prepared a report on behalf of the Planning Commission containing Facts, Findings, and Reasons for Action on all applications referenced under OS2013-1, and this report was reviewed for accuracy and signed by the Planning Commission Chair and Planning Commissioner, Secretary.

17. On July 23, 2013, Planning & Development Services prepared an Agenda Bill, Draft Resolution and attachments including all relevant information on file in regards to the subject applications referenced under OS2013-1, and forwarded this to the Whatcom County Council. The agenda bill requested that the draft resolution be introduced at the regularly scheduled Council Meeting to be held on August 6, 2013, and also included a request for a public hearing to be scheduled on September 10, 2013.

18. On August 6, 2013, the draft resolution was introduced.

19. A public hearing was scheduled to take place before the County Council at their regularly scheduled evening meeting, held on September 10, 2013. Notice of this public hearing was published in the Bellingham Herald prior to the hearing. In addition, Applicants were sent a letter by US Mail stating that a public hearing would be held on their individual applications on September 10, 2013.

20. On September 10, 2013, the Whatcom County Council held a public hearing on all applications referenced under OS2013-1, and after considering all relevant information, and after considering input from the public, they made a final decision on whether to approve in whole or in
part or deny individual applications referenced under OS2013-1.

NOW, THEREFORE, BE IT RESOLVED BY THE WHATCOM COUNTY COUNCIL:

1. Recommendations on applications for open space current use assessment referenced in Master File Number OS2013-1 listed below are hereby approved subject to conditions and applicable scores as noted herein:

A. Open Space Land (OSL)

1. OSP2013-00003 – Sefton

Application to Reclassify: Farm & Agricultural Land to Open Space Land
APN: 390409 469380 0000
Parcel acres = 11.78; OSL acres= 10.78:
Staff Recommended PBR 71.75

ESTIMATED SHIFT IN TAXES IF APPROVED: $1,094.41

Whatcom County Planning Commission Recommendation:

Denial:

Based on a finding that the Sefton application did not contain enough benefit relative to the loss of revenue or shift in taxes to other tax payers that would occur if the application were to be approved.

B. Timber Land (OST)

1. OSP2013-00001 – Smith

Application to reclassify as Timber Land from Designated Forest Land
APN: 400507 113201 0000
Parcel acres = 19.3; OST acres= 19.3
Timber Management Plan Score = 14

Whatcom County Planning Commission Recommendation:

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan
3. Hold Harmless Agreement

2. OSP2013-00002 – Kennedy

New Application to reclassify as Timber Land from Fair Market Value
APN: 400618 474052 0000
Parcel acres = 9.58; OST acres= 6.7
Timber Management Plan Score = 14

Whatcom County Planning Commission Recommendation:

Denial:

Based on a finding that although the Timber Management Plan submitted as part of the application had received a score consistent with a staff recommendation of approval, the general consensus of the Planning Commission was that the land that was subject of application was not devoted primarily to the growth and harvest of timber for commercial purposes, as required by law.

2. The Whatcom County Council directs the Assessor to place the above referenced parcels into the appropriate open space current use classification.

3. Adjudication of invalidity of any of the sections, clauses, or provisions of this resolution shall not affect or impair the validity of the resolution as a whole or any part thereof other than the part so declared to be invalid.

APPROVED this __________day of ________________________, 2013

WHATCOM COUNTY COUNCIL WHATCOM COUNTY, WASHINGTON

ATTEST:

_________ ____________________________
Dana Brown-Davis                Kathy Kershner
Clerk of the Council             Council Chair

APPROVED AS TO FORM:

______________________________
Civil Deputy Prosecutor
WHATCOM COUNTY PLANNING COMMISSION
FINDINGS OF FACT, REASONS FOR ACTION, AND RECOMMENDATIONS

Applications for Open Space Current Use Assessment
Master File Number OS2013-1

THE WHATCOM COUNTY PLANNING COMMISSION ENTERS THE FOLLOWING FINDINGS OF FACT, REASONS FOR ACTION, AND RECOMMENDATIONS:

FINDINGS OF FACT AND REASONS FOR ACTION

1. In 2012, Whatcom County Planning and Development Services received three applications to classify or reclassify land under the open space current use program (Chapter 84.34. RCW) on lands located within the jurisdiction of Whatcom County. These applications were processed as a group under Master File Number OS2013-1.

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The Sefton’s proposal included free public access to 10.78 acres of their almost 11.78 acre parcel during posted hours and to large groups by appointment. Proposed public access featured an existing half-mile loop trail situated in a wooded and grassy area that the applicant’s stated could be used recreational purposes, including: hiking, wildlife viewing, horseback riding, and star gazing at night (by appointment), with ample off-street parking that the applicant proposed would be improved and documented in a record site plan upon application approval.

7. Whatcom County Open Space Policies and Criteria and Public Benefit Rating System requires that the Planning Commission in making its recommendations to the County Council consider each application for Open Space Land in terms of its overall benefit relative to the monetary shift in taxes that would occur if the application were to be approved.

8. Staff presented information that described the estimated resulting tax shift that would occur if the Sefton application for Open Space Land were to be approved. Using figures provided by the County Assessor’s Office, staff calculated that the estimated difference between assessed fair market value and the estimated current use value would be approximately $88,832.00. This assessed property value reduction would result in an estimated tax shift of approximately $1,094.41 to other tax payers per year if the application were to be approved.

Staff was not able to provide information to the Planning Commission about what this overall tax shift would mean in terms of increased taxes affecting individual property owners because it would be a very difficult calculation to perform. Staff explained that not all property owners located in a geographic tax code area are subject to the same set of taxing district levies, and therefore it would not be as simple as dividing the number of parcels by the monetary shift in taxes to obtain an estimated tax shift on per parcel basis. Staff indicated that research had been done to obtain more precise information about the tax shift to other parcels, but that further study in cooperation with the County Assessor would be necessary to create an accurate estimate of the tax shift on a per parcel basis that would occur as a result of application approval.
9. During discussion on the specifics of the Sefton application, Planning Commissioners asked about surface conditions of the proposed ½ mile of walking trails, and staff replied that the trails were mowed. Commissioners also asked for clarification about what was being offered in terms of off-street parking. Staff indicated that the existing parking appeared ample, but the Applicants who were present indicated that they intended to improve the parking area by grading an area to the south of the driveway and adding gravel. Staff indicated that Commissioners could recommend that a site map and parking plan be stipulated as a condition of approval.

10. After much deliberation, Planning Commissioners came to the general consensus that the application had low benefit relative to the tax shift, and that the public benefit being offered by the Sefton application was not commensurate with the loss of revenue or shift in taxes to the other tax payers in the taxing district, and voted to deny the application in its entirety.

11. During Planning Commission discussion on the Sefton application for Open Space land, Planning Commissioners made comments to generally indicate that the Public Benefit Rating System (PBRS), originally conceived in the late 1980's, may not be adequate to measure application benefit in accordance with today's priorities for the conservation and preservation of land and other county resources under the Open Space Taxation Act.

12. Discussion was held and a general consensus reached by Planning Commissioners that the Public Benefit Rating System should be reviewed for a potential update.

13. Staff recommended approval on both the Smith, and Kennedy applications for Timber Land. Staff recommendations of approval were made after review of the Timber Management Plans submitted, site inspections to verify that forest conditions matched those identified in the Plans and for overall conformance with state law and county ordinances that apply to the review and staff recommendations of approval on applications for Open Space Timber Land. Both Timber Land applications received a score consistent with a staff recommendation of approval (7 points or above, up to a maximum of 14 points) with 14 points assigned to each application, respectively.

14. Whatcom County Planning Commissioners considered staff findings and recommendations on the Keith Smith Application for Timber Land and voted to recommend approval. This recommendation was based on a finding that the land was zoned for Rural Forestry, that there was no residence established on the property, and that the land appeared to be used for growing trees.

15. Whatcom County Planning Commissioners considered staff findings and recommendations on the William Kennedy application and voted to recommended denial. During Planning Commissioner review, it was
noted that aerial photographs depicted what looked like a soccer field set up on part of the land that was the subject of application.

Staff acknowledged that aerial photographs of record did depict what appeared to have formerly been some sort of private soccer field occupying land where trees of a commercial species were now planted in accordance with the Timber Management Plan, and with Forest Practice rules for re-stocking. Staff stated that the land subject of application contained five or more acres devoted primarily to the growth and harvest of timber for commercial purposes (6.7 acres); that the applicant had retained the services of a professional forester who prepared a Timber Management Plan that contained all of the elements of a Timber Management Plan; and the application scored points consistent with a staff recommendation of approval (14 points).

Planning Commissioners based their recommendation to deny the application on a finding that although the Timber Management Plan submitted had received a score consistent with a staff recommendation of approval, the general consensus of the Planning Commission was that the land that was subject of application was not devoted primarily to the growth and harvest of timber for commercial purposes, as required by law.

RECOMMENDATION

The Whatcom County Planning Commission forwards recommendations to the Whatcom County Council for the following open space current use classification applications as referenced under Master File Number OS2013-1:

A. Open Space Land (OSL)

1. OSP2013-00003 – Sefton

   Application to Reclassify: Farm & Agricultural Land to Open Space Land
   APN: 390409 469380 0000
   Parcel acres = 11.78; OSL acres= 10.78:
   Staff Recommended PBR 71.75

   ESTIMATED SHIFT IN TAXES IF APPROVED: $1,094.41

   Whatcom County Planning Commission Recommendation:

   Denial:

   Based on a finding that the Sefton application did not contain enough benefit relative to the loss of revenue or shift in taxes to other tax payers that would occur if the application were to be approved.
B. Timber Land (OST)

1. OSP2013-00001 – Smith
Application to reclassify as Timber Land from Designated Forest Land
APN: 400507 113201 0000
Parcel acres = 19.3; OST acres = 19.3
Timber Management Plan Score = **14**

**Whatcom County Planning Commission Recommendation:**

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan
3. Hold Harmless Agreement

2. OSP2013-00002 – Kennedy
New Application to reclassify as Timber Land from Fair Market Value
APN: 400618 474052 0000
Parcel acres = 9.58; OST acres = 6.7
Timber Management Plan Score = **14**

**Whatcom County Planning Commission Recommendation:**

Denial:

Based on a finding that although the Timber Management Plan submitted as part of the application had received a score consistent with a staff recommendation of approval, the general consensus of the Planning Commission was that the land that was subject of application was not devoted primarily to the growth and harvest of timber for commercial purposes, as required by law.

**WHATCOM COUNTY PLANNING COMMISSION**

Michelle Luke, Chairperson  
J.E. “Sam” Ryan, Secretary

7-25-13 7-26-13

Date Date

Commissioners present at the July 11, 2013 meeting when votes were taken to approve the above listed recommendations on one application for Open Space Land and two applications for Timber Land: David Onkels; Jeff Rainey;
Ken Bell; Ben Elenbaas; Gary Honcoop; Mary Beth Teigrob; Michelle Luke; Rod Erickson; Gerald Vekved.

Commissioners Absent: Mary Beth Teigrob.

Attachments:

Regular Meeting

Work Session

Open Space Applications.

Erin gave a power point presentation of the Open Space program. She stated there has been a significant decrease in the number of applications received this year compared to previous years. She speculated this may be to people knowing that there is no guarantee of approval. There are, however, numerous amounts of continuance applications, especially for Timber Land.

Recently there was an audit by the Department of Revenue (DOR). There was a finding that affected PDS which was several parcels in the City of Bellingham did not get evaluated using the Public Benefit Rating System (PBRS) after the County adopted it in 1987. PDS will evaluate those properties.

Erin stated there does need to be more monitoring of the parcels in the program to see that they are conforming to the rules. She has approached management regarding this with some ideas of how this should be done.

Erin gave an overview of the history of the Open Space program which included dates and various environmental laws.

The role of the Planning Commission was reviewed. Over the years the role of the Planning Commission has changed. For Open Space Land and Open Space Farm and Ag Conservation Land State law says that these applications must be processed in the same manner as Comprehensive Plan amendments. As such, the applications must go before the Commission. At this time the Commission also reviews Timber Land applications as per County Code. Currently, there is proposed State legislation being acted upon which may give authority to the Assessor’s Office for review of Timber Land applications. When Open Space Land and Open Space Farm and Ag Conservation Land applications are being reviewed by the Commission the shift in taxes must be considered relative to the public benefit. When reviewing Timber Land applications items to be considered are the soil and timber conditions, the status of the current timber stand, harvest plan and wildlife. Anything the Commission recommends must be based on findings.

Currently total acres classified are:

- Open Space Land – 1,769
- Open Space Farm and Ag Conservation Land - 225
- Farm & Ag Land -106,178
- Timber Land – 4,701
- Designated Forest Land – 119,588
Number of Applications

- Open Space Land - 79
- Open Space Farm and Ag Conservation Land - 14
- Timber Land - 300

Review of Sefton Application - Open Space Land:

Erin stated this is a transfer from Farm & Ag Land. They no longer meet the income requirements to stay in that classification. There is ½ mile of maintained trails, wildlife viewing, parking, availability for groups and public access during posted hours. There would be a tax shift of approximately $1094. Staff recommended approval with a PBRS of 71.75.

Commissioner Bell asked if there was other open space in the area. Erin stated there is open space land to the north, west and south that are in the Farm & Ag classification.

Commissioner Honcoop asked what type of trails there are. Erin stated they are mowed.

Commissioner Honcoop asked the size and type of proposed parking. The applicant stated it will be a large area in the northeast corner which will be graveled. Erin suggested a condition be the applicant submit a map of the proposed parking with specifications.

Commissioner Honcoop asked how the parking, trails, etc. will be required to be maintained. Erin stated that the conditions are outlined in the application evaluation and are recorded. In accordance with state law, the County Assessor is responsible for determining if an application conforms to the conditions under which classification was originally granted; although the Assessor routinely requests the assistance of PDS in overseeing applications for conformance with conditions.

The Commission questioned the public benefit of this land being in open space. Several felt the benefit was not there regarding this property.

Members of the Commission also commented on the lack of enforcement regarding notice to the public.

There was discussion of the program flaws. The Commission felt the PBRS needs to be examined by the Council.

Commissioner Rainey suggested because of the flaws in the open space system those currently in the program should be able to get out without a penalty.

Commissioner Honcoop asked who originally put the property in open space. Mr. Sefton stated it was one of the previous owners. The Seftons had to sign a continuance when they purchased the property.
Erin stated that if the Council chose not to approve this application the Seftons could apply for Open Space Farm and Ag Conservation Land or Timber Land.

Commissioner Bell stated he likes the fact that the applicants are going to seek out groups to use the land. That is one of the things that makes the application favorable to him.

**Commissioner Bell moved to recommend approval. Commissioner Erickson seconded.**

Commissioner Honcoop stated he does not see the public benefit if this is approved. He is not in favor of shifting the taxes to others.

Commissioner Rainey agreed with Commissioner Honcoop’s statement.

Commissioner Luke stated she did not like being put in the position of making a decision like this for a program that is not working. She asked staff what could be done to make the program work so the Commission doesn’t have to keep being put in the same position. Can a moratorium be put on applications?

Mark encouraged the Commission to again recommend the Council reevaluate the PBRS. Erin stated it was her opinion that a moratorium was not allowed.

**The vote on the motion failed.**

Erin asked the Commission to state a finding for the vote.

The Commission stated there is not enough public benefit for the amount of tax shift.

**Review of Smith Application – Timber Land:**

Erin stated this application is for a transfer from Designated Forest Land to Timber Land because the property is under 20 acres. The timber management plan is good. Staff recommended approval with a score of 14 out of 14 points.

**Commissioner Honcoop moved to recommend approval. Commissioner Rainey seconded. The motion carried.**

**Review of Kennedy Application – Timber Land:**

Erin stated this stand abuts Maple Creek. The application had an excellent timber management plan. The site has recently been planted. The area is split between a 5 acre planting and a 1.7 acre area next to the creek. The creek buffer was a concern in how the trees are dealt with that are in the buffer. The DOR stated if the applicant could they would harvest the trees, but because they can’t that is not a
factor in determining whether to approve the application or not. Staff recommended approval.

Commissioner Honcoop stated he would have a hard time approving the application. It doesn't seem to meet the criteria. Erin stated under the scope of the program it does meet the criteria.

**Commissioner Onkels moved to recommend approval. Commissioner Elenbaas seconded. The motion failed.**

Erin asked for a finding.

The Commission agreed that although it meets the criteria they don't believe commercial forestry is the primary use of the property.

The meeting was adjourned at 8:27 p.m.

Minutes prepared by B. Boxx.

**WHATCOM COUNTY PLANNING COMMISSION ATTEST:**

__________________________  ________________________
Michelle Luke, Chair        J.E. "Sam" Ryan, Secretary
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

STAFF RECOMMENDATIONS TO THE WHATCOM COUNTY PLANNING
COMMISSION ON THREE APPLICATIONS FOR CLASSIFICATION OR
RECLASSIFICATION AS OPEN SPACE LAND OR TIMBER LAND
AS AUTHORIZED UNDER CHAPTER 84.34 RCW

MASTER FILE NUMBER OS2013-1

Introduction:

This report summarizes staff findings and recommendations on a total of three
applications for classification or reclassification as Open Space Land or Timber Land
as authorized under the Open Space Taxation Act, Chapter 84.34 RCW.

This report is prepared for the July 11, 2013 Whatcom County Planning Commission
meeting where Planning Commissioners will deliberate on the subject applications
respective of whether they should be approved in whole or in part, or denied. At
the conclusion of the Planning Commission work session, staff will forward
recommendations made by the Planning Commission to the Whatcom County
Council for their review in making a final decision on each application.

The report is composed of five parts:

1. Summary of three applications to classify or reclassify property pursuant to
applicable state and local regulations;

2. Application review, staff findings, and staff recommendations;

3. Background information on the Open Space Taxation Act;

4. Identification of Staff, Planning Commission, and County Council Roles in
application review, approval or denial;

5. Discussion outlining the evaluation criteria established for review of
applications for Open Space Land, Farm & Agricultural Conservation Land,
and Timber Land.
I. Application Summary

Open Space Land (OSL)

1. OSP2013-00003 – Sefton
   Application to reclassify as Open Space Land from Farm & Agricultural Land
   APN: 390409 469380 0000
   Parcel acres = 11.78; OSL acres = 10.78; Staff Recommended PBR 71.75
   ESTIMATED SHIFT IN TAXES IF APPROVED: $1,094.41

Timber Land (OST)

1. OSP2013-00001 – Smith
   Application to reclassify as Timber Land from Designated Forest Land
   APN: 400507 113201 0000
   Parcel acres = 19.3; OST acres = 19.3
   Timber Management Plan Score = 14

2. OSP2013-00002 – Kennedy
   New Application to reclassify as Timber Land from Fair Market Value
   APN: 400618 474052 0000
   Parcel acres = 9.58; OST acres = 6.7
   Timber Management Plan Score = 14

II. Application Review & Staff Findings

Staff findings referenced under Master File Number OS2013-1 are listed in
summary below. Individual applications are grouped by classification starting
with Open Space Land, and followed by Timber Land.

All applications have been reviewed by staff, and have received a site
inspection. Attached for reference at the end of this report are site
evaluation worksheets, maps, and other supporting documents. A power
point slide show of each property along with staff narrative will be presented
at the July 11, 2013 Planning Commission Work Session.

A. Open Space Land (OSL)

Open Space Land (OSL)

2. OSP2013-00003 – Sefton
   Application to reclassify as Open Space Land from Farm & Agricultural Land
   APN: 390409 469380 0000
   Parcel acres = 11.78; OSL acres = 10.78; Staff Recommended PBR 71.75
   ESTIMATED SHIFT IN TAXES IF APPROVED: $1,094.41
Discussion: On December 21, 2012, Planning & Development Services Department received an application from property owners Royal V. & M. Sue Sefton to reclassify 10.78 acres of the 11.778 total parcel acres from the Open Space Farm and Agricultural Land Classification (OSAG) to Open Space Land (OSL).

The Sefton acreage is designated Agriculture under the Comprehensive Plan and is subject to zoning regulations located in Title 20, Chapter 20.20 - Agriculture District, with a density of one dwelling unit per 40 acres (AG). The property is located at 6799 Goodwin Road, south and southeast of the cities of Sumas, Everson and Nooksack. The property may be accessed by automobile directly off of Goodwin Road as it fronts the property.

The Sefton property formerly met requirements to be eligible for the Open Space Farm and Agricultural Land (OSAG) classification as defined in RCW 84.34.020(2). After a period of time they were unable to meet the income eligibility requirements for continuing the OSAG classification, therefore in December 21, 2012 the property owners applied to reclassify 10.78 acres of the property as Open Space Land. One acre is administratively segregated for a home site, which will be assessed at fair market value in the future.

The Sefton’s have developed the site with a residence and a few outbuildings, with the remainder of the property left in a natural vegetated condition. The property supports a deciduous and coniferous forest (former Christmas tree farm) and with the exception of one acre reserved for the home site, the subject property is in an undeveloped natural state that offers food and protection to a variety of wildlife including birds and terrestrial mammals. The site is part of the Sumas River Watershed and sits atop a critical aquifer recharge area, classified as Moderate. On either side of the property, (some distance away) adjacent parcels are part of a drainage system containing streams that support either a current known fish distribution or a historical fish population.

The property owners are offering public access during posted hours without the need for an appointment. Large educational groups or other types of groups are welcome by appointment or by prior arrangement. An approximately ½ mile loop trail is established on mown grassy trails that can be easily traversed for walking, picnicking, wildlife viewing, and horseback riding through the wooded areas. Because the property is some distance away from any urban skylight, the site features excellent night-time sky viewing opportunities. The property owners would like to extend an invitation to members of the public who are interested in astronomy, or “star gazing”, by appointment.

The property is accessible by way of a hard packed gravel driveway with parking directly off a public road (Goodwin Road). The proposed parking
area has plenty of room to maneuver large vehicles such as busses, trucks and horse trailers that enter or leave the site.

After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of 71.75. Staff recommendation is to approve this application for the Open Space Land classification subject to conditions listed below.

Staff Recommendation:

Approval, subject to the following attached conditions:

1. Public Access as shown on maps of record
2. Posted Open Space Sign
4. Hold Harmless Agreement

B. Timber Land (OST)

Timber Management Plans submitted with the following applications to classify or re-classify as Timber Land, and following staff review of the timber management plan in accordance with approval criteria, and site inspection to ensure consistency between Plans and forest conditions, staff has assigned points from 0-14, with 7 and above corresponding with a staff recommendation of approval as noted on each of the applications listed below:

Timber Land (OST)

1. OSP2013-00001 – Smith
   Application to reclassify as Timber Land from Designated Forest Land
   APN: 400507 113201 0000
   Parcel acres = 19.3; OST acres = 19.3
   Timber Management Plan Score = 14

Staff Recommendation:

Approval, subject to the following attached conditions:

1. No less than 5 acres devoted primarily to the growth of timber for commercial purposes.
2. Approved Timber Management Plan
3. Hold Harmless Agreement

2. OSP2013-00002 – Kennedy
   New Application to reclassify as Timber Land from Fair Market Value
APN: 400618 474052 0000
Parcel acres = 9.58; OST acres= 6.7
Timber Management Plan Score = 14
Staff Recommendation:

**Approval**, subject to the following attached conditions:

1. No less than 5 acres devoted primarily to the growth of timber for commercial purposes
2. Approved Timber Management Plan
3. Hold Harmless Agreement

**III. Recommendations**

Staff requests that the Whatcom County Planning Commission consider staff recommendations on applications referenced in Master File Number OS2013-1 as discussed in this report, subject to conditions and applicable scores as noted herein. Staff requests that the Whatcom County Planning Commission vote on motions to approve in whole or in part or deny recommendations on individual applications referenced under Master File Number OS2013-1.

**IV. Background Information**

The Open Space Taxation Act was passed by the Washington State legislature in 1970. In part, the law was created to provide a solution to and address a statewide concern that lands were being irrevocably converted to uses inconsistent with commercial agriculture, commercial forestry, and the conservation or preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, and recreational opportunities.

The Open Space Taxation Act codified in Chapter 84.34 of the Revised Code of Washington (84.34 RCW) gives counties the authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use i.e. fair market value. Lands classified as Open Space Land or Timber Land receive a greatly reduced assessed value; thereby providing a financial incentive to property owners to voluntarily conserve and preserve open space lands as defined by state law and further defined by county ordinance.

**V. Classifications**

There are three major classifications and one sub-classification authorized by the Open Space Taxation Act (Chapter 84.34 RCW):

1. Farm and Agricultural Land
2. Open Space Land
3. Timber Land

Pursuant to Chapter 84.34 RCW, the County Assessor’s Office is charged with administration of applications for the classification of Farm and Agriculture Land (No. 1 above). In accordance with Whatcom County Code, Title 3, Chapter 3.28, Planning & Development Services Department is charged with administration of Open Space Land, Farm and Agricultural Conservation Land & Timber Land applications. Staff from both PDS and the Assessor’s Office work closely and function as a team in monitoring and maintaining existing agreements on approved applications, as well as processing new applications. Applications and fees for Open Space Land, Farm and Agricultural Conservation Land and Timber Land are received by Planning & Development Services Department.

Staff has initiated the practice of collecting applications received during the current year for processing during the next year, with any changes to assessed value effective the following year.

VI. Application Processing

A. Roles of Staff, Planning Commission, County Council & Assessor’s Office in Processing Applications for Open Space Current Use Taxation.

The applications that are the subject of this report are located within an unincorporated area. Please note that the County also receives and processes applications on lands within incorporated areas (cities), but in processing applications on lands within the cities, the granting authority is composed of members from both legislative bodies (both the county and the city).

When land that is the subject of application is located within an unincorporated area such as the applications that are the subject this report, Whatcom County planning staff evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications, who in turn make recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied. Whatcom County Council is the granting authority, and pursuant to state law is charged with approving in whole or in part or denying each application.

Upon approval or denial, the County Assessor is notified, and makes adjustments on the basis of the approved current use assigned value of the parcel.

Of the three subject applications there is one application to reclassify as Open Space Land, and there are two applications to classify or reclassify property as Timber Land. Each classification has a distinct evaluation system. These
evaluation systems are discussed in more detail in Section VII, with emphasis on clarification of the Planning Commission role with respect to reviewing and making recommendations on the different types of applications.

Applications for Open Space Land are evaluated with the Whatcom County Space Policy & Public Benefit Rating System, 1995 (PBRS). Timber Land applications are evaluated for conformance with the Timber Management Plan Format & Criteria, 1995, & RCW 84.34.041. The PBRS is attached at the end of this report for reference. The PBRS authorizes the Planning Commission to make recommendations to the County Council on applications for Open Space Land after considering the potential loss of revenue or shift in taxes that would occur as a result of approval relative to the public benefit of the amenity being conserved or preserved. This is an important distinction both in terms of defining the role of the Planning Commission in making recommendations to the County Council on whether to approve or deny applications for Open Space Land, and in understanding how the Public Benefit Rating System is applied.

It should be noted that the Planning Commission is not charged with considering of the loss of revenue or shift in taxes when making recommendations on applications for Timber Land as this only applies to applications for Open Space Land. More discussion on both of these evaluation systems and review criteria follows in Section VII (A & B).

B. Public Hearing

A public hearing is required for both Open Space Land, and Timber Land. In past years, public hearings have typically been held before the Planning Commission, but recently due to Planning Commission schedule devoted to Growth Management Compliance issues and other pressing matters of importance, a decision has been made at the staff level to change the venue of public hearings on Open Space applications from the Planning Commission to County Council to be held at their regularly scheduled evening meetings. Given that there is no statute, rule or local ordinance to specify where a public hearing on these applications is required to be held, staff has made arrangements with the Clerk of the Council, who schedules a public hearing on the subject applications. This change will give the County Council an opportunity to hear from staff, receive Planning Commission recommendations, and also hear from the Public as they deliberate on each application.

VII. Evaluation Systems

Open Space Land and its sub-classification Farm and Agricultural Conservation Land are evaluated with the Whatcom County Public Benefit Rating System (PBRS). The PBRS was originally approved by Council in 1987 by resolution and then later adopted by ordinance in 1995 (WC Ord. 95-040).
Applications for Open Space Timber Land are evaluated with the Open Space Timber Management Plan Policy, as adopted by resolution (Res. 87-3) and modified in 1995 by (WC Ord. 95-040) in conformance with RCW 84.34.041.

A. **Whatcom County Open Space Policy & Public Benefit Rating System**

The Public Benefit Rating System is an evaluation tool consisting of natural resource, recreation, historical site, and agricultural land priority resource categories that correspond to a range of potential points that may be assigned relative to the amount of benefit that may be provided to the public as a result of approving each application. Generally, resources of importance identified in the PBRS include lands that preserve or conserve: farmland, streams or shorelines and associated buffers, critical areas, ground water protection areas, threatened or endangered wildlife and wildlife habitat, opportunities for public recreation, scenic views and vistas, historic property, and others.

Applications for Open Space Land are also evaluated on the quality of the applicant’s proposed public access. It is part of the Whatcom County Public Benefit Rating System Public Access Policy to require public access **unless** there is known habitat for an endangered species of wildlife, or where there is a known archeological site, or when the purpose of the open space is for wetland conservation.

In cases such as those listed above, when the County Council is acting as the granting authority, the requirement of public access may be waived at Council discretion. The Public Access Policy also contains a requirement that owners of property approved as Open Space Land post an Open Space sign that displays the rules of conduct for public access when public access is required.

Not all counties have adopted a Public Benefit Rating System. One reason a county may elect to adopt a PBRS is because decisions made by the granting authority (County Council), whether to approve or deny applications may only be appealed to Superior Court for **arbitrary and capricious** actions. The purpose of the Public Benefit Rating System is to assist the legislative authority in developing a measure of consistency in awarding reduction in assessed value according to a point system that corresponds to the relative importance of the resource being conserved.

Resources that have been identified as providing public benefit if conserved, and the corresponding range of potential points awarded for preserving or conserving those resources (i.e. the Public Benefit Rating System) were all adopted after consideration by the Planning Commission, and adopted by Council who heard from the public on this matter at a series of public hearings in the late 1980’s. The PBRS was originally approved by Council in 1987 by resolution and then later revised and adopted by ordinance in 1995.
(WC Ord. 95-040). The last revision to the PBRS in 1995 was to remove Open Space Timber Land from the Public Benefit Rating System; it removed a requirement of public access on Timber Land applications, and adopted the Timber Management Format and Criteria, based on state law (RCW 84.34.041); otherwise the PBRS has not changed in the last 25 years or so.

Even though the PBRS has a point system, at its core the PBRS is a qualitative as opposed to a quantitative system. Many observers, Planning Commissioners, Council Members, and members of the public alike, have indicated the PBRS may appear to be too subjective. In response, staff has begun a practice to address this point. Whenever staff reviews and evaluates an application for Open Space Land, research is conducted and past reviews are considered, so that there is some measure of consistency in scores assigned. When staff reviews a new group of applications, similar applications that have been evaluated and approved in the past are also considered by comparison so that for any particular group of applications reviewed, comparable points are being assigned to similar priority resources or amenities in the current group of applications being processed.

Listed below is a brief summary of some of the resources that have been identified in the County’s Public Benefit Rating System.

- Conserve or enhance natural, cultural or scenic resources; or
- Protect streams, stream corridors, wetlands, natural shorelines and aquifers; or
- Protect soil resources and unique or critical wildlife and native plant habitat; or
- Promote conservation principles by example or by offering educational opportunities; or
- Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces; or
- Enhance recreational opportunities; or
- Preserve historic and archeology sites; or
- Affect any other factors relevant in weighing benefits to the general welfare of the public by preserving the current use of the property.

Once staff review has been completed and points are awarded, they are computed with a formula developed by the County Assessor resulting in a score that is called a Public Benefit Rating (PBR). A Public Benefit Rating of at least 45 points must be attained to receive a staff recommendation of approval. The PBR represents the degree of conformance with the county’s adopted Basic Value and Public Benefit Value criteria that are part of the PBRS. The Public Benefit Rating (PBR) is used as a factor applied to another computed value to arrive at a new current use per acre value for the property, once approved. Attached to this report for reference is a document that gives a hypothetical example describing this formula, and also contains a discussion of the shift or off-set in taxes resulting from approving an
application for Open Space Land. In addition, in Section II (A), staff has also included “estimated tax shift if approved” at the Public Benefit Rating assigned by staff.

*Special Note: The attached document entitled “Hypothetical Example of Applied Public Benefit Rating” uses a consolidated levy rate of 10 dollars per every one thousand dollars of assessed value. The consolidated levy rate is not always the same for every parcel, as it depends on which taxing districts apply to the land that is the subject of application. The staff report lists “hypothetical estimated tax shift, if approved” on the Sefton application. This “estimated tax shift” is based on an applied consolidated levy rate of $12.32 per every thousand dollars of assessed (current use) property value. Although parcel valuation information is based on information provided by the Assessor’s Office, it is only provided as a reference to assist decision makers with an understanding of the potential tax shift; however, only the Assessor’s office can give exact information about the change in taxation as it applies to any given approval.

Please find attached individual evaluation sheets that include a detailed description of the public benefit offered and assigned scores for each criterion.

B. Timber Management Plan Evaluation Criteria: Authority: RCW 84.34.041 & Whatcom County Ord. 95-040

Applications received for the classification of Timber Land must contain five or more acres (not including home site), primarily used for growth and harvest of commercial forest crops. In order for consideration, the applicant must submit a timber management plan that meets requirements as outlined in RCW 84.34.041 and those criteria adopted under Whatcom County Ordinance 95-040. These documents are attached to the end of this report for reference.

Timber Management Plans are rated by staff on how well they meet the criteria in the seven categories listed below and may receive up to 2 points for each category. Site visits are conducted to assess whether forest conditions described in the plan are consistent with what is on the ground. Approval is recommended for those properties receiving a score of (7) or more.

Please find attached individual evaluation sheets that include a detailed explanation of the scores given the individual applications for the Timber Land classification:

Listed below is a general outline of the Whatcom County Timber Management Plan Format & Criteria that is used by staff to evaluate timber management plans.
• Description of the current stand
• Description of soil resources, & how they support the growth of timber
• Forest health
• Harvest plan
• Thinning program
• Planting and restocking program
• Wildlife habitat enhancement

In addition, Timber Management Plans are also evaluated for whether the plan contains the following elements that constitute a timber management plan as outlined in the Open Space Taxation Act [(RCW 84.34.041 (1) (a-m))].

a. A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

b. The date or dates of acquisition of the land;

c. A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;

d. Whether there is a forest management plan for the land;

e. If so, the nature and extent of implementation of the plan;

f. Whether the land is used for grazing;

g. Whether the land has been subdivided or a plat filed with respect to the land;

h. Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

i. Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

j. Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

k. A summary of the past experience and activity of the applicant in growing and harvesting timber;

l. A summary of current and continuing activity of the applicant in growing and harvesting timber;
m. A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

**ATTACHMENTS**

2013 County-Wide Open Space Current Use Map; 2013 Open Space Application Vicinity Map; Individual Application Maps; Individual Application Evaluation Forms; Estimate If-Approved Current Use Value; Hypothetical Example of Applied Public Benefit Rating; Whatcom County Open Space Policies & Public Benefit Rating System; Whatcom County Property Tax Reduction Program Publication (May 5, 2013); 2013 Department of Revenue Open Space Taxation Act, Publication.

Report Prepared for the Whatcom County Planning Commission by:

Erin Osborn, Planner
WHATCOM COUNTY
Property Tax
Reduction Programs
Chapters 84.34 RCW,
84.33 RCW

Legend
- Farm & Agricultural Land
- Designated Forest Land
- Open Space Land
- Farm & Agricultural Conservation Land
- Timber Land

Incorporated City Limits
Urban Growth Area
Major Port Industrial UGA
Urban Growth Area Reserve
## Open Space Land
### Public Benefit Rating System-Evaluation Form

**Property Owner(s)**
Royal V. & M. Sue Sefton

**Classification:** Open Space Land

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>6799 Goodwin Road</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>City:</strong></td>
<td>Everson</td>
</tr>
<tr>
<td><strong>State:</strong></td>
<td>WA</td>
</tr>
<tr>
<td><strong>Site Address:</strong></td>
<td>6799 Goodwin Road</td>
</tr>
<tr>
<td><strong>Subarea:</strong></td>
<td>Lynden/Nooksack Valley</td>
</tr>
</tbody>
</table>

**Assessor's Parcel No. (s):**
390409 469380 0000

**Parcel Acre(s):** 11.78

**Historical Land Use:**
- Agriculture (Christmas Tree Farm), Residential
- Open Space Land Application Acre(s) 10.78

**Zoning Designation:**
- Agriculture (AG)

**Shorelines:** N/A

**Soil/Type Capabilities:**
- # 31 Clipper silt loam, 0-2% slopes, 12.4% of parcel – Prime Agricultural Soil
- # 90 Kline gravelly sandy loam, 2-8% slopes, 87.6% of parcel Not Prime Ag Soil

**Comments:**
Available water capacity is low which affects crop productivity: pasture, hay or other crops.
<table>
<thead>
<tr>
<th>Basic Value (BV)</th>
<th>Score</th>
<th>MAX</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Enhance Scenic Resources:</strong> Naturally vegetated 11.78 acre site serves as a visual buffer between areas of human habitation, and protects scenic views from County road. Parcel acreage will not be further developed subject to classification as Open Space Land.</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td><strong>Protect Streams/Shorelines:</strong> Predominantly vegetated and undeveloped site preserves hydrologic processes, and may serve to control stormwater run-off and erosion to nearby streams.</td>
<td>6</td>
<td>10</td>
</tr>
<tr>
<td><strong>Protect Soils/Wildlife:</strong> Preserves, coniferous and deciduous tree species, native understory plants and shrubs, grassy areas, and ground cover; vegetation provides excellent cover and forage for a variety of terrestrial species and birds.</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td><strong>Promote Conservation Principles:</strong> Posted Open Space Sign will communicate that site is under conservation, and local educational groups or school groups will be invited to visit property under conservation to view its wildlife and open spaces.</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td><strong>Enhance Abutting Open Space:</strong> Biodiversity enhances ecosystem health of large tracts of land classified as Open Space Farm &amp; Agricultural Land which are located in the immediate vicinity.</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td><strong>Recreation Opportunities:</strong> Picnicking; wildlife observation; star gazing (by appointment); approximately ½ mile loop trail for walking, hiking, and horseback riding, Service dogs only, and horses are welcome! Educational groups are invited with prior arrangement, by appointment.</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td><strong>Historic / Archeological Significance</strong> None.</td>
<td>0</td>
<td>10</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Benefit Value (PBV)</th>
<th>Score</th>
<th>MAX</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public Access:</strong> Posted Open Space Sign; 7 days a week Public Access during posted hours or by appointment; Ample off-street parking fronting public road with room for horse trailers, large vans or busses. Horseback riding, walking trails, nature viewing.</td>
<td>40%</td>
<td>40 %</td>
</tr>
<tr>
<td><strong>Water Resource Protection:</strong> Site is designated as a Moderate Critical Aquifer Recharge Area (CARA) in the Surnas Creek Watershed.</td>
<td>15%</td>
<td>20 %</td>
</tr>
<tr>
<td><strong>Wildlife Habitat:</strong> Abundance of wildlife and diversity of species populate forested canopy and underbrush at edges of forested areas.</td>
<td>12%</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Parcel Size</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parcel is 11.78 acres</td>
<td>&gt;20 acres = +10% max;</td>
<td></td>
</tr>
<tr>
<td>Home site is 1.00 acre</td>
<td>&lt;5 acres = -10% max</td>
<td></td>
</tr>
<tr>
<td>10.78 application acres</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td><strong>Abutting Open Space</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land classified Farm &amp; Agricultural Land (OSAG) is located to the north, west &amp; south of the subject parcel.</td>
<td>3%</td>
<td>5 %</td>
</tr>
<tr>
<td><strong>Natural Areas</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Approximately 90% or more of the site is covered with natural vegetation.</td>
<td>5%</td>
<td>5 %</td>
</tr>
<tr>
<td><strong>Financial Advantage</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None.</td>
<td>0%</td>
<td>40% (+/-)</td>
</tr>
<tr>
<td><strong>Discretionary Value</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None.</td>
<td>0%</td>
<td>40% (+/-)</td>
</tr>
</tbody>
</table>

**Total** 41 70 75% 100 %

**The Public Benefit Rating is calculated using the following formula:**

\[ BV^+ (BV \times PBV) = PBR \times 41 + (41 \times 0.75) = 71.75 \]

**OSP2013-00003 Public Benefit Rating (PBR) = 71.75**

*Must receive at least 45 points for a staff recommendation of approval*
Open Space Applications 2013
- Sefton

Open Space Land
OSP2013-00003 – Royal V. & M. Sue Sefton
Geo ID: 390409 469380 – OSAG to OSL
Parcel acres = 11.78; OSL acres = 10.78; PBR 71.75

Subject Parcel
Open Space Land - Proposed Public Access
OSP2013-00003 – Royal V. & M. Sue Sefton
Geo ID: 390409 469380 – OSAG to OSL
Parcel acres = 11.78; OSL acres= 10.78; PBR 71.75

Subject Parcel
<table>
<thead>
<tr>
<th>Year</th>
<th>2012/2013</th>
<th>PARCEL#</th>
<th>390409 469380 0000</th>
</tr>
</thead>
<tbody>
<tr>
<td>HS ACRES</td>
<td>1.00</td>
<td>PID #</td>
<td>106402</td>
</tr>
<tr>
<td>NON-OS ACRES</td>
<td>0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OS ACRES</td>
<td>10.78</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL ACRES</td>
<td>11.78</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PBR%</td>
<td>71.75%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FM VALUE PER ACRE</td>
<td>13,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CU VALUE PER ACRE</td>
<td>1,515</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| *FM SITE= | SQ FT | X | SITE | = | 0 |
| FM SITE=  | SQ FT | X | 13,000 PER ACRE | = | 140,140 |
| FM VALUE= | 10.78 | ACRES | X | 13,000 PER ACRE | = | 140,140 |
| FM VALUE= | 10.78 | ACRES | X | PER ACRE | = | 0 |
| Total FM VALUE | 140,140 |           |                   |
| CU VALUE= | 10.78 | ACRES | X | 1,515 PER ACRE | = | 16,332 |
| DIFF      | 123,808 |           |                   |
| PRB%      | 71.75%  |           |                   |
| SAVINGS   | 88,832  |           |                   |
| FM VALUE  | 140,140 |           |                   |
| SAVINGS   | 88,832  |           |                   |
| NEW VALUE | 51,308  | / | 10.78 Per acre | = | 4,760 |
| PROOF     | 51,308  |           |                   |
# Open Space Timber Land
## Current Use Classification-Evaluation Form

**File # OSP 2013-00001**

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification:</th>
<th>Timber Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Keith A. Smith</td>
<td>Status:</td>
<td>Transfer From Designated Forest Land</td>
</tr>
<tr>
<td>Street Address:</td>
<td>Assessor’s Parcel No. (s):</td>
<td></td>
</tr>
<tr>
<td>PO Box 1267</td>
<td>400507 113201 0000</td>
<td></td>
</tr>
<tr>
<td>City: Sumas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State: WA Zip: 98295</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site Address:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4900 Block of Reese Hill Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subarea:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foothills</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Comp Plan Designation:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural Forestry</td>
<td>Parcel Acre(s): 19.3 Acres</td>
<td></td>
</tr>
<tr>
<td>Historical Land Use:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forestry</td>
<td>Application Acre(s) 19.3 Acres</td>
<td></td>
</tr>
<tr>
<td>Zoning Designation:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural Forestry</td>
<td>Shorelines: N/A</td>
<td></td>
</tr>
</tbody>
</table>

**Predominant Soil/Type Capabilities:**
- #8 – Barneston very gravelly loam, - 15-30% Slopes, 50 year site index – Douglas fir = 118
- #18 – Blethen very gravelly loam, - 15-30% Slopes, 50 year site index – Douglas fir = 115
- #139 – Sehome loam, 2-8% Slopes, 50 year site index – Douglas fir = 135

**Comments:** Very deep to moderately deep well drained soils. Productive woodland soils. Seedling mortality due to competing vegetation, and compaction and muddy conditions during harvest due to seasonal high water table are main concerns.
<table>
<thead>
<tr>
<th>Information Included</th>
<th>Points</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current Stand Description</strong></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Generally, the stand is one unit comprised of an uneven aged species, 20-50 years old, including: conifers and hardwoods and approximately one acre forested wetland, and two logging roads: Douglas fir, western hemlock, red alder, western red cedar and big leaf maple are the dominant species.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Soils Description</strong></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Predominant soil types are Blethen gravelly loam and Sehome loam which are deep well drained soils found on the toe slopes of foothills. Soil productivity is high with 100 year mean site index for Douglas fir ranging from 149-158 (feet in height), with 50 year site index ranging 115-135 (feet in height). High seasonal water table and compaction and muddiness as limiting factors. Low pressure ground based logging system is recommended during wet conditions.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Forest Health</strong></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Plan indicates that overall stands are free from insect and most fungal pathogens. Browse damage from conifer seedlings from deer could be expected as local populations increase. Current stands are mature and browsing not a problem, but newly planted trees should be monitored closely until seedlings reach 5 feet in height.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Harvest Plan</strong></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Plan indicates that this uneven aged stand contains trees that have already reached economic maturity and could be commercially harvested using clear cut method or selectively harvested at any time. Disadvantages and advantages to either option are clearly outlined in the Plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Thinning Program</strong></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>After re-planting, new stands will need to be monitored for invasive species (competing vegetation) using mechanical or chemical means. Pre-commercial thinning should be done 15-20 years after seedlings are established, and 5 – 8 years for red alder. Commercial thinning may be started at about age 25, and every 5-10 years thereafter.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Planting/Restocking Program</strong></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Stand is not considered fully stocked at this time and will require replanting in certain areas. Plan recommends replanting with shade tolerant species, depending on the type of harvest that takes place. After clear cut or selective harvest, replanting should be done within 3 years in accordance with WAC 222-34-010 at a density sufficient to yield 190 vigorous undamaged well distributed seedlings of commercial species per acre after the second growing season, i.e. approximately 300-350 Douglas fir 2-0 or larger bare root stock or larger. Plan recommends a mix of Douglas fir, western hemlock, and western red cedar in the wetter areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Wildlife Habitat Enhancement</strong></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Plan identifies a variety of wildlife that are typically found in the area. Retention of wildlife features in accordance with WAC 222-30-020 (11) is outlined in the Plan, specifying the type of habitat feature that must remain on site following harvest.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Timber Management Plan must receive 7 or more points for a staff recommendation of approval.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td>14</td>
<td>14</td>
</tr>
</tbody>
</table>

Staff Recommendation: [ ] Approval [ ] Denial

OSP2013-00001 Timber Management Plan Score 14
Timberland

OSP2013-00001 – Keith A. Smith
Geo ID: 400507 113201 – DFL to OST
Parcel acres = 19.3; OST acres= 19.3
Timber Management Plan Score = 14
Timber Land

OSP2013-00001 – Keith A. Smith
Geo ID: 400507 113201 – DFL to OST
Parcel acres = 19.3, OST acres = 19.3
Timber Management Plan Score = 14

Subject Parcel

2010 Aerial Photo

USE OF INFORMATION SOURCES(S) MENTIONED HEREIN
The following statement:

Information is provided by various sources in a variety of forms. The accuracy of the information is not guaranteed. Users are advised to verify the accuracy of the information by contacting the appropriate source. The information is provided without warranty for any purpose and without liability for any errors or omissions. The user assumes all risks of any use of this information.
### Open Space Timber Land Current Use Classification-Evaluation Form

**File # OSP 2013-00002**

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification:</th>
<th>Status: New Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>William Joseph Kennedy</td>
<td>Timber Land</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Assessor’s Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>7630 Bear Ridge Way</td>
<td>400618 474052 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City:</th>
<th>State: WA</th>
<th>Zip: 98266</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maple Falls, WA</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site Address:</th>
<th>Subarea:</th>
</tr>
</thead>
<tbody>
<tr>
<td>7630 Bear Ridge Way Maple Falls, WA</td>
<td>Foothills</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comp Plan Designation:</th>
<th>Parcel Acre(s): 9.58 acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use: Forestry &amp; Residential Use</th>
<th>Application Acre(s)</th>
<th>Zoning Designation: Rural District – (R10A)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6.7 acres</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Shorelines:</th>
<th>Conservancy Maple Creek</th>
</tr>
</thead>
</table>

### Predominant Soil/Type Capabilities:

- # 187 – Winston silt loam, - 3-15% Slopes, 50 year site index – Douglas fir = 125
- # 19 – Blethen gravelly loam, 30 – 60% Slopes, 50 year site index – 115

### Comments:

Very deep well drained woodland soil. Seedling mortality due to competing vegetation, and rutting from wheeled equipment, during wet muddy harvest conditions are main concerns.
### Timber Management Plan

<table>
<thead>
<tr>
<th>Information Included</th>
<th>Points</th>
<th>Max</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Completeness</strong> (0 = Incomplete; 1 = Satisfactory; 2 = Thorough)</td>
<td></td>
<td>14</td>
</tr>
<tr>
<td><strong>Current Stand Description</strong></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Stand is composed of management areas consisting of both naturally regenerated and planted species. At the time of Plan submittal approximately 5.2 acres of the property were stocked with a mix of commercial species such as Douglas fir, western hemlock, red alder, western red cedar, Sitka spruce, and big leaf maple in the western stand approximately 40-50 years old; with the eastern portion of the property naturally regenerated with 10-20 year red alder, and western red cedar and western hemlock approximately 30 years of age. Since Plan submittal 1.5 acres were planted with two year old Douglas fir, western red cedar and grand fir for a total of 6.7 acres of timber on the site with 2.88 acres reserved for a home site.</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Soils Description</strong></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Predominant soil types are Winston silt loam 3-15 % slopes and Blethen gravelly loam 30-60% slopes; a very well-drained soil found on the toe slopes of foothills. Care must be taken to use low pressure ground equipment when harvest during wet season.</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Forest Health</strong></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Plan indicates that there are no significant indications of insect infestation, fungal rots, or fire risk.</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Harvest Plan</strong></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>The 40-50 year old western portion of the stand is merchantable and could be harvested at any time subject to applicable stream buffer provisions on Maple Creek. The southeast portion could be ready for harvest in 10-20 years. The remaining forested areas need to grow for 30-40 years before harvest.</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Thinning Program</strong></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Both of the newer stands require pre-commercial thinning at 15-20 years after trees are well established. The southeast portions of western red cedar and western hemlock would be ready for pre-commercial thinning in about 10-20 years. The remaining forested areas would be ready for harvest in about 30-40 years, and the newly planted seedlings will be ready for a pre-commercial thinning in about 15 years. During interim growth periods, thinning should be done by competent operators with appropriate equipment to avoid damage to remaining trees. Commercial thinning should take place at around 35 years of age.</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Planting/Restocking Program</strong></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Replanting should be done within 3 years of harvest in accordance with WAC 222-34-010 with approximately 300-400 trees per acre spaced at 10-12' apart. Douglas fir, western red cedar, and red alder are recommended for this site. After replanting it is recommended that competing vegetation is controlled by chemical or mechanical means to assure survival of seedlings.</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Wildlife Habitat Enhancement</strong></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Plan indicates that Maple Creek defines the property’s western boundary. This is a fish bearing stream that should be protected by a 170 foot buffer under current Forest Practices Rules, with harvest allowable within a portion of the outer buffer. A small pond on the site will also be protected by a minimum of fall-away, yard away harvest techniques under current Forest Practices. It is noted that Maple creek provides habitat for fish, amphibians, and associated wildlife species, and as the forest changes over time these wildlife niches will also change. Landowner objectives are consistent with wildlife habitat in accordance with Forest Practices.</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

*Timber Management Plan must receive 7 or more points for a staff recommendation of approval.*

**Total:** 14

Staff Recommendation: [ ] Approval [ ] Denial

---

**OSP2013-00002**  **Timber Management Plan Score 14**

Open Space Timber Land Current Use Classification-Evaluation Form

PLA-83-012D

Page 2 of 2
Rev. June 2011

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Timber Land
OSP2013-00002 – William Joseph Kennedy
Geo ID: 400618 474052 – New OST
Parcel acres = 9.58; OST acres= 6.7
Timber Management Plan Score = 14

Subject Parcel
HYPOTHETICAL EXAMPLE OF APPLIED PUBLIC BENEFIT RATING
RESULTING IN NEW CURRENT USE VALUE AND "SHIFT" IN TAXES

UPON APPLICATION APPROVAL
TO CLASSIFY OR RE-CLASSIFY AS OPEN SPACE LAND

TERMS:

FMVA = Fair Market Value per acre
CUVA = Current Use Value per acre
FMV = Fair Market Value per acre multiplied by # of acres
CUV = Current Use Value per Acre multiplied by # of acres
PBR = Public Benefit Rating
DIFF = Difference between FMV and CUV
SAVINGS = Savings is difference between Fair Market Value and Current Use Value multiplied by the PBR
NEW VALUE is FMV-SAVINGS
NEW VALUE X CONSOLIDATED LEVY RATE = NEW TAXES
LEVY RATE = HYPOTHETICAL CONSOLIDATED LEVY RATE

FORMULA:

FMV-CUV = DIFF
DIFF X PBR = SAVINGS
FMV-SAVINGS = NEW VALUE
NEW VALUE X LEVY RATE = TAXES

CALCULATION:

FMV-CUV = DIFF
600,000 - 24,000 = 480,000
DIFF X PBR = SAVINGS
480,000 X .85 = 432,000
FMV-SAVINGS = NEW VALUE
600,000 - 432,000 = 168,000
NEW VALUE X LEVY RATE = NEW TAXES ON LAND VALUED AT CURRENT USE
168,000 X .01 = 1,680
FMV taxes = 6,000
Current Use Taxes = 1,680
Shift = 4,320

HYPOTHETICAL EXAMPLE:

Application for Open Space Land
= 20 acres - vacant raw land

Variables:
Fair Market Value/acre = 30,000
PBR = 85%
CUVA = 1,200
CUV = 20 X 1,200 = 24,000
LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01
EXPLANATION OF TAX SHIFT:

LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01

Fair Market Value TAX = 600,000 x .01 = $6,000.00 Taxes

Current Use Value TAX = 168,000 x .01 = $1,680.00 Taxes

- Difference between FMV Tax & CUV Tax $6,000-$1,680 = $4,320.00

- $4,320 in taxes that would otherwise be collected from this tax payer are “shifted” to other tax payers in the form of an increase in the levy rate applied to all assessed values on property within any given taxing district (as applicable) including the subject parcel acres that are approved for assessment at current use. The particular taxing district will still need to meet its budget, and in order to accomplish this, to offset reduction in value from properties classified under the current use programs (and other exemptions) will increase its levy rate to meet its budget.

- Generally, a tax code area is defined by geographic boundaries where most all of the parcels are subject to the same consolidated levy rate. However, not all parcels in a geographically defined tax code area are captured by the same taxing districts. For example, if in a particular tax code area there are two parcels of land that are contiguous, and one is developed, and one is raw unimproved land, and both are in the fire district’s boundaries, the improved land will be subject to a levy by the fire district, but the unimproved land will not be subject to a levy by the fire district.

- The example above illustrates why it is difficult to calculate the increase in taxes affecting tax payers whose land is assessed at fair market value, that would be imposed by the approval of a parcel at current use values.

- To further illustrate: the compensating increase in a taxing district’s levy rate will also apply to land assessed at current use values within a taxing district’s boundaries, but since the assessed value per acre has been substantially reduced as compared to fair market value, the amount of compensatory tax to meet the district’s budget is proportionately much less from these parcels as compared to those from parcels assessed at fair market value.
Whatcom County

Open Space Policy and Criteria

and

Public Benefit Rating System, 1995
SUMMARY OF WHATCOM COUNTY OPEN SPACE POLICIES

I. Public Benefit Rating System: All applications for open space-open space and open space-farm and agriculture conservation will be rated according to the Whatcom County Public Benefit Rating System described in the following pages. A Public Benefit Rating of at least 45 must be attained in order to be recommended for approval. In addition, the amount of tax reduction to be granted to open space applications will be based on the Public Benefit Rating. The greater the public benefit provided by keeping the property in open space use, the greater the tax reduction.

II. Public access: As a condition of approval, owners of open space parcels must agree to provide a certain degree of public access according to the Whatcom County Public Access Policy listed on Page 12. All applications shall be accompanied by the owner's proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined in the Whatcom County Public Access Policy. Note: On parcels where there is a documented occurrence of a State or Federal Endangered or Threatened species; Federal Proposed Endangered or Threatened Species; and State Sensitive or Monitor Species; or where there is a known or potentially significant archaeological site; or where the purpose of the open space is for wetland conservation, the public access requirement may be waived by the Council.

III. Open Space Sign: As a condition of approval, owners of open space parcels must agree to post a sign in a location visible to passing motorists, in accordance with the Whatcom County Open Space Sign Policy on Page 13 indicating the parcel's open space status and the availability of public access. As with the public access requirement, the requirement for posting of a sign may be waived in some instances.

IV. Hold Harmless Agreement: All open space property owners must sign a hold harmless agreement, freeing Whatcom County of any liability which may arise as a result of open space approval. A copy of the hold harmless agreement is included on Page 14.
WHATCOM COUNTY OPEN SPACE POLICY AND CRITERIA
AND PUBLIC BENEFIT RATING SYSTEM

I. APPROVAL CRITERIA: OPEN SPACE/OPEN SPACE AND OPEN SPACE/FARM & AGRICULTURE CONSERVATION

Washington State law specifies that: In determining whether an application made for open space current use taxation status should be approved or disapproved, pursuant to RCW 84.34.020, subsection (1)(b) (Open Space/Open Space) or subsection (c) (Open Space/Farm & Agriculture Conservation), the Whatcom County Planning Commission will consider in its recommendations to the County Council whether or not preservation of the current use of the land, when balanced against the resulting revenue loss or tax shift from granting the application will:

1. Conserve or enhance natural, cultural or scenic resources, or
2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers, or
3. Protect soil resources and unique or critical wildlife and native plant habitat, or
4. Promote conservation principles by example or by offering educational opportunities, or
5. Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, or
6. Enhance recreation opportunities, or
7. Preserve historic and archaeological sites, or
8. Affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property.

II. PUBLIC BENEFIT RATING SYSTEM

A. Based on the first seven (7) approval criteria listed above in conjunction with number eight (8) above, the Planning Department staff will assign each application for Open Space/Open Space and Open Space/Farm & Agriculture Conservation a PUBLIC BENEFIT RATING using the method described below.

B. A parcel must receive a PUBLIC BENEFIT RATING of at least forty five (45) to be recommended for approval.

C. The PUBLIC BENEFIT RATING will be used by the County Assessor’s office in determining the amount of tax reduction for Open Space/Open Space and Open Space/Farm & Agriculture Conservation parcels.

3
III. PUBLIC BENEFIT RATING CALCULATION

A. BASIC VALUE
The Planning and Development Services Department will review each Open Space/Open Space and Open Space/Farm & Agriculture Conservation application and will assign to each a BASIC VALUE that represents the degree of conformance with the BASIC VALUE CRITERIA listed in Section IV below.

B. PUBLIC BENEFIT VALUE
The BASIC VALUE will be increased (or decreased) by a percentage (PUBLIC BENEFIT VALUE) representing the benefit to the general welfare of preserving the current use of the property, based on conformance with the factors listed in section V below.

C. PUBLIC BENEFIT RATING FORMULA
The PUBLIC BENEFIT RATING will be calculated using the following formula:

\[ PBR = BV + (BV \times PBV) \]

where:

- \( PBR \) = PUBLIC BENEFIT RATING
- \( BV \) = BASIC VALUE
- \( PBV \) = PUBLIC BENEFIT VALUE

IV. BASIC VALUE CRITERIA:

A. Open Space/Open Space
A maximum of ten points for open space/open space applications may be assigned for each of the items based upon conformance with the criteria listed below.

1. Conserve or enhance natural, cultural or scenic resources.

Criteria for approval:

a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
c. lands which can serve to prevent the spread of high density residential development into less developed areas;
d. lands located adjacent to airports.

2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.
Criteria for approval:

a. lands within a 100-year floodplain;
b. lands within or adjacent to areas of domestic water supply;
c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
d. lands which provide for preservation of bogs or swamps;
e. lands adjacent to bodies of water, both marine and fresh;
f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

3. Protect soil resources and unique or critical wildlife and native plant habitat.
Criteria for approval:

a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On parcels where there this documentation, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

4. Promote conservation principles by example or by offering educational opportunities.
Criteria for approval:

a. lands which are an example of application of conservation principles;
b. lands which offer opportunities for conservation education such as
interpretive centers or trails.

5. **Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;**
   **Criteria for approval:**
   a. land that the local County Park Board has identified for possible future park acquisition;
   b. land designated in County Parks, Recreation and Open Space Study and other documents as significant park land, open space or conservation areas;
   c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
   d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

6. **Enhance recreation opportunities.**
   **Criteria for approval:**
   a. lands possessing private recreational facilities which are available to the public without charge;
   b. lands which provide opportunities for passive recreational activities such as, but not limited to, hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

7. **Preserve historic and archaeological sites.**
   **Criteria for approval:**
   a. areas or sites which have been identified as significant on local, state or national Historic Registers;
   b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

B. **Open Space/Farm & Agriculture Conservation**

Only parcels consistent with RCW 84.34.020(8)(a)(b) may be considered for Open Space/Farm & Agriculture Conservation.
A maximum of *fifteen (15) points for Open Space/Farm & Agriculture Conservation* applications may be assigned for each of the first two (2) items listed below, and a maximum of *five (5) points* may be assigned for the *remaining eight (8) items* listed below based upon conformance with the criteria listed.

1. **Traditional or potential farmland.**

   **Criteria for approval:** lands which have historically been used for agriculture; and/or lands that have not been devoted to a use inconsistent with agricultural uses.

2. **Soil Value**

   **Criteria for approval:**
   a. lands which contain prime farmland as defined by the U.S. Department of Agriculture; or
   b. lands which contain capability classification I-IV according to the US Department of Agriculture Land Capability Classification system.

3. **Comprehensive Plan Designation**

   **Criteria for approval:** Lands which are designated Agriculture or Incentive Agriculture in the Whatcom County Comprehensive Plan.

4. **Conserve or enhance natural, cultural or scenic resources.**

   **Criteria for approval:**
   a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
   b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
   c. lands which can serve to prevent the spread of high density residential development into less developed areas;
   d. lands located adjacent to airports.
5. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.

**Criteria for approval:**

a. lands within a 100-year floodplain;
b. lands within or adjacent to areas of domestic water supply;
c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
d. lands which provide for preservation of bogs or swamps;
e. lands adjacent to bodies of water, both marine and fresh;
f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

6. Protect soil resources and unique or critical wildlife and native plant habitat.

**Criteria for approval:**

a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On these parcels the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

7. Promote conservation principles by example or by offering educational opportunities.

**Criteria for approval:**

a. lands which are an example of application of conservation principles;
b. lands which offer opportunities for conservation education
such as interpretive centers or trails.

8. **Enhance the value to the public of abutting or neighboring parks, forests, agricultural lands, wildlife preserves, nature reservations or sanctuaries or other open spaces.**

**Criteria for approval:**

a. land that the local County Park Board has identified for possible future park acquisition;

b. land designated in County Parks, Recreation and Open Space Studies and other documents as significant park land, open space or conservation areas;

c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;

d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

9. **Enhance recreation opportunities.**

**Criteria for approval:**

a. lands possessing private recreational facilities which are available to the public without charge;

b. lands which provide opportunities for passive recreational activities such as but not limited to hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

10. **Preserve historic and archaeological sites.**

**Criteria for approval:**

a. areas or sites which have been identified as significant on local, state or national Historic Registers;

b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.
V. PUBLIC BENEFIT VALUE CRITERIA
The following list of open space characteristics have been determined to have a high priority in providing (or detracting from) benefit to the general welfare will be used to determine the PUBLIC BENEFIT VALUE for each Open Space/ Open Space and Open Space/ Farm & Agriculture Conservation application. The total PUBLIC BENEFIT VALUE will increase (or decrease) the BASIC VALUE by a certain percentage. It is possible to attain a PUBLIC BENEFIT VALUE of up to 140%, resulting in a maximum possible increase of 140%.

A. PUBLIC ACCESS (Maximum 40% increase)
1. Shoreline access
2. Recreation access
3. Public road frontage
4. Availability of off-street parking
5. Quality of access in terms of accessibility and owner’s Proposed rules of conduct and access management

B. WATER RESOURCE PROTECTION (Maximum 20% increase)
1. Watershed of domestic water supply
2. Aquifer recharge area
3. Preservation of hydrologic processes:
   - streams and natural drainage courses
   - wetlands, swamps, bogs
   - lakes

C. WILDLIFE HABITAT (Maximum 20% increase)
1. State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species.
2. Abundance and diversity of wildlife (associated with "edge" type habitat and areas of vegetative and topographic diversity).

D. PARCEL SIZE (Maximum 10% increase)
1. Twenty (20) acres or larger
2. Smaller than five (5) nominal acres (Maximum 10% decrease for OS Open Space applications; Required 40% decrease for OS Farm and Agriculture Conservation applications)

E. LINKAGE WITH OTHER OPEN SPACES (Maximum 5%
increase)
Adjacent to other Open Space, parks, or open areas associated with Planned Unit Developments, Cluster Subdivisions, or Binding Site Plans.

F. NATURAL AREAS  (Maximum 5% increase)
Based on how much of parcel is in natural cover and not developed with homesite, outbuildings, and clearings.

G. FINANCIAL ADVANTAGE  (Maximum 40% decrease)
The use to which the land is put derives a financial advantage for its owners.

H. DISCREETIONARY VALUE  (Maximum 40% increase)
(Minimum 40% decrease)
Discretionary value may be added or subtracted where land provides or detracts from public benefits other than those specifically listed above. If discretionary value is added or subtracted, the provision or detract from public benefits shall be set forth in detail on the supplemental application form and on the scoring sheet.
PUBLIC ACCESS

All applications for Open Space/Open Space and Open Space Farm & Agriculture Conservation shall be accompanied by the owners’ proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined below.

The term “Public Access” is limited and defined as the right of any individual to request permission to enter and visit the premises on foot for legitimate recreational purposes such as bird watching, scenic observation, scientific investigation, picnicking during daylight hours, and strolling and general relaxation on the premises. This right is subject to the execution by the visitor of:

1. An agreement to abide by any reasonable rules of personal conduct required by the owners while on the premises, and

2. A general release of the owner from liability for any injury suffered by the visitor while on the premises. Permission will be granted without discrimination, EXCEPT in the case of a person in disorderly or apparently intoxicated condition in which case permission will be denied. Any permission previously granted shall become automatically revoked, and the visitor deemed to be a trespasser upon the premises.

Owners retain and reserve the power to officially post and enforce rules not inconsistent with the foregoing provisions and conditions for public entry upon the premises.

DATED this ______ day of __________, 2000

SIGNED:

______________________________
owner

______________________________
owner
OPEN SPACE SIGN POLICY

As a condition of approval of your open space application, you must post a two foot (2' x 2') sign on your property to indicate open space status, public access, and the Open Space Agreement number within one month of executing the Open Space Agreement.

The sign must be located on the property's road frontage in as conspicuous a location as possible.

Construction of the sign will be the responsibility of the applicant and will be in accordance with the specifications on file with the Planning and Development Services Department. It is the property owner's responsibility to assure that the sign remains in place during the period of the open space agreement.

This policy affects all Open Space/Open Space and Open Space/Farm and Agricultural Conservation applications.
Whatcom County Council

AFFIDAVIT OF POSTING OF
OPEN SPACE SIGN
PURSUANT TO WHATCOM COUNTY
OPEN SPACE SIGN POLICY AND SPECIFICATION

__________________________________________, being first duly sworn upon oath, deposes and says:

That I have posted a two foot by two foot Open Space Sign in accordance with the Whatcom County Open Space Sign Policy and the Whatcom County Open Space Sign Specification, in a conspicuous location, visible to passing motorists, indicating the Open Space status of the following Open Space parcel(s):

Assessor’s Parcel Number(s):

__________________________________________

I understand that it is the property owner’s responsibility to assure that the sign(s) remains in place during the period of the Open Space Agreement; that posting of the Open Space sign is subject to verification by County personnel; and that failure to maintain the sign is a violation of the Open Space Agreement and may result in withdrawal of Open Space status with attendant taxes and penalties payable pursuant to RCW 84.34.

Signature of Property Owner or other person posting property

I certify that I know or have satisfactory evidence that

signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated

Signature of

Notary Public

Title

My Appointment

Expires
WHATCOM COUNTY OPEN SPACE SIGN SPECIFICATION

As a condition of approval of your Open Space application, you must post at least one Open Space sign on the property's road frontage in a conspicuous location, visible to passing motorists. It shall be the property owner's responsibility to assure that the sign remains in place during the period of the Open Space Agreement.

A typical sign and mounting are illustrated below. The sign shall be purchased from the Whatcom County Planning and Development Department for $5.00 plus tax of .39 cents. The sign shall be permanently attached to a weather-resistant solid backing at least two feet by two feet in size. You may also post reasonable rules of personal conduct while on the premises, pursuant to Whatcom County Public Access Policy. Such rules shall be approved by the Planning Department prior to posting.

TYPICAL SIGN AND MOUNTING

2 feet

TOP OF SIGN

THIS PROPERTY IS DESIGNATED
OPEN SPACE

PURSUANT TO THE PROVISIONS
OF RCW 84.34, PUBLIC ACCESS
IS PERMITTED FOR RECREATIONAL
PURPOSES SUBJECT TO THE TERMS
AND CONDITIONS OF WHATCOM
COUNTY OPEN SPACE AGREEMENT NO.

(space for posting rules)

2" x 2" posts

¼ inch plywood

ground level
HOLD HARMLESS AGREEMENT

Owner Name

Owner Name

In consideration for Whatcom County’s approval of the attached Open Space Application, with any conditions that may be imposed, hereby agree to defend, indemnify and hold harmless Whatcom County, its officers and employees from any claim that may arise against Whatcom County as a result of the approval of the attached application with conditions.

This agreement shall become binding only after the Whatcom County Council has approved the attached application.

Parcel number(s):

______________________________________________

______________________________________________

DATED: This ________ day of _____________________, 2008

SIGNED:

______________________________________________

Owner Name

______________________________________________

Owner Name
Open Space Taxation Act

The information and instructions in this publication are to be used when applying for assessment on the basis of current use under the "open space laws," chapter 84.34 RCW and chapter 458-30 WAC.

What is the Open Space Taxation Act?
The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

Lands qualifying for current use classification
The law provides three classifications:
Open space land
Farm and agricultural land
Timber land

Open space land is defined as any of the following:

1. Any land area designated as open space land by an official comprehensive land use plan adopted by any city or county and zoned accordingly.
   a. Conserve and enhance natural or scenic resources.
   b. Protect streams or water supply.
   c. Promote conservation of soils, wetlands, beaches or tidal marshes. (As a condition of granting open space classification, the legislative body may not require public access on land classified for the purpose of promoting conservation of wetlands.)
   d. Enhance the value to the public of neighbouring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.
   e. Enhance recreation opportunities.
   f. Preserve historic sites.
   g. Preserve visual quality along highway, road, and street corridors or scenic vistas.
   h. Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative authority granting the open space classification.

3. Any land meeting the definition of "farm and agricultural conservation land," which means either:
   a. Land previously classified under farm and agriculture classification that no longer meets the criteria and is reclassified under open space land; or
   b. "Traditional farmland," not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses and that has a high potential for returning to commercial agriculture.

This fact sheet provides general information regarding the Open Space Taxation Act. The information is current at the date of publication. Please note subsequent law changes may supersede or invalidate some of this information.
Farm and agricultural land is defined as any of the following:

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
   a. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes.
   b. Enrolled in the federal conservation reserve program (CRP) or its successor administered by the United States Department of Agriculture.

2. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has produced a gross income equivalent to:
   a. Prior to January 1, 1993, $100 or more per acre per year for three of the five calendar years preceding the date of application for classification.
   b. On or after January 1, 1993, $200 or more per acre per year for three of the five calendar years preceding the date of application for classification.

3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
   a. Seven years and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.
   b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.

4. For parcels of land five acres or more but less than 20 acres, “gross income from agricultural uses” includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.

5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
   a. Prior to January 1, 1993, $1,000 or more per year for three of the five calendar years preceding the date of application for classification.
   b. On or after January 1, 1993, $1,500 or more per year for three of the five calendar years preceding the date of application for classification.

6. “Farm and agricultural land” also includes any of the following:
   a. Incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.
   b. Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.
   c. Any non-contiguous parcel one to five acres, that is an integral part of the farming operation.
   d. Land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes and provided that the classified parcel(s) is 20 or more acres.
   e. Land that is used primarily for equestrian-related activities including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to minimum income requirements.

Timber land is defined as the following:
Any parcel of land five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homestead. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than 10 percent of the land may be used for such incidental uses.

It also includes the land which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.
Who may apply?
An owner or contract purchaser may apply for current use assessment under the open space law. However, all owners or contract purchasers must sign the application for classification, and any resulting agreement.

When may I apply?
Applications may be made for classification at any time during the year from January 1 through December 31. Current use valuation assessment begins on January 1 in the year following the year the application was filed.

Where do I get the application?
Application forms for the farm and agriculture land classification are available from the county assessor’s office. Application forms for the open space and timber land classifications are available from either the county assessor’s office or by contacting the county legislative authority. Application forms are also available on the Department of Revenue’s web site at dor.wa.gov.

Where do I file the application?
An application for open space classification is filed with the county legislative authority.

An application for farm and agricultural land classification is filed with the assessor of the county where the property is located.

An application for timber land classification is filed with the county legislative authority. Timber land applications require that a timber management plan also be filed.

Is there an application fee?
The city or county legislative authority may, at their discretion, establish a processing fee to accompany each application. This fee must be in an amount that reasonably covers the processing costs of the application.

What happens after I file my application for the open space classification?
Applications for classification or reclassification as “open space land” are made to the appropriate agency or official called the “granting authority.” If the land is located in the county’s unincorporated area, the county legislative authority is the granting authority on the application. If the land is located within an incorporated area of the county, the application is acted upon by a joint county/city legislative authority consisting of three members of the county legislative authority and three members of the city legislative authority.

If the application is subject to a comprehensive plan that has been adopted by any city or county it shall be processed in the same manner in which an amendment to the comprehensive plan is processed. If the application is not subject to a comprehensive land use plan, a public hearing on the application will be conducted, but a notice announcing the hearing must be published at least 10 days prior to the hearing.

The granting authority either approves or rejects the application in whole or in part within six months of receiving the application. In determining whether an application made for classification or reclassification should be approved or denied, the granting authority may consider the benefits to the general welfare of preserving the current use of the property.

They may require that certain conditions be met including but not limited to the granting of easements.

If the application is approved, in whole or in part, the granting authority will, within five days of the approval date, send an Open Space Taxation Agreement to the applicant for signature showing the land classification and conditions imposed. The applicant may accept or reject the agreement. If the applicant accepts, he or she must sign and return the agreement to the granting authority within 30 days after receipt.

The approval or denial of the application for classification or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

Current use valuation will begin on January 1 of the year following the year the application was filed. The criteria for classification continue to apply after classification has been granted.
How does a public benefit rating system work?
If the county legislative authority has established a public benefit rating system (PBRS) for the open space classification, the criteria contained within the rating system govern the eligibility of the lands described in each application filed for that classification and the current use valuation of that land.

When a county creates or amends a PBRS, all classified open space land will be rated under the new system. A parcel that no longer qualifies for classification will not be removed from classification, but will be rated according to the PBRS. Within 30 days after receiving notification of the new value established by the PBRS, the owner may request removal of classification of the parcel without imposition of additional tax, interest, and penalty.

What happens after I file my application for farm and agricultural land classification?
The assessor will act on each application for classification or reclassification of farm and agricultural land with due regard to all relevant evidence, and may approve the application in whole or in part. Upon application for classification or reclassification, the assessor may require applicants to provide data regarding the use of such land, including the productivity of typical crops, sales receipts, federal income tax returns, other related income and expense data, and any other information relevant to the application.

The application will be considered approved unless the assessor notifies the applicant in writing prior to May 1 of the year following the year the application was made.

Within 10 days of the approval, the assessor submits the notice of approval to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

What is an "advisory committee"?
The county legislative authority must appoint a five member committee representing the active farming community within the county. This committee will serve in an advisory capacity to the assessor in implementing assessment guidelines as established by the Department of Revenue for the assessment of open space, farm and agricultural lands, and timber lands.

How do I appeal a denial of my farm and agricultural land application?
The owner may appeal the assessor’s denial to the board of equalization in the county where the property is located. The appeal must be filed with the board on or before July 1 of the year of the determination or within 30 days after the mailing of the notice of denial, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

What happens after I file my application for timber land classification?
Applications for current use timber land classification or reclassification are made to the county legislative authority. A timber management plan is required at the time of application or when a sale or transfer of timber land occurs and a notice of continuance is signed.

The application is acted upon after a public hearing in a manner similar to open space land classification within six months of receiving the application.

Approval or denial of an application is a legislative determination and is reviewable only for arbitrary and capricious action. Appeal can be made only to the superior court of the county where the application was filed.

The application form requires information about forest management, restocking, fire protection, insect and disease control, weed control, and any other summary of experience and activity that supports the growth and harvest of timber for commercial purposes.
Are there additional requirements once the application for classification or reclassification has been approved?
The owner of classified land must continue to meet the criteria established for classification, or the assessor may remove the land from the current use classification.

How is the value of classified land determined?
The assessor is required to maintain two values for each parcel that is classified. The first is the value that would be placed on the land if it was not classified. This is commonly referred to as the “fair market value.” The second is the current use land value based on its present use, not potential use, as classified by the granting authority.

Open space land located within a county that has adopted a public benefit rating system will be valued according to the criteria of the rating system.

In the absence of a rating system, the valuation will be no less than the lowest per acre value of classified farm and agricultural land in the county.

In determining the current use value of farm and agricultural land, the assessor considers the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years. This earning or productive capacity is the “net cash rental” and is capitalized by a “rate of interest” charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

Timber land is valued according to a schedule prepared by the Department of Revenue for the Timber Tax law, chapter 84.33 RCW.

When are taxes due on classified lands?
Land which is classified as open space, farm and agricultural, or timber land is assessed at its current use value and placed on the assessment rolls in the year following the year of application. Taxes on classified land are due and payable in the year following the year the land was valued at its current use and placed on the assessment rolls.

How long does the classification last?
The land continues in current use classification until a request for removal is made by the owner, the use of land no longer complies, or the ownership has changed and the new owner has not signed a Notice of Continuance. The notice of removal is recorded with the county auditor in the same manner as the recording of state tax liens on real property. Additional tax, interest, and penalties will apply if the land is removed and the removal does not meet one of the exceptions listed in RCW 84.34.108(6).

How do I withdraw from classification?
If intending to withdraw all or a portion of the land from classification after 10 years, the owner must give the county assessor two years prior notice. This notice can be filed after the eighth assessment year of the initial 10-year classification period. If a portion of a parcel is removed from classification, the remaining portion must meet the requirements of original classification unless the remaining parcel has different income criteria.

What happens after I file a request to withdraw?
Upon receipt of a request for withdrawal, the assessor notifies the granting authority that originally approved the classification, and, when two years have elapsed, the assessor withdraws the land from classification. The land withdrawn from classification is subject to an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on that land had it not been classified. The additional tax is payable for the last seven years, plus interest at the same rate as charged on delinquent property taxes.
What happens if the classified land is sold or transferred?
When classified land is sold or transferred, the seller or transferor becomes liable at the time of sale for the additional tax, interest, and penalty unless the new owner(s) signs the Notice of Continuance which is attached to or shown on the real estate excise tax affidavit. The county auditor cannot accept an instrument of conveyance on any classified land unless the Notice of Continuance has been signed or the additional tax, interest, and penalty has been paid. The assessor determines if the land qualifies for continued classification.

What if I want to change the use of my classified property?
An owner changing the use of land from a classified use must notify the county assessor within 60 days of this action. The assessor will remove the land from classified status and impose an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on that land had it not been classified. The additional tax is payable for the last seven years, plus interest at the same rate as charged on delinquent property taxes, plus a penalty of 20 percent of the total amount.

How are taxes assessed if my property is classified for only part of a year?
Assessed valuation before and after removal of classification will be listed and allocated according to that part of the year to which each assessed valuation applies.

If the assessor removes my land from classification, may I appeal?
Within 30 days after the land is removed from classification, the assessor must notify the owner in writing explaining the reasons for removal. The owner may file an appeal of the removal from classification to the county board of equalization on or before July 1 of the year of the determination, or within 30 days of the date the notice was mailed by the assessor or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

Upon removal from classification, what taxes are due?
At the time the land is removed from classification, it becomes subject to any additional tax, applicable interest, and penalty that are due and payable to the county treasurer within 30 days after the owner is notified.

What if the additional taxes are not paid?
Any additional tax, applicable interest, and penalty become a lien on the land at the time the land is removed from classification. This lien has priority over any other encumbrance on the land. Such a lien may be foreclosed upon expiration of the same period after delinquency in the same manner as delinquent real property taxes.

What is done with the additional tax, interest, and penalty I pay on classified land?
Upon collection, the additional tax is distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The applicable interest and penalties are distributed to the county’s current expense fund.
How do I change the classification of my property?
Land may be reclassified, upon request by the owner, subject to all applicable qualifications for each classification, without additional tax, interest, and penalty for the following:

1. Land classified as farm and agricultural land may be reclassified to timber land; timber land may be reclassified to farm and agricultural land.
2. Land classified as either farm and agricultural land or timber land under chapter 84.34 RCW, or forest land under chapter 84.33 RCW may be reclassified to open space land.
3. Land classified as farm and agricultural land or timber land may be reclassified to forest land under chapter 84.33 RCW.
4. Land previously classified as farm and agricultural land may be reclassified to open space land as “farm and agricultural conservation land” and subsequently be reclassified back to farm and agricultural land.

Applications for reclassification are acted upon in the same manner as approvals for initial classification. The county assessor approves all applications for farm and agricultural classifications and reclassifications. The granting authority approves all land classifications or reclassifications for timber land and open space land. Land less than 20 acres being reclassified into farm and agricultural land from open space “farm and agricultural conservation land,” timber land, or forest land may have the income requirements deferred for a period of up to five years from the date of the reclassification.

Under what circumstances can my property be removed from classification without additional tax, interest, and penalty?
The additional tax, applicable interest, and penalty are not imposed if the removal from classification results solely from one of these actions:

1. Land is transferred to a government entity in exchange for other land located within the state of Washington.
2. Land is taken through the exercise of the power of eminent domain, or land is sold or transferred to an entity having the power of eminent domain after receiving notification in writing or by other official action that they anticipated such action.
3. Land use changes because of a natural disaster.
4. The present use of the land is disallowed because of an official action by an agency of the state, county, or city.
5. Land is transferred to a church that qualifies for an exemption under RCW 84.36.020.
6. Property interests are acquired by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for conservation purposes.
7. Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(f), on which housing for employees and/or principal place of residence is sited.
8. Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.
9. The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120.
10. The creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040.
11. The sale or transfer of land within two years after the death of an owner who held at least a 50 percent interest in the land if the land has been assessed and valued as designated forest land under chapter 84.33 RCW, or classified under chapter 84.34 RCW continuously since 1993.
12. Removal of land because it was classified in error, by the granting authority, through no fault of the owner.
Is supporting information required for continued classification?
The assessor may require the owner of classified land to submit data regarding the use of the land, productivity of typical crops, income and expense data, and similar information regarding continued eligibility.

Laws and Rules
It is helpful to read the complete laws, Revised Code of Washington, chapter 84.33 and 84.34 (RCW) and rules, Washington Administrative Code, chapter 458-30 (WAC) to understand requirements of the classifications and the tax liabilities incurred.

Need More Information?
Requirements and the manner for making the application for current use is available at the county assessor’s office.

For general information contact:
- Department of Revenue,
  Property Tax Division
  P.O. Box 47471
  Olympia, Washington 98504-7471
  (360) 534-1400

- Website dor.wa.gov

- Telephone Information Center
  1-800-647-7706

- To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715.

- Teletype (TTY) users please call 1-800-451-7985.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<tr>
<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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<td>Matt Aamot</td>
<td>M.A.</td>
<td>8/27/2013</td>
<td></td>
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Division Head:
Mark Personius

Dept. Head:
Sam Ryan

Prosecutor:
Royce Buckingham

Purchasing/Budget:

Executive:
Jack Louws

09-03-13

TITILE OF DOCUMENT:
Resolution relating to a schedule for joint County and city review of urban growth areas.

ATTACHMENTS:
1. Staff Memo
2. Draft Resolution

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( X ) NO

Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The Growth Management Act (GMA) requires the County, in conjunction with the cities, to complete the urban growth area (UGA) review by June 2016. The GMA, County-wide Planning Policies and inter-local agreements indicate that the UGA review process should be coordinated between the County and cities. Therefore, a resolution relating to a schedule for joint County and city review of UGAs has been developed to facilitate coordinated review.

COMMITTEE ACTION:                                  COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
August 27, 2013

To: The Honorable Jack Louws, Whatcom County Executive
   The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Schedule for Joint County and City Review of UGAs

As you know, the Growth Management Act (GMA) indicates that county and city comprehensive plans must be coordinated and consistent (RCW 36.70A.100). The GMA also requires that Whatcom County, in conjunction with the cities, complete the urban growth area (UGA) review by June 2016 (RCW 36.70A.130).

Interlocal agreements between Whatcom County and the cities concerning planning, annexation and development within the UGAs were signed in 2012. Section 2.A of these interlocal agreements, relating to inter-jurisdictional coordination, states that the County and the cities will coordinate the comprehensive plan and UGA reviews required by the GMA through “... Approving, by resolution of the respective legislative bodies, a schedule for joint County and City review of the UGA. ...”

County and city planners have developed a draft resolution format and schedule for consideration by each jurisdiction in order to facilitate coordination of the UGA review. The draft resolution sets forth main tasks for 2013 – 2016 to guide coordinated planning efforts. However, because time-lines may change over the span of this multi-year project, the schedule is general in nature and the resolution recognizes the possibility of departing from the schedule.

Thank you for your consideration of this resolution.
RESOLUTION NO. _________

RELATING TO A SCHEDULE FOR JOINT COUNTY AND CITY REVIEW OF UGAs

WHEREAS, the Growth Management Act (GMA) requires county and city comprehensive plans to be coordinated and consistent (RCW 36.70A.100); and

WHEREAS, the GMA requires Whatcom County and cities located in the County to review and, if needed, update their respective comprehensive plans by June 30, 2016 (RCW 36.70A.130); and

WHEREAS, the GMA, county-wide planning policies and inter-local agreements indicate that review of urban growth areas (UGAs) should be coordinated between the County and the cities; and

WHEREAS, the GMA states that UGAs must be revised to accommodate the urban growth projected to occur in the succeeding 20-year planning period by June 30, 2016 (RCW 36.70A.130); and

WHEREAS, County/city coordination of time-frames and process is needed in the review of UGAs.

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby agrees that the County and cities should utilize the attached UGA Review Schedule (Exhibit A) to guide coordinated planning efforts for the UGA review. The schedule is general in nature, and failure to strictly adhere to the schedule shall not be deemed to be a failure to comply with the GMA.

APPROVED this _____ day of ________ _______ 2013.

ATTEST

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
## EXHIBIT A

<table>
<thead>
<tr>
<th>Year</th>
<th>Primary Activities</th>
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| 2013 | • Meetings of City & County elected officials.  
      • Planning Commission briefings and opportunity for public comment.  
      • Initial review and preliminary Planning Commission recommendations for population and employment projections and allocations to urban growth areas (UGAs).  
      • Land capacity analysis methodology review. |
| 2014 | • Meetings of City & County elected officials.  
      • Planning Commission briefings and opportunity for public comment.  
      • Non-binding multi-jurisdictional resolution regarding allocation of population and employment growth to UGAs.  
      • Land capacity analysis results.  
      • Population and employment allocations to transportation analysis zones and special purpose districts.  
      • Transportation model results.  
      • Develop draft capital facility plans.  
      • Commence SEPA review (likely including development of a draft environmental impact statement). |
| 2015 | • Meetings of City & County elected officials.  
      • City proposals regarding UGA growth allocations and UGA boundaries.  
      • Land capacity analysis results.  
      • Complete SEPA review (likely including development of a final environmental impact statement).  
      • Planning Commission public hearings and recommendations. |
| 2016 | • Meetings of City & County elected officials.  
      • Land capacity analysis results.  
      • City council and County Council public hearings, review and adoption of respective comprehensive plan and capital facility plans. |
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 7:05 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(7:05:36 PM)

Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner, Carl Weimer and Pete Kremen.

Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

Kershner announced the following items were discussed in the Special Committee of the Whole meeting:

1. Discussion of a proposed ordinance adopting amendments to the Whatcom County Code to allow agricultural parcel reconfiguration and other changes affecting the Agriculture Zone (AB2013-128A)

2. Discussion of a proposed ordinance adopting amendments to the Whatcom County Code to allow packinghouses in the Agriculture Zoning District (AB2012-300B)

3. Discussion regarding ongoing issues associated with tubing on the south fork of the Nooksack River (AB2013-236)

Kershner announced there was discussion with Senior Deputy Prosecutor Karen Frakes regarding pending litigation, Hirst et al v. Whatcom County, GMHB Case No. 12-2-0013 (AB2013-018) in executive session during the Committee of the Whole meeting.

Crawford moved to appeal the Growth Management Hearings Board final decision and order in case No. 12-2-0013 as it pertains to water quality and water quantity.

The motion carried by the following vote:

Ayes: Brenner, Crawford, Knutzen, Kershner and Kremen (5)

Nays: Mann and Weimer (2)

Absent: None (0)
DISCLAIMER: This document is a draft and is provided as a courtesy. This document is not to be considered as the final minutes. All information contained herein is subject to change upon further review and approval by the Whatcom County Council.

MINUTES CONSENT

Brenner moved to approve the Minutes Consent items.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

Nays: None (0)

1. SURFACE WATER WORK SESSION FOR MAY 14, 2013

2. SPECIAL COMMITTEE OF THE WHOLE (EXECUTIVE SESSION) FOR MAY 21, 2013

3. COMMITTEE OF THE WHOLE FOR MAY 21, 2013

4. SPECIAL COMMITTEE OF THE WHOLE (9:15 A.M.) FOR JUNE 4, 2013

5. COMMITTEE OF THE WHOLE FOR JUNE 4, 2013

PUBLIC HEARINGS

1. ORDINANCE AMENDING THE WHATCOM COUNTY ZONING CODE TITLE 20 TO CREATE CHAPTER 20.51, LAKE WHATCOM WATERSHED OVERLAY DISTRICT, AND RELATED COMPREHENSIVE PLAN AMENDMENTS (AB2013-102A)

Peter Gill, Planning and Development Services Department, submitted and read from a presentation (on file).

(7:22:46 PM)

Kershner opened the public hearing, and the following people spoke:

Chris Weitzel submitted and read from a handout (on file) and stated the Sudden Valley community has reduced its density by about 25 percent. They’ve had water retention systems since the mid-1980’s with no failures. They are already spending money on measures for water protection. Exclude Sudden Valley from the ordinance.

Kris Ungern stated the goal to reduce phosphorous by 87 percent isn’t reasonable. Existing homeowners will bear the brunt of the cost to achieve these goals. The use of septic tanks, periodic storm events, and the ability to measure phosphorus before and after improvements are not addressed.

Larry Quinlivan stated he agrees with the previous speaker. They are pricing all but the wealthy out of the watershed. There must be clarity and predictability. This plan ignores existing septic systems. There are no silt fences along the slope at the County’s park property. The heavy burdens are put all on the property owners.
Perry Eskridge, Whatcom County Association of Realtors, stated the appraisal numbers are too high. Per the City’s and County’s own reports, the Silver Beach neighborhood deposits about .28 pounds of phosphorous per acre per year into Lake Whatcom. Smith Creek deposits .11 pounds per acre per year into Lake Whatcom. He showed the equivalent amount in table salt. It costs $25,000 per property owner to reduce that amount of phosphorous. The purpose of this is so the City and County can say they’ve done everything possible to prevent anything new from coming into the lake. The City of Bellingham diversion deposits 300 pounds of phosphorus in three days. All of Austin Creek for one year deposits 44 pounds. That equals .007 pounds per acre per year for each of the 5300 acres in the Austin Creek sub-basin. The minimum estimate from engineers for these measures for a homeowner is about $25,000. The average value of a Sudden Valley lot is about $25,000. Reducing the value by the cost of a system is a functional value of zero. Reducing private property rights to zero while permitting that to continue through the City of Bellingham isn’t success.

John Hutchings, City of Bellingham Public Works Department, stated he will provide context about recent public concerns about phosphorus contributions from the City’s diversion into Lake Whatcom. The diversion provides redundancy and supplementation of the City’s primary Lake Whatcom water source through a system of tunnel pipelines and open channels that move water from the middle fork into Mirror Lake, through the Anderson Creek watershed, and ultimately into Lake Whatcom at South Bay. The amount and manner of diversion has changed dramatically over the past years resulting in only a fraction of the historical diversions under today’s highly managed regime. These changes were caused by a variety of pressures that ranged from changes in the supply and the needs of the City, the need to keep water in the river during low flows, and phosphorous loading in Lake Whatcom.

Diversion rates today are about 20 percent less than they were when the total maximum daily load (TMDL) was developed originally. Additionally, the diversion management avoids the high sediment loading in the river and coincides with salmon recovery efforts in the middle fork and when suspended sediments prevent the City from diverting into Lake Whatcom. The TMDL indicates the diversion contributes a small fraction of the phosphorous they collectively must address in the watershed. The City leadership recognizes and is acting to reduce these amounts further.

On the heels of evidence that sediment enters the lake from the Anderson Creek watershed, which is a combination of what comes out of the watershed itself and the middle fork, the City began a rigorous monitoring effort and has retained the necessary expertise to tune up its diversion protocols again. He expects that analysis to be done under the auspices of the Lake Whatcom management program, with Whatcom County, the Water and Sewer District, and Sudden Valley participating as always.

In conclusion, the City of Bellingham has a formidable record in pursuit of nutrient management in the watershed. That record extends to developed lands under the City’s jurisdiction as well as owned facilities. Operation of the diversion, regardless that it’s contribution may be an order of magnitude lower than the sum total of development in the watershed, needs to continue to come under no less scrutiny than those others. It’s their collective best interest to do so. Through the Lake Whatcom management program, that discussion will continue.
Brenner asked the City’s estimate of what is coming through per acre. Hutchings stated the TMDL document indicates about 645 pounds per year from the diversion. Be careful about how they use these numbers. It is based on a small data set. Compare that to the difference between full build out, for example, in the TMDL roll back, the sum of development and all the other reductions that need to be made, it’s on the order of about 7,300 pounds per acre, or compare the difference between the 2003 level of development and the full build out scenario, which is about 5,000 pounds per acre per year. When looking at it that way, they are talking about an order of magnitude difference between the City’s diversion, under the TMDL scenario. The diversion is about 20 percent less than that today and is managed, when operationally possible, around those sediment loads that come off the glacier in the spring. There’s no question the City is committed to improving how it does business out there. The City will continue its effort to improve its operation of the facility. That has to happen with public discussion because of all the factors affecting the lake.

Crawford stated the rough estimate used for the TMDL study was 645 pounds per year, which loads 61,945 teaspoons per year into Lake Whatcom. The rules they pass tonight are to remove one teaspoon per lot.

Steve Hood, Department of Ecology, stated that in the past, he suggested that the County would like to grant relief to small landowners through a water quality offset scheme, with Department of Ecology support. He no longer believes that’s an option they can unequivocally support. Comments he received from Whatcom County on the TMDL suggests that meeting the 87 percent reduction from existing development is not considered feasible. If that’s true, if the 87 percent reduction is not feasible, they should look at how much of that excess capacity should be reserved to address some of the existing development. Any offset system should consider existing homeowners as well as new development. Make sure they do the best to support that reduction from both existing homeowners and new development.

Brenner asked if they have to enact a retrofit program or incentives. Hood stated eventually consider how to achieve a reduction of 87 percent of excess phosphorous on all existing properties, assuming they allow no new phosphorous from new development. If the County believes the 87 percent reduction is not achievable, perhaps excess community treatment should be best applied to existing property owners. Until they have the full picture, it’s perhaps too early to allocate those over-controlled resources.

Kershner asked if Mr. Hood is saying something better or worse.

Crawford asked if he’s saying that they would apply this to the 61,000 teaspoons coming from the City of Bellingham diversion. Hood stated the City diversion was considered part of the background. They don’t call it a natural condition. They call it an estimate of a natural condition. A reason they determined the City’s diversion would remain the way it was in both their estimate of a natural condition and in the existing condition throughout the rollbacks was that a TMDL cannot abrogate a water right. The City is exercising its water right. Ecology can’t tell the City it has to bring only the water, not the phosphorous, because it’s not necessarily feasible.

Crawford asked if a water right grants one a right to pollute with phosphorous. Hood stated it grants one a right to divert that water and put it into the lake.
Crawford asked if the right allows the water to be diverted with pollutants in it. Hood stated it does. This is a discussion that’s been happening at the Department of Ecology since he started this project. They don’t write permits for diversions of water inter-basin transfers. That diversion of water, with its naturally-occurring, higher than average phosphorous for Lake Whatcom, is allowed to be transferred into the lake without a permit because Washington State doesn’t permit inter-basin transfers. It’s not considered a pollutant, because they are not allowed to abrogate their water right. The phosphorous that is naturally-occurring in the middle fork would not be a pollutant. If someone drops dog waste in the middle fork, they could regulate it. The phosphorous from the middle fork that is being diverted is not being regulated by permit at this time.

That phosphorous was entered in under natural conditions and under existing conditions. They spent a lot of time discussing whether they should do something different for the future in terms of the quantity of water. The City has reduced the amount diverted by about 20 percent. No one really understood what that water right exercise would be, so they left it static as what it is. If they had knowledge that said it was available to remove 50 percent of the phosphorous, they would say the natural condition would also have that 50 percent phosphorous removed, then they would say they have to remove 50 percent of the phosphorous and reevaluate where they are against natural conditions.

Kershner asked if they can’t use the 20 percent reduction as a credit to meeting the TMDL. Hood stated that if they counted it as a credit, they would be forced to say that if it can be removed without interfering with the water right, they’d have to reassess the natural condition. If they remove half, they get better natural condition and a better target TMDL, and they would have less phosphorous in the lake, but it would come at the price of what they have as added phosphorous, would perhaps be very similar.

These are the regulations he has to work with. They are comparing themselves to a natural condition, but are allowed to put that diversion in as part of that natural condition. Similarly, the dam on the lake that holds the water up to that elevation was also included. They did an analysis shown in Volume I on the impact. The diversion was removed. The withdrawals were removed. There was a natural hydrology evaluation. They can look at that and try to sort out what that might mean. It's a different lake. It's got a different amount of water in it over the course of the year.

Knutzen asked if Mr. Hood is familiar with what they did in Clark County. They took a holistic approach, an entropy-based watershed management. He asked if that is an option to consider. They have a water quality offset in their model. Hood stated he was previously happy to look at just new development. The comment that they can’t meet the 87 percent reduction changed his mind. The State law allows a water quality offset. They need to look at where that offset would be best applied and if they are foregoing their ability to meet the 87 percent reduction from the existing development. If an offset scheme was holistically looked at and if they are meeting all their obligations, he could support it. If they’re looking at just the new development and not figuring out how to address existing development, his enthusiasm drops quickly.

Brenner stated that for many billions of dollars, they could divert and clean the water before it gets into the lake. She asked why the State law says a water right can be dirty water.
Crawford asked how Ecology determined it was not feasible to remove phosphorous at the diversion. Hood stated the direction he was given that, if naturally-occurring phosphorous in the middle fork that is transferred from one basin to another, they do not regulate that basin if that transfer is being done under a water right. They have looked at how to reduce how much phosphorous comes with that water. They’ve not looked at how to adjust the natural condition to reflect that. Because the natural background is based on the estimated phosphorous coming from the diversion, if they can change how the diversion operates and reduce the phosphorous, they may be forced to say the natural condition no longer reflects the best estimate of natural condition with their diverted water, because their diverted water is now going to have less phosphorous. They would be back to looking at a somewhat cleaner estimate of the natural condition, and then try to match a small change from that cleaner condition. The result for the individual landowner would likely be making a similar reduction.

Crawford stated it would, but it wouldn’t be 87 percent. Hood stated it might go up. As the lake gets more and more eutrophic under its natural condition, it becomes more and more sensitive. It wouldn’t increase greatly, but it would be similar or slightly larger.

Brenner asked why the County has any liability or responsibility for doing something on Swift Creek, which is natural. Hood stated he cannot speak to the Toxic Cleanup Program. When the natural condition prevents the water quality standard from being met, the natural condition becomes the criteria. For lakes, they allow a small change from the natural condition. If they learn a better way to estimate the natural condition, they would compare whether they are meeting the goal of a small change from that natural condition.

Dan Dahlgren stated he agrees with comments from Councilmember Crawford and Mr. Eskridge. They are putting a great burden of money on the landowners in the watershed. How they deal with this issue is arbitrary. Don’t make a distinction between naturally-occurring phosphorous and phosphorous that comes from a developed lot.

Wendy Harris stated create updated stormwater standards. The proposal needs to go further in protecting Lake Whatcom. Restrict impervious surface development to ten percent of the lot and impose native tree cover of 65 percent. Emphasize holistic watershed-based ecosystem processes, not a mechanistic engineered approach. Clean water is the result of a healthy lake. Stormwater solutions perform limited ecological functions. If the only limit on watershed growth is the ability to mitigate stormwater impacts, the watershed will be permitted to exceed its ability to sustain other ecological functions for a healthy lake. Move beyond a management plan.

Betsy Brinson stated she agrees with comments from Mr. Eskridge and Councilmember Crawford. There is no difference between naturally-occurring phosphorous and phosphorous from development. Go after the real problems, which include the diversion and county roads. Ask homeowners to voluntarily cooperate.

Kris Halterman submitted a handout (on file) and stated the cost per homeowner is a lot compared to the low benefit received. Lake quality is stable and improving. Phosphorous levels are going down. Demand recent studies showing the levels of phosphorous and dissolved oxygen.
Kate Blystone, Futurewise Whatcom, stated she supports the ordinance. Clusters should be no more than eight units, not ten units. Her letter suggests changes to 20.51.330(2)(e). She supports the full infiltrate and full dispersion criteria in 20.51.422. Add a standard of limiting impervious surface to no greater than ten percent of the developed area. Care for their drinking water source. Generally, she supports the ordinance.

Linda Twitchell, Building Industry Association of Whatcom County, stated phosphorous studies are taken from the two driest years they’ve had in the last few decades. Now she hears that some phosphorous is a pollutant, and some isn’t. Her association is interested in clean drinking water and a clean lake. The question is how clean is the lake and whether the lake is in fact polluted. If there is a pollution problem, fix it. If homeowners must pay $25,000 to fix one teaspoon per year, a better option may be regional collection and treatment, perhaps in cooperation with the City.

Dan Pope stated the proposal bans land from being used for food production, which is not in the public interest.

Jeanne Quinlivan stated they are just going after the homeowners. They can’t separate out the phosphorous coming out of the diversion.

Dave Onkels referenced the 2012 Lake Whatcom Report from the Institute for Watershed Studies and stated 13.7 percent of the inputs into the lake comes from the diversion. Total phosphorous median concentrations in the summer have declined by more than half in basins one and two, and have declined in basins three and four. Median summer near surface chlorophyll concentrations have declined by almost half for two years. Median summer near surface algae counts have declined for several years. There are many other declining pollutant factors. For 20 years there has been no trend in minimum dissolved oxygen in August in basins one and two. The first four data points appear to be outliers. Their inclusion is a mystery.

Hearing no one else, Kershner closed the public hearing.

(8:16:38 PM)

Brenner stated have a discussion in committee or Committee of the Whole for more clarification from staff. She moved to refer to the Natural Resources Committee.

Crawford asked if it’s urgent to adopt the ordinance and if there has been a surge in applications. He asked about issues with adhering to this prescription for complying with the TMDL. Gill stated they aren’t doing this just because of the TMDL. They want better code for how to deal with stormwater runoff. The code is bifurcated and confusing. It would be nice if the rules were in effect for the building season around Lake Whatcom. The Lake Whatcom moratorium on subdivisions would have to be extended if the Council doesn’t work on this tonight. There are no reasons to adopt it tonight.

Kremen asked if there are problems with addressing it in Natural Resources Committee in the next few weeks. Gill stated he doesn’t think there are. He doesn’t know about the Hearings Board compliance order.
Mann asked what specific information they want more of.

Kershner stated a lot of information was presented tonight that they may want to ask questions about, including the diversion issue, the amount of phosphorous they’re saving, the requirements to comply with the TMDL and national pollutant discharge elimination system (NPDES), the low impact development (LID) standards, and regulations on existing development.

Crawford stated also look at the language referenced by Futurewise regarding section 20.51.330(2)(e). Have a discussion with Mr. Hood to get clarity on what he said about reducing the background level through the middle fork division, and what that means per lot. Incrementally, they would have to go through the mathematical exercise to understand if that significant of a reduction in phosphorous means that the percentage of reduction in phosphorous from development would need to be reduced the same or go up. Staff presented information on Assessor values in the Silver Beach neighborhood, which is new information to him. Hand that information over to the real estate professionals. Compare the impact to a $15,000 Sudden Valley lot with the impact to a $200,000 Silver Beach lot.

Weimer stated he is against the motion. They did hear some new things this evening. He’d like to understand if there is a way to deal with the diversion. However, they didn’t hear anything tonight that should make them not want to pass this tonight. There is no new surprise. This is dealing with new development, which is a small portion of the problem in the lake. They promised the City and Ecology the Council would do this two years ago. This is a small piece of the fix. If they took out all 600 pounds from diversion plus this, they still have to deal with existing development. None of this is new.

Brenner stated that when the Council made that promise to Ecology, they were told it wouldn’t be a big deal or be expensive. Ecology is now saying that this isn’t feasible. They heard information tonight that pollution levels are trending better if they don’t include the first four years in the calculation.

Kremen stated he prefers to deal with the issue sooner rather than later. He can vote on this tonight. Because a lot of information has come forward tonight, he is willing to support the amendment if they commit to voting on this at the next council meeting in three weeks. He suggested a friendly amendment for the Council to commit to voting on this in three weeks.

Brenner did not accept the friendly amendment.

Crawford stated they were told tonight, based on the current questions that have been brought up about the middle fork diversion, that the City is now engaging in consultants to look at it. He asked if they would still do this if they knew they had good methods for having a greater effect and many more benefits for the money spent with other plans. The situation is evolving. Look at the single source they can dam, filter, control, and mitigate. Go after the diversion, which will have a bigger impact on the lake. There is no urgency tonight. Continue to press those questions. Do something to impact the lake more than one teaspoon at a time.
Mann asked about 87 percent not being feasible. Hood stated Whatcom County told him they didn’t believe that 87 percent was feasible. His support for the offsets was based on the County attacking the 87 percent after they dealt with the new development. The idea of addressing the new development first was to not dig them into a deeper hole. After that, go after the 87 percent. It’s a good idea to put the resources where they will do the best. However, in light of the concern they might not meet the 87 percent, look at the whole picture, not just new development.

Mann asked if Mr. Hood said that Ecology doesn’t have jurisdiction over the diversion’s phosphorous. Hood stated they don’t regulate inter-basin transfers. Phosphorous is a pollutant, but is also necessary to a certain level. Match the natural level of phosphorous. The phosphorous from the middle fork is different. It’s mostly inorganic phosphorous attached to minerals. It’s not taken up as easily. It takes longer and more energy than the organic phosphorous. On the warm summer days when the phosphorous comes in from the diversion, the water is really cold. It’s glacier water. As it flows into the lake, it sinks down and goes to the bottom. It’s not in the photic zone, and it’s probably not as active. Over the long term, the diversion quantity dropped and water quality declined. The Environmental Protection Agency (EPA) identified the middle fork diversion as the biggest potential for a water quality trade. Ecology said it isn’t available for trade. If they can reduce the phosphorous in that diversion, it should adjust the natural condition.

Jack Louws, County Executive, stated the TMDL study started in 2009. County interaction with Ecology since 2009 was sporadic until the report was released a few months ago. The County sent a letter recently that said they need answers to questions before they can figure out whether it can come into compliance with the TMDL. They also had a meeting of various departments and Ecology staff. The Director indicated Ecology would work with Whatcom County as they work through these issues, before issuing a final report on TMDL. He would like the opportunity to talk to Mr. Hood and Ecology representatives about the TMDL report.

Crawford stated the current annual loading is 8,708 pounds of phosphorous going into the lake from development and natural conditions. The target of natural conditions is 5,575 pounds. The requested reduction is 3,133 pounds.

Chris Brueske, Public Works Department, stated the County commented on the TMDL first draft in 2009. The County raised technical and procedural issues that were complicated. Those comments were largely not addressed by Ecology in 2009. The comments staff resubmitted last month were essentially the same. The comment letter asked for Ecology to sit down with the County and work through these very technical questions and address them. Don’t gloss over them. That will maximize the County’s chance of implementing the TMDL successfully. Certain technical issues need to be resolved. They asked the Director of Ecology to commit to sitting down with the County, not sending out a comment sheet that largely ignores the County’s comments and sending it on to EPA for finalizing.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner and Kremen (6)

Nays: Weimer (1)
2. ORDINANCE ESTABLISHING THE SUPERIOR COURT FOURTH JUDGE COURTROOM RENOVATION PROJECT AND ESTABLISHING A PROJECT BASED BUDGET FOR THE FOURTH JUDGE COURTROOM RENOVATION PROJECT (AB2013-208) (8:43:13 PM)

Jack Louws, County Executive, gave a staff report and stated the fourth judge is planned to begin by January 1, 2015.

Kershner opened the public hearing, and the following person spoke:

Ellen Baker stated she supports the ordinance and hopes this moves forward quickly.

Hearing no one else, Kershner closed the public hearing.

(8:45:42 PM)

Kremen moved to adopt the ordinance.

Brenner stated she has mixed feelings if the County doesn’t receive money from the State, but they still have to make improvements.

Crawford stated the Bar Association pushed for this a number of years ago. Look into whether the National Bar Association has available grants.

Louws stated typically the local jurisdiction provides facilities and support staff for each judge. The State pays half the wages and the entire benefit package. The County won’t get state funding to help with construction. The Governor will select the first judge until the election cycle.

Kremen stated the County will be able to realize economic benefits by reducing one or two commissioners. Louws stated they aren’t planning to reduce the number of commissioners. The judges have committed to video- and audio-recording to reduce staff levels.

Kremen stated take a look at how many commissioners they need compared to the population base. They may be able to reduce by at least one commissioner.

Brenner stated the County has jobs that go away by attrition. If some jobs are not as essential as this job, the County must reconsider and balance its priorities, which may allow them to make it revenue neutral by the time the new judge is installed.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

Nays: None (0)

3. ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20, THE OFFICIAL WHATCOM COUNTY ZONING MAPS, AND THE WHATCOM COUNTY COMPREHENSIVE PLAN AND MAPS TO IMPLEMENT CHANGES RELATED TO RURAL LAND USE PLANNING (AB2013-180) (8:50:30 PM)
Gary Davis, Planning and Development Services Department, submitted and read from a staff report.

Knutzen asked if the prohibition of service connections along a water transmission main is for existing hookups. Davis stated he would look into it.

Kershner opened the public hearing, and the following people spoke:

Laura Lee Brakke stated use the money the County is spending to fight growth management on the new Superior Court judge instead. Don’t spend any more taxpayer money fighting a good law. Give the Growth Management Act (GMA) a chance to work. She is a party to Hirst, et al. It’s not a special interest. A special interest is when your property is listed in the body of an ordinance, and a lawyer is fighting on your behalf. Most citizens can’t keep up with this process. She’s not a special interest. Protect Whatcom County. Make sure laws are followed and salmon come back to the streams.

Brad Swanson, Belcher Swanson Law Firm, stated he speaks on behalf of Doug Pullar, the Boulos property, and the Smith Gardens property. Mr. Pullar submitted his supplemental declaration to the Council for its consideration. Adopt the ordinance.

Crawford asked how the correspondence today regarding Mr. Pullar ties with the Growth Management Act. Swanson stated Mr. Pullar is perfecting his record in case there is an appeal.

Kate Blystone, Futurewise Whatcom, referenced the letter she submitted today. She has concerns about rezones from rural, one unit per ten acres (R10A) to rural, one unit per five acres (R5A). She suggested adding criteria for the rezones to higher densities. The added criteria will protect rural character, as the Hearings Board ordered the County to do. Adopt staff’s recommendation for the rural neighborhoods and limited areas of more intense rural development (LAMIRDs). Clusters should not be greater than eight lots. She supports an extension of time for compliance.

David Stalheim stated he’s offended by comments the Council has made about him in public settings and by not listening to comments or reading materials. He is also perfecting his record. He submitted information on takings issues with respect to property owned by Mr. Boulos, who has chosen litigation over an optional compliance path. The Council chose building sizes in the Guide Meridian area that cause challenges. Get an extension and take time to work this out.

Wendy Harris stated they can’t opt out of the laws, which the Council majority does repeatedly. The Council must comply with and respect government at all levels. The Council ridicules the Hearings Board and those who challenge the Council. The Council mocks the system of government under which the councilmembers were elected. The Council is doing all this with someone else’s money. It’s time to stop protecting developers’ attempts to avoid laws that are meant to protect public health and safety. It’s time to come into compliance with the GMA.

Hearing no one else, Kershner closed the public hearing.

(9:14:57 PM)
**Crawford moved** to adopt the ordinance. He **moved** to amend the ordinance, section 20.36.305(3) to include an exclusion from lot clustering if served by water and sewer, “...reserve **unless public water and sewer are available.**” Someone left out an exception to being required to cluster if there is water and sewer. The Hearings Board did not comment on it and it was not part of the response to the Hearings Board. This will impact practically no one. The concern was brought up by lot owners who have been put on hold indefinitely. It is almost impossible for them to develop.

Brenner asked if that would be a substantive change.

Karen Frakes, Prosecutor’s Office, stated she doesn’t know right now. This has taken her by surprise.

Davis asked if the motion is the same or the opposite of what existed before.

Crawford stated it is the same as what was in place for short-term planning areas. Those property owners that had ten acres or more were not required to cluster if they had water and sewer. Now, those property owners would have to cluster, and they don’t talk about whether or not they have water and sewer.

Frakes asked if the motion is a change from what exists right now.

Crawford stated that is his intent.

Davis stated they no longer have short-term planning areas.

Frakes stated the urban growth area reserves are not the same thing as short-term planning areas.

Crawford stated some are the same.

Davis stated this used to be part of the UGA. Now it’s not. It’s part of an urban reserve. Short-term planning areas no longer exist.

**Crawford amended his motion and moved** to amend the ordinance, 20.36.305(3) to include an exclusion from lot clustering if served by water and sewer, “...reserve, public water and sewer are not available, and the property was previously contained within a designated “short-term planning area.”” Crawford stated someone tried to require clustering in long-term planning areas. Then short-term areas without public water and sewer were added. The property owners who contacted him believe they have an agreement with the City of Bellingham to extend services to the existing zoning. Under the old rule, they did not have to cluster. This change allows them to except out of the clustering requirement.

Davis stated a cluster reserve area can be developed after it goes into an urban growth area. The reserve area exists only as long as it’s in the rural area.
Frakes stated short-term planning areas don’t exist, and haven’t existed for some
time. That particular criteria hasn’t had any meaning, and they’re bringing that meaning
back to life. It does change things. It’s a substantive change.

Crawford withdrew the motion to amend. It’s a change to the situation for real
people in Whatcom County. It’s a change that has not been required by the Hearings Board
and has not been appealed to the Hearings Board. It is not responsive to the Hearings
Board orders. The past zoning criteria happened to be in today’s code. They’re talking
about language that currently exists. He can’t think of a way to allow the exception, and
they have a deadline to get this passed.

(9:47:25 PM)

Mann stated consider mediation. More may be gained in this process by sitting down
with folks and finding a path to compliance. They might get more than what they want
through mediation than through fighting.

Knutzen stated he does not support mediation, but may support arbitration.

Brenner stated they can still do mediation or arbitration. Don’t allow the clock to run
out.

Mann stated they offered tonight to allow the County to extend the deadline, which
would allow the County to look into Councilmember Crawford’s concern. They may get a
negotiated settlement with the Pullar and Boulos properties in.

Kershner stated the County has worked collaboratively. They’ve gone from 24 issues
to eight issues. They aren’t fighting. They are trying to come into compliance. Talk about
the issues before an appeal deadline looms ahead. The Council needs to pass this, which
takes care of the latest round of appeals. They are at the end of the process, not the
beginning of the process.

Mann stated he’s been advocating this approach for a long time. This ordinance
won’t get the County into compliance.

Kremen stated he was approached a long time ago by Mr. Stalheim to mediate this.
At the time, he was receptive to mediation. Unfortunately, the will of the Council at that
time was not conducive to mediation. There wasn’t enough support to go that route. He
agrees with Councilmember Kershner, they have tried to be reasonable and strike a
balance. They’ve achieved those things. He agrees with Councilmember Mann and has
doubts that this document will pass the Hearings Board. Whatcom County has tried to get
into compliance with the Growth Management Act, despite everyone’s perceptions. He
worked closely with Mr. Stalheim when he was Planning Director. The Council passed
something different than what the administration put forward. He had asked Mr. Stalheim
why it’s so hard for people to work with and get their permits from the Planning
Department. Mr. Stalheim told him that Whatcom County has the strictest land use
regulations in the state of Washington. The County has really tried to be more receptive
and get into compliance. The State legislature had no idea the hearings boards would
become unbridled with no accountability. This particular Hearings Board has overstepped
its bounds and been unreasonable. Despite all that, there may be merit and potential to
work with Futurewise and those opposing the County ordinances. They may be willing to compromise and get into compliance with the Growth Management Act.

Brenner stated she agrees with working with opponents, but it won’t take that much time to submit the appeal. Don’t allow this to keep dragging on. The County is in compliance with the Growth Management Act right now. The County is not in compliance with the political decision from a political board. They were supposed to be a mediation board. Deference is supposed to be given to the County unless it is clearly out of compliance. She’s never said anything rude to Futurewise or anyone else, and resents those comments. She said the Hearings Board is a political body, which it is. That’s a fact. She feels a threat was made tonight. She would like to work things out with them, but the County has given away people’s concerns and promises. She doesn’t want to try and work with them without filing the appeal, in case they can’t work it out and have to wait another six months.

Weimer stated they aren’t talking about an appeal here. They are trying to meet a compliance deadline with this ordinance. He agrees with Councilmembers Mann and Kremen about delaying the compliance deadline and having a discussion with them to find out what they can. He can’t vote for this tonight. The County will be found out of compliance on a couple of the issues in the ordinance. The County is spending money going back and forth. It makes more sense to have a conversation.

Mann stated he would like the Pullar, Boulos, and Smith Garden properties included, but the County will be voted out of compliance if they are included. If they had a settlement talk, he hopes they would be included.

Brenner stated the County won any time it appealed the Hearings Board to Superior Court. The County is in compliance with the GMA, not with the Hearings Board.

The motion carried by the following vote:

**Ayes:** Brenner, Crawford, Knutzen, Kershner and Kremen (5)

**Nays:** Mann and Weimer (2)

**OPEN SESSION**

*(10:06:04 PM)*

The following people spoke:

- John Lesow spoke about the Growth Management Hearings Board.
- David Stalheim spoke about his past comments and the Growth Management Hearings Board.
- Ellen Baker spoke about appealing the Growth Management Hearings Board decision regarding water resources.
- Peggy Uppiano spoke about the Growth Management Hearings Board.
- Kris Halterman spoke about the intent of the Growth Management Act.
- Lorraine Newman spoke about mediation on growth management issues.
CONSENT AGENDA

(10:18:21 PM)

Mann reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through 14.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner and Weimer (6)
Nays: None (0)
Absent: Kremen (out of the room) (1)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND THE OPPORTUNITY COUNCIL TO APPLY LEASE, RENT, AND USER FEES FROM THE OPERATION OF THE EAST WHATCOM REGIONAL RESOURCE CENTER TO THE PURCHASE OF NEEDED EQUIPMENT AND MATERIALS AND PROGRAMMING AT THE CENTER (AB2013-218)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND CASCADE VOCATIONAL SERVICES TO PROVIDE PATHWAYS TO EMPLOYMENT AND COMMUNITY ACCESS SERVICES TO ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT NOT TO EXCEED $741,899 (AB2013-219)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WASHINGTON VOCATIONAL SERVICES TO PROVIDE PATHWAYS TO EMPLOYMENT AND COMMUNITY ACCESS SERVICES TO ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT ESTIMATED TO BE $6,205 (AB2013-220)

4. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WHATCOM COUNTY COUNCIL ON AGING TO PROVIDE PATHWAYS TO EMPLOYMENT AND COMMUNITY ACCESS SERVICES TO ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT ESTIMATED TO BE $23,365 (AB2013-221)

5. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND SERVICE ALTERNATIVES, INC. TO PROVIDE PATHWAYS TO EMPLOYMENT AND COMMUNITY ACCESS SERVICES TO ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT ESTIMATED TO BE $375,450 (AB2013-222)

6. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WORK OPPORTUNITIES TO PROVIDE PATHWAYS TO EMPLOYMENT AND COMMUNITY ACCESS SERVICES TO ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT ESTIMATED TO BE $293,266 (AB2013-223)
7. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND KULSHAN SUPPORTED EMPLOYMENT TO PROVIDE PATHWAYS TO EMPLOYMENT AND COMMUNITY ACCESS SERVICES TO ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT ESTIMATED TO BE $749,599 (AB2013-224)

8. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND ADVANCEMENT NORTHWEST TO PROVIDE PATHWAYS TO EMPLOYMENT AND COMMUNITY ACCESS SERVICES TO ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT ESTIMATED TO BE $7,584 (AB2013-225)

9. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND FHB CONSULTING FOR CONSULTANT SERVICES TO IMPLEMENT PHASE II OF THE AG-WATERSHED PILOT PROJECT, IN THE AMOUNT OF $115,560, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $218,519 (AB2013-226)

10. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WILSON ENGINEERING FOR CONSTRUCTION SUPPORT SERVICES FOR THE CORONADO-FREEMONT STORMWATER IMPROVEMENTS PROJECT, IN THE AMOUNT OF $89,783 (AB2013-227)

11. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND STREMLER GRAVEL, INC., AS LOW BIDDER, FOR THE CORONADO-FREMONT STORMWATER IMPROVEMENTS PROJECT, IN THE AMOUNT OF $595,238.40 (AB2013-228)

12. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND NORTHWEST YOUTH SERVICES FOR HOUSING SERVICES TO HOMELESS YOUTH, IN THE AMOUNT OF $20,000, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $146,600 (AB2013-229)

13. RESOLUTION AMENDING CRP#912004 AND AUTHORIZING ADDITIONAL FUNDS FOR THE AWARD OF A CONTRACT BETWEEN WHATCOM COUNTY AND CULBERTSON MARINE CONSTRUCTION, AS LOW BIDDER, FOR THE GOOSEBERRY POINT FERRY WINGWALL REPLACEMENT, IN THE AMOUNT OF $651,326.59 (AB2013-230)

14. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONSULTANT AGREEMENT BETWEEN WHATCOM COUNTY AND SARGENT ENGINEERS FOR DESIGN OF THE HANNEGAN ROAD TEN-MILE CREEK BRIDGE NO. 236 REPLACEMENT PROJECT, IN THE AMOUNT OF $101,456 (AB2013-231)

OTHER ITEMS
1. RESOLUTION ACCEPTING THE WHATCOM COUNTY AGRICULTURAL LAND COVER ANALYSIS AND REVISIONS OF THE RURAL LAND STUDY AREAS (DISCUSSION TO INCLUDE AN AGRICULTURAL ADVISORY COMMITTEE REPORT ON ACTIVITIES) (AB2013-110)

Weimer reported for the Natural Resources Committee and moved to approve the resolution.

The motion carried by the following vote:

Ayes: Brenner, Mann, Knutzen, Kershner and Weimer (5)

Nays: None (0)

Absent: Crawford and Kremen (both out of the room) (2)

2. ORDINANCE AMENDING WHATCOM COUNTY CODE 3.08, PURCHASING SYSTEM (AB2013-206)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Crawford moved to amend section 3.08.100, "Contracts for professional services exceeding $15,000 $20,000 and bids exceeding $35,000 $50,000..."

Jack Louws, County Executive, gave a staff report. He submitted information requested during committee about the savings realized as the ordinance is amended. He suggested a compromise to double the amounts to $30,000 and $70,000.

Kremen stated he thanks the Executive for bringing this forward. The compromise is prudent. The previous limit equaled the buying power in 1996, when the current amounts were set. Today, the equivalent value is probably about $40,000. Given cost of living and consumer price index (CPI) increases, the request is reasonable. He suggested a friendly amendment to amend section 3.08.100, "Contracts for professional services exceeding $15,000 $30,000 and bids exceeding $35,000 $70,000...

Crawford did not accept the friendly amendment. There is merit to raising the amounts incrementally. The value of $15,000 in 1996 equals $21,671 in 2012, per the consumer price index. There is no question Executive Louws is trying to run an efficient government. However, he benefits from having a check-and-balance review of these items. He’s willing to raise the amount a bit, but the councilmembers needs that review. Of the $176,000 cost savings, he suspects a considerable portion is from releasing the County staff from bid requirements, which the Council did agree to today. Part of the cost is the extra month it takes the Council to go through the process. Other than the $176,000 cost savings, nothing with the system is broken. The track record the Executive uses to say how effective things work has to do with the Council oversight. They can look at it again in another year to consider another increase if they are seeing that much of a benefit.

Brenner stated she doesn’t support increasing the threshold at all. There must be a check-and-balance. The public trust is more important than efficiency. The Council won’t know what questions to ask if it doesn’t see the items. This Council keeps giving away those checks and balances. Get rid of the slush fund. It’s all public money, and it shouldn’t
be handled like a business. It should be handled like a public benefit so the public knows
what’s going on. There is less public trust now than in 1996.

Crawford stated the bid limit of $35,000 in 1996 equals $50,567 in 2012. His
proposal follows the inflation factor almost precisely. Louws stated a big portion of the cost
savings is raising the bid limit to the State guidelines. He and staff appreciate that. The
new process will reduce the schedule by ten days. The elected leaders appreciate any
increase. He is only asking for reasonable limits that make government efficient and
responsive.

Brenner asked to whom the administration will become more efficient and
responsive. Everyone wants to know more, not less. She often depends on members of the
public to find things that are buried deep in budget materials. This is a big mistake. The
efficiency problems aren’t solved by giving the administrative branch more authority. She’d
rather look for efficiencies in how administrative staff get things to the Council.

Kershner stated she will support the motion to amend. The Charter says the
Executive has the power to sign all contracts. The legislative branch has the power to set
the budget. There is also an ordinance for the purchasing process. There may be a
disparity with the Charter.

Brenner stated it’s not a disparity. They used to have annual budgets. Now the
budget is biennial. The Council used to meet every Tuesday, and now meets every other
Tuesday. They keep giving away the Council’s ability to be a check-and-balance. The
Executive signs the contracts, but the Council approves the contracts.

Kremen stated the people of Whatcom County voted 68 percent to go to a biennial
budget. It wasn’t something the County did on its own. The people want the County to
have a biennial budget because it’s more efficient, saves taxpayer money, and enables the
administration to do a better job.

Brenner stated they agreed to reconsider it if it didn’t work after one biennium. No
one was willing to reconsider it. They keep making things so convenient, but it’s not in the
public good. This isn’t about inflation.

Kremen stated this is about efficiency in government. The Executive is trying to
make his administration be more efficient. The State Auditor audits Whatcom County
government every year. Things aren’t being hidden from the public. The people of this
county voted to have a part-time County Council. They can’t expect a part-time County
Council to delve into bills that are $500.

Knutzen stated they always find things hidden in the budget when they delve into it,
including premium pay, a $1.5 million transfer that no one could explain, and a boater
safety fund that disappeared and then reappeared. He will support the ordinance with the
understanding that they use the money saved to support an internal auditor position.
Louws stated they will engage an internal auditor position. It will be hard to cut real dollars
from each department budget and move $172,000 into a pot. There will be money
available in the Auditor’s Office for about .5 full-time equivalent (FTE). They will have to
decide if they have resources to hire that position and create a good job description.
Brenner stated the State Auditor isn’t as thorough as Councilmember Kremen said. They did not find the $1.5 million. She found it and told them about it.

Kremen stated the Council discussed the $1.5 million, but Councilmember Brenner just doesn’t remember.

Brenner stated that’s not true.

Kremen stated it was discussed twice, and administrative staff will corroborate that.

Brenner stated Councilmember Kremen is not right. Anything the Council does and any decision it makes about the placement of monies is written in the public record. Nothing is written in the public record other than that money was to go back into the conservation futures fund, which did not happen.

Mann stated voting against the motion to amend is a vote in favor of the Executive’s proposal to raise the limits.

The motion to amend carried by the following vote:
Ayes: Brenner, Crawford, Knutzen, Kershner and Weimer (5)
Nays: Mann and Kremen (2)

The motion to adopt as amended carried by the following vote:
Ayes: Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (6)
Nays: Brenner (1)

3. ORDINANCE AMENDING WHATCOM COUNTY CODE 1.10, PROCEDURES FOR MANAGEMENT AND DISPOSITION OF COUNTY-OWNED PERSONAL AND REAL PROPERTY (AB2013-207) (10:50:41 PM)

Mann reported for the Finance and Administrative Services Committee. He moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

4. ORDINANCE AMENDING ORDINANCE NO. 2012-053 (AMENDMENT #1) ESTABLISHING THE RURAL ROAD SAFETY PROGRAM FUND AND ESTABLISHING A PROJECT-BASED BUDGET FOR THE RURAL ROAD SAFETY PROGRAM (AB2013-209) (10:52:14 PM)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)
5. ORDINANCE AMENDING THE 2013 WHATCOM COUNTY BUDGET, SEVENTH REQUEST, IN THE AMOUNT OF $1,500,069 (AB2013-210) (10:52:53 PM)

Mann reported for the Finance and Administrative Services Committee. He moved to adopt the ordinance. He moved to amend to remove the $40,000 funding for additional legal assistance, item two in the ordinance.

The motion to amend failed by the following vote:

Ayes: Mann and Weimer (2)
Nays: Brenner, Crawford, Knutzen, Kershner and Kremen (5)

The motion to adopt carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner and Kremen (6)
Nays: Weimer (1)

6. RESOLUTION AMENDING THE 2013 WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT BUDGET, THIRD REQUEST, IN THE AMOUNT OF $211,682 (AB2013-211) (10:56:28 PM)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Mann reported for the Finance and Administrative Services Committee and moved to approve the resolution.

Knutzen asked about interfund transfers from the road fund and solid waste fund.

Chris Brueske, Public Works Department, stated that money from the solid waste fund and road fund is included in this position to reflect the duties of this, related to noxious weed, which is a road fund issue, and solid waste. Those allocations are already contained in his allocations. Since he will be doing less of that, those allocations are switched between the two.

Knutzen stated there should be information in the packet reflecting those amounts.

Crawford stated the information is on Council packet page 130.

Knutzen stated they are crediting $3,362, but it doesn't show from where the money has been subtracted from the road fund or solid waste fund. Brueske stated it's a reallocation within the exiting budget authority. It's not new money out of solid waste or road funds. It's money that has already been allocated for those functions in the existing 2013 budget. He will work less on roads, so his allocation to the road fund will go down. This allocation to the road will go up.

Brad Bennett, Administrative Services Department, stated they're talking about the Flood Control Zone District budget adjustment. If there is another offset in the solid waste and road fund, he has to check if it's in that supplemental.

Brenner stated some of the things provided should be for the Planning Unit. They were to hold it until the Planning Unit could be restarted.
Jack Louws, County Executive, stated the desire is to restart the Planning Unit. The Public Works Department needs help to make that happen. Postponing the hiring of this position until they get the Planning Unit going will require more time to become efficient with handling water issues. He encourages the Council to continue to move forward. The Council made a decision a few months ago to not have the Public Utility District (PUD) handle the water supply plan and do that work within County government. They will need to augment staff to make that happen. It’s an important position to fill. This position will handle specific jobs.

Brenner asks if approval of this will expedite restarting the Planning Unit. Louws stated this person will work on water issues, specifically with the Planning Unit. It will help expedite the process.

Knutzen stated he commends staff for getting grant funding to help with water quality issues and for dealing with water quantity issues through this position.

Brenner stated the information should include language that the position will work with the Agricultural Advisory Committee. Louws stated he’s not sure that language should be in the job description, but will make sure that work happens. The Agricultural Advisory Committee functions through the Planning Department. This is a Public Works Department position. There are times that the person will engage the Agricultural Advisory Committee, but don’t burden the job description at this time. It is an evolving process.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

7. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, FIRST REQUEST, IN THE AMOUNT OF ($2,496) (AB2013-212) (11:08:30 PM)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated it’s strange to do a 2014 budget amendment in 2013.

Jack Louws, County Executive, stated this allows them to finalize decisions regarding eliminating closure days.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

8. ORDINANCE RESCINDING ORDINANCE 87-86 AND CLOSING THE DRUG TASK FORCE REVOLVING BANK ACCOUNT (AB2013-213) (11:10:24 PM)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.
The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

9. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND REICHHARDT & EBE ENGINEERING, INC. FOR THE COTTONWOOD NEIGHBORHOOD DRAINAGE IMPROVEMENTS PROJECT IN BIRCH BAY, IN THE AMOUNT OF $84,962.93 (AB2013-216)**

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

10. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND LEN HONCOOP GRAVEL, INC., AS LOW BIDDER, FOR THE COTTONWOOD NEIGHBORHOOD DRAINAGE IMPROVEMENTS PROJECT IN BIRCH BAY, IN THE AMOUNT OF $467,646.42 (AB2013-217) (11:11:35 PM)**

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

11. **REQUEST APPROVAL OF AN AMENDMENT TO WHATCOM COUNTY CONTRACT NO. 201212020, A CONTRACT BETWEEN WHATCOM COUNTY AND VAN NESS FELDMAN GORDON DERR, ATTORNEYS AT LAW, TO ASSIST IN REPRESENTING WHATCOM COUNTY IN GROWTH MANAGEMENT HEARINGS BOARD CASES, IN THE AMOUNT OF $40,000, FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED $90,000 (AB2012-422B) (11:12:14 PM)**

Mann reported for the Finance and Administrative Services Committee. The committee made no recommendation. He moved to approve the request.

Karen Frakes, Prosecutor’s Office, stated that given the Council’s decision to appeal, the Council should amend the scope of work to allow the attorney to assist them to work on appeal 12-2-0013. She proposed an amendment to this contract amendment. Make the maximum consideration item one, and add a new number two, “2. Exhibit A as amended...”
previously shall be replaced with the attached Exhibit A.1. Exhibit A.1 says, “The contractor shall represent Whatcom County and assist in the preparation of its legal defense in Growth Management Hearings Board case #12-2-0013 to the extent any of the issues raised in case #12-2-0013 are addressed in the Board’s compliance order in case #11-2-0010C. Contractor scope of work will additionally include assisting the County in the preparation of its legal defense on those issues in case #11-2-0010C. In addition, the contractor shall represent Whatcom County and assist in the appeals of Growth Management case #11-2-0010C and #12-2-0013.”

Crawford moved to amend per the recommendation of Ms. Frakes.

The motion to amend carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner and Kremen (6)
Nays: Weimer (1)

The motion to approve as amended carried by the following vote:
Ayes: Brenner, Crawford, Knutzen, Kershner and Kremen (5)
Nays: Mann and Weimer (2)

12. APPOINTMENT OF COUNTY EXECUTIVE JACK LOUWS TO SERVE AS WHATCOM COUNTY’S REPRESENTATIVE ON THE WASHINGTON STATE ASSOCIATION OF COUNTIES BOARD OF DIRECTORS, WITH COUNCIL CHAIR KATHY KERSHNER SERVING AS ALTERNATE (AB2013-214)

Knutzen moved to appoint Jack Louws and Kathy Kershner.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)


Brenner moved to confirm the appointment.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

14. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE’S APPOINTMENT OF LARRY COLLIER TO THE WHATCOM COUNTY APPEALS BOARD (AB2013-233) (11:17:50 PM)

Brenner moved to confirm the appointment.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)
INTRODUCTION ITEMS

(11:18:17 PM)

Crawford moved to accept Introduction Items one through three, five, and an additional item regarding the interim moratorium. Item four will be introduced on July 9, 2013.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

1. ORDINANCE CLOSING A PORTION OF BOUNDARY ROAD (AB2013-202)

2. ORDINANCE TO ENTER INTO A DEVELOPMENT AGREEMENT TO MITIGATE FOR WETLAND BUFFER FILL IN ORDER TO CREATE ADDITIONAL PARKING PURSUANT TO CONDITIONAL USE PERMIT (CUP) 2012-00001 (AB2013-234)

3. ORDINANCE ORDERING THE CLOSURE OF LIMESTONE ROAD EAST OF TILBURY ROAD (AB2013-235)

4. ORDINANCE AMENDING THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300B)

5. ORDINANCE FINALIZING A REVISED SYSTEM OF ASSESSMENT FOR DRAINAGE IMPROVEMENT DISTRICT NO. 6 (AB2013-237)

6. ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR DIVISIONS OF LAND RESULTING IN LOTS SMALLER THAN FIVE ACRES WITHIN THE LAKE WHATCOM WATERSHED (AB2012-040C)

OTHER BUSINESS

Knutzen stated over an acre of a strawberry farmer’s farm has washed away in the past year. The levee has deteriorated and washed out. The clay bank is dissolving rapidly. The river continues to eat into the bank. The County needs to do something.

Jack Louws, County Executive, stated he has been briefed on the situation and will meet with staff. He will do what the County can within its code and policies to resolve the situation. A meeting is scheduled next week.

Crawford stated he made a comment earlier today about investment in a milk powder plant being more valuable to agriculture than all of the County’s tools. Henry Bierlink said that Darigold would not have made that investment if Whatcom County wasn’t seriously invested in agricultural protection. That is a good point that Mr. Bierlink made about the interdependence of Darigold’s investment decision and the County’s agricultural preservation efforts. He also made a comment today about an inmate’s claim for missing
jewelry at the jail. He incorrectly thought the County was paying the claim for the missing ring. The claim was filed and will be subject to review and verification. The Chief of Corrections explained the claims process to him.

Brenner stated a comment was made that the County lost the Goldstar case. The County didn’t lose the Goldstar case. The County won the bright-line part of the case.

Karen Frakes, Prosecutor’s Office, stated there were issues on which the county prevailed.

Brenner stated there were other issues that came back for more discussion. The main issue was the bright line of what’s rural at five acres. It can be lower or higher than that, depending on circumstances.

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

Knutzen reported that his committee talked about tubing on the south fork of the Nooksack River. That conversation will continue.

Mann stated he had a meeting with the Bellingham firefighters and Fire District 7 firefighters. The meeting was productive. They discussed a wide range of issues. He was encouraged. He hopes that discussion will continue as they work through emergency medical service (EMS) and Medic One issues.

ADJOURN

The meeting adjourned at 11:27 p.m.

The Council approved these minutes on ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Kathy Kershner, Council Chair

______________________________
Jill Nixon, Minutes Transcription
CALL TO ORDER

Councilmember Sam Crawford called the meeting to order at 10:30 a.m. in the Whatcom County Courthouse Fifth Floor Conference Room #513, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Bill Knutzen, Ken Mann, Pete Kremen and Carl Weimer

Absent: Kathy Kershner

SURFACE WATER WORK SESSION (AB2013-024)

PRESENTATION REGARDING SWIFT CREEK ENVIRONMENTAL IMPACT STATEMENT, SWIFT CREEK SEDIMENT MANAGEMENT ACTION PLAN (SCSMAP), AND RESOLUTION REGARDING ADOPTION OF THE SCSMAP.

Chris Brueske, Public Works Department, stated they finalized the SCSMAP and related environmental impact statement (EIS). They plan to adopt the action plan and resolution in the next two or three months.

Roland Middleton, Public Works Department, described the contents of the SCSMAP. This issue has been studied since 1976. The action plan is to respond to and solve problems as much as possible and to identify and prioritize goals. They must comply with the State Environmental Policy Act (SEPA). Wheeler Consulting issued a draft EIS and final EIS, which now allows them to move forward with an action plan and related projects. He and Dan Gibson are preparing a draft resolution that is in line with Environmental Protection Agency (EPA) and State Department of Ecology (DOE) in terms of regulatory liability under the Model Toxics Control Act (MOTCA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Everything is contingent on Whatcom County coming to an agreement with EPA and DOE regarding regulatory liability.

Brenner stated the County doesn’t have liability. If someone dumps something dangerous on the County, no one can say the County can’t do something to alleviate the situation. Middleton stated Whatcom County, the State Department of Transportation, the State Department of Natural Resources, and the Army Corps of Engineers have all used the material.

The funding for the action plan is not set up. The State and federal government will have to participate in funding the action plan. The plan is contingent on a satisfactory agreement of the liability issue and on available outside funding. If those can happen, the SCSMAP is what the County would like to do for the situation at Swift Creek. The Council
should adopt the action plan by resolution, proceed forward to resolve the funding and liability issues, and move forward with the action plan.

Knutzen asked about an action plan item about the combination of the two forks. Middleton described the phases of the plan. The Council would decide to start working on the action plan through the water resources annual improvement program.

Brenner asked how putting material in a gravel pit would be different from stockpiling. Middleton stated that in a gravel pit, they would fill a hole in the ground and cover it up.

Brenner stated they can do that with a stockpile. She wants to know if it is cheaper to move the material to a gravel pit than to stockpile. Middleton stated that if they leave it where it is, it’s in people’s backyards. That property will no longer be used for agriculture. He doesn’t know the cost.

Knutzen asked about salmon enhancements efforts if the river is moved. Middleton stated this is still clean water. They would be adding habitat. He doesn’t know the cost. He would like to investigate those effects.

Brenner asked if it could overflow in the Breckenridge water system if they don’t do something. Middleton stated it can break through and end up in Breckinridge. The real problem is that the metals in the material will damage habitat.

Brenner asked why it can’t be a superfund site. Brueske stated the EPA has not officially ruled that out.

Knutzen asked about funding from the Puget Sound Partnership (PSP). Middleton stated it’s possible. This has been a line item in the legislative budget. The situation has regional and international effects. The DOE has a lobbyist who is waiting for County action before looking for funding from the State legislature.

Brenner asked what would cost $65 million. Middleton stated the cost of doing this work is dozens of millions of dollars. The planning estimate of the total cost could be $65 million, but they have no engineering estimates to confirm that planning estimate.

Brueske stated a reason for the north fork reroute is that it’s an action they can take regardless of the liability, because they are dealing with clean water.

Knutzen stated Breckenridge still has a healthy salmon population. More habitat would not be a bad thing. Middleton stated it is now trapped clean water. Get the clean water out of there to use it for fish habitat and get water off the slope.

Brenner asked the history of the landslide before the 1940’s. Middleton stated two faults run east. In the 1930’s, it started to really slide. There was a debris flow event in the 1970’s. Since then, the debris is moving more, faster, and steadier. The sediment material and sediment behavior have changed.

Brenner asked if anyone has done scientific research to determine if the material can be bound up and used. Middleton stated there is always hope that there can be a
commercial response. If there is a market for the material, the material will go away. The staff don’t believe that will happen. There are cheaper places to get asbestos.

The next step is to introduce a resolution at the July 23 Council meeting. A draft resolution will approve the action plan and the phase 1 proposals. The annual and six-year water resources improvement programs should include phase 1 and phase 2.

Crawford asked who is paying for all this. He hopes they can get grants to cover all the costs. Middleton stated the County can do some of phase 2 and phase 3 in-house. Use grants for rerouting or investigating a repository site. Construction will have to come from outside funding.

Crawford asked if they anticipate grants will be available. Middleton stated he’s been told the State legislature has this as a very high priority for funding. They are trying to get the EPA to participate also. They may be able to tap into superfund site funds. Robbing the flood control fund can’t happen. No funding is available there.

Brueske stated they made it clear to DOE and EPA that the County can’t tax people through the flood fund.

Crawford stated go forward with the assumption that they will not use local tax dollars to do this. Middleton stated the question becomes what to do if they don’t get funding. The County will keep the roads open as best it can and respond as best they can with the resources they have. The EIS covered that as the no action alternative. What little resources there are to help the community will keep the roads open, protect their backyards, and keep the material from encroaching onto their property. That’s not a solution.

Crawford asked the cost of the work, not including moving the river. Middleton stated the cost is dozens of millions of dollars.

Knutzen asked if they approached Homeland Security, because it’s becoming an international concern. Middleton stated they have not approached Homeland Security, but he has heard from the State Department in the past. They are trying to work through the Army Corps of Engineers. At some point, the local legislative body, state legislators, and federal legislators will have to get involved and push it.

Brenner stated at some point it may be time to sue the State and federal governments. They are the ones who are claiming the County has liability. If the County doesn’t maintain it, it will be a public safety issue for the people out there. It seems like at some point, they have to do something other than not let them do it. Middleton stated that is the intent. He doesn’t care what happens in Washington D.C. He cares what happens to these residents.

Kremen stated that during the last four or five years he was County Executive and during the past two years, they have annually requested funding from the entire congressional delegation. They’ve received nothing. The acuteness of the problem and the fact that it is an international issue causes a higher likelihood of getting some federal or State assistance, but it’s not that probable. He doubts any funding received will be adequate to address the issues.
Knutzen asked if the Federal Emergency Management Agency (FEMA) has any responsibility. Middleton stated FEMA responds after a flood event.

Knutzen asked if FEMA is responsible for cleaning up the sediment after a flood event. Middleton stated that is a question for Dan Gibson. It will be addressed in the proposed resolution.

He hopes the adoption of the plan and the publication of the EIS will make DOE stand up and take a look. Now they’ve been forced to pay attention. The issue is whether they will come up with funding.

Brueske stated adoption of the plan by resolution is key to getting funding and settling liability. There are two components of liability. The first is a consent decree that outlines all agencies with responsibility. The second is a trust agreement to set up management long-term and establish a trustee.

Brenner stated the consent decree should be clear that the County has responsibility to its residents, but the State and federal have liability. Brueske stated the EPA has been working on this more briskly since February.

Middleton stated things didn’t move much until the County published the draft EIS, after which meetings started happening.

Crawford asked if there is any movement toward EPA changing the bar on stuff like this. This has never caused any case of mesothelioma. The statistics of it happening are very low. Part of the issue has been that the federal government set the level of the naturally occurring material. People have suffered from the regulations, not the materials. This is because the federal government said that there is something bad happening out there. Middleton stated he’s not heard anyone from EPA say they over-reacted.

Brenner stated professionals in the field have reviewed the information and said that this wouldn’t pass scientific muster. People are just making political comments and decisions.

Kremen stated he is skeptical about the severity of the problem from a health perspective. The Health Department has gone back 50 years, and there is not one reported case of mesothelioma. The action simulation tests conducted by the EPA resulted in two of the eleven tests having unacceptable levels. There is minute possibility of contamination that will have ill health effects. According to their tests, there wouldn’t be ill-effects.

Middleton stated the SEPA officials and other staff decided to include in the EIS a health impact analysis, which is a much higher level of review than a normal EIS. They pulled all that testing information and published it. The health impact analysis has gotten EPA to start talking about sediment solutions.

Kremen stated an EPA spokesperson was quoted as saying that the contamination of the material is the equivalent of breathing the air in downtown Seattle.
Brenner stated the EPA has actually done a disservice to the people in the area if it’s not a problem. If they are hurt financially, it’s another problem. She has a problem with how the EPA dumped this alleged problem on the County. The County should fight it. Regardless of what they do, make sure they aren’t going to leave people in the area with financial problems.

Middleton stated the naturally-occurring asbestos is an issue, but not the biggest issue. The community lives below a landslide area that is dumping a lot of material. The County is already protecting people from landslides at Jones Creek and Canyon Creek. Whether or not there is asbestos, the landslide problem exists and will cost more than Jones Creek and Canyon Creek. Because there is asbestos in the material and the State and federal government have brought up the problem, the County should work on the sediment problem and the State and federal government should work on the asbestos issue. That’s the proposal in the action plan.

Knutzen asked if there are efforts to coordinate this work seasonally. Middleton stated the problem is they can’t work on it until September because the material is very runny. The overall plan is to just get it out of there. Whether or not they install sediment basins, find a place to put the material. Phase 3 is to start looking at that.

Larry Brown, Sudden Valley Board President, stated it sounds like they are saying it’s a benefit to have the EPA concerned about this issue so they become a funding source for work that has to be done. Middleton stated any time the federal government is involved is usually not a great thing. The County won’t have a choice. If the EPA is going to be involved, it can help fund this.

Brueske stated if it’s not a superfund site, it is limited to some small emergency response funding.

Kremen stated that from the beginning when the EPA created the issue, he immediately requested the EPA to fund or assist in funding to address the problem. He was told at that time and several times since that they have no money. Maybe things have changed. He hopes they will get State and federal assistance. The action plan is essential to getting funding.

Tom Fenton stated Jerry Hammer suggested 35 years ago that they contain the material at a basin at the bottom of the hill. Give Roland Middleton the opportunity to investigate opportunities to move the water to a different location.

Larry Meades stated Swift Creek flows through his and others’ properties. They appreciate looking at the long-term, but they needed something done this year and next year to save the bridges and roads. Oat Coles Road was flooded for four months last winter. It drained because they dug out the culverts. The ditch on the east side of Oat Coles Road is full of sediment. They need to get it out, but no one wants to touch it. Get it out of the culverts so the culverts can drain. Now, the streambed is higher than the culverts. He sometimes has to pump the water out of his property 24 hours per day. Also think about immediate actions. He agrees with and appreciates the long-term effort. Brueske stated they are working on a project for small-scale dredging in that area in September.
Crawford asked if this rises to the level of a flood event for FEMA. He asked if the County Executive can declare an emergency for this area, which triggers FEMA involvement. Brueske stated the 2009 event was a State declared emergency. He doesn’t think the Executive-declared emergency affects FEMA. If they somehow got that FEMA money, they always have EPA over their shoulder saying they are encouraging additional liability by moving the material. Addressing the liability is the key. All FEMA projects have been reimbursement of local projects. FEMA doesn’t coordinate its own projects.

Shirley Gelwicks stated a concern is that removing the culvert across the South Pass Road, which carries all the ditch water and drainage water, would cause a big flood. Middleton stated they are talking about moving the water to a different location. They have to address how to keep the Swift Creek water from flooding out the residents.

Gelwicks stated water is collected from both sides of the ditch. Middleton stated there is a spring from her property that flows to Breckinridge. It’s not part of Swift Creek. They hope to address all that water with water from the north fork so it flows through there and does not flood her property and to remove the material from Swift Creek so the water on Ms. Gelwicks’ property is able to again flow into Swift Creek. Right now, it’s dammed up because of the levy.

Gelwicks stated the level of the creek is 20 feet above the surrounding field. Brueske stated the plan includes restoring that grade.

Middleton stated they hope to move the material, not have to stack it up, and capture it at the basin so it doesn’t accumulate in anyone’s backyard. That’s part of phase 3.

Gelwicks asked the proposal for raising South Pass Road. Middleton stated there is no proposal to raise South Pass Road. He explained the phases to Ms. Gelwicks.

Brueske stated they plan to introduce an ordinance on July 23, 2013.

Middleton stated he will also provide information on when they are getting the dredging done.

**ADJOURN**

The meeting adjourned at 11:38 a.m.

The Council approved these minutes on ________________, 2013.

**ATTEST:**

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________

Dana Brown-Davis, Council Clerk   Bill Knutzen, Council Vice-Chair
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(7:00:04 PM)

Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner, Carl Weimer and Pete Kremen.

Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

There were no announcements.

MINUTES CONSENT

(7:00:57 PM)

Knutzen moved to approve Minutes Consent items one through seven.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

Nays: None (0)

1. SPECIAL COMMITTEE OF THE WHOLE FOR MAY 21, 2013
2. REGULAR COUNTY COUNCIL FOR MAY 21, 2013
3. SPECIAL COMMITTEE OF THE WHOLE (MORNING RURAL ELEMENT DISCUSSION) FOR JUNE 4, 2013
4. SPECIAL COMMITTEE OF THE WHOLE (AFTERNOON JAIL PLANNING UPDATE) FOR JUNE 4, 2013
5. REGULAR COUNTY COUNCIL FOR JUNE 4, 2013
6. SPECIAL COMMITTEE OF THE WHOLE FOR JUNE 18, 2013

7. COMMITTEE OF THE WHOLE FOR JUNE 18, 2013

PUBLIC HEARINGS

1. ORDINANCE CLOSING A PORTION OF BOUNDARY ROAD (AB2013-202) (7:01:41 PM)

Kershner opened the public hearing and, hearing no one, closed the public hearing.

Crawford moved to adopt the ordinance. He asked if it will permanently close a cul de sac that runs east to west. He asked if anyone analyzed how much traffic uses that road.

Joe Rutan, Public Works Department, stated it will create a dead end. He did not analyze traffic patterns.

Chris De Michio, Washington State Department of Transportation, stated they don’t have any traffic data, but they talked to local residents. A lot of the traffic on Boundary Road are people who are in line to cross the border.

Knutzen asked if they considered compensating rental residents who lost access to the Guide Meridian. De Michio stated they did not.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

2. ORDINANCE ORDERING THE CLOSURE OF LIMESTONE ROAD EAST OF TILBURY ROAD (AB2013-235) (7:06:39 PM)

Kershner opened the public hearing and, hearing no one, closed the public hearing.

Brenner moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

3. ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR DIVISIONS OF LAND RESULTING IN LOTS SMALLER THAN FIVE ACRES WITHIN THE LAKE WHATCOM WATERSHED (AB2012-040C) (7:07:45 PM)

Kershner opened the public hearing and, hearing no one, closed the public hearing.

Kremen moved to adopt the ordinance.
Kershner asked the process for ending this moratorium when the Council adopts permanent regulations. They can repeal it.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

OPEN SESSION

(7:09:42 PM)

The following people spoke:
- Yoshi Revelle spoke about the words people choose when speaking.
- Lynn Pendleton spoke about the proposed packinghouse ordinance.
- Nicole Brown spoke about the proposed packinghouse ordinance.
- Bonnie Drake-Barker spoke about the proposed packinghouse ordinance.
- Greg Brown spoke about the proposed packinghouse ordinance.
- Wendy Harris spoke about the proposed packinghouse ordinance.
- Max Perry spoke about the proposed packinghouse ordinance.
- Donna Clark spoke about installing the County and City installing honey buckets on property around Lake Whatcom.

CONSENT AGENDA

(7:23:55 PM)

Mann reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through eight.

Kershner stated Consent Agenda item eight includes a substitute version.

Mann stated that is correct.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

1. RESOLUTION ORDERING THE CANCELLATION OF CHECKS MORE THAN TWO YEARS OLD FROM THE WHATCOM COUNTY JAIL INMATE TRUST FUND (AB2013-242)

2. REQUEST APPROVAL OF THE WHATCOM COUNTY DEPUTY SHERIFF’S GUILD COLLECTIVE BARGAINING AGREEMENT (AB2013-243)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND THE OPPORTUNITY COUNCIL FOR TRANSPORTATION AND HYGIENE PRODUCT ASSISTANCE FOR DSHS MEDICAL CARE RECIPIENTS IN THE AMOUNT OF
$22,610, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $606,396
(AB2013-244)

4. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND NORTH SOUND
MENTAL HEALTH ADMINISTRATION FOR THE CRISIS STABILIZATION BEDS
PROGRAM, IN THE AMOUNT OF $50,000, FOR A TOTAL AMENDED CONTRACT
IN THE AMOUNT OF $974,811 (AB2013-245)

5. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND BERGERABAM,
INC. FOR ADDITIONAL ENVIRONMENTAL PERMITTING COORDINATION,
CATHODIC PROTECTION DESIGN, AND SEDIMENTATION POND DESIGN, IN
THE AMOUNT OF $38,117, FOR A TOTAL AMENDED CONTRACT IN THE
AMOUNT OF $201,955 (AB2013-246)

6. RESOLUTION AMENDING CRP NO. 913001 AND APPROVAL FOR THE COUNTY
EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND
LOW BIDDER, GRANITE CONSTRUCTION, INC. FOR HANNEGAN ROAD
PAVEMENT REHABILITATION, IN THE AMOUNT OF $1,629,380 (AB2013-
247)

7. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE
REPAIR OF A 1998 FREIGHTLINER BASKET TRUCK BY THE SOLE SOURCE
PROVIDER, ALTEC, IN THE AMOUNT OF $41,423.42 (AB2013-248)

8. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND DLR GROUP TO
INCLUDE SUPPLEMENTAL SERVICES REQUIRED TO COMPLETE PREFERRED
SITE ANALYSIS, IN THE AMOUNT OF $38,000, FOR A TOTAL AMENDED
CONTRACT IN THE AMOUNT OF $491,902 (AB2013-249)

OTHER ITEMS

1. INTERLOCAL AGREEMENT WITH THE CITY OF BELLINGHAM REGARDING
ADMINISTRATION OF THE HOMEOWNER INCENTIVE PROGRAM (HIP)
(AB2013-239) (7:24:54 PM)

Weimer reported for the Natural Resources Committee moved to approve the
agreement.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT BETWEEN WHATCOM COUNTY AND KIBBLE & PRENTICE FOR
BENEFIT CONSULTATION SERVICES FOR THE SELF-INSURED MEDICAL

Whatcom County Council, 7/9/2013, Page 4
PROGRAM, IN THE AMOUNT OF $45,000 IN 2014, $46,500 IN 2015, AND $48,000 IN 2016 (AB2013-193) (7:25:24 PM)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

Brenner moved to amend the contract so that it is for one year only. She doesn't support a three-year contract. She was unimpressed with the terrible job they did trying to inform the County employees. Today, she talked to a representative of the contractor, who was very flippant. She asked what they are consulting with the County on, if they’re not coming up with some ideas. We don’t know the contractor is giving the County the best deal. She has no confidence in the contractor at all.

Mann stated he could be persuaded to support the motion to amend the contract.

Crawford stated the contractor and the County administration have already signed the contract. He asked if the Council can reject this contract and create a new contract.

Karen Frakes, Prosecutor’s Office, stated she doesn’t know the background of this contract. In general, the Council can approve just one year. That doesn’t mean the contractor will accept the contract.

Mann asked if the County Executive knows of any reason that a one-year contract would be a problem.

Jack Louws, County Executive, stated he agrees with comments from Ms. Frakes. He doesn’t know if the contractor would accept a one-year contract. He encourages the Council to adopt the three-year plan. It’s a professional consulting firm that goes onto the open reinsurance market to provide the County information on insurance packages for its employees. Last year was a difficult year. The contractor explained why that was. He has confidence that the contractor will be able to shore up inadequacies of last year and move forward. Kibble and Prentice has been the County’s benefit advisor for quite a few years. They’ve done a good job. He trusts the committee that went through this request for qualifications (RFQ) process, which included Dan Gibson, Karen Goens, and Northwest Regional Council Deputy Director Pat Atkinson.

Mann stated he appreciates Executive Louws’ comments. When someone has a nice government contract like that for a long time, one may need to be kept alert. Last year was difficult. There were widespread complaints and people were upset. Keep the contractor for a year and let them know they need to redeem themselves. They must give the County their best effort every year. That is an okay message to send. He supports the motion to amend.

Louws stated the Council could make the contract a three-year contract, with Council approval annually.

The motion to amend carried by the following vote:

Ayes: Kremen, Brenner, Knutzen and Mann (4)
Nays: Crawford, Kershner, and Weimer (3)
DISCLAIMER: This document is a draft and is provided as a courtesy. This document is not to be considered as the final minutes. All information contained herein is subject to change upon further review and approval by the Whatcom County Council.

The motion to approve as amended carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

3. REQUEST APPROVAL OF THE ECONOMIC DEVELOPMENT INVESTMENT BOARD’S RECOMMENDATION FOR EDI FUNDING (AB2013-241) (7:33:12 PM)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

Brenner stated the Economic Development Investment (EDI) fund is a dedicated fund paid into by all the jurisdictions and the county. The program is a two-third loan and one-third grant. It was passed by the EDI Board. They’ve used the money for this type of public facility before. It’s not the County’s money. She supports the request.

Mann stated he doesn’t disagree with Councilmember Brenner, but the Council’s job is to weigh the value of things, not to automatically approve everything the advisory bodies recommend. Using economic development funds to pay for a City’s water treatment plant isn’t economic development. Cities are supposed to do this. The City rate payers should pay for their water and sewer. The County should use its EDI funds for things with a clear and direct link between a project and economic development. He is against the request.

Kremen stated he agrees with Councilmember Brenner’s position, but doesn’t agree that everyone pays into this. The rural sales tax applies to 31 of the 39 counties in Washington State. It was established to compensate counties for their inability to generate revenue due to the Growth Management Act. Whatcom County adopted a policy of using the rural sales tax for economic development purposes. Unlike almost all the other counties, Whatcom County set up a fund out of the rural sales tax. Sixty percent stayed in the rural sales tax definition, and forty percent goes into the EDI fund. Within the fund, the County enabled municipalities to use and distribute the money so they could provide for economic development within their jurisdictions. He supports the request from the City of Nooksack. It’s infrastructure necessary for potential economic development. Without adequate water treatment facilities, municipalities don’t have much chance to provide economic development in the future. This is a prudent and equitable way to use EDI funds. For years, Whatcom County distributed these EDI funds, but never to the City of Nooksack.

Weimer stated he is against the request because the Department of Ecology may fund all or part of this project. Normally these sewer treatment plants are funded from the Department of Ecology through the Clean Water Act. This project is on hold until they find out if they get funding from Ecology. He can’t vote for this using local money if it’s possible the State will fund the project. He moved to amend to add a statement that this goes forward only after the Department of Ecology has turned down funding for this project. Don’t use County funding instead of Department of Ecology funding.

Kremen suggested a friendly amendment that the money requested from the EDI fund would be the last money in.

Weimer accepted the friendly amendment.
Crawford stated he is against the motion to amend. The Transportation Improvement Board always requires a local match. He doesn't know how Ecology operates, but the scoring is probably increased if there is a local match. The Council should keep this on track. This is a good growth management exercise. It helps a city, where the growth should go. Some of these places can't grow without expanded capacity. This sends a signal that the County supports the development and infill of its cities. There may be an environmental benefit. There is a benefit to growth management.

Weimer stated this isn’t a match. The City asked the same amount from the Department of Ecology. If they don’t get the money from Ecology, they want to use the EDI money. They are not asking for a match. There is already City money being used for a match.

Kershner asked if there is a timeline for when Ecology will respond to Nooksack and Everson.

Jack Louws, County Executive, stated he doesn’t know when Ecology will respond to the City of Nooksack. He shares concerns with Councilmember Crawford. The City of Nooksack is looking for loan and grant money. He doesn't know if the funds from Ecology are loan money or grant money. The City of Nooksack is requesting a loan from Ecology. He encourages the Council to approve as recommended.

Knutzen stated he is against the motion to amend. The project is worthwhile. The City needs it.

The motion to amend failed by the following vote:

**Ayes:** Kremen and Weimer (2)

**Nays:** Crawford, Brenner, Knutzen, Mann, and Kershner (5)

Brenner stated she agrees with Councilmember Kremen.

Kremen stated he will vote for the request.

Brenner stated the money would go to the State if they didn’t use it locally.

Kremen stated it would be best if the State paid most or all the amount. However, that probably won’t happen. This is a good project. The Cities of Nooksack and Everson deserve to access this fund. The interest rate is one percent.

Mann stated he wants to encourage infill in all the cities. The argument can also be made that upgrading the plant will encourage development in the urban growth area (UGA) on the outskirts of Nooksack, and then the City would ask for a UGA expansion in 2016. Cities should fund their own infrastructure.

Brenner stated Nooksack and Everson have been good about working with the County to give up land in the flood plain and make sure they don’t negatively impact flood plains and agricultural land.
Kremen stated he agrees they shouldn’t automatically approve everything that comes from the EDI Board, which overwhelmingly recommended $600,000 for a study for a terrarium, which he didn’t sign and didn’t get developed.

The motion to approve carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, and Kershner (6)
Nays: Mann (1)

4. RESOLUTION RESTORING THE WRIA 1 PLANNING UNIT TO ASSIST THE WHATCOM COUNTY COUNCIL REGARDING WATER RESOURCES (AB2013-190) (7:55:27 PM)

Brenner reported for the Public Works, Health, and Safety Committee and stated a new version will be on the website and available at the Council Office. The Council will hold the new version to the next Council meeting on July 23.

Mann stated section 6 on page two of the amended version includes language in brackets. It’s language they discussed, but didn’t vote to include.

5. ORDINANCE TO ENTER INTO A DEVELOPMENT AGREEMENT TO MITIGATE FOR WETLAND BUFFER FILL IN ORDER TO CREATE ADDITIONAL PARKING PURSUANT TO CONDITIONAL USE PERMIT (CUP) 2012-00001 (AB2013-234) (7:59:39 PM)

Knutzen reported for the Planning and Development Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

6. RESOLUTION AMENDING WHATCOM COUNTY RESOLUTION NO. 2013-007 TO INITIATE CHANGES TO THE POINT ROBERTS CHARACTER PLAN (AB2013-088A) (8:00:24 PM)

Knutzen reported for the Planning and Development Committee and moved to approve the resolution.

The motion carried by the following vote:
Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

7. ORDINANCE REPEALING THE 1986 LYNDEN-NOOKSACK VALLEY SUBAREA PLAN AND AMENDING PROVISIONS IN THE WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS (AB2013-203) (8:01:00 PM)

Knutzen reported for the Planning and Development Committee and moved to forward for concurrent review.
The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

8. ORDINANCE REPEALING THE 1987 BIRCH BAY-BLAINE SUBAREA PLAN AND AMENDING PROVISIONS IN THE WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS (AB2013-204) (8:01:50 PM)

Knutzen reported for the Planning and Development Committee and moved to forward for concurrent review.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)


Knutzen reported for the Planning and Development Committee and moved to forward for concurrent review.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

INTRODUCTION ITEMS

(8:03:19 PM)

Kershner stated Introduction Item nine has been withdrawn.

Crawford moved to accept Introduction Items one through eight.

Mann stated they need to hear from the public on the packinghouse ordinance. They will benefit having input from the public at a public hearing.

The motion carried by the following vote:

Ayes: Kremen, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)
Nays: None (0)

1. ORDINANCE AMENDING WHATCOM COUNTY CODE TO ALLOW AGRICULTURAL AREA AMENDMENTS AND RELATED CHANGES AFFECTING THE AGRICULTURE ZONE (AB2013-128B)

2. ORDINANCE ADOPTING AMENDMENTS TO THE SIX-YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) FOR WHATCOM COUNTY FACILITIES (2013-252)
3. ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTER 10.34 FERRY RATES (AB2013-253)

4. ORDINANCE AMENDING THE WHATCOM COUNTY BUDGET, EIGHTH REQUEST, IN THE AMOUNT OF $178,129 (AB2013-254)

5. ORDINANCE AMENDING ORDINANCE NO. 2013-003 (FIRST AMENDMENT) ESTABLISHING A PROJECT FUND FOR THE NEW JAIL PROJECT 2013-2014 (AB2013-255)

6. ORDINANCE ESTABLISHING THE NESSET FARM RESTORATION PROJECT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR THE NESSET HOUSE RESTORATION PROJECT (AB2013-256)

7. ORDINANCE AUTHORIZING AN INTERFUND LOAN TO FINANCE CASH FLOW FOR THE NESSET FARM RESTORATION PROJECT FUND (AB2013-256A)

8. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300B)

9. ORDINANCE AMENDING WHATCOM COUNTY CODE 12.20 ROAD VACATIONS (AB2013-238)

OTHER BUSINESS

There was no other business.

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

(8:05:07 PM)

Knutzen reported tomorrow he will attend the digester tour hosted by Washington State University (WSU) Extension office. He looks forward to the Council approving the option of getting rid of waste through a digester.

Brenner reported that her sympathies go to Ellen Baker, whose house burned down a few days ago.

Kremen reported that his sympathies also go to Ellen Baker. Also, he attended Washington State Forest Board meeting in Olympia a week ago. The Board gave its final approval of the reconveyance, by a vote of 5-1.

Crawford reported that Sunday was a bad day for drunk and unruly behavior on the south fork of the Nooksack River. A number of neighbors had negative encounters with people. There was a lot of garbage and unruly behavior. One idea is to adopt an ordinance that requires everyone to wear life jackets. Another idea is to prohibit drinking on the river.
Brenner stated it’s State law that prohibits drinking on a river.

Crawford stated he sympathizes with the neighbors. A lot of the negative behavior occurred on private property, not on the river. It’s not a good situation.

ADJOURN

The meeting adjourned at 8:10 p.m.

The Council approved these minutes on ______________, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Kathy Kershner, Council Chair

______________________________
Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 1:05 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(1:05:58 PM)

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, Carl Weimer and Pete Kremen.

Absent: None.

COMMITTEE DISCUSSION

1. EXECUTIVE LOUWS CONTINUES DISCUSSION REGARDING 2014 EMS SERVICE (AB2013-170)

Jack Louws, County Executive, gave a staff report reviewing all the options. He submitted an updated proposal (on file) and stated the new update includes a new option number two.

Crawford asked if Executive Louws is recommending option two. Louws stated he wouldn’t bring forward an option if he didn’t believe it was workable. He’s been assured that it could work in terms of reduced staff levels through attrition and surge protection.

Brenner asked what is EMS 6 and if there wouldn’t be a reduction in Local 106 personnel with Executive Louws’ proposal. Louws stated EMS 6 is a supervisory unit.

Kelli Linville, Bellingham Mayor, stated her two issues were level of service and cost effectiveness. There isn’t enough money in the system now to sustain the existing system without additional revenue. Her main issue with the first proposal was with unpredictable surge capacity. Proposal two is a good compromise.

Kremen asked if the inclusion of EMS 6 will take care of Mayor Linville’s concerns about surge protection. Linville stated it will, in the short-term. To maintain the excellent system, they will have to find a way to fund it.

Knutzen stated he thanks Mayor Linville for working with Executive Louws on a solution. He asked when they would have to ask the voters for more money if they choose option two. Linville stated she’s not in favor of deficit spending. Prior to 2016, they need to change how they fund the system. A unified system is very important for the county.
Louws stated the community and fire system leaders should spend 18 to 24 months to look at options and plan for the future. Sometime mid-2015, decide about going to the voters.

Linville stated it’s possible to achieve some efficiency without compromising the level of service.

Brenner asked if there are adequate reserves to go to the voters in two years. Louws stated option two spends $527,000 per year from the reserve. This is the best estimate. It’s possible they would spend more.

Mann asked if paramedic positions lost by reducing one unit would be as a result of attrition. Linville stated that is a question for Roger Christensen.

Al Saab, Fire District 7 Commissioner, stated Fire District 7 has worked hard to get its unit in service. As a fire commissioner, this is not the best solution. They need a dedicated funding source for EMS. Right now, they are running out of money. The proposal will keep the system alive and moving forward. The system must manage and fund itself. He prefers proposal two over proposal one. They are here to serve the public. In a couple of years, they can put together a system for the future.

Kremen referenced letters received from the Commissioners and from the Fire Chiefs. Both letters state that four and a half units is necessary to cover Whatcom County adequately. The current proposal isn’t a full four and a half units. He asked if the Commissioners changed their opinion. Saab stated he can’t answer for the other commissioners. In his opinion, four units would put them in a delicate position. It’s possible to do with EMS 6 maintained. There will be times when it will be a problem, but they can manage.

Kremen asked if four units adequately covers the service that citizens have come to expect. Saab stated splitting up the two paramedics will double the system capacity.

Weimer asked if the timing of going to the voters is a factor in Mr. Saab’s consideration. Saab stated he hasn’t studied it. They have estimates only. Option two is the best option.

Roger Christensen, City of Bellingham Fire Chief, stated right-sizing is related to the call volume. They must look at responses, which are currently at about 10,000 responses. Another factor is the number of tickets issued, which should be about 2,500 tickets per unit. If they want to handle only work that needs a paramedic level of care, they need four units. To get to that, they will have to reduce the number of responses. Surge capacity is about how many calls can be handled at one time. Today, they can handle six calls at one time. Under option two, that will go down to five calls at one time. Weekly, they don’t have enough for responses. He described what EMS 6 does, which provides supervisor capacity and surge capacity.

Mann stated he’s reluctant to reduce service. One concern is with adding staff in a couple of years if trends should change. He is concerned about losing staff with training and knowledge, and asked if they will have to hire and retrain staff when the trends change.
Christensen stated they project an increase in calls by an average of five to seven percent. It would cost a significant amount of money to train a paramedic. They talked about attrition instead of laying off paramedics. About a dozen people are eligible to retire in the next year. They've already reduced the number of positions by two due to attrition. The City will decide how many certifications it wants to keep.

Brenner asked if they could have four Bellingham units and one Ferndale unit without EMS 6 and without overloading the reserves. Louws stated that if they had four City units and one Ferndale unit, and pay Ferndale for the service, option three still won’t pay for Ferndale in the system. With five full units, the deficit would go from $1.649 million to $2.199 million per year, which happens to equal a sales tax increase of one-tenth of one percent. They won’t get any more revenue.

Mann asked if the decline in advanced live support (ALS) in 2009 and 2010 was due to transferring calls to basic life support (BLS). Christensen stated it has to do with BLS. The bigger impact was in 2009 regarding Medicare laws for triage.

Mann asked how to project rules and laws that may change in the future. Christensen stated the overall number of EMS incidents will be fairly predictable. How they handle response to those incidents may change. Four units is the right size for Whatcom County, but it will impact the county citizens and the countywide fire service.

Gary Russell, Fire District 7 Chief, stated they’ve moved forward with providing EMS service in measured steps since the 2005 plan. Four units can provide ALS service in Whatcom County. The half unit can also manage the system and take up surge capacity. There may be extra service also on certain days. Given the financial constraints of the system, the big question is future funding. Capacity is being reduced slightly. Essentially, they still have four and a half units. Prepositioned units throughout the county is the best program possible in the future. Otherwise, they will run out of money. By its own design, the system will have to be demobilized. Last year, the District 7 took 610 calls within Fire District 7 jurisdiction. Now, the 610 will be spread out among the four other units. Their call load will come up slightly, but will still not exceed the 2,500 calls per year in the system.

Kershner asked if Fire District 7 responds only within the district. Russell stated they respond within District 7 and District 17. They are available for extra surge capacity, but they’ve not had to respond outside the district.

Louws stated he recommends the Council consider option two moving forward, including establishing the Medic One Oversight Board and Technical Advisory Committee. Also work on the medium-range goal of updating the 2005 plan, and engage the community and fire districts to develop a plan for funding and moving forward.

Brenner stated her preference isn’t on the list of options. Don’t reduce the number of paramedics. It’s difficult to get them back. She asked if anyone is interested in four Bellingham units, one unit in Ferndale, and a ballot scheduled for next year.

Knutzen stated they will still run a deficit for two years. Louws stated four units in Bellingham, one unit in Ferndale, and a ballot initiative approved in 2014, the $3 million
surplus at the end of 2017 will be $87,622. A one percent sales tax increase does not support five full units.

**Crawford moved** to support and give direction to move forward with option two, to develop contracts with the City of Bellingham and Fire District 7, and to continue the formation of the Medic 1 Oversight Board and Technical Advisory Committee.

Mann asked if the 2005 plan considered the sales tax covering the entire cost of the service. Louws stated the 2005 plan identified that they would run out of money at this time. The challenge is that it is escalating at a rate greater than anticipated due to lost reimbursements.

Mann stated it sounds like the plan all along was to augment the system with general funds.

Kershner stated they are deficit spending right now. All four options are still deficit spending, just at different levels.

Kremen stated the 2005 plan was for six years before going out to voters for additional revenue.

Kershner stated she wants people to understand that the County knows it’s deficit spending. There must be another answer to this.

Brenner asked if continuing for a year without EMS 6 would cost more than what the one-tenth of one percent increase would cover. Louws stated it would cost more. With the reduction in reimbursements, it doesn't work with five units.

Kershner asked if BLS is funded differently. Louws stated it is. It’s important to establish an appropriate long-term relationship with the BLS side of the program. Identify where the new money will go and how the system will work. Give the administration the time to work with the Mayor.

Kershner stated she supports the motion. She would like to see language in the agreement that allows the County to reevaluate Medic 6 if the reserves are spent faster than anticipated. Louws stated they will all have to discuss whether EMS 6 is permanent or a half-time unit in the future.

Brenner stated someone told the councilmembers that five units would be best at this point, and they could make it more efficient. The groups are working together. Do this with five units for one more year, and allow them to come forward. Her big concern is that this is an opportunity for everyone to work together. Don’t mess that up. She’s willing to make a goodwill gesture and assume they will come back with ideas for cost cuts. Louws stated that the City anticipates several retirements. If they continue the program for another year, the City will have to decide whether or not to fill those positions. In terms of timing, it’s appropriate to make a move next year.

Weimer stated he needs more information from all the emergency responders before voting on any option. The new option seems to shore up the system and gives them more time to solidify the system before going to the voters. Make sure everyone is on board.
Mann stated he agrees with Councilmember Weimer.

Rich Kittinger, Local 106 Secretary/Treasurer, stated right now, some calls come in and they don’t know if ALS service or BLS service is required, so they always err on the side of providing ALS. Changing to four units will require changes, including triaging more calls to BLS and shifting to a more dense urban model. It will take a longer time for ALS. That is a response time decision the Council will have to make.

Regarding retirements, not all will be paramedics. It won’t reduce or change the discussion as labor or management about reducing paramedic jobs. He is concerned about incurring more costs in the long run by trying to save costs now. It costs $100,000 to train a medic. They have folks with that training right now.

When the voters approved the tax increase for EMS, the structure required that one-third of the tax collected would go to law and justice. Legislatively, they can go to the public with a different structure, and have a 100 percent EMS proposal. That would allow a plan that maintains the current effective group while working with Fire District 7.

Brenner asked what would happen if they kept the four units, and not replacing retiring staff until they figure out the plan for the future. Louws stated transition costs must be accounted for. They already included the costs for the transition.

Knutzen stated the chart indicates fewer ALS calls are coming in since 2009, not more. Kittinger stated he hasn’t compiled that data, and refers to comments from Chief Christensen made about Medicare changes. Watch the overall demand for service. An ALS unit may be dispatched, but the call may not be classified as an ALS call for the data.

Dave Ralston, South Whatcom Fire Authority Fire Chief, stated the system has been carried on the back of the BLS component. The proposal still lists the dispatch fees. That will directly affect the ability of the fire districts to provide service. Even though ALS calls have been dropping, the call volumes are still going up for BLS calls. Louws stated the districts have always paid for their BLS calls, in the amount of $293,000. Beyond that amount, in the non-departmental budget, the County pays an additional $171,000 per year for fire dispatch for the districts because they provide the BLS. In his proposal, he moved the $293,000, and the County is paying the non-departmental amount in another portion of the budget. It’s a confusing issue.

Dave Forbes, Whatcom 7 Firefighters Political Action Committee (PAC) Chair, stated he speaks for the Fire District 7 firefighters, not the administration. It’s most important that they are integrated into the system so they can be dispatched to any call in the county. He understands the issue with cost. They’ve always tried to do what they’re paid to do. Right now, they are only dispatched to Fire District 7 and Fire District 17. They would like to be integrated into the countywide system.

Mann stated he supports having Fire District 7 fully integrated into the system. He would like to know how they achieve that. Forbes stated the language of how to do that is up to the contract writers.
Weimer asked about level of care concerns. He asked if the new option two raises concerns about level of care versus the current system. Forbes stated they want the best service in the county.

Ron Anderson, North Whatcom Fire and Rescue Fire Chief, stated the 2010 Council resolution included the same things as a task force that he served on for developing a model service. He has real concerns that things are developing now that don’t address the components of the system defined in the resolution. It’s good to put deadlines and parameters on people so they’re forced to come to a resolution. This is another Band-Aid. Without deadlines and parameters, the problems will continue for many more years.

They keep talking about an EMS system. A system is made up of all the components required in a pre-hospital setting, including dispatch, first responders, transport service, rescue service, and both the ALS and BLS component. However, all they’re talking about here is only an ALS component. They aren’t addressing the EMS system. ALS calls are declining because BLS calls are increasing. Implementing medical priority dispatch a few years ago was a good idea. Before that, ALS was dispatched to every call. Understand the components of the entire system. He read the criteria from the resolution that aren’t being met.

The City has said they’ve been providing this service for 39 years. That’s admirable. However, many businesses are bankrupt today because they’ve been doing business the same way for 39 years. Sometimes things have to be redefined and reinvented to meet changing times. They’re still doing business the old fashioned way and not cost-effectively. Having two paramedics on a paramedic unit is overkill. There’s no reason not to have one paramedic and one emergency medical technician (EMT). On top of having two paramedics on one unit, they also send a Medic 6 supervisor to oversee the unit, so there are now three paramedics. Those are not cost-effective models of doing business. Unless the experts get in a room together and lock the doors, they’ll still be talking about this years from now. He urges the Council to get new people with fresh perspectives together and build a cost-effective system that gives patients optimal care.

Brenner asked who are the objective experts that would work on a new system. It seems there are only the different factions with their own turf issues. Anderson stated they are only addressing the ALS component. District 7 and the City of Bellingham have had tremendous turf wars. The only people who are involved are the City, the County, and District 7. However, an EMS system includes many components, including BLS. Other perspectives are out there. All they’re doing is talking to the same people and hearing the same thing over and over. They’re not going to get new ideas that way.

Louws stated the proposal of option two gives them the opportunity to put together the committees that Chief Anderson is talking about. He and the Mayor desire to have a technical committee, representative of the BLS and ALS providers in the county, and a Medic One Oversight Board, which will be the legislative body. To make a sales tax issue viable for the public and create an integrated system for the future, all the providers must work together to put a system together. He agrees with the comments from Chief Anderson. This proposal is an attempt to get to that point. In the event the voters do not approve a sales tax increase, they’re in big trouble.
Brenner asked if they’re also working toward having an integrated billing system. Louws stated it’s not viable at this time. There are too many challenges between Fire District 7 and the City. In terms of the associated costs, each system will handle its own billing. It’s not a battle they want to fight at this time. In the future, the Technical Advisory Committee and Medic One Oversight Board will be able to talk that through.

Kremen thanked Chief Anderson for his perspective. When he was the County Executive, he put together a very diverse group that included every fire district, the City, and Local 106. Assembling a similar group in the future could be beneficial for the people of Whatcom County. Anderson stated all the cities and fire districts in Treasure Valley, Idaho just signed an historic EMS document that does a lot of the same thing they identified in the resolution. They don’t have to reinvent the wheel.

Brenner moved to amend the motion to have the four units in Bellingham, and have the full Ferndale unit, and not have EMS 6.

The motion to amend failed by the following vote:

Ayes: Brenner (1)
Nays: Crawford, Kershner, Knutzen, Mann, Weimer and Kremen (6)

Weimer asked the details of the current motion to accept the new option two. Louws stated his proposal, option two, is for him to put contracts together with the City of Bellingham and Fire District 7 and continue the formation of the Medic One Oversight Board and Technical Advisory Board. The duration of the contracts will probably be two years.

Weimer asked if the contracts can be amended at any time if both parties agree. Louws stated they can.

Mann stated he supports keeping the current level of service. Keep four and a half units without EMS 6. He supports option four. He does not support the motion.

Knutzen stated he supports the motion. A year ago, the system was ready to fall apart. The Executive and Mayor have worked out a solution. He was not hopeful a year ago. He commends the Executive and Mayor for putting this together. He will support their efforts.

Crawford stated he heard that EMS 6 doesn’t respond to any of the District 7 geographic area. It seems like if EMS 6 is going to be used for surge capacity, it must be geographically available anywhere in the county. Christensen stated EMS 6 has not done any supervision with the Ferndale unit. It can be used countywide for surge capacity.

Brenner stated she would like to know the amount of money wasted the last few years due to the time wasted in the past with not certifying the Ferndale unit.

Kershner stated she supports the motion. It keeps the system unified and slows deficit spending. She is in favor of Chief Anderson’s idea for getting people together. It’s a good compromise.

Kremen stated he supports the new option two. The original proposal was inadequate. Key individuals assured them the new option is adequate for the community.
He will reluctantly support option two. It’s imperative to continue a unified system. In the meantime, assemble a working group to develop a new, improved system for the service in the county.

The motion carried by the following vote:

**Ayes:** Brenner, Crawford, Kershner, Knutzen, Weimer and Kremen (6)

**Nays:** Mann (1)

Louws thanked everyone who participated. They will move forward with the contracts and the two boards.

### 2. DISCUSSION OF A PROPOSED ORDINANCE ADOPTING THE CURRENT STATE BUILDING CODE AND REPEALING THE EXISTING TITLE 15 OF THE WHATCOM COUNTY CODE (AB2013-271)

Knutzen moved to send to the Planning Commission, if appropriate.

Sam Ryan, Planning and Development Services Department Director, stated it is a State code. It deals with life safety. Whether or not the County codifies it, it’s the code the department will enforce. The only way to amend it is to go through the State Building Code Council. Only the appendices chapters and administrative chapters can be changed. The rest of the body of the code can only be changed by the State Building Code Council.

Kershner stated they are talking about having the Planning Commission review the administrative chapters and appendices.

Knutzen referenced the section that allows local jurisdictions to modify the administrative chapters to their own needs.

Ryan stated it’s not a land use issue. It’s a life safety issue. The Planning Commission deals with land use and natural resources issues.

Knutzen stated he wants to propose changes to fire flow.

Wain Harrison, Planning and Development Services Department, stated there are requirements for water storage of a certain amount, but there are options for how that water is stored.

Kershner asked if there would be related zoning code changes. Harrison stated there would not be any zoning code changes as a result of adopting this ordinance.

Brenner stated this isn’t all State code. If there isn’t a legal problem with sending it to the Planning Commission, she would like to. Otherwise, send it to the Planning and Development Committee.

Harrison stated he has a staff report, but it’s not short. He wants to introduce the sections of the code that have changed. Much of what they’re seeing in the fire code section has historically been administered through the Fire Marshal’s office. It just hasn’t been codified. The Fire Marshal’s office has worked very hard to address fire flow and make it less conservative. It’s less conservative than it has been traditionally. He needs
adequate time for the staff report. All councilmembers have questions and concerns. It makes sense to address the Committee of the Whole.

Kershner stated they will listen to the staff report and write down questions for the next meeting. Harrison stated he will also address concerns with the Building Industry Association and the fire districts and fire chiefs. He submitted a handout (on file) and gave a staff report regarding the flood requirements being in Whatcom County Code (WCC) Title 17, using standard English measurement versus metric measurements, appeals related to critical area grading activity, International Fire Code amendments, requiring State licensing, posting information about commercial kitchen cooking hoods, underground fuel tank language, private roads and driveways, building fire flow requirements, the methodology for measuring the fire flow area, keeping the same threshold for automatic sprinkler systems in residences as has existed for many years, fire flow requirements in all buildings, fire access roads, review by the Technical Advisory Committee, and clarification of department authority regarding work done without a permit.

Kershner stated this item will be held in the Committee of the Whole. She asked if there is a timeframe. Harrison stated they are already in effect and being administered.

The motion failed by the following vote:

Ayes: Brenner (1)
Nays: Kershner, Mann, Weimer and Kremen (4)
Absent: Crawford and Knutzen (2)

**Brenner moved** to send this to the Planning and Development Committee instead of the Committee of the Whole. Make sure they have time to work on it.

The motion carried by the following vote:

Ayes: Brenner, Knutzen, Weimer and Kremen (4)
Nays: Kershner and Mann (2)
Absent: Crawford (1)

**OTHER BUSINESS**

There was no other business.

**ADJOURN**

The meeting adjourned at 3:34 p.m.

The Council approved these minutes on ______________, 2013.

**ATTEST:**

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
WHATCOM COUNTY COUNCIL  
Committee Of The Whole  

July 23, 2013  

CALL TO ORDER  

Council Chair Kathy Kershner called the meeting to order at 6:35 p.m. in Council Conference Room B, 311 Grand Avenue, Bellingham, Washington.  

ROLL CALL  

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, Pete Kremen and Carl Weimer  
Absent: None  
Attorneys Present: None  

COMMITTEE DISCUSSION  

1. DISCUSSION REGARDING POTENTIAL PROPERTY ACQUISITION FOR THE FLOOD CONTROL ZONE DISTRICT (AB2013-018)  
(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)  

2. STRATEGY PLANNING DISCUSSION AND POSITIONS TO BE TAKEN REGARDING COLLECTIVE BARGAINING (AB2013-018)  

Kershner stated that discussion of agenda item one may take place in executive session pursuant to RCW 42.30.110(1)(b) and discussion of agenda item two may take place in executive session pursuant to RCW 42.30.140(4)(a). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, she will step out of the meeting to make a public announcement.  

Knutzen moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to the RCW citations as announced by the Council Chair.  

The motion carried by the following vote:  
Ayes: Crawford, Kershner, Knutzen, Mann, Kremen and Weimer (6)  
Nays: None (0)  
Absent: Brenner (out of the room) (1)  

OTHER BUSINESS  

ADJOURN  

The meeting adjourned at approximately 7:00 p.m.
The Council approved these minutes on ______ 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Kathy Kershner, Council Chair

Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(7:02:29 PM)

Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner, Carl Weimer and Pete Kremen.

Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

Kershner announced that the following items were discussed in the Special Committee of the Whole and Committee of the Whole meetings today:

1. Executive Louws continues discussion regarding 2014 EMS service (AB2013-170)
2. Discussion of a proposed ordinance adopting the current State Building Code and repealing the existing Title 15 of the Whatcom County Code (AB2013-271)
3. Discussion regarding potential property acquisition for the Flood Control Zone District (AB2013-018)

Weimer moved to authorize the County Executive, acting on behalf of the Whatcom County Flood Control Zone District Board of Supervisors, to move forward with and complete acquisition of nine Marietta parcels for the purchase amounts discussed in executive session.

The motion carried by the following vote:

Ayes: Brenner, Crawford, Knutzen, Kershner, Weimer and Kremen (6)
Nays: Mann (1)

4. Strategy planning discussion and positions to be taken regarding collective bargaining (AB2013-018)

PUBLIC HEARINGS
1. **ORDINANCE FINALIZING A REVISED SYSTEM OF ASSESSMENT FOR DRAINAGE IMPROVEMENT DISTRICT NO. 6 (AB2013-237) (7:05:07 PM)**

Paula Cooper, Public Works Department, gave a staff report.

Kershner opened the public hearing, and the following people spoke:

Ben Hickey stated he’s seeking clarification. This appears to be a tax increase. The land on which this tax is paid doesn’t need a drainage ditch. He doesn’t know what he’s paying for and would like an explanation of why he’s being taxed and how the money will be used. They are asked to approve general funding to be used for anything, not at his discretion. It’s not fair to generally tax everyone for the benefit of certain individuals’ drainage improvement.

Lynn Hickey stated he wants clarification of whether this is a tax increase or a decrease. There has never been any flooding in that area. He’s in District 4. In his district, no one wants to clean the ditch or dredge the river. The taxes were removed from Scott Ditch because no one cleaned the ditch. This is the same thing. Nothing will get done. Too many agencies are involved in the cleaning of ditches.

Hearing no one else, Kershner closed the public hearing.

Cooper stated this is not a tax increase or decrease. Three supervisors set the annual assessments for the district. They decide how much money to collect. Last year they collected $2,500. By law, they have to send each district property owner a letter telling them their assessment per thousand dollars. They also include last year’s assessment method and the proposed new method.

Kershner stated the elected district commissioners set the amount of money collected for the district. The County role is to just make the rule as to how the assessment is done. Cooper stated that’s correct. The assessment is typically based on land area and benefit zone.

Brenner stated comments were made that nothing is happening. She asked if drainage is necessary in this area. Cooper stated the drainage district meets yearly. It has an annual work program. Without the ditch, they’d have a lot more water. Most of the drainage districts have done combinations of ditching and planting, so they spend much of their money on spraying and beaver dam removal.

Crawford stated the lowest total fee per $1,000 of assessed value is 37 cents. Nothing goes lower than that. The Hickeys’ assessment is $6.93 per $1,000 of assessed value. He asked how the Hickeys’ property is different from a property that is assessed only 37 cents per $1,000. Cooper stated in general, this district had a $2,500 assessment and about 250 parcels. Two years ago, they had a minimum fee of $10 per parcel. The minimum fee amount was eliminated and reapporitoned. Some of the little lots were paying as much as the big lots. This new method will make it fairer. The possible differences between the two parcels include different acreages or benefit zones. One of the lots was several acres, and the other lot was one acre.
Crawford asked if they ended the even assessment and are switching to an assessment based on benefit. Cooper stated that’s correct.

Crawford stated include another column on the spreadsheet that indicates a property owner’s total tax paid.

Brenner asked if the first acre costs more, and each additional acre costs less. Cooper stated that’s incorrect. For small lots that are less than an acre, they are being charged as if the lot is one acre. The assessment for each lot is based on how much acreage is in each of the different benefit zones. The geographic information system (GIS) staff calculate the amount for each lot. The formula calculates how much acreage in a parcel is in each benefit zone.

Mann asked the specific taxes last year and with this revision for the public hearing speakers.

Kremen stated the Hickeys will be paying $4.42 less than last year.

Crawford stated there are other Hickey-owned parcels on the list. Cooper stated every property owner received a letter indicating their old assessment and the new assessment.

Kershner asked if the district commissioners are aware of this program. Cooper stated they are. They support it.

Mann stated it looks like the Hickeys are getting a decrease in their assessment.

**Knutzen moved** to adopt the ordinance.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)


Amy Keenan, Planning and Development Services Department, gave a staff report. The parcel reconfiguration portion of the original proposal has been removed.

Kershner asked if this went through and had a recommendation of the Planning Commission and the Council Planning Committee. Keenan stated it has.

Kershner opened the public hearing and, hearing no one, closed the public hearing.

**Weimer moved** to adopt the ordinance.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

Mark Personius, Planning and Development Services Department, gave a staff report. Kershner opened the public hearing and, hearing no one, closed the public hearing. **Kremen moved** to adopt the ordinance. Mann asked about a correction that was mentioned in the staff memo. Personius stated the correction had been made.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
**Nays:** None (0)


Frank Abart, Public Works Department Director, gave a staff report. Brenner asked if the Ferry Task Force recommended this exact language. Abart stated he couldn’t say. The Task Force recommended moving it towards this conclusion. They noted the Opportunity Council. The ordinance doesn’t name the contracting agency, but the Opportunity Council is the agency they’re considering for the contract.

Kershner opened the public hearing, and the following people spoke:

Rhayma Blake stated a recent petition supported the special needs, senior, and disabled discount fares. The proposal is what the Ferry Task Force recommended. Improve and adopt the ordinance. Strike the fourth sentence in subsection 10.34.020(K) regarding the number of needs-based applications processed annually being dependent upon the constraints of the ferry operations budget. That language needs to be written in every ordinance the Council adopts or struck from this one. This ordinance doesn’t look at the request for a new fare level, which is a 10-ride needs based passenger/pedestrian punch card for about $37. It would replace the 25-ride card at $92, which is a lump sum out of reach of low-income budgets. The Lummi Island Ferry Advisory Committee will bring forward its fare recommendations later on.

Betsy Schneider stated she supports everything the previous speaker said. It addresses all the concerns raised about administration of the special needs fare program. There was a concern about the difficulty of determining current Medicaid eligibility. The proposed ordinance eliminates the Medicaid category. Those people will hopefully continue to be eligible under the new Housing and Urban Development (HUD) very low income guidelines. Another concern was finding an entity to screen for eligibility. The Opportunity Council has experience screening low-income programs at a lower cost than the County. She agreed with striking the sentence in 10.34.020(K).
Tip Johnson stated costs unrelated to the provision of service are prohibited from being included in tolls and fares as a general governmental principle. The major expense that increased the fares was crossing the tidelands. The federal government may seize those lands with no compensation and use them for purposes such as the ferry. Continue to investigate that option. People are confused about the policy basis for the decision made regarding the ferry lease. He made a public disclosure request on that issue. Virtually every document is protected by attorney-client privilege. Open the record for public review. The people paying the money should know the basis for decisions made.

Kathleen Gallagher stated the housing market prevents anyone from moving from the island. People have said that anyone who can’t afford to live there should move. That is hurtful. Senior and low income residents on the island are trying to get by. Fares were much lower when people moved to the island. Don’t cap the low income amount.

Greg Brown stated there is no more Ferry Task Force. There is the Lummi Island Ferry Advisory Committee, which has discussed this issue. Removing the statement is probably the right thing to do. He supports the ordinance.

Hearing no one else, Kershner closed the public hearing.

Brenner moved to adopt the ordinance.

Crawford moved to request that staff bring back an ordinance eliminating the special needs subsidy. It’s important to understand that the fixed cost of operating the ferry doesn’t change, regardless of whether or not the Council does this. The current operating cost of the ferry is at about $2.4 million per year. That number eclipses any other road activity, bridge support, or anything else in Whatcom County. The subsidy shifts the operating cost from the people who want to live on Lummi Island to the rest of the county taxpayers. The county taxpayers are subsidizing folks who choose to live on Lummi Island. It is a lifestyle decision that folks have made to go over there and then ask the rest of the County road taxpayers to subsidize. One piece of County road infrastructure takes over ten percent of the annual road program cost. However, Councilmember Brenner moved to adopt the ordinance. His motion would probably be out of order.

Crawford withdrew the motion.

Kremen asked the source of the language in section 10.34.020(K) came. Abart stated the language is a prudent budget activity. He added the language. It will be up to the Council when it approves the budget. The reason driving the language is because the County made significant cuts to this area of public service. There were concerns of being able to meet this. He intends to come forward in the fall and ask for an increase in the 2014 budget for that particular line item.

Kremen moved to amend the ordinance to delete the fourth sentence in section 10.34.020(K).

Kershner asked for the recommendation of the Advisory Committee. Abart stated he doesn’t have anything from them.
Kershner asked if there is any indication that the Advisory Committee supports this ordinance. Generally, the Council receives a recommendation from an advisory committee that weighs in on an ordinance. They don’t have that.

Crawford stated they will not only subsidize the cost, but they are adding another $50 per application to pay an outside group to look at these applications and see if the people are qualified. That will not come out of anything else they do with the ferry. The ferry is a fixed cost. It is more added cost that the rest of the taxpayers will pay. He questions the sense of considering this.

Weimer stated he supports the proposed amendment. Councilmember Crawford’s characterization that the rest of the county is subsidizing this is not correct. The fare formula is to share the cost between the people who ride the ferry and the rest of the county. The island residents want to support the ability of low income people to ride the ferry. They are willing to subsidize this in their 55 percent. One way or another, people on Lummi Island pay 55 percent of the cost. The small amount of $1,600, which is the Opportunity Council cost, will be borne by the rest of the people on Lummi Island. He thanks them for that offer. The Treasurer stated it costs him $5,000 to administer the program. Moving this to the Opportunity Council is a cost reduction.

Knutzen asked if they are up to 55 percent. It was a goal, but he doesn’t know if they’ve reached it. Abart stated they have reached it.

Crawford stated the surcharge got them close to the 55 percent.

Mann asked the estimated cost of the needs-based fare at the fare box. Abart stated the difference between what they pay and what a normal fare cost in 2012 is about $23,159. That doesn’t include any administrative cost.

Kershner asked if the needs-based fare subsidy picked up only by the fare-paying ticket buyers. Abart stated not exactly. It’s 55 percent. The road fund picks up 45 percent. It’s part of the operating costs.

Brenner stated the councilmembers voted to approve a lease for millions of dollars that they didn’t have to have. It wasn’t the law. It was the path of least resistance. That cost was on the people of Lummi Island. The County owes it to the people on Lummi Island to fight the lease. In the meantime, this is a small amount. The Council subsidizes low income people in many ways.

Weimer stated he talked to the Advisory Committee Chair earlier today. He indicated the Advisory Committee basically approved this as-is and supports the language change.

Kershner stated she still prefers to have written support of the ordinance.

The motion to amend failed by the following vote:

**Ayes:** Weimer, Brenner, and Kremen (3)

**Nays:** Mann, Crawford, Knutzen, and Kershner (4)

The motion to adopt carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

5. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300B) (7:58:27 PM)

Josh Fleishman, Planning and Development Services Department, gave a staff report and submitted a map of critical aquifer recharge areas and agricultural Comprehensive Plan designations (on file).

Kershner opened the public hearing, and the following people spoke:

John Kirk stated this ordinance is not what the Planning Commission recommended. It includes open-ended cost items and inserts licensing and groundwater assessments that threaten unlimited financial impacts on farmers. The ordinance is now toxic for business. Recognize the conflict between farmers and environmental agencies. Adopt the Planning Commission recommendation. Remove the extensive controls in the ordinance. Don’t ignore the ideological nexus between Futurewise and County staff.

Matt Petryni, ReSources for Sustainable Communities, stated he is concerned the ordinance goes too far by opening 88,000 acres of agricultural land to an industrial use. It doesn’t clearly establish the need. He is concerned about cattle being shipped in from other areas and stored on feedlots. He supports a sustainable local agricultural industry. Balance the need with the need for clean drinking water. Consider abandoning the ordinance until the need can be determined. Add protections to ensure water quality is safe.

Melodie Kirk stated she supports allowing packinghouses, but does not support this ordinance. There is no method for determining which animals are from Whatcom or Skagit county. Reduce the regulations. Go back to the version from the Planning Commission.

Paul Anderson stated packinghouses use a huge amount of water. They don’t know what will happen with climate change in the future. He is concerned there won’t be enough water for the farmers. Protect the resources for the next seven generations.

Lloyd Elenbaas stated packinghouses would increase the farmgate value for all beef farms and dairies in the county and would increase value-added product for farmers. It would allow more choices for county consumers. Packinghouses would keep dollars and jobs in Whatcom County. There will be no negative impacts from waste management. The scale proposed is minuscule compared to the average dairy farm. A properly managed beef fed operation requires no herbicides, pesticides, or chemical fertilizers. If they are going to eat meat, they must be responsible for it. Farmers are less than two percent of the population in the United States. They don’t know how much food there will be in the future. They must allow the farmer to survive.

Max Perry stated he supports the ordinance as the Planning Commission recommended. There is a need in the county for small packinghouses. Adopt a cleaner, useable ordinance to allow packinghouses in the agricultural zone.
Charles Law stated 88,000 acres of eroded, paved land is a loss to the community. He is opposed to the ordinance.

Tee King stated the Council is going backward. It takes water and food to raise cattle for food. Everyone opposes this, but it is moving forward. She is opposed to the ordinance. These places are icky and aren’t regulated. It won’t be legal for her to go into it with a camera because of the level of inhumanity in those places. Pigs will be afraid because they are smelling their own kind being killed. They get hit in the head with a baseball bat and lie there for hours while the other animals around them are killed. When an animal is raised lovingly and organically, and they kill it, they don’t eat its fear. Raise animals humanely and only eat what they need. Stop growing food to feed food. They are going to run out of water. Eat less meat and stop driving so much.

Larry Helm stated a farmer will not stay around if he can’t make a profit. Without infrastructure, farmers won’t succeed. Environmentalists have reasons that may become problems, but not having the infrastructure they need for cattle process will for sure drive the farmers away. The agricultural committee spent a lot of time on this. He supports the ordinance as it was originally proposed.

Knutzen asked if the Agricultural Advisory Committee recommended this. Helm stated they supported the original proposal without the restraints, such as prohibition in aquifer recharge areas.

Kelly Uusitalo stated she is concerned about water quality. Controls about runoff and location to other farms are very important. E-coli and other problems have been found in agricultural produce. Look at the recharge. Farmers can make money in a way that is sustainable. She agrees with the environmental protections. Many people would approve of mobile slaughter units that doesn’t use up agricultural land.

Tip Johnson stated these facilities need to be connected to publicly-owned water supplies and wastewater treatment plants to ensure environmental and health safety. He is not against slaughter. The State Environmental Protection Agency (SEPA) was not competent. They must identify the areas where this activity is appropriate. The original applicant wanted small scale. It has gotten ideologically out of control. Homes, schools, and churches should not be around slaughterhouses. More competition doesn’t work in this business.

Evelyn Vooge stated a dead cow on Prairie Road will give them different ideas. If this passes, there won’t be money to enforce anything that goes wrong.

Greg Brown stated there he supports the original packinghouse ordinance. There are problems with the current proposal, including the requirement for 75 percent from Whatcom and Skagit Counties. The word “immediate” regarding feedlots isn’t defined. They have a right to farm in the county, including odors.

Virginia Watson stated she agrees that this can be done environmentally. Her main concern is water in the rural areas. Require that a packinghouse applicant have a water right certificate and/or approval from the water association and proof that the water association has a water right. This will exacerbate the water rights battle in the county. Consider the best solution for the best number of people. According to Sherry Keiser, they
could process the cattle if the meat were processed year around and avoid the fall glut that causes the problem.

Lorraine Newman stated they are looking for a solution to the processing bottleneck. Farmers deal with the USDA, the State Department of Ecology, the State Department of Health, and many other State and federal agencies daily. Slaughtering animals for use as food is a legal activity. The aquifer requirements are too onerous. Allow the farmers to produce products that sustain lives.

Wendy Harris stated land use policies for farmland should protect long-term viability of the agricultural economy and the safety of the food supply, rather than property interests. She is opposed to the ordinance. It will fragment the agricultural land base. Protect areas with prime soils from converting to an industrial use. The current proposal doesn't ensure that adequate water is available for farmers to grow food. A facility will be allowed to use the exempt well provision, which depletes the groundwater supply available to farmers.

Tony Kuphaldt stated he tries to eat locally, including meat. It’s hard to find high quality, grass-fed beef in Whatcom County. Having a source is important for health reasons, sustainability, and environmental concerns. A local source is a better solution. Loss of local vegetable processing has had a negative effect in Whatcom County. The situation is the same for meat processing. They need to find a compromise between farmers and the environment.

Jasmine Cline stated he is concerned about effects on water. The local tribes also seem concerned about effects on water. There will be no profit from poisoning the water.

Krista Kirk stated reconsider the original ordinance recommended by the Planning Commission.

Roger Bajema stated there will be no problem with the water due to frequent inspections. There is no concern about water. If they can’t make a profit, they will sell the land. Hauling the cows to the closest packing plant in Stanwood is stressful to the cattle. They need a packinghouse locally. The meat will be inspected by the USDA. The ordinance started out better than it is now.

Jessica Elenbaas read from the Growth Management Act (GMA), which references Revised Code of Washington (RCW) 36.70A.170, and the Comprehensive Plan, which allows innovative zoning techniques in Whatcom County to sustain agriculture and its support industries. Packinghouses are as agricultural as berry processing and milking parlors.

John Lesow stated he disagrees with the previous speaker. Innovative zoning techniques were not meant to address slaughterhouses on 88,000 acres in Whatcom County. The original small scale slaughterhouse proposal has morphed into something much bigger. This is a free industrial upzone for a certain segment of the community that they are willing to placate, particularly during election time. The agricultural land will eventually be sold to corporations. This proposal is not responsible long-range planning. Zoning allows slaughter in areas that provide proper water and sewer services. It’s unrealistic that the County can effectively enforce the regulations of these slaughterhouses.
He is against the ordinance. Allow slaughterhouses in RIM zones and reject all other amendments.

Judy Crnich stated she continues the testimony of Jessica and Ben Elenbaas. The demand for beef in Whatcom County is huge, and is not met locally. Allow more diversity in the agricultural zone. Create the infrastructure to connect the existing cattle with the existing demand for local food. She supports the ordinance. Her land doesn't belong to anyone else. She pays the taxes on it.

Nicole Brown stated the USDA issued a study in June 2013 and found that local livestock producers must have better coordination with meat packers, which is more important than distance to slaughter facilities. Aggregation of livestock and better communication among farmers are better solutions than new slaughter facilities. The cattle community claims that 40,000 to 50,000 cattle are shipped out of Whatcom county annually. That equates to ten mobile units that are all that is needed, not including Keiser. Keiser has said they don't operate at capacity because of scheduling issues. Everyone wants to harvest the same time a year. Farmers must schedule better. If each Whatcom County resident bought and ate twice the amount of local meat recommended by the USDA, 20,000 cattle would still be available for export. Eighty percent of the dairy industry products are exported. She supports a diversified food system that meets a needs analysis. Vegetable processing doesn't belong on agricultural land, either.

Jeff Voltz stated a 30,000 square foot operation is big, and would exceed local needs. The population in Whatcom county consumes the equivalent of 26,409 beef cattle per year. They eat the equivalent of 55,860 hogs per year. There is a big local market. About two percent of the meat consumed in the county comes from the county. If that were increased to ten percent, it would create $8 million to $10 million for the economy and about 100 jobs. Mobile units are one of the best solutions available, and have a processing plant in the industrial zone.

Stephan Michaels asked why they are called packinghouses. They are slaughterhouses. He asked the conditional use criteria for a 30,000 square foot packinghouse. They need a better definition regarding holding pens and immediate use. He asked why up to 25 percent of the animals to be slaughtered can be from out of county. Nothing in the ordinance speaks to the humane treatment of the animals.

Terry Wechsler stated a 30,000 square foot packinghouse is not small. They must have a needs analysis and see if it's economically feasible in an industrial area. Most farmers want mobile units. Conduct an environmental impact statement (EIS).

Bonnie Joy Barker stated consider the future. She wants sustainably-raised meat that has been raised and butchered humanely. Mass produced meat isn't humane. Her land value will go down. The quality of this county will go down. Don't pave the way for the Wal-Mart of meat packing to come into this county. Humanely raised animals and organic farms can be exported.

Yoshi Revelle stated the purpose of people is to serve each other. People have made an idol of money. Money is just a piece of paper. Nature or God labors for us all the time.
Joe Knight stated he is opposed to the ordinance. There are at least 18 farms in Whatcom and Skagit County where people can buy meat. Such facilities already exist. There is no need for it. First, do no harm. Industrial areas are already prepared for such uses. Mobile units are better options. Endangering the farmland endangers the agricultural base of Whatcom County.

Delaine Clizbe stated she is in favor of passing something. It includes a lot of limiting regulations. They’re no longer talking about 88,000 acres and an unlimited use. Beef must be grown locally and processed locally. Pass the ordinance now, and tweak it later. The ordinance needs more input from the farmers.

Jeff Margolis stated he sells local beef, lamb, and other products from his business. He is very concerned about what happens to the water. People must live within the limitations.

Kate Blystone, Whatcom Chapter of Futurewise, stated this ordinance started out very small, allowing seven to ten employees, and now they’re talking packinghouses up to 30,000 square feet. Keep the original proposal in mind. She agrees with comments about water rights and water issues. She referenced and read from her letter about limiting the size of accessory uses and conditional uses, limiting the size of holding pens, and keeping farmland for the production of food. Limit the structure to areas with poor soils. They must reach their goal of 100,000 acres of farmland.

Patrick Alesse stated rural land is supposed to be resource land. Processing food should be done in an urban area.

Christine (Inaudible) stated slaughterhouse jobs are unskilled and low wage with poor working conditions. Start small, not big. Put a cap on the number of slaughterhouses and where they are located. She is worried about water quality and property values. She won’t vote for any elected official in favor of this ordinance.

Carol Follett stated she is opposed to the ordinance. Leave the land for others.

Kris Halterman stated listen to the farmers. The Council must protect and preserve resource lands. Remove the restriction from aquifer recharge areas. Over-regulation will drive farmers away. Adopt an ordinance that ensures farmer success.

Peggy Uppiano stated a mobile unit would use the same amount of water and have the same amount of waste per cow. Packing plants don’t have to become monstrous. There are considerations about scheduling slaughter. Processing locally is more humane. Shipping out the beef simply places the problem elsewhere. It doesn’t solve the problem.

Gabriel Claycamp stated he is the original applicant. Water quality is an issue, but mobile slaughter isn’t the answer. One hundred percent of all waste goes on the ground with a mobile slaughter unit. It uses the same amount of water as a normal packinghouse. The rural industrial manufacturing (RIM) zone is an option, but it doesn’t have water or sewer. Only 27 acres are zoned RIM and available for slaughterhouses. There isn’t a bunch of land zoned industrial on which this use can go. He agreed with the comments from Kate Blystone. To meet Whatcom County needs, at least one 30,000 square foot plant would
provide 20 percent of meat needs. To make a local resilient economy, they need medium size plants.

Jane Boltenhouse stated delay the decision until the councilmembers can see one of these places and know what they’re talking about.

Ron Reimer stated he wants the Growth Management Act to go away. A bunch of people aren’t going to move here and start building large slaughterhouses. They are geographically isolated from the country. They don’t live in a utopia. He’s a businessman who is trying to make a profit to spend money on things he cares about. Businesses move south because it’s friendlier. Let the farmers be farmers.

Wes Kentch stated he started out in favor of the slaughterhouse ordinance, but is not anymore. The ordinance now has too many regulations. Grass-fed beef must be USDA-slaughtered to be legal. He has the option of slaughtering his own animals. The water he uses is reprocessed, recycled, and purified. If carefully managed, it works well.

Alyssa Sagerston stated she is concerned about the waste from the animals and about slaughtering facilities tainting nearby produce.

Gary Knause stated he is probably the largest cattle operator in the county. Many people have no idea what goes on at a farm. If they are worried about clean water, close the Nooksack River to inner-tubers. The more rules and regulations on a slaughterhouse, the less it will be. There won’t be a bunch of slaughterhouses here. There are not enough cattle for that. They don’t have the facilities to keep cattle indefinitely. When cattle are in a feedlot, they have to be fed and bedded. People think they will bring in a bunch of cattle in feedlots, but that’s not true. He’s under a lot of regulations and is checked often. A slaughterhouse will be USDA inspected. He is constantly watched by regulators and ReSources. If the County isn’t going to support agriculture, they will leave. They are not getting rich. More rules and regulations are going to force agriculture out of here. Every day he puts a lot of money back into the tax base. Think about the decisions.

Carol Perry stated the Planning Commission did a great job developing an ordinance. The Council should have accepted the Planning Commission recommendation.

Heather Katahdin stated she supports local guidelines to allow small scale family farmers to contract with locally-owned mobile slaughter units that use and recycle all parts of the animal. This proposal is not in the best interest of the community and a diverse family farming system. Water quality and quantity is an issue. The use should be sited in rural and industrial zones as they are currently permitted. These proposed slaughterhouse and packinghouse facilities are known polluters of ground and surface water.

Dave Onkels stated a local processing agricultural processing plant is about 30,000 square feet and located on agricultural land. He hopes someone builds a packinghouse that is equally viable, profitable, and supports as much employment.

Hearing no one else, Kershner closed the public hearing.
Mann asked where slaughterhouses or packing houses are permitted right now. Fleischmann stated the uses are clearly permitted in the rural industrial manufacturing (RIM) zone.

Knutzen stated all the waste from a mobile slaughter unit goes directly into the ground. He doesn't know how that would be a better serving use, especially in light of what is going on at Keizer's. All their waste is going into a digester. They use between 8,000 and 10,000 gallons per month. It won’t be a huge draw of water. Exempt wells allow a daily draw of 5,000 gallons. This is less than two days’ use for the whole month.

They just heard arguments over regulation. The State Department of Ecology (DOE) just hired three new agents to check for anyone not adhering to state and federal regulations regarding the Bertrand watershed. It’s farfetched to say there won’t be adequate oversight. It’s hypocritical to allow a 10,000 square foot distillery in the agricultural zone without a solid waste permit. They’ve also heard arguments this is an upzone. Someone read in the State code that this should be an accessory use. They’ve talked about that over and over. Someone else talked about scheduling. One can’t schedule when to butcher beef. There are economies of scale to consider.

However, he would consider some changes, such as to the size. He moved to adopt the ordinance. He moved to amend Whatcom County Code (WCC) section 20.40.114(1) on Council packet page 370, “The total allowable building is no larger than 10,000 7,000 square feet.” They’ve heard concerns that the 10,000 square feet is too large. He will compromise with 7,000 square feet.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

Knutzen moved to amend WCC section 20.14.164(1) on Council packet page 371, “The total allowable building area is larger than 10,000 7,000 square feet and no larger than 30,000 20,000 square feet.” Some people are concerned that 30,000 square feet is too large. A packinghouse is different than a slaughterhouse.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

Knutzen moved to amend WCC section 20.14.114(6) on Council packet page 370, “The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06 unless an approved State waste discharge permit from the Washington State Department of Ecology that complies with WAC 173-216 and a disposal plan with an approved anaerobic digester.”

Kershner asked about Health Department concerns over jurisdiction.

Jeff Hegedes, Health Department, stated that a packinghouse would still be subject to WAC 173-350, solid waste management, independent of whether or not subsection .114(6) is in the ordinance. Packinghouses are also subject to WAC 173-216, the State
waste discharge permit, independent of what might or might not be in the ordinance. WAC 1
173-350 is for management of solid waste. WAC 173.216 is for wastewater management. 2
There is no legal jurisdiction or context in which the Health Department has authority to 3
approve a waste management plan. The Health Department makes sure they are compliant 4
with State law regarding management of solid waste. Staff will provide as much technical 5
assistance as possible about being in compliance with requirements for the management of 6
solid waste. They don’t bring a plan to the Health Department for the department to 7
approve or disapprove.

Kershner asked if the language, as written in the Council packet, correctly states the 8
role of the Health Department. Hegedus stated it does. The only entities for which the 9
Health Department would approve or disapprove a waste management plan are places like a 10
landfill or transfer station when State law gives the County that legal authority.

Brenner asked who issues approval. Hegedus stated Ecology would approve the 11
permit for State waste discharge, which is for managing the process of wastewater. There 12
is no approval or disapproval for solid waste. There are no companies that have to do a 13
plan that the Health Department would approve or disapprove. Instead, they would look at 14
whether or not they are complying with State law in how they are managing their solid 15
waste.

Brenner asked if the Health Department looks at it after it’s built. Hegedus stated 16
that when applying for a permit for State waste discharge from Ecology, the company also 17
has to submit information on how they are going to manage their solid waste. That plan 18
can change, as long as the company complies with State law. If they change the plan and 19
are no longer in compliance, they are in violation of the solid waste handling requirements 20
over which the Health Department has jurisdiction.

Knutzen asked what jurisdiction the Health Department has over a berry operation, a 21
dairy, or a distillery. Hegedus stated they all have to comply with WAC 173-350. The 22
Health Department is the jurisdictional authority. It would be a health code violation of 23
local and State law if they were not properly disposing of their solid waste.

Kershner asked if this needs to be in this ordinance. It sounds like it’s an existing 24
regulation, not an additional regulation. Hegedus stated that’s correct. Compliance is 25
already required, but it’s also not bad to have the language in this ordinance.

Knutzen withdrew his motion to amend. He moved to amend WCC 20.40.114 on 26
Council packet page 371 to delete subsection (11), “(11) The packinghouse is not located in 27
a Critical Aquifer Recharge Area of a High Susceptibility, as identified by the Critical Areas 28
Ordinance map.” The County does not require any other agricultural use to adhere to this 29
regulation. It was done hastily. The implication is that packinghouses would not be an 30
approved use in over 50 percent of the agricultural zone. The amount of waste coming out 31
of an anaerobic digester is minimal. Homes have more waste. Other, more hazardous uses 32
in the agricultural zone are situated on critical aquifer recharge areas.

Brenner asked if a dairy manure lagoon must have a liner. Hegedus stated it doesn’t 33
require a liner.
Brenner stated the manure lagoon with a digester is lined. Hegedus stated digesters are not packinghouses. They are completely different facilities generating completely different process wastewaters. They’re regulated differently. One generates a wastewater called digestate that is a nutrient that is allowed to be reapplied to the land as a nutrient. The other is a wastewater from packinghouses that is not a nutrient. It’s disposed of to the ground. They are two different waste streams. They can’t be compared. Regarding the recharge area, the intent of the State waste discharge permit is to protect surface and groundwater from all impacts. It is rigorous and expensive. It’s not trivial. It’s not foolproof either. When an entity applies for a permit, they typically need an engineering consultant to develop a very technical program with monitoring and best management practices.

Knutzen stated that in other jurisdictions, it’s handled the same as manure. It’s spread on the ground and used as a nutrient supplement to the soil. The mobile unit in Skagit County spreads it on the fields. Hegedus stated that’s for disposal, not for a soil amendment.

Knutzen stated there’s not that much difference between the nutrient stream from manure and waste from a cow.

Brenner stated the existing packing plant contains it in a tank. It’s piped to a truck that takes it to a digester.

Knutzen stated that’s already being done by Keiser’s.

Brenner stated that means there is no offal liquid waste. Hegedus stated the blood and wash down water can go to an anaerobic digester.

Knutzen stated everything except spinal column, brain, and sheep carcass can go to a digester.

Kershner asked if the protections from the national pollutant discharge elimination system (NPDES) permit and the requirements to manage solid waste and water discharge are so strict that an additional restriction or prohibition in an aquifer recharge area is another layer the Council must decide whether it wants to impose. Hegedus stated that’s correct.

Knutzen stated the section .114(11) would prohibit the use in 50 percent of the agricultural land, even if it was next to a digester.

Brenner asked to include wording that it be contained and piped to an approved disposal facility.

Knutzen stated that’s already in subsection .114(7).

Brenner stated it may be good to have that language so people understand it’s not going into the ground.

Crawford asked where this language originally came from.
Brenner stated the committee proposed the language.

Crawford asked if these same questions were asked and why they thought it was necessary.

Brenner stated she had not visited a plant. Once she did, and saw what they do with the waste, it made sense. Include language about holding it in a tank.

Mann referenced the language at the end of subsection .114(7) and asked if it’s possible to have a facility that would not need a State waste discharge permit. Hegedus stated he doesn’t think that would be possible. Even with an anaerobic digester, a State waste discharge permit is required for pre-treatment. There may be some circumstance in which a permit is not required, so it wouldn’t be bad to include the language. The County can’t require an entity to get a permit if the State says the entity doesn’t need it.

Kershner stated they’re still overseen by the Health Department and would be out of compliance if discharging waste on the ground without a plan. Hegedus stated that’s correct.

The motion carried by the following vote:

**Ayes:** Brenner, Crawford, Knutzen, Kershner, and Kremen (5)

**Nays:** Mann and Weimer (2)

**Knutzen moved** to amend WCC section 20.40.164(10) on Council packet page 372, “The packinghouse is not located in a Critical Aquifer Recharge Area of a High Susceptibility, as identified by the Critical Areas Ordinance map.”

The motion carried by the following vote:

**Ayes:** Brenner, Crawford, Knutzen, Kershner, and Kremen (5)

**Nays:** Mann and Weimer (2)

**Knutzen moved** to amend WCC 20.40.114(7) on Council packet page 370, “…if required by the Washington State Department of Ecology with adequate storage where required that complies with the WACs.”

Mann stated it seems redundant. Hegedus stated the State waste discharge permit allows treatment and storage, after which it could go into the ground. If it went to an anaerobic digester, it would be stored and then shipped. There are two options. One option is to pre-treat and infiltrate into the ground.

Brenner stated she likes the idea of the waste being contained and shipped to a digester.

Kershner stated she is against the motion because the language in the ordinance already covers the requirement. Adding the new language would be more confusing and not good legislation.

Mann stated the Council didn’t include the language about the WACs and State requirements to create additional layers of regulation. Those statutes are included so people who request a permit would know what they must do. The Council wasn’t convinced
the communication between staff in various departments was sufficient. It’s frustrating to get contradicting information. This was to make all the information available up front. They didn’t want to add regulations, just list them. He agrees that adding language here that isn’t necessary and will complicate things. He doesn’t support the motion.

Brenner stated the biggest concern raised was about water quality. The language will make it clear, even if it is redundant.

The motion carried by the following vote:
Ayes: Brenner, Knutzen, Weimer and Kremen (4)
Nays: Kershner, Mann and Crawford (3)

Knutzen moved to amend WCC 20.40.164(6) on Council packet page 371, “An approved state waste discharge permit from the Washington State Department of Ecology with adequate storage where required that complies with WAC....”

The motion carried by the following vote:
Ayes: Brenner, Crawford, Knutzen, Weimer and Kremen (5)
Nays: Kershner and Mann (2)

Crawford stated they shouldn’t have one section of the code inconsistent with another.

Knutzen moved to amend WCC 20.40.114(2) on Council packet page 370, “The facility processes at least 75 percent agricultural goods produced in Whatcom, or Skagit, and/or Island County and that originate from uses permitted in WCC 20.40.051.”

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner and Kremen (6)
Nays: Weimer (1)

Knutzen moved to amend WCC 20.40.164(2) on Council packet page 371, “The facility processes at least 75 percent agricultural goods produced in Whatcom, or Skagit, and/or Island County and that originate from permitted uses in WCC 20.40.051.”

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, and Kremen (6)
Nays: Weimer (1)

Kershner moved to amend WCC 20.40.114(3) on Council packet page 370 and WCC 20.40.164(3) on Council packet page 371, “Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for immediate processing within 24 hours.”

Knutzen stated that is not enough time.

Crawford suggested a friendly amendment that it be within 48 hours.

Kershner accepted the friendly amendment.
Brenner asked to include language that allows a waiver to keep the cows longer if they are already there, but not accept any more, due to an equipment malfunction, as long as they call to inform the Health Department. Hegedus stated they still have to have adequate facilities to manage the livestock during the holding period without impact surface or groundwater. It’s a permit requirement. It would be onerous to require them to call anyone.

Mann asked an estimate of how many animals would be held in two days. Hegedus stated Cowlitz County has a facility with an 800 square foot kill floor and can process 300 per day. It’s a matter of operational efficiency. He doesn’t know the size of the holding area.

Knutzen stated Keiser is permitted for 2,000 animals per year through their U.S. Department of Agriculture (USDA) certification.

Crawford stated it seems like a holding facility for 300 cattle would be big. He likes the idea of a 48 hour limitation. Make sure it’s realistic for the size of the facility. He asked if there is a statement in the code that feedlots are prohibited. Fleischmann stated there isn’t. The code is silent on them in permitted uses.

Kremen asked where the use of the word “immediate” originated. Fleischmann stated it came from committee.

Mann stated the intent was to avoid feedlots.

Crawford asked for information from a cattleman about how long they hold cows.

Claycamp stated the USDA has a requirement that the animals must be fed if in the pen more than 24 hours. Almost all slaughterhouses keep them for only 24 hours. A 7,000 square foot slaughterhouse, by most standards, could process 30 beef in 24 hours, or 60 in 48 hours. Sixty beef can be held in a pen that is 600 square feet. Existing slaughterhouses that do 50 beef per day have pens less than 1,000 square feet total. The common time in a pen is 24 hours maximum. Slaughterhouses aren’t in the businesses of feeding the cattle, and it creates more waste.

Weimer asked about Mr. Hegedus’s comment about an 800 square foot kill floor that processes 300 per day. Claycamp stated that contradicts his research. That slaughterhouse plant is about 30,000 square feet. Packinghouse process much less with the same square footage.

Kershner amended her motion to accommodate animals for 24 hours.

Mann asked if there is anything in the ordinance requiring a packinghouse to be approved by the USDA. Fleishman stated there is not.

**Kershner restated the motion** to amend WCC 20.40.114(3) on Council packet page 370, “Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for immediate processing within 24 hours.”

The motion carried by the following vote:
Kershner moved to amend WCC 20.40.164(3) on Council packet page 371, “Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for immediate processing within 24 hours.”

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

Weimer asked if a facility can operate with a 5,000 gallon per day exempt well or has to be hooked up to water service. He asked if a business can run on an exempt well. Fleischmann stated one could create an exempt well, publicize it, convert it to a group a or group b. The facility would be limited to 5,000 gallons per day.

Kershner referenced WCC 20.40.114(4) and asked the reason for that language. Fleischmann stated it’s part of a conditional use permit.

Kershner moved to amend WCC 20.40.114(4) on Council packet page 370, “For purposes of public notice, the applicant shall submit stamped envelopes with typed addresses for each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.”

Mann stated it’s a compromise because the committee went back and forth between making the use accessory or conditional use.

Crawford stated it’s strange there is a notification, but no process for input. Fleischmann stated a neighbor could appeal a building permit.

Krement stated nothing is wrong with disclosure and more transparency.

Kershner stated she agrees with disclosure, but this particular disclosure doesn’t provide an outlet for someone to express a concern, other than to appeal the building permit.

Crawford stated it’s nice to let the neighbors know, but he doesn’t know what they’re supposed to do with that information. There needs to be a statement in the letter about their option.

Kremen stated there is a reason to inform the neighbors. Nothing is wrong with it. There is potential for a concerned neighbor to have an opportunity to appeal. Leave the language in.

**Kershner** withdrew her motion.

Weimer stated the ordinance should specify what the Planning Department is to do with the envelopes it receives from the applicant.
Mann stated he’s thought this use should be a conditional use at all sizes. He thought the use was allowed in industrial zones. It’s not. Based on concerns expressed, he advocates that the use be approved with an administrative permit. The process is clearer. The County has more ability to enforce the rules. He moved to change the use to an administrative approval process rather than allow it as an accessory use.

(Clerk’s Note: Councilmember Kershner left the meeting at 10:59 p.m. and Council Vice-Chair Knutzen assumed the duties of the Chair.)

Knutzen stated he is against making the use administrative approval. State code says processing of agricultural projects is an accessory use. This is an accessory use.

Brenner stated the concern is covered with the solid waste language. They covered the concern about water quality. She doesn’t know how else it would get into the ground. She doesn’t have an answer, but other people may. There are many other kinds of crops, such as organic farms next to other farms where chemicals are used. She doesn’t know what protects them. She feels better about the solid waste permit.

Weimer stated he is concerned that people aren’t notified and don’t have an opportunity to provide information before the use is built. He asked if there is opportunity in the administrative approval process. Fleischmann stated neighbors have an opportunity to give comment to the technical administrator at the County, who can consider the comments and talk with the applicant about neighbor concerns.

Weimer stated he will support Councilmember Mann’s proposal.

Brenner asked about the differences in the processes. Fleischmann stated the administrative approval process makes a pre-application meeting more likely. There are conversations with various County staff to start with a more thoroughly vetted proposal, so the applicant has a better idea of the regulations and requirements.

Brenner stated the applicants are responsible for doing what they must do. Fleischmann stated that the administrative approval process includes a notice to neighbors, who can make comments. The administrator can consider those comments and create requirements to address concerns.

Brenner asked how much discretion the administrator has.

Crawford stated it all ends up being negotiated.

Knutzen stated State code says processing agriculture products is an accessory use.

Fleischmann described the differences between an approved use, an administrative approval process, and a conditional use process.

Kremen stated he’s inclined to support the administrative approval, but is concerned. It all depends on the administrator. Administrators have different approaches. Include language that makes it clear the administrator is to do everything possible to accommodate the application. Otherwise he won’t support the motion.
Brenner stated it’s very discretionary in reality. There is no reason to do that. People with concerns can talk to the administrator. The farmer and neighbor can still negotiate.

The motion failed by the following vote:

Ayes: Weimer and Mann (2)
Nays: Brenner, Crawford, Knutzen and Kremen (4)
Absent: Kershner (1)

Crawford moved to remove section 20.40.114(4). He doesn’t understand what message is supposed to be given to the folks. They don’t have recourse.

Kremen stated they do have recourse. They can appeal the building permit.

Crawford stated they can only appeal after the building permit is issued, and with a large fee. There is no deadline to make sure all the neighborhood concerns are met. The applicant can start construction the day the building permit is issued. It’s unrealistic. This serves no process. It says there is nothing the neighbor can do about it.

Kremen stated that contradicts what Mr. Fleischmann just said.

Brenner stated it allows the neighbor to express a concern to the property owner.

Crawford stated the property owner isn’t required to consider the concerns.

Brenner stated that’s the way it is, unless there is an administrator.

Knutzen stated the Council will take a break.

(Clerk’s Note: The Council took a break from 11:12 p.m. to 11:24 p.m.)

Crawford withdrew his motion to remove item four. He’s trying to create some sense of purpose as to what they’d be notifying the people for. He moved to amend section 20.40.114(4), “For purposes of public notice, the applicant shall submit stamped envelopes with typed addresses for each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the County Assessor. A notice shall be mailed by Planning and Development Services explaining that an application is being processed for a packinghouse on the subject property as an allowed accessory use, and that the notice is being provided is a courtesy only. A copy of Whatcom County Code 20.14.114 shall be provided with said notice.” At least they are telling the Planning Department what to do with this notification. It’s a courtesy only, and a copy of the code is being provided to let folks know this is an allowed accessory use.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)
Nays: None (0)
Absent: Kershner (1)

Brenner moved to forward the ordinance as amended for introduction at the next County Council meeting.
Crawford stated he would like to allow Planning staff to word the language in his motion better if necessary.

Frakes stated the public hearing should just be on the changes. Make that clear to the public so the Council doesn't go through the same type of hearing as it did tonight.

Mann stated he doesn't support that. Frakes stated that legally, the new public hearing only has to be on the changes made tonight.

Kremen stated Ms. Frakes was out of order to insert herself in the Council’s deliberation. He does not support the suggestion to limit the public hearing. If they are going to have a public hearing, the public ought to have an opportunity to weigh in on all aspects of the issue.

Brenner stated she doesn't support it, but is glad that Ms. Frakes spoke. They wouldn't have known that was a possibility. She likes getting that kind of information from legal counsel. Whether or not she take counsel’s advice is her business.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, and Kremen (5)
Nays: Weimer (1)
Absent: Kershner (1)

OPEN SESSION

(11:30:33 PM)

The following people spoke:

- Greg Brown spoke about the resolution regarding the Planning Unit.
- Doralee Booth spoke about the potential of buying and making Edgewater Resort a County park along Birch Bay Drive.
- Peggy Uppiano spoke about the proposed resolution regarding the Planning Unit.
- Kris Halterman spoke about the proposed Lake Whatcom Watershed stormwater overlay.
- Patrick Alesse spoke about the potential of buying and making Edgewater Resort a County park along Birch Bay Drive.
- Kathy Berg spoke about the potential of buying and making Edgewater Resort a County park along Birch Bay Drive.
- Roger Brown, Birch Bay Water and Sewer District General Manager, spoke about the proposed resolution regarding the Planning Unit.
- Chet Dow, spoke about the proposed resolution regarding the Planning Unit.

CONSENT AGENDA

(11:47:02 PM)
Mann reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through nine.

Brenner withdrew items five and six.

The motion to approve Consent Agenda items one through four and seven through nine carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)

**Nays:** None (0)

**Absent:** Kershner (1)

1. **RESOLUTION AMENDING COUNTY ROAD PROJECT NO. 911003 AND APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND THE LOW BIDDER, MATIA CONTRACTORS, INC. FOR THE MOSQUITO LAKE ROAD/NORTH FORK NOOKSACK BRIDGE NO. 332 SCOUR MITIGATION, IN THE AMOUNT OF $147,790 (AB2013-260)**

2. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WASHINGTON ASSOCIATION OF SHERIFFS AND POLICE CHIEFS TO FUND PERSONNEL TO STAFF THE REGISTRATION PROGRAM OF SEX OFFENDERS AND KIDNAPPING OFFENDERS, IN THE AMOUNT OF $140,026.07 (AB2013-261)**

3. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND INTERFAITH COMMUNITY HEALTH CENTER FOR A TWO-YEAR PERIOD FOR COMPREHENSIVE SERVICES TO INDIVIDUALS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS, IN THE AMOUNT OF $76,752 (AB2013-262)**

4. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND THRIVE BY FIVE WASHINGTON TO PROVIDE NURSE HOME VISITORS TO SUPPORT LOW INCOME FIRST TIME MOTHERS WITH VARIOUS RISK FACTORS, IN THE AMOUNT OF $176,799 (AB2013-263)**


Mann reported for the Finance and Administrative Services committee and moved to approve the request.

Brenner stated she doesn't support using any real estate excise tax (REET) 2 funds, which should be used for stormwater facilities in Whatcom County, especially in the Lake Whatcom watershed. Everyone talks about how the County is running out of money. They won't have the money when they need it if the Council keeps spending it on other things. She approves funding the trail from another fund.
Knutzen stated he’s also concerned about how the trail will affect the levee and the Army Corps of Engineers program.

Mann stated this was part of the budget. He realizes that Councilmember Brenner voted against the budget. The Council considered all the different funds. They can’t use Conservation Futures funds on this item. The engineer’s estimate was about $40,000 more than this bid. Approve the request.

The motion carried by the following vote:

Ayes: Mann, Crawford, Weimer and Kremen (4)
Nays: Brenner and Knutzen (2)
Absent: Kershner (1)

6. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND THE STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES FOR SURVEY WORK AND CLOSING COSTS RELATED TO THE LAKE WHATCOM RECONVEYANCE, IN THE AMOUNT OF $40,000, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $331,000 (AB2013-265) (11:51:56 PM)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

Brenner stated she didn’t support the reconveyance and won’t support this request or any future requests regarding the reconveyance.

Knutzen stated he is against the motion. They will go over the estimated amounts for the trails. The loss in revenue will be much higher than projected. This is another example of how this project will go.

The motion carried by the following vote:

Ayes: Mann, Crawford, Weimer and Kremen (4)
Nays: Brenner and Knutzen (2)
Absent: Kershner (1)

7. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND HYLAND SOFTWARE, INC. FOR PROFESSIONAL SERVICES, SOFTWARE AND INITIAL MAINTENANCE TO IMPLEMENT ELECTRONIC REAL ESTATE EXCISE TAX SYSTEM (E-REET), IN THE AMOUNT OF $145,542.99 (AB2013-266)

8. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND DLR GROUP FOR PRE-DESIGN AND SCHEMATIC DESIGN WORK FOR THE COURTHOUSE COURTROOM RENOVATION PROJECT AND A FEASIBILITY STUDY FOR HOLDING/RELEASE FOR THE ADULT CORRECTIONS FACILITY, IN THE AMOUNT OF $257,000, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $748,902 (AB2013-267)
9. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF RADIOS USING THE WASHINGTON STATE CONTRACT, FROM VENDOR HARRIS CORPORATION, IN THE AMOUNT OF $68,311.17 (AB2013-276)

OTHER ITEMS

1. ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTER 20.51, LAKE WHATCOM WATERSHED OVERLAY DISTRICT, AND RELATED COMPREHENSIVE PLAN AMENDMENTS (AB2013-102A) (11:53:24 PM)

Weimer reported for the Natural Resources Committee and moved to adopt the ordinance.

Knutzen asked for answers to the questions he asked this morning regarding infiltration zones on conservation easement property and whether they can use the homeowner incentive program (HIP).

Mark Personius, Planning and Development Services Department, stated they cannot use the HIP, which is for retrofitting existing developed lots only. It is a grant from the Department of Ecology (DOE) to the City of Bellingham only for the Silver Beach Creek watershed within the Lake Whatcom watershed. It may be used in both incorporated and unincorporated area of the Lake Whatcom watershed’s Silver Beach Creek sub-basin. A property owner agrees to install facilities, for which the City of Bellingham reimburses the homeowner. It does not apply to Sudden Valley.

Regarding infiltration zones, some of the lots purchased in Sudden Valley over the years have restrictive covenants, and some do not. Some are still in common ownership with development rights. They were bought for the purpose of water quality protection. There was supposed to be an agreement between Sudden Valley and the County for management of those lots. That agreement was never finalized. The County has an interest in those lots because it contributed money. There may be room on some lots for using those lots without restrictions for water quality.

Brenner stated that if the County has restrictive covenants with the Sudden Valley Community Association, and both were interested in using those properties, they could change those restrictions. Personius stated that’s correct.

Knutzen asked if a third party is managing the conservation easement on any of the properties. Personius stated he doesn’t know. The purpose of the agreement was about management, but the agreement was never signed.

Knutzen stated he has concerns. It seems to be an unfair burden on a lot of property owners. He would like more options to give them some help. The County doesn't have many choices.

Brenner stated she’s not thrilled with it. Steve Hood’s letter talked about flexibility and options for the Sudden Valley Community Association. Ecology won’t get in the way of the County finding ways to help people build. They need to do something at this point.
They can review it if it’s not working. She doesn’t trust Ecology, but she trusts Steve Hood to tell the truth.

Personius stated there is a scriveners error on page 19 of the Council packet in section 20.51.420(2)(a)(3), "...Western Washington is required prior to primarily preliminary plat approval...."

Weimer stated he incorporates the scrivener’s error correction into his motion to adopt.

Knutzen asked when this ordinance will come up for review again.

Brenner stated it can be reviewed whenever they want.

Mann stated this is just the beginning of their five-year plan to plan for the next 50 years. Council will review it a lot.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)
Nays: None (0)
Absent: Kershner (1)

2. ORDINANCE AMENDING THE WHATCOM COUNTY BUDGET, EIGHTH REQUEST, IN THE AMOUNT OF $178,129 (AB2013-254)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated she can’t support the ordinance because it includes money for the reconveyance.

Knutzen stated it’s odd that the Nesset Trust can’t use their own money for the tractor.

The motion carried by the following vote:

Ayes: Mann, Crawford, Weimer and Kremen (4)
Nays: Brenner and Knutzen (2)
Absent: Kershner (1)


Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)
Nays: None (0)
Absent: Kershner (1)
4. ORDINANCE ESTABLISHING THE NESSET FARM RESTORATION PROJECT FUND AND ESTABLISHING A PROJECT-BASED BUDGET FOR THE NESSET HOUSE RESTORATION PROJECT (AB2013-256)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Knutzen stated he is against this request. It establishes a fund for something that already has a fund. It’s odd they would have to fund something when the Nesset Foundation has been storing money and collecting interest on money the County gave to the Foundation.

Mann stated they have to establish project-based funds for project-based budgets. They are having more specific line items and funds to manage projects.

Knutzen stated the executive of the Nesset Trust has withdrawn money for projects in the past.

Brenner stated this is more permanent. The place will never be totally restored. Just do the project under the Nesset Fund itself.

Mann stated they just approved a project fund for a jail project that will never end.

Brenner stated that’s a major thing. They don’t have a jail fund already.

Knutzen stated the County already set up the Nesset Trust and gave money to the trust for stuff like this.

Mann stated the Trust is giving the County the money to do this project.

Knutzen stated the County must pay for the project itself. They do an interfund loan.

Brenner stated they may have to do it that way legally, otherwise it could be considered the County gifting them money.

The motion carried by the following vote:
Ayes: Mann, Crawford, Weimer and Kremen (4)
Nays: Brenner and Knutzen (2)
Absent: Kershner (1)

5. ORDINANCE AUTHORIZING AN INTERFUND LOAN TO FINANCE CASH FLOW FOR THE NESSET FARM RESTORATION PROJECT FUND (AB2013-256A)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Knutzen stated he is against this ordinance for the same reasons he stated for the previous item. The County is not their bank.
Brenner stated she would support it except they are setting up another fund.

The motion carried by the following vote:

**Ayes:** Mann, Crawford, Weimer and Kremen (4)

**Nays:** Brenner and Knutzen (2)

**Absent:** Kershner (1)

### 6. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND TETRA TECH, INC. FOR DESIGN ASSISTANCE FOR STORMWATER PROJECTS IN THE BIRCH BAY WATERSHED, IN THE AMOUNT OF $230,947 (AB2013-259)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Mann reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Knutzen asked if the only reason Seattle firms bid on Birch Bay contracts is because of local agencies being unproven stormwater contractors.

Mann stated this is a big project.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)

**Nays:** None (0)

**Absent:** Kershner (1)

### 7. RESOLUTION RESTORING THE WRIA 1 PLANNING UNIT TO ASSIST THE WHATCOM COUNTY COUNCIL REGARDING WATER RESOURCES (AB2013-190)

Brenner moved to approve the resolution and moved to amend the resolution with the change submitted by Roger Brown, "Section 6: Review and Approval of Watershed Plans. The County Council requests that the Planning Unit regularly review and approve and provide appropriate recommendations as appropriate on any ongoing assessments of the current water resource situation, including, but not limited to water availability, instream flow, water quality, and habitat. As provided..."

Crawford asked if the language should strikeout “regularly review and approve.” Prosecutor Dan Gibson was trying to mimic State law in saying this Planning Unit does not have approval authority. The County Council has that authority.

Karen Frakes, Prosecuting Attorney’s Office, stated she spoke with Mr. Gibson about this specifically. He told her that Mr. Brown’s language is language that Bob Carmichael worked on and he’d seen. Mr. Gibson said he could live with that language.

Crawford stated that’s alright, if Mr. Gibson has looked at it. Having served during the original Planning Unit, the Planning Unit did not have any authority for final approval.
That always rested with the County Council. Be careful here. He’ll accept it’s okay with the words “as appropriate.” Make sure the Planning Unit understands they don’t have final approval. Only the County Council can do that, which is consistent with State law. The elected officials have to be accountable, not planning group appointees.

The motion to amend carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)
**Nays:** None (0)
**Absent:** Kershner (1)

The motion to approve as amended carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)
**Nays:** None (0)
**Absent:** Kershner (1)

8. **RESOLUTION ADOPTING THE SWIFT CREEK SEDIMENT MANAGEMENT ACTION PLAN (SCSMAP) AND SCSMA PHASE 1 PROJECTS PROPOSAL (AB2013-111A) (12:16:37 AM)**

Mann stated this is contingent upon satisfactory agreement between Whatcom County, the U.S. Environmental Protection Agency, and the Washington State Department of Ecology, regarding management of the liability issue.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)
**Nays:** None (0)
**Absent:** Kershner (1)

Knutzen stated he intended to move this item for approval.


Mann moved to confirm the appointment.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)
**Nays:** None (0)
**Absent:** Kershner (1)


Brenner moved to confirm the appointment.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)
**Nays:** None (0)
Absent: Kershner (1)

INTRODUCTION ITEMS

(12:18:50 AM)

Brenner moved to accept the Introduction Items.

Knutzen referenced Council packet page 404.

Mark Personius, Planning and Development Services Department, stated it's the Funk Easement. It's item one in the budget amendment.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Knutzen, Weimer and Kremen (6)

Nays: None (0)

Absent: Kershner (1)

1. ORDINANCE AMENDING THE WHATCOM COUNTY BUDGET, NINTH REQUEST, IN THE AMOUNT OF $1,020,100 (AB2013-270)

2. ORDINANCE AMENDING WCC 21.05.039 PHASING, EXPIRATION AND TIME EXTENSION FOR PRELIMINARY LONG SUBDIVISION APPROVAL (AB2013-272)

3. ORDINANCE AMENDING WHATCOM COUNTY ZONING CODE TITLE 20 – SECTION 20.80.630, STORMWATER AND DRAINAGE, RELATING TO WATER QUALITY AND STORMWATER MANAGEMENT IN THE BIRCH BAY UGA (AB2013-273)

4. COMMUNITY DEVELOPMENT BLOCK GRANT CLOSEOUT – OPPORTUNITY COUNCIL’S HOUSING REHABILITATION PROJECT (AB2013-274)

OTHER BUSINESS

Weimer asked if there is any interest in asking the County Executive to look into an appraisal for buying and making Edgewater Resort a County park along Birch Bay Drive.

Brenner stated she’d like the Executive or someone to talk to the Northwest Parks and Recreation people. Buying parks is one thing. She asked who would manage it.

Weimer stated Birch Bay folks thought the Northwest Parks people would probably be willing to take it if the County could help find a way to buy it. It is the gem in the Birch Bay plan, right in the middle of the commercial district.

Brenner stated she first wants to know if the Northwest Parks and Recreation people would be interested.
Weimer stated that if they do too many things first, the property will be developed as
condominiums before the County gets to it.

Kremen stated it’s a great place to have a park. He asked how much money the
County is spending on the berm project in Birch Bay.

Weimer stated they are getting a lot of money.

Kremen stated this is optimum developable property that will be taken off the tax
roles, which could generate a significant amount of revenue for the County. It’s a super-
expensive property. Before getting an appraisal, the Council must decide if it is interested
in pursuing this.

Weimer stated that’s what he is asking.

Knutzen stated a property owner has 25 acres with only one development right on
Chuckanut Crest and also has property in the Lake Whatcom watershed with development
rights. He proposes transferring his development rights from his property out of the
watershed and onto his Chuckanut Crest property. The County had a transfer of
development rights (TDR) program from the watershed with a 3-to-1 ratio of return, but it
was limited to areas that could receive those development rights. He asked if staff has
suggestions or if the Council is interested in considering this proposal.

Mark Personius, Planning and Development Services Department, stated that under
the current code, the only receiving area is the urban mixed use zone. That market hasn’t
been tangible. They don’t have or allow rural-to-rural or agricultural-to-rural transfers.
There has been interest in getting a TDR program in the agricultural lands. They must also
reenergize the program in the Lake Whatcom watershed. It will be a good tool as part of
compliance with the total maximum daily load (TMDL). Staff will set aside time at the
Planning Committee to talk about TDRs. He would like to pursue grant money from the
Environmental Protection Agency (EPA) and Puget Sound Partnership to fund research on
those kinds of market-related tools.

Knutzen asked what would be required to make something like this work. Personius
stated it would take an economic analysis.

Brenner stated they can discuss it in the Planning Committee. It’s too late to discuss
now.

Crawford stated they’re talking about upzoning property. The property owner is
already clustered, which is why he has a reserve tract.

Knutzen stated he has development rights on the reserve tract.

Crawford stated he has only one development right on the reserve tract. That’s the
way subdivision short-plats occur. They’re talking about increasing the density on a group
of parcels that is part of a subdivision. That’s an upzone.

Knutzen stated the County normally grants a 3-to-1 ratio. This property owner is
willing to accept a 1-to-1 transfer.
Crawford stated no code allows that to occur. He would have to go through a very public process to talk about whether Chuckanut Crest is where they want to increase density in Whatcom County.

Mann stated it’s a great idea, but there isn’t an obvious mechanism to make it happen. It would have to be a lot different than 1-to-1. He doesn’t know enough about putting houses up there.

Knutzen stated it looks interesting. The current regulations for a TDR program are only in the urban residential, mixed use zone. He asked how difficult it would be to add some other zoning regulations. Personius stated it takes some economic work to look at the market. He would like to pursue grant money to figure that out.

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

Knutzen stated the Whatcom Integration Team (WIT) made a request on recommended approval for the Puget Sound Partnership Ecosystem Coordination Board (ECB). He’s been nominated to be an official member of the ECB.

ADJOURN

The meeting adjourned at 12:30 a.m. on Wednesday, July 24, 2013.

The Council approved these minutes on ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Kathy Kershner, Council Chair

______________________________
Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL

Board of Health

July 30, 2013

CALL TO ORDER

Councilmember Barbara Brenner called the meeting to order at 10:30 a.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(10:30:41 AM)

Present: Barbara Brenner, Ken Mann, Sam Crawford, Carl Weimer and Pete Kremen.

Absent: Bill Knutzen and Kathy Kershner.

1. PUBLIC SESSION

No one spoke.

2. PUBLIC HEALTH ADVISORY BOARD UPDATE

Regina Delahunt, Health Department Director, introduced Public Health Advisory Board (PHAB) Chair Doug Benjamin.

Doug Benjamin, Public Health Advisory Board Chair, referenced the County Charter regarding the PHAB responsibilities. The PHAB is intended to be a group of experts and field representatives to advise the Council as the Board of Health. All nine positions on the PHAB are currently filled. He described the Board membership.

For three reasons, the PHAB has focused on a different level from typical services, including compassionate community, trauma-informed services, compassionate schools model, adverse childhood experience, and what it means to be healthy. First, there is compelling information on the impact of early, traumatic, and adverse childhood experiences. Next, supporting child and family development is a priority in the emerging Whatcom County health improvement plan. Last, people who’ve experienced trauma do succeed, due to resiliency and personal responsibility.

The PHAB focus has not been on creating new services or directing funding, but on how to influence and change the entire culture and paradigm to be sensitive to the impact of trauma. It’s about how service is provided and how people are treated. There are places that are the most effective to shift the culture of providing health and human services. There must be much discussion to shift this culture, including dialog with the Board of Health. The PHAB will discuss dialoging with the Board at its next meeting.
3. THE HEALTH OF OUR YOUTH AND PREVENTION SERVICES

(10:41:45 AM)

Ann Deacon, Health Department, introduced today’s presentation and stated there are two goals today. The first is to discuss ideas and get guidance about programs for high-risk youth in the community. The second is to provide information on how they do their work. The Board will see the significant work behind the development and determination of what programs and services they want to implement. It’s a robust, comprehensive science. It’s hard to prove things that are difficult to measure. It’s difficult to measure the success of human service programs.

Joe Fuller, Health Department, gave a presentation submitted in the Board packet. He described the Healthy Youth survey.

Mann asked if they can verify instances of attempted suicide. Fuller stated data is collected if they show up in the emergency room. Many do not go to the emergency room. The reported number tends to be low.

Kremen asked if teen suicide is a trend that is pervasive throughout the country. Fuller stated it is an upward trend in Washington State. There are national initiatives working to address this very thing.

Brenner asked if they have a definition for feelings of sadness and hopelessness. Fuller read the actual question in the survey.

Brenner asked for a copy of the survey in the future. Fuller stated he can provide that survey. He continued the presentation on depression and substance abuse.

Brenner asked who received the survey. Fuller stated all schools in the county had an opportunity to participate. One school chose not to participate. Each school gets their own results. The kids individually can opt out of taking the survey. The percentage of kids who participate are between 50 and 75 percent. He continued the presentation on the importance of family connections.

Brenner asked if they’ve talked to districts about changing school times. Brain activity is at its highest beginning mid-morning according to the research she’s read. It seems schools are more interested in convenience for staff and parents. Fuller stated schools have discussed it. He’s read that research also. He continued the presentation regarding the science of the strategic prevention framework. He submitted handouts regarding the Prevention Redesign Initiative and Strategic Plan (on file).

Brenner asked about the timeframe for merging the Behavioral Health Advisory Committee and the Behavioral Health Revenue Committee and the status of the Mental Health Court. Deacon stated the possibility of the merge is being discussed. It will come forward soon. They have hired a temporary employee who is designing the court. Local stakeholders have agreed to move forward with the design and research. They are also working with the City of Bellingham municipal court.
Fuller continued the presentation on how they know the prevention redesign initiative works.

Kremen stated the future of the local Big Brothers Big Sisters agency is uncertain due to a dramatic reduction of revenue due to the legalization of tribal gaming. They were netting $1 million with the bingo operation. At that time, when the county population was much smaller, they were serving about 325 children. Today, they serve about 65 children. The future of the agency is uncertain. The results of mentoring are compelling. He asked if the Public Health Advisory Committee or Health Department can look into using some dedicated funding to enable the local agency to continue to exist. Deacon stated there is a proposal to keep the mentoring services, not necessarily this agency, in the community. It’s already part of a plan to move forward. When looking at capacity, they look at whether current community partners have projects that are ready to go. They would like to continue to support the program. The services are critical.

Fuller continued the presentation on the Strengthening Families Program.

Brenner stated this program is expensive to operate. She wants to know the cost per participant and more information on the program. Fuller described the program, which is operated through Washington State University (WSU) Cooperative Extension.

Brenner asked how many families make it to all the meetings and finish the program. Fuller stated it serves 7 to 15 families at a time. The retention rate is about 80 percent. This program is intentionally designed for anyone. It focuses on the 10 to 14 age category. It also creates connections between families who are struggling.

Brenner stated part of family struggle is not having time. She asked how it correlates with the total number of families in the community. She asked if the program gets to the top tier of families or families who are really struggling. Fuller stated the program reaches broadly across all kinds of families. They’ve done at least 20 to 30 of these programs, which always has a blend of family skill levels.

Deacon stated this is just an example program. Other programs are designed to meet needs. These programs have been rigorously researched and have proven to be successful. There are different programs for different issues.

Brenner asked for results of lifetime marijuana use.

Deacon introduced a movie clip of Rocky that is related to the rest of their discussion. What makes people get up after being knocked around by life is what they have to figure out to bring people hope for success and personal responsibility. That’s what makes people with adverse experience.

Fuller continued the presentation on resilience.
Mann asked about the reluctance from the State of removing children from an awful home life. He asked if it’s because the data shows kids still do better if there is a sense of family attachment, even if they’re in a bad situation. Fuller stated he can’t say attachment and belonging will overshadow a household of abuse and neglect.

Deacon stated this speaks to positive attachment, not negative attachment. They can’t address the child welfare system. The local role is to bring the strengths that build resilience to families that are still together and are having an negative impact on the kids.

Mann asked their personal opinion of whether the State is too reluctant or moves too slowly to take kids out of homes with bad situations. Deacon stated she’s seen both instances. The State has policies that are meant to protect kids. Individual case workers are humans, and work on their own best judgment. Sometimes they err on both sides. The alternative is moving them to a new home, but then there are concerns with foster homes.

Mann asked if the State would be more proactive with removing children from a home if they were more confident in the foster system. His impression is that the State will not take kids from families unless it’s the last resort. He wishes they move quicker.

Brenner stated she helped a woman whose baby was taken away to get her act together. The social worker for the case placed the baby with a friend who wanted to adopt the baby. The social worker made it difficult for the mother to get the baby back because her friend wanted to adopt the baby. Sometimes, going through terrible times and being in a safe place makes a young person look at things differently. Deacon stated safety is an overarching factor. There is a significant amount of science and research behind what they do.

Fuller continued the presentation on the foundations of healthy development.

Brenner asked the difference between alcohol abuse and alcohol dependence. Deacon stated that refers to the diagnostic criteria. In general, they are addressing whether drinking is problematic.

Weimer stated underlying mental health issues go hand-in-hand with substance abuse issues. He asked if dealing with substance abuse helps with mental health. Fuller stated substance abuse reduction programs impact other problems as well. They reduce the risk of several issues.

Crawford stated there is a term called non-dependent alcohol abuse. One binge drinking session is alcohol abuse, but it may not happen daily, which makes it non-dependent.

Kremen asked if drug and alcohol and substance dependency and abuse is common for the individual also to have a mental illness, and they use the drugs or alcohol to mask the mental illness. Deacon stated that is correct. Teens are at higher risk when developing a serious mental illness.
Weimer stated information showed depression issues are on the increase. He asked if all the new programs showing success have not been in place long enough or if there are people who don’t smoke and drink who are depressed. Deacon stated it’s probably both.

She submitted and referenced a handout listing Whatcom County chemical dependency/mental health program fund (on file). Not a lot of money is put toward youth. The advisory boards directed them to put more money into youth programs. Have that discussion today. Also discuss if they want to focus on prevention and intervention. Treatment programs are in place. The school districts are also getting a lot of the services out to the children. They worked with each school district on what they need and how to address the need. The positive results aren’t widespread because they don’t have enough services. They gave each school district a base of $55,000 knowing that the schools with larger populations have larger resources. They tried to make sure they didn’t shortchange the small communities. From there they added an additional amount according to population.

Mann stated it sounds like there is room to scale up services, and the value of each dollar spent is equivalent to what they’ve spent so far. Deacon stated it’s critical to make sure dollars are spent to make sure they get the biggest benefit for the investment. Make sure they spend money on items with the biggest impacts. Maybe they need to target high risk populations or high risk areas.

Mann stated that regarding action requested on policy question 1, they should expand the services.

Weimer stated the Mt. Baker School District has $65,000, which is a staff person, not services. There is a person in the school to identify the children, but the children are still sent off for counseling and drugs. He asked what happens. Deacon stated that with everything the Health Department funds, they try to enhance what is currently in place. With Mt. Baker School District, there are some services onsite. Some are used to identify kids who need more. They also have private mental health providers who go out there to provide services. Now at Mt. Baker, the kids being served qualify under Medicaid. Whatcom Counseling and Psychiatric Clinic are providing services and billing Medicaid. They’ve tried to do that with all programs to make sure they can bring in other services or partners that aren’t necessarily using County dollars. They are trying to fund a continuum of care.

Kremen stated he agrees with Councilmember Mann. Given the problem, $600,000 isn’t close to being enough. Unfortunately, the State and federal government continue to reduce their services and grants. He doesn’t necessarily want to give to the school districts, but prefers to fund programs that are geared specifically for at-risk youth, mental illness, or other programs. The Bellingham School District put out a $160 million levy that included $5 million for a football field AstroTurf. That isn’t a priority of the school district. Most of the program money is going to the schools. He questions whether they are getting the best benefit for the investment. The dollars will have a greater impact if focused on programs specifically geared to specific problems. Deacon stated they agree. They oversee the school district contracts to make sure the funds are being used as they are supposed to, for
programs and services that they’ve identified, within a continuum of care, and without moving the money around to fill out other shortfalls.

Crawford stated it makes sense to target those at risk. He’s encouraged the numbers look good for Big Brothers, Big Sisters mentoring and Strengthening Families. The DARE program was not effective. One-on-one time spent in mentoring and Strengthening Families programs is most effective. Do anything they can in that area.

Brenner stated she agrees with Councilmember Crawford.

Deacon stated policy discussion three refers to what they were talking about in terms of working with current community partners that have projects ready to go.

OTHER BUSINESS

Crawford stated there will be a marijuana retailing and growing presentation by the Sheriff and Prosecutor next week. Health Department staff should attend. Also, he would like an update on norovirus outbreaks locally.

Regina Delahunt, Health Department Director, stated there were a few sporadic outbreaks in the county. Hopefully no more will occur.

ADJOURN

The meeting adjourned at 12:05 p.m.

The Council approved these minutes on _________, 2013.

ATTEST:                        WHATCOM COUNTY COUNCIL
                                 WHATCOM COUNTY, WASHINGTON

______________________________  ______________________________
Dana Brown-Davis, Council Clerk   Barbara Brenner, Council Acting Chair

______________________________
Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 3:03 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Kathy Kershner, Bill Knutzen, Ken Mann and Pete Kremen.

Absent: Sam Crawford and Carl Weimer.

SPECIAL PRESENTATION

1. CONSULTANT DLR GROUP TO PRESENT A JAIL PLANNING UPDATE (AB2013-042B)

Bill Valdez, DLR Group Principal and Programming and Planning Study Project Leader, submitted and read from a presentation (on file). Whatcom County has more alternatives and programs within its correctional system than most counties in the state and in the region. There isn’t a lot more they can add to the program.

Knutzen asked the federal requirement of square footage per inmate. Valdez stated the unencumbered space requirement is 25 square feet in a cell and 35 square feet in a day room. There is additional square footage needed for support spaces.

Kremen asked the time between phase one and phase two. Valdez stated it depends on growth and need. The total bed count of 649 is based on projections in 25 years. The time frame would be 15 to 25 years.

Kremen asked about the impact from the legalization of the sale and distribution of marijuana.

Bill Elfo, Sheriff, stated sale and distribution remains illegal. Many of those sentences that were in the State prison will this year come back to the County jail. There will probably be a higher percentage in the County jail based on statutory sentencing schemes.

Valdez continued the presentation on the technical site information. The archaeological assessment resulted in no significant archaeological material on the site. The geotechnical assessment shows two dense clay layers that prevent drainage, but are good for bearing capacity, allowing cost-effective building foundation techniques. The environmental assessment result indicates there are no hazardous materials on the site.
There is no leaching or contaminant on the site. The traffic study indicates there will have to be traffic mitigation and improvements along the LaBounty Road frontage. They will plan for a three-quarters road, which includes improvement and widening on the west side of LaBounty Road, but nothing on the east side of LaBounty Road. They always anticipated this need. There are level of service issues at nearby intersections, but those level of service deficiencies already exist. Developing this size provides only an incremental lowering of the existing failing level of service. There is a two to six percent traffic load from development of the LaBounty site, which would cause mitigation fees on those intersections.

Reid Shockey, Shockey Planning Group, continued the presentation on the supplemental environmental impact statement (SEIS). This is a supplemental EIS, meaning they will use all the work done through 2010 that is still pertinent to the site. The supplemental EIS process allows using an incomplete EIS to update it based on new information and reissue it.

Mann thanked DLR Group for the presentation and meeting with him yesterday. They now have a specific number of beds required at 521 beds. That’s a good number. He’s happy to hear about the results of the technical analysis.

Kremen stated he agrees with Councilmember Mann. The presentation is detailed, informed, and encouraging. He is concerned about a proposed large retail development in that general area and whether they’ve considered that development in terms of traffic. Valdez stated the traffic report does not consider any future development. The traffic analysis looks only at the subject development.

Mann asked to hear an update about State law changes to sentencing requirements that require the last 24 to 48 months of a State prison sentence being served locally. Valdez described recent changes in other locations. The State is in the process of pushing those inmates to the County level. This jail proposal allows additional capacity to be developed quickly. If the State decides to implement a four-year local service requirement, this jail proposal is designed to add additional beds. They tried to plan for current needs and also for future growth and large policy changes. The County should be able to accommodate those changes.

Kershner invited the public to mingle with the DLR Group representatives.

**OTHER BUSINESS**

There was no other business.

**ADJOURN**

The meeting adjourned at 3:47 p.m.

The Council approved these minutes on ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY COUNCIL
Regular County Council

August 6, 2013

CALL TO ORDER
Council Chair Kathy Kershner called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL
Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner and Pete Kremen.
Absent: Carl Weimer.

FLAG SALUTE

ANNOUNCEMENTS (7:02:12 PM)
Kershner announced the Special Committee of the Whole had the following presentation: Consultant DLR Group to present a jail planning update (AB2013-042B).

PUBLIC HEARINGS

1. COMMUNITY DEVELOPMENT BLOCK GRANT CLOSEOUT – OPPORTUNITY COUNCIL’S HOUSING REHABILITATION PROJECT (AB2013-274)
Kershner opened the public hearing and, hearing no one, closed the public hearing.

Crawford moved to approve.

Brenner asked what is considered a moderate income.

Wade Gardner, Opportunity Council, stated it is up to 80 percent of area median income, which is $53,000 for a family of four.

Brenner asked if there is priority to family members with physical or mental health issues. Gardner stated they prioritize seniors, folks with disabilities, families with children younger than 7 years old, Native Americans, and one other group.

Crawford withdrew his motion because no action on this item is necessary.

OPEN SESSION
The following people spoke:

- Lee Blake spoke about the proposed packinghouse ordinance (AB2012-300C).
- Humphrey Blackburn submitted his comments *(on file)* and spoke about a water use plan for the future.
- Yoshi Revelle spoke about obesity as a health care issue.
- Brooks Anderson spoke about the Blue Green coalition and the waterfront development.
- Marion Ross spoke about the proposed ordinance to amend the unified fee schedule for the Lummi Island ferry (AB2013-289).
- Greg Brown submitted his comments *(on file)* and spoke about the ordinance amending the Code regarding ferry rates (AB2013-162).
- Ray Baribeau spoke about the Consultant DLR Group who presented a jail planning update (AB2013-042B).
- Rhayma Blake spoke about the proposed ordinance to amend the unified fee schedule for the Lummi Island ferry (AB2013-289).

**CONSENT AGENDA**

Mann reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through eight.

Brenner withdrew item four.

The motion to approve Consent Agenda items one through three and five through eight carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner and Kremen (6)

**Nays:** None (0)

**Absent:** Weimer (1)

1. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND THE WASHINGTON STATE DEPARTMENT OF COMMERCE FOR NORTHWEST REGIONAL DRUG TASK FORCE FUNDING TO SUPPORT STAFF AND OPERATIONAL COSTS FOR THE DRUG TASK FORCE, IN THE AMOUNT OF $118,596 (AB2013-281)**


3. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WILSON ENGINEERING FOR DESIGN ASSISTANCE FOR ACADEMY ROAD STORMWATER IMPROVEMENTS, IN THE AMOUNT OF $98,796 (AB2013-283)**

4. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO USE WASHINGTON STATE CONTRACT TO PURCHASE A REPLACEMENT BRUSH CUTTER FROM PCI WASTE & RECYCLING EQUIPMENT, IN THE AMOUNT OF $86,346.01 (AB2013-284)**
Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

Brenner stated she had asked for specific information during committee on why the equipment needed to be replaced. When she received the information, she didn’t understand it. She won’t support it. She would like it explained.

Frank Abart, Public Works, stated the information they provided was the maintenance records.

Crawford stated the maintenance record shows that the County spent $42,000 to buy this piece of equipment in 2001. The County has now spent $76,000 in maintenance in the time period since then. It is prudent to replace the equipment.

Kremen stated the Executive indicated today that the unit is 12 years old and is the only one the County owns. It is used for many hours annually. It has been used 750 hours per year for 12 years. It’s time to replace it. It’s more cost effective to replace it than to continue using it with the mounting maintenance costs.

Brenner stated the Council is trusting. She trusts, but verifies. This isn’t information with which she can verify the request. They were not given much information. They are always told the equipment is in terrible shape. She knows people who have bought those things at the County’s auction. Many of the people in the business have said the equipment is in excellent shape. It’s her job to look into it and know what she is voting for.

The motion carried by the following vote:

Ayes: Mann, Crawford, Knutzen, Kershner and Kremen (5)

Nays: Brenner (1)

Absent: Weimer (1)

5. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID 13-54 AND ENTER INTO A CONTRACT FOR THE PAVING REPAIRS AT PLANTATION RIFLE RANGE TO LOW BIDDER, GRANITE CONSTRUCTION, IN THE AMOUNT OF $53,599 (AB2013-285)

6. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO PURCHASE LAPTOP COMPUTERS AND RELATED ACCESSORIES USING INTERLOCAL AGREEMENT 200904026 WITH THE CITY OF EVERETT FROM VENDOR DATEC, IN THE AMOUNT OF $194,981.71 (AB2013-284)

7. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO AN AGRICULTURAL LICENSE AGREEMENT BETWEEN LAWRENCE EDWARD LARSEN AND WHATCOM COUNTY PARKS & RECREATION DEPARTMENT TO HARVEST HAY ON LAND LOCATED AT SILVER LAKE PARK FOR $1 PER ROLLED BALE OR $.15 PER RECTANGULAR BALE (AB2013-287)

8. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND OLYMPIC SECURITY SERVICES TO PROVIDE PARKING SERVICES, SECURITY SERVICES,
SECURITY SCREENING, AND X-RAY SERVICES AT THE COURTHOUSE, IN THE AMOUNT OF $250,000 FOR TWO YEARS (AB2013-291)

OTHER ITEMS

1. ORDINANCE AMENDING THE WHATCOM COUNTY BUDGET, NINTH REQUEST, IN THE AMOUNT OF $1,020,100 (AB2013-270)

Mann reported for the Finance and Administrative Services committee and moved to adopt the ordinance. He stated the ordinance includes economic development money for the water treatment plant for the City of Nooksack, but Cities should pay for their own water treatment plants and not rely on County economic development dollars. He cannot support the ordinance.

Brenner stated the economic development fund is specifically to be used to assist in economic development. The County is telling the Cities to accept growth. It’s a good solution to help with that. Don’t give the City an unfunded mandate.

Crawford stated he agrees with Councilmember Brenner. The fund can only be used for public works infrastructure projects and can only be applied for by municipalities. The private sector can’t apply for it.

Kremen stated he agrees with Councilmember Crawford. The City of Nooksack has yet to receive any funding from the rural sales tax, which is dedicated to the Economic Development Investment (EDI) fund. This money can only be used for public facilities and public infrastructure, which this water treatment plant is.

The motion carried by the following vote:

Ayes: Brenner, Crawford, Knutzen, Kershner and Kremen (5)
Nays: Mann (1)
Absent: Weimer (1)

2. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A NATIONAL ESTUARY PROGRAM GRANT AGREEMENT BETWEEN WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND THE WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR BIRCH BAY PRIORITY STORMWATER RETROFIT PROJECTS PRE-DESIGN, IN THE AMOUNT OF $94,750 (AB2013-280)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

Mann reported for the Finance and Administrative Services Committee and moved to approve the request.

The motion carried by the following vote:

Ayes: Mann, Brenner, Crawford, Knutzen, Kershner and Kremen (6)
Nays: None (0)
Absent: Weimer (1)
3. ORDINANCE AMENDING WHATCOM COUNTY CODE 21.05.039, PHASING, EXPIRATION, AND TIME EXTENSION FOR PRELIMINARY LONG SUBDIVISION APPROVAL (AB2013-272)

Knutzen reported for the Planning and Development Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Mann, Brenner, Crawford, Knutzen, Kershner and Kremen (6)
Nays: None (0)
Absent: Weimer (1)

4. ORDINANCE AMENDING WHATCOM COUNTY ZONING CODE 20.80.630, STORMWATER AND DRAINAGE, RELATING TO WATER QUALITY AND STORMWATER MANAGEMENT IN THE BIRCH BAY UGA (AB2013-273)

Knutzen reported for the Planning and Development Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Mann, Brenner, Crawford, Knutzen, Kershner and Kremen (6)
Nays: None (0)
Absent: Weimer (1)

5. ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTER 10.34, FERRY RATES (PROPOSED AMENDMENT CHANGES THE METHOD OF CALCULATING THE 45% ROAD FUND SUBSIDY OF THE FERRY OPERATIONS EXPENSES) (AB2013-162)

Brenner moved to refer to the Public Works committee in October.

(Clerk’s Note: This motion was not voted on.)

Crawford stated this issue was in Introduced on April 23, in Council on May 7, and in committee on May 21.

Brenner asked if anything has been changed, and if they have received a recommendation from the Lummi Island Ferry Advisory Committee.

Frank Abart, Public Works Department Director, stated the Advisory Committee sent information to the Council today. This item had a public hearing and went to the Public Works, Health, and Safety Committee. There was discussion. The two components of the ordinance are the 45/55 split and a clarification of the ferry deficit reimbursement.

This has been going on since 2012. He requests the Council to move forward tonight.

Crawford moved to adopt the ordinance.
Brenner stated they talked about the money the County gets from the State being a part of this formula. She couldn’t tell if it’s been changed. Abart stated this ordinance just clarifies language. It doesn’t change anything. The 45/55 split is changing. Now, the 45 percent is calculated on the total expenses. The 55 percent is calculated on an adjusted total, which is the total expenses minus about three different items. In 2012, the real split was 50.7 percent of the actual expenses. This ordinance requests that the 45 percent be calculated on the exact same number on which the 55 percent is calculated.

Brenner stated the calculation is confusing. A bothersome change was made to it a few years ago. They said the docks are now part of the 55 percent. A dock is part of a road. The definition should change. The wording is confusing.

Kershner asked who pays the amount that isn’t accounted for when the two percentages are calculated on different numbers. Abart stated it’s absorbed by the ferry fund. They have to always make sure there is enough money in the ferry fund, which is funded by ferry fares. It’s built up to about $1.2 million. They are supposed to keep the balance at $1.5 million.

Kershner asked what is affected by the calculation change. Abart stated the ferry fund would be impacted. It would make it easier to explain. The road fund would contribute about $80,000 per year less. The change is fairer and more reasonable and equitable. It’s also easier to explain. The ferry fund would pick up the $80,000. The road fund contributes to the cost of the ferry in many ways. It still contributes the 45 percent. The current calculation is confusing and difficult to explain to people. Eliminate that confusion.

Kremen asked the recommendation from the Lummi Island Ferry Advisory Committee.

Mike McKenzie, Lummi Island Ferry Advisory Committee Chair, stated the Advisory Committee gave a full presentation in committee. They must examine the 45/55 split because it’s become arbitrary. That’s a different issue. Leave the ordinance in place as it is.

Abart asked if the advisory committee has a position on the 45/55 split.

McKenzie stated it needs a study. They don’t support applying the split to the same calculation. *(Inaudible.)*

Crawford stated it’s time to discuss whether the 45/55 split is appropriate. Other counties collect a higher percentage of their ferry costs from the ferry fares. Right now, the folks have a good deal relative to other systems in the State, although the systems do have significant differences. Consider additional fare box recovery in light of significant upcoming expenses due to the replacement of the Whatcom Chief. They are going to have to look at every resource available to the maximum extent.

Brenner stated the main reason for the committee discussion was regarding the money from the State. She’s not comfortable without calculating the amount from the state being included for the ferry. Revisit the issue of the docks. This shouldn’t happen until those issues are resolved.
Kershner stated she hears that Mr. Abart is trying to make a complicated issue less complicated. However, there are many other complicated issues imbedded in that issue. Because the advisory committee is opposed to the ordinance, she will vote against this tonight. However, this entire discussion of costs, the 45/55 split, and clarification should happen.

The motion failed by the following vote:
Ayes: Mann, Crawford and Kremen (3)
Nays: Kershner, Knutzen and Brenner (3)
Absent: Weimer (1)

(Clerk’s Note: The Council continued discussion of this item during Other Business.)

6. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE’S APPOINTMENT OF LEIGHTON OVERTON TO THE WHATCOM COUNTY AGRICULTURAL ADVISORY COMMITTEE (AB2013-288)

Mann moved to confirm the appointment.

The motion carried by the following vote:
Ayes: Mann, Brenner, Crawford, Knutzen, Kershner and Kremen (6)
Nays: None (0)
Absent: Weimer (1)

INTRODUCTION ITEMS

Brenner moved to accept Introduction Items one, two, and four.

The motion carried by the following vote:
Ayes: Mann, Brenner, Crawford, Knutzen, Kershner and Kremen (6)
Nays: None (0)
Absent: Weimer (1)

1. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300C)

2. ORDINANCE REPEALING ORDINANCE 2013-037, WHICH IMPOSED AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR DIVISIONS OF LAND RESULTING INLOTS SMALLER THAN FIVE ACRES WITHIN THE LAKE WHATCOM WATERSHED (AB2013-277)

3. ORDINANCE AMENDING WHATCOM COUNTY 2013 UNIFIED FEE SCHEDULE TO INCORPORATE “FERRY NON-PAYMENT FEE” (AB2013-289)

Brenner stated she would like it to wait to have the hearing in October when the ferry is out of dry dock. Do not introduce the ordinance tonight.
Frank Abart, Public Works Department Director, stated this is a component of the policy and procedure for people who don’t pay. He’s done his part to bring the issue forward.

Kremen asked when people will be able to buy tickets with credit cards.

Abart stated he does not know at this time. They are evaluating the technology, and it needs to be tested the last quarter of this year. He has no idea if it’s going to work.

Kremen stated there may not be enough effort that is being put into this. They’ve been dealing with this issue for several months already. The time has come to deliver a request that this Council has made for several months or over a year. Continually delaying the potential for implementation is unacceptable.

Crawford stated he suspects the problem is doing a transaction via a cell phone. Even in a place of business with landlines, the credit card function goes down often. Trying to do it over a cell phone will have problems. It would be nice to have the testing done sooner rather than later. There are probably vendors that would like to sell the County a system. However, it will be challenging to have a live action, secure credit card data transfer from the ferry.

Crawford moved to introduce the item tonight and delay the work session and hearing until after the end of the dry dock.

The motion carried by the following vote:
Ayes: Mann, Crawford, Knutzen, Kershner and Kremen (5)
Nays: Brenner (1)
Absent: Weimer (1)

4. RESOLUTION APPROVING RECOMMENDATIONS ON APPLICATIONS FOR OPEN SPACE CURRENT USE ASSESSMENT (AB2013-290)

OTHER BUSINESS

5. ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTER 10.34, FERRY RATES (PROPOSED AMENDMENT CHANGES THE METHOD OF CALCULATING THE 45% ROAD FUND SUBSIDY OF THE FERRY OPERATIONS EXPENSES) (AB2013-162)

Kershner stated she would like direction from Council about how to review the 45/55 fare structure allocation.

Greg Brown, Lummi Island Ferry Advisory Committee, stated the committee has very informed individuals. There is no communication between the Lummi Island Ferry Advisory Committee (LIFAC) and anyone else in the County. Until they get that communication, the LIFAC will not help do anything. They’re frustrated.
Kershner asked if this could go into the Public Works Committee to develop direction to the Public Works Department and the LIFAC.

Brenner stated it can be scheduled in her committee. In addition, she requests a presentation from the Planning Department on a non-conforming use versus a non-conforming building. People are telling her that they are having problems getting a loan on a building that is nonconforming. She would like to hear more about the differences between the two.

Mark Personius, Planning and Development Services Department, stated he can give a briefing at the Planning and Development Committee meeting.

Brenner stated she will contact the Executive and ask for the presentation. Personius asked that Councilmember Brenner be as specific as possible about the concerns so he can provide relevant information.

**REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

Kremen reported that Whatcom County lost a special individual in Dr. Dan Cheney, who passed away from a long time illness. He was the former president of the Bellingham Rotary Club and a well-known philanthropist in the community. There will be a service this Sunday at the First Congregational Church on Cornwall Avenue.

Brenner reported that a crisis happened to her recently. A woman stopped and helped her, but she only got her first name, which is Mitzy. She would like to be able to thank her. She is grateful there are people like that in Whatcom County.

Kershner reported that she thanks the emergency medical system (EMS) in Whatcom County and St. Joseph Hospital staff who gave her excellent care and treated her very well. She is fine and back to business as usual.

Mann reported that it is important for councilmembers to give visibility to community programs. He attended the Project Homeless Connect annual event. All the service providers, including hair stylists, doctors, dentists, and many others come together in one spot. There are many amazing volunteers. He recommend that people volunteer next year.

Knutzen reported on Engedi Ministries. He didn’t realize how many of the local youth are sold into the sex industry. The ministry is taking those women out of the industry and trying to education them, get them off drugs, and build their self-esteem. It’s a huge problem, and he is glad to see someone dealing with it.

**ADJOURN**

The meeting adjourned at 8:11 p.m.

The Council approved these minutes on ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
**TITLE OF DOCUMENT:** Zoning amendment to allow Packinghouses in the Agriculture Zoning District

**ATTACHMENTS:**
1) Proposed Ordinance
2) Exhibit A – Proposed Code Amendments

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

To allow packinghouses of up to 7,000 square feet as an accessory use, or greater than 7,000 but less than 20,000 square feet as a conditional use. Review criteria include limits on livestock source, limitations on holding pens, adequate services by necessary facilities, waste management requirements, appropriate vehicular approaches, limits on, noxious emissions, and requires avoidance of prime soils to the extent feasible.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
8/06/2013: Introduced

<table>
<thead>
<tr>
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<th>Related File Numbers:</th>
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*Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).*
ORDINANCE NO. ________

ZONING AMENDMENT TO ALLOW AGRICULTURAL PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT

WHEREAS, an application has been submitted to amend the Agriculture (AG) zoning district to allow the small scale slaughter of local livestock; and

WHEREAS, the proposed amendment has been reviewed under the State Environmental Policy Act (SEPA); and

WHEREAS, in accordance with RCW 36.70A.106 Whatcom County Planning and Development Services notified the Department of Commerce of the proposed zoning text amendment; and

WHEREAS, notice of the Whatcom County Planning Commission hearing on the proposed amendment was published in the Bellingham Herald; and

WHEREAS, the Whatcom County Planning Commission held a public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission held 3 work sessions on the proposed amendment; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendation; and

WHEREAS, the Whatcom County Council held 4 public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Council held 7 work sessions in the Planning and Development Committee; and

WHEREAS, The Whatcom County Council held 2 work session in the Special Committee of the Whole; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. The proposal is to amend the Agriculture (AG) District portion of the Zoning Code (WCC 20.40), to allow for packinghouses.

2. The proposal has been posted to the County website.

3. Notice of the subject amendment was submitted to the Washington State
Department of Commerce on June 5, 2012.

4. Notice of the Planning Commission work session for the subject amendment was posted on the County’s website in May 2012.

5. In order to approve the zoning amendment, the County must find that it is consistent with the Growth Management Act. Additionally, the County must find that the zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.

6. The Growth Management Act includes a planning goal to “Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state’s natural resources, public services, and public facilities” (RCW 36.70A.020(5)).

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Presently, new packinghouses are prohibited within the agriculture zoning district. Staff recognizes the benefit to the agricultural industry this amendment would provide by allowing greater opportunities for farmers to get their product to the end user. The Growth Management Act allows for jurisdictions to implement innovative zoning techniques, which should be designed to conserve agricultural lands and encourage the agricultural economy. This proposed amendment would support planning goal RCW 36.70A.020(5) Economic Development.

7. The Growth Management Act also includes a planning goal to “Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses” (RCW 36.70A.020(8)).

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Staff recognizes the benefit to the agricultural industry this amendment would provide by allowing greater opportunities for farmers to get their product to the end user. This proposed amendment would support planning goal RCW 36.70A.020(8) Natural Resource Industries.

8. Consistent with RCW 36.70A.177, this amendment will allow packinghouses within the agricultural zone that will support the agricultural community by allowing production of value-added agricultural products and will not interfere with the overall agricultural use and character of the County’s designated agricultural lands of long-term commercial significance.

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Presently, Keizer Meats of Lynden, which operates the only USDA approved facility north of King County Seattle that is open to the general public, has received conditional approval to operate a facility at the location of their approved meat cutting and packing facility on Bob Hall Rd. Approval of this proposed amendment would allow other citizens within the agriculture zoning district to provide slaughtering services to Whatcom County farmers and allow greater opportunities for farmers to generate value-added products and get their product to the end user.

10. Policy 8B-2: Assist Whatcom County's agricultural industry in the pursuit of its long-term economic potential. This should include the development of strategies and policies necessary to reach this potential, in terms of both production and diversity.

This proposed zoning amendment would allow for new uses not presently allowed in the agriculture zoning district. Allowing this use may increase production and diversity of livestock by providing greater opportunities for livestock owners to get their product to the end user.

11. Policy 8B-4: Support methods and strategies to market Whatcom County agriculture in ways which ensure that agricultural activities (such as dairying) and entities (such as processors) will remain here in the long term.

Allowing new packinghouses within the agriculture zoning district would provide for additional marketing of Whatcom County livestock, as there is presently only one permitted USDA approved facility within any Whatcom County jurisdiction that is open to the public.

12. County-Wide Planning Policy I-5: The county and the cities should include an economic development element in their Comprehensive Plans. Economic development elements should be consistent with the CEDS. Economic development shall be coordinated with environmental concerns to protect the quality of life. Planning efforts should address economic sustainability. As part of the comprehensive planning process and through implementation of the comprehensive plan, the County shall develop and adopt goals, policies and regulations that protect resource land industries and support and encourage resource-based industries.

Approval of this proposed amendment would allow citizens within the agriculture zoning district to provide slaughtering services to Whatcom County farmers and allow greater opportunities for farmers to get their product to the end user. By approving the proposed amendment, comprehensive plan goals and policies and their related development regulations that support and encourage resource-based industries would be implemented.

13. County-Wide Planning Policy I-9: The County and the cities recognize the
need for the protection and utilization of natural resources and resource
lands including agricultural, mineral, forestry and fishing. As part of a broad
based economy, productive timber, agriculture and fisheries industries should
be supported in a sustainable manner.

Approval of this proposed amendment would allow citizens within the
agriculture zoning district to provide slaughtering services to Whatcom
County farmers and allow greater opportunities for farmers to get their
product to the end user. Approval of this proposal would allow for an
increase to the economic base for agricultural products related to livestock.

14. Packinghouses within the Agriculture zone allow for a local, sustainable,
humanely raised food supply for the citizens of Whatcom County.

15. Limiting holding pens to that necessary to accommodate animals intended for
immediate processing within 24 hours would prevent packinghouse holding
pens from becoming feedlots, while allowing each facility the flexibility to
adjust their business accordingly.

16. The proposed amendment has not changed substantially from the initial staff
proposal that was reviewed through the State Environmental Policy Act
(SEPA). The previously issued SEPA Threshold Determination of
Determination of Nonsignificance (DNS) is still applicable.

17. The Rural Industrial Manufacturing (RIM) zone is the only zone presently in
Whatcom County that provides a permitting pathway to allow for
slaughtering facilities packinghouses and slaughterhouses. Applicability of
land within the RIM zone to a new agricultural slaughtering facility is limited
to the I-5 Rural Business RIM zone.

18. According to the 2007 USDA Census of Agriculture, Whatcom County has
95,500 cattle and calves.

19. Keizer Meats, the only USDA approved slaughtering facility in Whatcom
County, is limited to slaughtering 2,000 animals per year through their
Conditional Use Permit.

20. Both nationwide and locally, the percentage of livestock operations selling
product directly to consumers or retailers is much smaller than that of other
agricultural products (US Department of Agriculture, Slaughter and
Processing Options and Issues for Locally Sourced Meat, USDA Economic

21. Limited slaughter and processing capacity is often cited as a key barrier to
marketing of meat and poultry locally (US Department of Agriculture,
Slaughter and Processing Options and Issues for Locally Sourced Meat, USDA

22. The number of slaughter plants has decreased in recent years, both
nationwide and locally (US Department of Agriculture, Slaughter and
Processing Options and Issues for Locally Sourced Meat, USDA Economic

24. Lack of nearby slaughter facilities can create logistical impediments to animal slaughter, particularly in being able to transport animals/meat to and from the slaughter plant in a financially practical way (US Department of Agriculture, *Slaughter and Processing Options and Issues for Locally Sourced Meat*, USDA Economic Research Service. 2012).

25. Given the mismatch between smaller producers and larger plants, many individual producers marketing their meat via niche marketing arrangements must rely on smaller facilities, wherever they are located. Small producers may prefer to use a smaller slaughter and processing facility because a smaller plant is likely to be more flexible in satisfying the producer’s individual processing requests (US Department of Agriculture, *Slaughter and Processing Options and Issues for Locally Sourced Meat*, USDA Economic Research Service. 2012).

26. Sales of food sold via direct-to-consumer marketing have more than doubled over the last decade (USDA/NASS, 2007 Census of Agriculture). However, direct-to-consumer and intermediated sales of livestock products have not grown as rapidly as other food categories, despite apparent demand. Local producers continue to perceive a lack of local slaughter capacity as a hindrance in trying to meet growing demand (US Department of Agriculture, *Slaughter and Processing Options and Issues for Locally Sourced Meat*, USDA Economic Research Service. 2012).

27. Currently, the vast majority of livestock and poultry slaughter in the United States is done in a relatively small number of very large facilities (US Department of Agriculture, *Slaughter and Processing Options and Issues for Locally Sourced Meat*, USDA Economic Research Service. 2012).

28. New methods for animal slaughter and processing geared toward local markets, for example, mobile slaughter units (MSUs), can help meet some of the need for increased slaughter capacity in localized areas and enable the growth of small livestock producers marketing products to consumers in their region or community (US Department of Agriculture, *Slaughter and Processing Options and Issues for Locally Sourced Meat*, USDA Economic Research Service. 2012).

29. As part of the review process for the proposed amendments, Planning and Development Services has read numerous background documents including, but not limited to: USDA Layout Guide for Small Meat Plants; University of Wisconsin Cooperative Extension, Pollution Prevention for Small Slaughterhouse and Meat-Packing Operations handout; USDA Slaughter and Processing Options and Issues for Locally Sourced Meat; Siskiyou Slaughter Facility Preliminary Feasibility Study & Action Plan; EPA Technical
Development Document for the Final Effluent Limitations Guidelines and
Standards for the Meat and Poultry Products Point Source Category (40 CFR
432); Greenfield Advisers Economic, Market and Valuation Analysis; USDA
News Release: USDA Identifies Gaps, Releases Maps Which Detail U.S. Local
Meat Processing Facilities; USDA Slaughter Availability to Small Livestock and
Poultry Producers—Maps:

- University of Wisconsin Cooperative Extension. *Pollution Prevention for
  Small Slaughterhouse and Meat Packing Operations*. Solid & Hazardous
- US Department of Agriculture. *Slaughter and Processing Options and
- Great Northern Corporation and Economic Development “ON CALL”.
  *Siskiyou Slaughter Facility Preliminary Feasibility Study & Action Plan*.
  GOS-072105909.pdf.
  for the Final Effluent Limitations Guidelines and Standards for the Meat
  http://water.epa.gov/scitech/wastetech/guide/mpp/upload/2008_07_15
  http://www.sraproject.org/wp-
- US Department of Agriculture. *News Release: USDA Identifies Gaps,
  Releases Maps Which Detail U.S. Local Meat Processing Facilities*. USDA
  Office of Communications. 2010.
  http://www.usda.gov/wps/portal/usda/usdahome?contentid=2010/05/02
  84.xml.
- US Department of Agriculture. *Slaughter availability to small livestock and
  poultry producers – Maps*. USDA Food Safety and Inspection Service.
  bf5-996fa994f881/KYF_maps-
  050410_FOR_RELEASE_480.pdf?MOD=AJPERES.

30. Roughly 56% of agriculturally zoned land is within a Critical Aquifer Recharge
    Area (CARA) of high susceptibility, as identified by the Critical Areas
    Ordinance map.

**CONCLUSIONS**

1. The proposed amendments are consistent with the Whatcom County
   Comprehensive Plan.
2. The subject amendment serves the public interest by supporting the local agricultural industry.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Zoning Code is hereby amended as shown in Exhibit A.

BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this _____ day of __________, 20__.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Jack Louws, County Executive

(  ) Approved    (  ) Denied

Date Signed:____________________
EXHIBIT A

Chapter 20.40 AGRICULTURE (AG) DISTRICT
20.40.100 Accessory Uses

.114 Packinghouses, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

(1) The total allowable building area is no larger than 7,000 square feet.

(2) The facility processes at least 75 percent agricultural goods produced in Whatcom, Skagit and/or Island County and that originate from uses permitted in WCC 20.40.051.

(3) Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for processing within 24 hours.

(4) For purposes of public notice, the applicant shall submit stamped envelopes with typed addresses for each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. A notice shall be mailed by Planning and Development Services explaining that an application is being processed for a packinghouse on the subject property as an allowed accessory use and that the notice is being provided as a courtesy only. A copy of WCC 20.40.114 shall be provided with the notice.

(5) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.

(6) The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06.

(7) An approved state waste discharge permit from the Washington State Department of Ecology with adequate storage, where required, that complies with WAC 173-216, WAC 173-226 industrial stormwater permit (general permits), and/or an NPDES Permit (RCW 90.48 and WAC 173-220), if required by the Washington State Department of Ecology.

(8) The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

(9) The building shall avoid prime agricultural soils to the extent feasible.
Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings:

a. Are sized to be as small as feasible; and

b. Located to maximize the agricultural use of the remaining area; and
c. Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.

(10) The packinghouse, as identified in WCC 20.97.282.1, shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

20.40.150 Conditional Uses

.164 Packinghouses, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

(1) The total allowable building area is larger than 7,000 square feet and no larger than 20,000 square feet.

(2) The facility processes at least 75 percent agricultural goods produced in Whatcom, Skagit and/or Island County and that originate from uses permitted in WCC 20.40.051.

(3) Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for processing within 24 hours.

(4) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.

(5) The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06

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a. Are sized to be as small as feasible; and
b. Located to maximize the agricultural use of the remaining area; and
c. Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.

(9) The packinghouse, as identified in WCC 20.97.282.1, shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

Chapter 20.69 Rural Industrial Manufacturing (RIM)
20.69.130 Administrative approval uses
20.69.131 Slaughterhouses.-Agricultural slaughtering facilities, if done in compliance with WAC Title 16 (Department of Agriculture) and RCW Title 16 (Animals and Livestock):

Chapter 20.80 Supplementary Requirements
20.80.200 Setback requirements
20.80.255 Agriculture District.
(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.
(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, packinghouses, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements.
(3) The minimum separation between packinghouses and schools shall be 500 feet.
(4) The minimum separation between packinghouses and adjacent property lines shall be 150 feet.

20.97.282.1 Packinghouse
“Packinghouse” means a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products. Rendering and importation of animal by-products is strictly prohibited in
packinghouses. Packinghouses shall not slaughter poultry. Packinghouses exclude temporary, mobile or other on-farm, owner-raised poultry slaughtering operations regulated under WAC 16-170 and/or RCW 69.07 that do not require USDA inspection. Agricultural producers who raise poultry may slaughter up to one thousand (1,000) poultry raised on their own farm annually subject to the special poultry permit requirements of WAC 16-170. Agricultural producers who process between one thousand (1,000) and twenty thousand (20,000) poultry a year on their farm are subject to the food processor license requirements of RCW 69.07.

20.97.310 Poultry
“Poultry” means products derived from the slaughter and processing of broilers, other young chickens, mature chickens, hens, turkeys, capons, geese, ducks, small game fowl such as quail or pheasants, and small game such as rabbits.

20.97.343 Rendering
“Rendering” means the process or business of producing tallow, grease, and high-protein meat and bone meal from animal by-products.

20.97.343.1 Rendering Plant
“Rendering plant” means a plant that processes animal by-product materials for the production of tallow, grease, and high-protein meat and bone meal.

20.97.423.1 Slaughterhouse
“Slaughterhouse” means a facility that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or small meat cuts.

20.97.424 Slaughtering
“Slaughtering” means the killing and processing of animals for human consumption.
### TITLE OF DOCUMENT:
Ord Repealing Ord2013-037 - Interim Moratorium on the Lk. Whatcom Watershed

### ATTACHMENTS:

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### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

On July 23, 2013, the Council adopted Ordinance 2013-043, establishing Lake Whatcom Watershed Overlay District, which amended certain sections of the County Code and County Comprehensive Plan related to water quality and stormwater management in the Lake Whatcom watershed.

### COMMITTEE ACTION:

### COUNCIL ACTION:
8/06/2013: Introduced

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**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
ORDINANCE # ____________

REPEALING ORDINANCE 2013-037, WHICH IMPOSED AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR DIVISIONS OF LAND RESULTING IN LOTS SMALLER THAN FIVE ACRES WITHIN THE LAKE WHATCOM WATERSHED

WHEREAS, on July 9, 2013, the Whatcom County Council adopted Ordinance 2013-037, continuing an interim moratorium on the acceptance of new applications for divisions of land into lots smaller than five (5) acres in the Lake Whatcom Watershed until permanent regulations to protect Lake Whatcom could be finalized and adopted; and

WHEREAS, on July 23, 2013, the Council adopted Ordinance 2013-043, establishing Whatcom County Code Chapter 20.51, Lake Whatcom Watershed Overlay District, and amending certain sections of the County Code and the County Comprehensive Plan related to water quality and stormwater management in the Lake Whatcom Watershed; and

WHEREAS, with the adoption of Ordinance 2013-043, the interim moratorium imposed by Ordinance 2013-037 is no longer necessary.

NOW THEREFORE BE IT ORDAINED by the Whatcom County Council that Ordinance 2013-037 is hereby repealed in its entirety upon the effective date of this ordinance.

ADOPTED this _____ day of __________, 2013.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Jack Louws, Executive

() Approved    ( ) Denied

Date: ___________ ____________
**TITLE OF DOCUMENT: Appointment to the Bicycle/Pedestrian Advisory Committee**

**ATTACHMENTS:** Application for appointment.

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

County Executive Jack Louws requests the confirmation of his appointment of Jon Strong to the Bicycle/Pedestrian Advisory Committee.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Jon Strong
Street Address: 46 East Louise Av.
City: Bellingham
Mailing Address (If different from street address):
Day Telephone: 360 747-4401 Evening Telephone: 360 778-2380 Cell Phone: 360 3131021
E-mail address: jonstrong10@gmail.com

1. Name of board or committee—please see reverse: Bicycle/Pedestrian Adv Committee
   Committee Member

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
   ( ) Yes ( ) No

4. Which Council district do you live in?
   ( ) One ( ) Two ( ) Three

5. Are you a US citizen?
   ( ) Yes ( ) No

6. Are you registered to vote in Whatcom County?
   ( ) Yes ( ) No

7. Have you ever been a member of this Board/Commission?
   ( ) Yes ( ) No
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   ( ) Yes ( ) No
   If yes, please explain:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   See attached resume.

10. Please describe why you’re interested in serving on this board or commission: Opportunity to serve the county in an important area for our future.

References (please include daytime telephone number):
   Tony Fenson 6713933
   Chris Rossman - 7313390 Pete Kremen, Kathy Kershner

Signature of applicant: Jon Strong

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
### MARKETING & SALES*RELATIONSHIP MANAGEMENT*SALES MANAGEMENT

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<td>Recruiting, Training &amp; Supervision</td>
</tr>
<tr>
<td>Contract Negotiations</td>
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### SALES AND MANAGEMENT HIGHLIGHTS

Successful in exceeding all profit expectations in the first year as Manager of the Mid Market Division at Walsh Bros. in Phoenix.

- Had primary responsibility for consummating a $500,000 sale to a major energy company, overcoming the disadvantage of not having our product specified in the RFP.
- Negotiated long-term sales contract with major construction firm. Sales in excess of $300,000.
- Overcame long-standing customer relationship with other vendor.
- Negotiated interiors contract between financial institution, architectural firm and manufacturer. Project in excess of $1,000,000. Successfully introduced and convinced client to utilize a new concept in floor-to-ceiling demountable walls.
- Designed and sold custom wood systems furniture to credit/collection company. Project exceeded $100,000. Unique cluster work station design allowed client to add 28% more employees to original space, accommodated high-level telecommunications network and increased worker productivity by 10%.
- Led team effort to close sale at major financial institution. Project exceeded $700,000.
- Led team effort to close sale to electronics manufacturing company. Project exceeded $300,000.
- Recognized twice in 2003 as one of the top 10% sales representatives nationwide for Steelcase, Inc.
- Led team effort for sales divisions that have won multiple trips to England, France, Austria, Italy, Greece, Spain, Hawaii and numerous U.S. resort locations.

### TRAINING EXPERIENCE

- Designed and developed goal-setting, time management, stress management, conflict resolution, and other curricula for corporate training programs.
- Facilitation of training seminars.
- Expertise in personal assessment profiling (DISC: Target Training International)
- Strong organizational skills in administration of day-to-day program activities, contract management, and budget management
- Certified Sales Trainer: Brian Tracy International
PROFESSIONAL EXPERIENCE

2011-Present

Independent Sales Representative.

2010-2011

Not Employed

2008-2009

Bang Office Interiors Seattle, WA

Present all styles of office furniture and modular building products to architects, designers, general contractors, corporations, and governmental agencies to negotiate sales contracts.

2005-2008

Keller Williams Realty Phoenix, AZ

Licensed Realtor

1997-2005

Walsh Brothers Office Environments Phoenix, AZ

For 85 years Walsh Brothers, the largest business of its kind in Arizona, has been a provider of office furniture for all market segments. Distributor for Steelcase, the world’s largest office furniture manufacturer.

Manager, Mid Market Division:
Manage, train and lead nine sales representatives
P & L responsibility for three retail stores
50% of sales staff consistently exceeded monthly quotas
Exceeded profit expectations for division in the first year of management

Sales Representative:
Sales Representative for contract furniture division
Produced record sales and profits for first year sales representative
Consistently demonstrated success in securing new and profitable business
Consistently led sales teams including design, operations and project management; made major gains in acquiring new customers from competitors

1996-1997

Performance Growth Associates Bellevue, WA

President
Self-employed provider of employee training, coaching and personal assessment profiling
Authorized representative for Target Training International, world’s largest software-based assessment programs
Certified trainer for Brian Tracy International

1993-1996

Trick and Murray Seattle, WA

Manager, Furniture Division

Responsible for sales design, administration and operations of furniture division
Increased sales volume by 33%
Managed design and operations staff of eleven, and sales staff of eight
1991-1992

MBI, Inc.
Business Development
Seattle, WA
Calling on architects, designers, and major end users (Microsoft) to create new business opportunities.

1981-1990

Bank and Office Interiors
Vice President of Sales
Seattle, WA
Aggressively moved from branch manager to corporate sales manager responsible for $16 million dollars in sales. Tenure included management of floor covering division, distribution center, design department, business and product development.

1969-1980

Barrett Office Supply
Started working part time to finance college education. Responsible for stocking, pricing, and delivery of all office supplies and occasional delivery of furniture and machines. After two years moved into outside sales for supplies and machines, later adding furniture. Progressed to sales management, stockholder, Executive Vice President, and Director of the corporation.

EDUCATION

1965-1970
Self-financed Cum Laude graduate of Alaska Pacific University: BA Economics, BA History, minor in Psychology and Certification for Secondary Education. Served as Student Body President, Pep Club President, Phi Alpha Theta Vice President.

VOLUNTEER ORGANIZATIONS

Rotary International: Student Exchange Chair, Vice President, and Club President.

Board Member of Junior Achievement, March of Dimes, Alaska Manufacturers Association, Boy Scouts of America (Eagle Scout), and Board Chair of family church.

One of original founders of the Seattle Cystic Fibrosis Foundation which now donates millions of dollars each year to the national effort to cure this disease.

Personal References available on request.
<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division Head:</td>
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<tr>
<td>Dept. Head:</td>
<td></td>
<td>9-3-13</td>
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<tr>
<td>Prosecutor:</td>
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<tr>
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<tr>
<td>Executive:</td>
<td></td>
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</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**

Council to appoint one member to serve on WTABOD Review Board

**ATTACHMENTS:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Council to appoint one member to serve on WTABOD (WTA Board of Directors) Review Board

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council)
August 30, 2013

Ms. Kathy Kershner  
Council Chair  
Whatcom County Council  
311 Grand Avenue, Suite 105  
Bellingham, WA 98225

Re: Four-Year Review of Whatcom Transportation Authority Board Composition

Dear Ms. Kershner:

As the General Manager of the Whatcom Transportation Authority (WTA), I am giving notice in accordance with RCW 36.57A.055 (enclosed) that on October 16, 2013 at 10:00 a.m. in the Board Room at WTA, 4111 Bakerview Spur Road, Bellingham, a meeting will be held to review the composition of the WTA Board of Directors.

The above noted statute provides that every four years a member of the county legislative authority and an elected representative from each city within the boundaries of the Public Transportation Benefit Area shall meet and review the composition of the WTA governing body. The Composition Review Committee may change the composition of the Board if change is deemed appropriate.

It is my understanding and interpretation of RCW 36.57A.055 that the County Council will designate the County Council’s member to serve on the Composition Review Committee, and that the Bellingham, Lynden, Ferndale, Blaine, Everson, Nooksack, and Sumas City Councils will each designate one of their City’s elected representatives to serve on the Committee. Each respective Council may choose to appoint the present WTA Board member representing their jurisdiction to serve on the Committee, if applicable.

I would appreciate it if each of the Councils would notify my assistant and Clerk of the Board, Vicki Esser by e-mail at vickie@ridewta.com of the designated representative who will be serving on the Committee by September 25, 2013. Additional background material will be provided to the designated representatives in advance of the meeting.

Sincerely,

[Signature]

Richard G. Walsh  
General Manager

cc: County Executive Jack Louws  
WTA Board of Directors  
Dana Brown-Davis, Clerk of the Council

Enclosure
RCW 36.57A.055
Governing body — Periodic review of composition.

After a public transportation benefit area has been in existence for four years, members of the county legislative authority and the elected representative of each city within the boundaries of the public transportation benefit area shall review the composition of the governing body of the benefit area and change the composition of the governing body if the change is deemed appropriate. The review shall be at a meeting of the designated representatives of the component county and cities, and the majority of those present shall constitute a quorum at such meeting. Twenty days notice of the meeting shall be given by the chief administrative officer of the public transportation benefit area authority. After the initial review, a review shall be held every four years.

If an area having a population greater than fifteen percent, or areas with a combined population of greater than twenty-five percent of the population of the existing public transportation benefit area as constituted at the last review meeting, annex to the public transportation benefit area, or if an area is added under RCW 36.57A.140(2), the representatives of the component county and cities shall meet within ninety days to review and change the composition of the governing body, if the change is deemed appropriate. This meeting is in addition to the regular four-year review meeting and shall be conducted pursuant to the same notice requirement and quorum provisions of the regular review.

[1991 c 318 § 16; 1983 c 65 § 4.]

Notes:

**Intent – 1991 c 318**: See note following RCW 36.57A.040.
# WHATCOM TRANSPORTATION AUTHORITY

## CURRENT BOARD OF DIRECTORS COMPOSITION

<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Representing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Jack Louws - Whatcom County Executive</td>
<td>Whatcom County</td>
</tr>
<tr>
<td>2.</td>
<td>Pete Kremen - Whatcom County Council</td>
<td>Whatcom County</td>
</tr>
<tr>
<td>3.</td>
<td>Kelli Linville - Mayor, City of Bellingham</td>
<td>Bellingham</td>
</tr>
<tr>
<td>4.</td>
<td>Stan Snapp - Bellingham City Council Member</td>
<td>Bellingham</td>
</tr>
<tr>
<td>5.</td>
<td>Jack Weiss - Bellingham City Council Member</td>
<td>Bellingham</td>
</tr>
<tr>
<td>6.</td>
<td>Paul Greenough, Blaine City Council Member</td>
<td>Blaine</td>
</tr>
<tr>
<td>7.</td>
<td>Mel Hansen - Ferndale City Council Member</td>
<td>Ferndale</td>
</tr>
<tr>
<td>8.</td>
<td>Scott Korthuis – Mayor, City of Lynden</td>
<td>Lynden</td>
</tr>
<tr>
<td>9.</td>
<td>Jim Ackerman – Mayor, City of Nooksack</td>
<td>Nooksack/Everson/Sumas</td>
</tr>
<tr>
<td>10.</td>
<td>Mark Lowry – Non-Voting Labor Representative (required by law)</td>
<td>Amalgamated Transit Union - Local 843</td>
</tr>
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</table>
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>Originator:</td>
<td>MDC</td>
<td>8/29/13</td>
<td></td>
<td>9/10/13</td>
<td>Intro</td>
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<tr>
<td>Division Head:</td>
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<td>9/24/13</td>
<td>Finance Committee; Council</td>
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<td>Dept. Head:</td>
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<td></td>
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<tr>
<td>Prosecutor:</td>
<td>KMF</td>
<td>8/29/13</td>
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<td>WDC</td>
<td>8/29/13</td>
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<td></td>
<td></td>
<td>9/3/13</td>
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**TITLE OF DOCUMENT:** 2013 Supplemental Budget Request #10

**ATTACHMENTS:** Ordinance, Memoranda & Budget Modification Requests

<table>
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<tr>
<th>SEPA review required?</th>
<th>( ) Yes ( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes ( X ) NO</th>
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<td>SEPA review completed?</td>
<td>( ) Yes ( X ) NO</td>
<td>Requested Date:</td>
<td></td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

**Supplemental #10 requests funding from the General Fund:**

1. To appropriate $12,878 in the Sheriff's Office to fund Active Shooter Training program from grant proceeds.
2. To appropriate $11,976 in the Sheriff's Office to fund Drug Task Force vehicle lease from grant proceeds.
3. To appropriate $30,000 in the Sheriff's Office to fund enhanced patrols along the Nooksack River.
4. To appropriate $1,400 in the Sheriff's Office to fund additional DUI patrols from grant proceeds.
5. To appropriate $5,000 in the Sheriff's Office to fund reimbursable overtime for Federal Organized Crime Drug Enforcement Task Force investigations.
6. To appropriate $6,750 in the Sheriff's Office to fund Traffic Unit cold weather gear from grant proceeds.
7. To appropriate $10,000 in the Sheriff's Office to fund acquisition of a patrol / drug detection canine from donation proceeds.
8. To appropriate $1,000 in the Sheriff's Office to fund acquisition of a moving radar unit from grant proceeds.
9. To appropriate $3,500 in the Sheriff's Office to fund eradication of illegal marijuana production activities from grant proceeds.
10. To appropriate $750,000 in Non-Departmental to partially fund Bellingham Food Bank expansion from CDBG grant proceeds.

In addition supplemental #10 requests to decrease employee positions by 1.8 FTEs.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>

395
ORDINANCE NO.
AMENDMENT NO. 10 OF THE 2013 BUDGET

WHEREAS, the 2013-2014 budget was adopted November 20, 2012; and,
WHEREAS, changing circumstances require modifications to the approved 2013-2014 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Whatcom County Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2013-2014 Whatcom County Budget Ordinance #2012-048 is hereby amended by adding the following additional amounts to the 2013 budget included therein:

<table>
<thead>
<tr>
<th></th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sheriff</td>
<td>82,504</td>
<td>(52,504)</td>
<td>30,000</td>
</tr>
<tr>
<td>Non - Departmental</td>
<td>750,000</td>
<td>(750,000)</td>
<td>-</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>832,504</td>
<td>(802,504)</td>
<td>30,000</td>
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<tr>
<td>Total Supplemental</td>
<td>832,504</td>
<td>(802,504)</td>
<td>30,000</td>
</tr>
</tbody>
</table>

In addition, Exhibit B to the 2013-2014 Budget Ordinance entitled "Authorized Positions" should be amended to provide for the following FTE changes:

- Reduce 1 FTE Program Specialist position in Sheriff – Emergency Management
- Reduce 1 FTE Financial Accountant in AS – Finance
- Increase .8 FTE Budget Analyst up to 1 FTE in AS – Finance.

ADOPTED this ___ day of _________________, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk
Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

Jack Louws, County Executive
Date: _______________________

I:\BUDGET\SUPPLS\2013_Suppl\Supplemental #10-2013.doc
# Summary of the 2013 Supplemental Budget Ordinance No. 10

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased Expenditure (Decrease)</th>
<th>(Increased) Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
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<tbody>
<tr>
<td>Sheriff</td>
<td>To fund Active Shooter Training Program from grant proceeds</td>
<td>12,878</td>
<td>(12,878)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund Drug Task Force vehicle lease from grant proceeds</td>
<td>11,976</td>
<td>(11,976)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund enhanced patrols along the Nooksack River</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund additional DUI patrols from grant proceeds</td>
<td>1,400</td>
<td>(1,400)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund reimbursable overtime for Federal Organized Crime Drug Enforcement Task Force investigations</td>
<td>5,000</td>
<td>(5,000)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund Traffic Unit cold weather gear from grant proceeds</td>
<td>6,750</td>
<td>(6,750)</td>
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<tr>
<td>Sheriff</td>
<td>To fund acquisition of a patrol / drug detection canine from donation proceeds</td>
<td>10,000</td>
<td>(10,000)</td>
<td>-</td>
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<tr>
<td>Sheriff</td>
<td>To fund acquisition of a moving radar unit with grant proceeds</td>
<td>1,000</td>
<td>(1,000)</td>
<td>-</td>
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<tr>
<td>Sheriff</td>
<td>To fund eradication of illegal marijuana production activities from grant proceeds</td>
<td>3,500</td>
<td>(3,500)</td>
<td>-</td>
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<tr>
<td>Non - Departmental</td>
<td>To partially fund Bellingham Food Bank expansion from CDBG grant proceeds</td>
<td>750,000</td>
<td>(750,000)</td>
<td>-</td>
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<tr>
<td><strong>Total General Fund</strong></td>
<td></td>
<td><strong>832,504</strong></td>
<td><strong>(802,504)</strong></td>
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<td><strong>832,504</strong></td>
<td><strong>(802,504)</strong></td>
<td><strong>30,000</strong></td>
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</tbody>
</table>
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: August 9, 2013
SUBJECT: Supplemental Budget ID #1572
Active Shooter Training Program – 2013 JAG Funds

The attached Supplemental Budget requests budget authority to use funds from the City of Bellingham Edward Byrne Memorial Justice Assistance Grant (JAG) to purchase training equipment and supplies for regionalized Active Shooter Response Training.

Background and Purpose
In response to recent violent critical incidents at schools and public venues around the nation, the Whatcom County Sheriff’s Office is developing enhanced training for active shooter scenarios. The Sheriff’s Office has taken a lead role in providing regionalized active shooter response training to area law enforcement and fire agencies to improve the coordinated response of emergency resources.

The City of Bellingham has agreed to provide the County $12,878 from the Byrne JAG award in support of this training program.

Funding Amount and Source
Funding of $12,878 will be provided by the City of Bellingham Edward Byrne Memorial Justice Assistance Grant (JAG), CFDA No. 16.738.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff

Administration

Suppl ID #: 1572

Fund 1  Cost Center 1003513006  Originator: Dawn Pierce

Expenditure Type: One-Time  Year 1  2013  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Active Shooter Training Program - 2013 JAG Funds

X

Department Head Signature (Required on Hard Copy Submission)  Date: 8/28/13

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
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<tbody>
<tr>
<td>4333.1673</td>
<td>Byrne JAG Grant</td>
<td>($12,878)</td>
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<tr>
<td>6320</td>
<td>Office &amp; Op Supplies</td>
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<tr>
<td>6510</td>
<td>Tools &amp; Equip</td>
<td>$7,878</td>
</tr>
<tr>
<td>Request Total</td>
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</table>

1a. Description of request:
The Whatcom County Sheriff's Office has taken a lead role in providing regionalized active shooter response training to area law enforcement and fire agencies to improve the coordinated response of emergency resources. A mobile training platform will allow the Sheriff's Office to provide joint training with other agencies in an efficient and effective manner.

1b. Primary customers:
Law enforcement personnel, emergency responders, and citizens of Whatcom County.

2. Problem to be solved:
In response to recent violent critical incidents at schools and public venues around the nation, the Whatcom County Sheriff's Office is developing enhanced training for active shooter scenarios. It is imperative that first responders be trained and prepared to respond to active shooter incidents. With limited training budgets, the Sheriff's Office recognizes the importance of providing smaller agencies with the knowledge and tactics required to effectively operate during a multi-jurisdictional response. The goal of the program is to provide regional training to all area law enforcement to increase officer safety, improve integrated public safety response, protect potential victims, and limit loss of life.

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:
The Sheriff's Office will purchase and equip a cargo trailer with training equipment and supplies needed to provide critical active shooter response training. The necessary training equipment will be stored in the cargo trailer and transported to different training locations.

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
$12,878 from City of Bellingham Edward Byrne Memorial Justice Assistance Grant, CFDA#16.738.
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: August 26, 2013
SUBJECT: Supplemental Budget ID #1571
 JAG Grant FY2013 – Drug Task Force Vehicle Lease

The attached Supplemental Budget requests budget authority to use Department of Commerce Edward Byrne Memorial Justice Assistance Grant (JAG) funds for Drug Task Force vehicle lease.

Background and Purpose
Drug Task Force detectives require reliable cost-effective vehicles for undercover work. The Department of Commerce approved the use of JAG funds for Drug Task Force vehicle lease, and the Sheriff’s Office has used JAG funds to lease vehicles for Task Force detectives since March 2013. The Sheriff’s Office requires budget authority to continue using JAG funds for the vehicle lease through December 2013.

Funding Amount and Source
Funding of $11,976 will be provided by State of Washington Department of Commerce Edward Byrne Memorial Justice Assistance Grant (JAG) Program, CFDA No. 16.738.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff Administration

Supp'1 IC # 1571 Fund 1 Cost Center 1003513004 Originator: Dawn Pierce

Expenditure Type: One-Time Year: 2013 Add'l FTE Add'l Space Priority: 1

Name of Request: JAG Grant FY2013 - Drug Task Force Vehicle Lease

X Department Head Signature (Required on Hard Copy Submission) Date: 8/23/13

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<th>Amount Requested</th>
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<tr>
<td>4333.1673</td>
<td>Byrne JAG Grant</td>
<td>($11,976)</td>
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<tr>
<td>6860</td>
<td>Equipment Rental</td>
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<tr>
<td><strong>Request Total</strong></td>
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<td><strong>$0</strong></td>
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</table>

1a. Description of request:
The Sheriff's Office will use grant funds to lease vehicles for detectives assigned to the Northwest Regional Gang-Drug Task Force, as approved by State of Washington Department of Commerce.

1b. Primary customers:
Drug Task Force detectives and citizens of Whatcom County.

2. Problem to be solved:
The Sheriff's Office requires budget authority to use Department of Commerce Byrne Justice Assistance Grant (JAG) funds for vehicle lease, Whatcom County RFP 12-73.

3a. Options / Advantages:

3b. Cost savings:
Cost savings of $11,976.

4a. Outcomes:
County budget will be aligned with current spending plan for Department of Commerce Byrne Justice Assistance Grant (JAG) Funds.

4b. Measures:

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:

Thursday, August 22, 2013
TO: Jack Louws, County Executive  
FROM: Sheriff Bill Elfo  
DATE: August 26, 2013  
SUBJECT: Supplemental Budget ID# 1583  
Enhanced Patrols Along Nooksack River 2013

The attached Supplemental Budget requests budget authority for enhanced patrols along the Nooksack River in 2013.

Background and Purpose  
Tubing activity creates a number of problems along the Nooksack River including parking issues, trespassing, property damage, public intoxication, DUI, lewd behavior, and disorderly conduct. At a meeting on August 6, 2013, the Whatcom County Council indicated support for Sheriff’s Office deputies to increase patrols along the Nooksack River to address issues associated with tubing activities.

Funding Amount and Source  
$30,000 from the General Fund.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff Operations

Suppl ID: 1583 Fund 1 Cost Center 2920 Originator: Dawn Pierce

Expenditure Type: One-Time Year 2013 Add'l FTE Add'l Space Priority 1

Name of Request: Enhanced Patrols on Nooksack River 2013

Department Head Signature (Required on Hard Copy Submission) Date

X 8/26/13

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<td>Social Security</td>
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<td>6259</td>
<td>Worker's Comp-Interfund</td>
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<tr>
<td>Request Total</td>
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</tr>
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</table>

1a. Description of request:

The Sheriff's Office will provide enhanced patrols along the Nooksack River in 2013. These patrols are for education, enforcement and management of impacts on private property and roadways due to the increased recreational use of the Nooksack River during warm weather months. Tubing activity creates a number of problems in the area that requires increased Sheriff's Office presence.

1b. Primary customers:

Citizens of Whatcom County

2. Problem to be solved:

The Whatcom County Council and Executive's Office, as well as the Sheriff's Office has received numerous complaints pertaining to traffic issues, trespass on private property, property damage, lewd behavior and other issues created by increased recreational use in an undeveloped natural area. This increased use is during warm weather in the summer months, and issues regarding public safety, health and mitigation of impacts on private property have been brought forward by the community. The Executive's Office recommended that extra funding be provided to support extra Sheriff's Office patrols and presence in the area at peak times.

3a. Options / Advantages:

None for WCSO - no other effective option that Sheriff can provide.

3b. Cost savings:

4a. Outcomes:

Maintain public order, increased traffic safety and mitigate or prevent negative impacts from disorderly persons.

4b. Measures:

5a. Other Departments/Agencies:

n/a

5b. Name the person in charge of implementation and what they are responsible for:

Monday, August 26, 2013

Rpt: Rpt Suppl Regular

403
## Supplemental Budget Request

<table>
<thead>
<tr>
<th>Sheriff</th>
<th>Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Fund 1</strong> Cost Center 2920</td>
</tr>
<tr>
<td>Supp1 ID # 1533</td>
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</table>

### Status: Pending

6. **Funding Source:**

$30,000 from the General Fund.
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: August 26, 2013
SUBJECT: Supplemental Budget ID #1589
          Reimbursable OT – Additional DUI Patrols 2013

The attached Supplemental Budget requests budget authority (revenue and expenditure) for DUI patrols to be reimbursed by the Washington Traffic Safety Commission.

Background and Purpose
The Sheriff’s Office entered into an agreement with the Washington Traffic Safety Commission (WTSC) to conduct multijurisdictional, high visibility enforcement (HVE), Traffic Safety Emphasis Patrols. The WTSC provides overtime funding for these HVE patrols for impaired driving and seat belt use. On 08/20/13, the WTSC authorized an additional $1,400 for extra DUI patrols.

Funding Amount and Source
The Washington Traffic Safety Commission will provide $1,400 of funding from federal highway traffic safety grants.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff     Administration

Supp'l ID # 1589  Fund 1  Cost Center 2965  Originator: Dawn Pierce

Expenditure Type: One-Time  Year 1  2013  Add'l FTE  Add'l Space  Priority 1

Name of Request: Reimbursable OT - Additional DUI Patrols 2013

X

Department Head Signature (Required on Hard Copy Submission)  Date

8/28/13

Costs:

<table>
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<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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</thead>
<tbody>
<tr>
<td>4333.2061</td>
<td>National Hwy System</td>
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<tr>
<td>6140</td>
<td>Overtime</td>
<td>$1,220</td>
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<tr>
<td>6210</td>
<td>Retirement</td>
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<td>6230</td>
<td>Social Security</td>
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<td>6259</td>
<td>Worker’s Comp-Interfund</td>
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<td>Request Total</td>
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</table>

1a. Description of request:
The Sheriff's Office entered into an agreement with the Washington Traffic Safety Commission (WTSC) to conduct multijurisdictional, high visibility enforcement (HVE), traffic safety emphasis patrols. The WTSC provides overtime funding for these HVE patrols and has authorized an additional $1,400 for extra DUI patrols in 2013.

1b. Primary customers:
Citizens of Whatcom County.

2. Problem to be solved:
The Sheriff's Office requires budget authority to use additional grant funds to provide extra DUI patrols.

3a. Options / Advantages:

3b. Cost savings:
Cost savings of $1,400.

4a. Outcomes:
The Sheriff's Office will provide approximately 20 additional hours of DUI patrols per agreement with Washington Traffic Safety Commission.

4b. Measures:
Emphasis Patrol Activity Logs will be completed and submitted to the WTSC.

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
The Washington Traffic Safety Commission will provide $1,400. Funds originate from U.S. Department of Transportation National Highway Traffic Safety Administration (NHTSA), CFDA No. 20.601.

Wednesday, August 28, 2013

Rpt: Rpt Supp'l Regular
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: August 6, 2013
SUBJECT: Supplemental Budget ID #1570
         Reimbursable OT – OCDETF 2013

The attached Supplemental Budget requests budget authority (revenue and expenditure) for overtime services for federal Organized Crime Drug Enforcement Task Forces (OCDETF) investigations.

**Background and Purpose**
The Sheriff's Office entered into an agreement with The Executive Office for the Organized Crime Drug Enforcement Task Forces (OCDETF) to participate in the investigation and prosecution of major drug trafficking organizations (Whatcom County Contract No. 201307003).

Deputies assigned to assist in OCDETF investigations may perform a variety of functions, including: interviewing witnesses, conducting surveillance, performing undercover assignments, handling informant transportation and/or prisoner transportation, preparing and executing search and arrest warrants, serving subpoenas, assisting with trial preparation, and testifying at trials.

The OCDETF will reimburse the Sheriff’s Office for overtime of deputies engaged in these federal investigations.

**Funding Amount and Source**
Funding of $5,000 will be provided by the OCDETF State and Local Overtime Fund.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff

Supp# 1570

Fund 1

Cost Center 2965

Originator: Dawn Pierce

Expenditure Type: One-Time

Year: 2013

Add'l FTE □ Add'l Space □ Priority: 1

Name of Request: Reimbursable OT - OCDETF 2013

Department Head Signature (Required on Hard Copy Submission) Date

8/28/13

Costs:

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<tr>
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<td>$99</td>
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1a. Description of request:

The Sheriff's Office has entered into an agreement with The Executive Office for the Organized Crime Drug Enforcement Task Forces (OCDETF) to participate in the investigation and prosecution of major drug trafficking organizations (Whatcom County Contract No. 201307003). The OCDETF State and Local Overtime Fund will pay for overtime of Whatcom County Sheriff's Office deputies engaged in Federal OCDETF investigations.

1b. Primary customers:

Citizens of Whatcom County

2. Problem to be solved:

Additional budget authority is needed to provide the contracted services.

3a. Options / Advantages:

3b. Cost savings:

$5,000 of overtime will be reimbursed by OCDETF.

4a. Outcomes:

Sheriff's Office Drug Task Force deputies will participate in Federal OCDETF investigations.

4b. Measures:

Activity logs will be completed and monthly reports prepared.

5a. Other Departments/Agencies:

N/A

5b. Name the person in charge of implementation and what they are responsible for:

N/A

6. Funding Source:

$5,000.00 will be provided by the Organized Crime Drug Enforcement Task Forces (OCDETF) State and Local Overtime Fund.

Wednesday, August 28, 2013

Rpt: Rpt Suppl Regular

408
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: August 26, 2013
SUBJECT: Supplemental Budget ID# 1586
WTSC School Zone Safety Funds 2013

The attached Supplemental Budget requests budget authority to use Washington Traffic Safety Commission (WTSC) School Zone Safety Funds to purchase cold weather gear for deputies in the Sheriff’s Office Traffic Unit.

Background and Purpose
School Zone Safety Account Funds are awarded by WTSC to fund projects in local communities to improve school zone safety. The WTSC has awarded $6,750 to the Whatcom County Sheriff’s Office in 2013 to purchase cold weather gear for motorcycle school zone enforcement.

Funding Amount and Source
State grant funds of $6,750 will be provided by Washington Traffic Safety Commission School Zone Safety Account.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
1a. Description of request:

1b. Primary customers:
Sheriff's Office deputies.

2. Problem to be solved:
The Sheriff's Office needs budget authority to use WTSC School Zone Funds awarded 08/13/13 to purchase cold weather gear approved by WTSC for motorcycle school zone safety enforcement.

3a. Options / Advantages:
School Zone Safety Funds are awarded by WTSC to fund projects in local communities to improve school zone safety, projects that would otherwise have to be funded with local monies or eliminated.

3b. Cost savings:
Cost savings of $6,750.

4a. Outcomes:
Cold weather gear will be purchased by October 13, 2013 and will allow Traffic Unit deputies to more effectively work the school zones in our community on motorcycles during inclement weather.

4b. Measures:
Continue work to improve pedestrian safety in school zones by enforcing speed restrictions and decreasing the number of traffic violations.

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: August 22, 2013
SUBJECT: Supplemental Budget ID# 1588
Canine Acquisition 2013

The attached Supplemental Budget requests budget authority to use funds donated by the Whatcom County Sheriff’s Support Foundation for acquisition of one patrol/drug detection canine in 2013.

Background and Purpose
One patrol canine was unexpectedly retired in 2013. The Sheriff’s Office will enhance current capabilities by replacing the patrol canine with upgrade of one dog to general working and drug detection certification.

Funding Amount and Source
The Whatcom County Sheriff’s Support Foundation will donate $10,000 for acquisition of the new canine.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff

<table>
<thead>
<tr>
<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
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<tbody>
<tr>
<td>1</td>
<td>2921</td>
<td>Dawn Pierce</td>
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</table>

Expenditure Type: One-Time  Year 1 2013  Add'l FTE  Add'l Space  Priority 1

Name of Request: Canine Acquisition 2013

Department Head Signature (Required on Hard Copy Submission)  Date

X  8/22/13

Costs:

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<th>Object</th>
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1a. Description of request:

The Sheriff's Office will purchase one Patrol/Drug Detection Canine in 2013 with funds donated by the Whatcom County Sheriff's Support Foundation.

1b. Primary customers:

Sheriff's Office and citizens of Whatcom County

2. Problem to be solved:

The Sheriff's Office needs budget authority to replace one canine that was unexpectedly retired in 2013.

3a. Options / Advantages:

There are no other options.

3b. Cost savings:

Cost savings of $10,000

4a. Outcomes:

The Sheriff's Office will enhance current capabilities by replacing one patrol canine that was retired in 2013 with upgrade of one dog to general working and drug detection certification.

4b. Measures:

5a. Other Departments/Agencies:

N/A

5b. Name the person in charge of implementation and what they are responsible for:

N/A

6. Funding Source:

Donation of $10,000 from the Whatcom County Sheriff's Support Foundation, a local non-profit charitable corporation created to help fund Sheriff's Office projects.
Memorandum

TO: Jack Louws, County Executive

FROM: Sheriff Bill Elfo

DATE: August 22, 2013

SUBJECT: Supplemental Budget ID# 1587
WASPC Traffic Safety Emergency Funds 2013

The attached Supplemental Budget requests budget authority to purchase a moving radar with Washington Association of Sheriffs & Police Chiefs Traffic Safety Emergency Funds.

Background and Purpose
The Washington Association of Sheriffs & Police Chiefs (WASPC) awarded Traffic Safety Emergency Funds of $1,000.00 to purchase an MPH Python III moving radar to replace an older model that is not cost effective to repair.

Funding Amount and Source
Federal Funds of $1,000.00 will be provided by WASPC Traffic Safety Emergency Funds, CFDA# 20.600.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff

Administration

Fund 1  Cost Center 1003512001  Originator: Dawn Pierce

Expenditure Type: One-Time  Year 1 2013  Add'l FTE  Add'l Space  Priority 1

Name of Request: WASPC Traffic Safety Emergency Funds 2013

Department Head Signature (Required on Hard Copy Submission)  Date: 8/22/13

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<tr>
<td>6510</td>
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<td>Request Total</td>
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</table>

1a. Description of request:
The Washington Association of Sheriffs & Police Chiefs (WASPC) awarded Traffic Safety Emergency Funds of $1,000 for the Whatcom County Sheriff's Office to purchase a moving radar.

1b. Primary customers:
Citizens of Whatcom County

2. Problem to be solved:
Budget authority is needed to use grant funds to purchase traffic safety equipment (an MPH Python III moving radar) authorized by WASPC.

3a. Options / Advantages:
The Sheriff's Office will purchase a moving radar to replace an older model that is not cost effective to repair. The cost of the new radar is $1,175. The additional $175 needed for this purchase will come from existing Sheriff's Office Patrol budget.

3b. Cost savings:
Cost savings of $1,000.

4a. Outcomes:
Equipment purchased with this grant will be used as part of the traffic safety program.

4b. Measures:
Reports describing the use of the equipment and related enforcement activities will be submitted to WASPC.

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Washington Association of Sheriffs & Police Chiefs will provide $1,000 of Federal Traffic Safety Emergency Funds, CFDA No. 20.600.

Thursday, August 22, 2013  Rpt: Rpt Suppl Regular
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: August 5, 2013
SUBJECT: Supplemental Budget ID# 1569
Marijuana Eradication 2013

The attached Supplemental Budget requests revenue and expenditure budget authority for Washington State Patrol Marijuana Eradication 2013 grant.

Background and Purpose
The Washington State Patrol awarded $3,500 to Whatcom County Sheriff’s Office for marijuana eradication in 2013. Funds will be used to purchase personnel protective equipment for members of the Northwest Regional Gang and Drug Task Force for use in marijuana eradication operations. Estimated cost of five sets of (front and back) rifle plates for ballistic vests and five rifle plate carriers (vest) is $3,900.00.

Funding Amount and Source
$3,500 Federal Domestic Cannabis Eradication/Suppression Grant (CFDA No. 16.000) from Washington State Patrol and $400 from existing Sheriff’s Office budget.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff

Suppl.ID # 1569

Fund 1

Cost Center 1003513005

Originator: Dawn Pierce

Expenditure Type: One-Time

Year 1 2013

Add'1 FTE □

Add'1 Space □

Priority 1

Name of Request: Marijuana Eradication 2013

Department Head Signature (Required on Hard Copy Submission)

Date 8/6/13

Costs:

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<td>4333.1603</td>
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<tr>
<td>9610</td>
<td>Tools &amp; Equip</td>
<td>$3,500</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
</tr>
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</table>

1a. Description of request:

Federal funds support annual activities associated with locating and eradicating illicit cannabis plants. The allocation for 2013 will be used to purchase personnel protective equipment for members of the Northwest Regional Gang and Drug Task Force: five sets of rifle plates (front and back) and five rifle plate carriers.

1b. Primary customers:

Members of the Northwest Regional Gang and Drug Task Force and citizens of Whatcom County.

2. Problem to be solved:

There is evidence that trafficking in controlled substances exists and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the people of the State of Washington. The Washington State Patrol provides funding to law enforcement agencies to support the locating and eradication of illicit production of marijuana. Detection, deterrence, and eradication activities support the goals and objectives of the Justice Assistance Grant (JAG) funded Northwest Regional Gang and Drug Task Force and are part of our multi-faceted strategy for combating gang-drug criminal activity in Whatcom County.

3a. Options / Advantages:

Personnel protective equipment would otherwise have to be purchased with local dollars or not purchased at all.

3b. Cost savings:

$3,500.00

4a. Outcomes:

Equipment will be purchased by October 31, 2013.

4b. Measures:

5a. Other Departments/Agencies:

N/A

5b. Name the person in charge of implementation and what they are responsible for:

N/A

6. Funding Source:

Funding from the Washington State Patrol. These funds originate from the Federal Domestic Cannabis Eradication/Suppression Grant, CFDA No. 16.000.

Monday, August 05, 2013
To : Whatcom County Council
cc : Whatcom County Executive Jack Louws
From : Bill Elfo, Sheriff
Date : July 24, 2013
Subject : Marijuana Eradication Grant

As in previous years, the Sheriff’s Office is eligible to receive federal funding to support marijuana eradication. The grant is administered by the Washington State Patrol and has been reduced from the $5,000 received last year, to a 2013 award of $3,500.

There are no conflicts with the terms and conditions of this grant and Washington State law regarding medical and recreational marijuana. The funds are used to reimburse the Sheriff’s Office in carrying out its legal responsibilities to address dangers and risks associated with criminal enterprises that engage in illegal large scale marijuana cultivation for profit.

Attached is a guest editorial I submitted to the Bellingham Herald that was published on September 15th, 2012. It outlines law enforcement responsibilities and the public dangers associated with large scale illegal marijuana cultivation activities. Home invasion robberies involving marijuana grow operations all too frequently in our community (as recently as earlier this month) and endanger the innocent.

Please do not hesitate to contact me if I can answer any questions.
WHATCOM VIEW

Grant helps county deputies fight big marijuana cultivators

BILL ELFO
COURTESY TO THE BELLINGHAM HERALD

The Aug. 21 edition of The Bellingham Herald reported on a Whatcom County Council committee meeting where council was requested to consider accepting grant funding to eradicate large-scale marijuana cultivation operations. The article was headlined: “Council majority supports legal pot” and “Grant to find pot farms rejected.”

It is important to distinguish the public debate on marijuana legalization and Initiative 502 (to legalize marijuana for personal use) from law enforcement’s responsibility to address dangers and risks associated with criminal enterprises that engage in large-scale marijuana cultivation for profit.

In these days of dwindling resources and increasing challenges, law enforcement in general and the sheriff’s office in particular must prioritize available resources toward those crimes that most affect the safety of the public. Jail bookings from all Whatcom County law enforcement agencies for simple possession of marijuana account for less than one-quarter of 1 percent of total jail bookings and 0.008 percent of total jail bed days.

Marijuana is an extremely valuable crop and cultivation operations are often controlled by sophisticated drug-trafficking organizations that act with reckless disregard for the environment and public safety. Locally, these operations have been the site of robberies, kidnappings and serious assaults. Firearms are frequently found at cultivation sites. Any notion that large-scale marijuana cultivation operations are innocuous and do not present dangers to innocent citizens is without foundation.

Criminal networks involved in indoor marijuana cultivation frequently rent residences from unsuspecting landlords. Cultivation requires three to 10 times the electricity of a normal home and often results in bypassed meters and overloaded electrical circuits that increase the risk of fire and associated hazards to neighbors and firefighters. It is not uncommon for these organizations to damage homes by removing walls and ceilings to accommodate hydroponic lighting systems.

Mold resulting from watering is nearly always present. Following the harvest, those involved frequently abandon the then-destroyed residences. Furthermore, indoor grow operations are attractive targets for other criminals and bring the risk of violence to neighborhoods when they are robbed.

Outdoor marijuana cultivation operations often occur on public lands or on land owned by unsuspecting property owners. Common attributes of these operations include the diversion of streams and the use of harmful chemicals. Across the nation, they are often found to be maintained through the forced labor of victims of human trafficking and guarded by human traps that pose risks to hikers, property owners and other passersby.

As part of a national and statewide strategy to eradicate the dangers posed by marijuana grow operations, the federal government appropriates funding to assist local law enforcement as they fulfill their responsibility to remove these sites and their associated dangers. The $4,000 in funding the Northwest Regional Drug Task Force receives annually as part of this strategy is not and cannot be directed toward personal or legal medical marijuana use. Rather, it is directed toward doing what is required to protect our community from the dangerous activities of drug-trafficking organizations.

The Northwest Regional Drug Task Force devotes nearly all of its activities to disrupting drug trafficking and gang activity that present the highest risks to our community. It regularly builds cases against those involved in methamphetamine and heroin sales in residential neighborhoods and traffickers transporting massive quantities of these drugs along with cocaine through our community. A long-term investigation into a methamphetamine and stolen property trafficking network resulted in the federal indictment of more than 20 people and the removal of members of a well-organized white supremacist gang from our community. However, we cannot ignore those criminal organizations whose dangerous and reckless activities in cultivating marijuana put our citizens in harm’s way. We also cannot fail to respond to requests of neighbors and property owners who legitimately demand that we fulfill our responsibility to protect them and their property.

Our unique position on the international border often places demands on the local criminal justice system that involve interstate and international shipments of narcotics. Fortunately, the council ultimately approved the grant, which in a small way helps our community in alleviating this menace.

Bill Elfo is the Whatcom County sheriff. For more information online, go to co.whatcom.wa.us/sheriff/.
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws
Subject: Budget Supplemental, Food Bank Expansion CDBG Grant
Date: August 26, 2013

The attached supplemental request for $750,000 is for the purposes of establishing budget authority in order to pass-through an available grant from the Washington State Department of Commerce to Alternatives to Hunger (dba the Bellingham Food Bank). This grant was applied for and authorized by the County Council in December of 2012, and has been granted for the expansion of Bellingham Food Bank’s regional food bank distribution center.

The grant is a CDBG General Purposes grant from the Washington State Department of Commerce. Whatcom County has been designated by the Dept. of Commerce as the grantee for the purpose of contracting with Alternatives to Hunger as a subrecipient for this grant award of $750,000.00.

This grant will partially fund the $2.2-million construction project, which involves doubling the size of the current regional food bank distribution center (to 20,000 square feet) in order to meet the growing need for food among low-income people who rely on the local food bank network throughout Whatcom County and San Juan County.

Whatcom County has executed a contract with the State Department of Commerce for this funding. Council’s authorization for this supplemental request will result in the execution of a Subrecipient Agreement with Alternatives to Hunger to implement the grant-funded project noted herein.
Supplemental Budget Request

Executive

Suppl IO # 1578  Fund 1  Cost Center 4273  Originator: Suzanne Mildner

Expenditure Type: One-Time  Year 1 2013  Add'l FTE ☐  Add'l Space ☐  Priority 1

Name of Request: Food Bank Expansion CDBG Grant

X

8/26/13

Department Head Signature (Required on Hard Copy Submission)  Date

 Costs:  | Object  | Object Description  | Amount Requested |
---------|---------|---------------------|------------------|
 4333.1422  | HUD-CDBG  |  | ($750,000) |
 6610  | Contractual Services  |  | $750,000 |

Request Total  |  |  | $0 |

1a. Description of request:

This request is for a Community Development Block Grant from the Washington State Department of Commerce, to be passed through to Alternatives to Hunger (dba Bellingham Food Bank) as the subrecipient. The funding will be utilized to support the construction for expansion of the regional food bank distribution center, resulting in an increase of approximately 10,000 square feet to receive and distribute larger quantities of food to low-income people.

1b. Primary customers:

Low- to moderate-income citizens in Whatcom and San Juan Counties

2. Problem to be solved:

This grant source requires the local county government to act as grant recipient in order to receive, administer and pass through the funding to the local non-profit agency (Alternatives to Hunger), who will lead in project and grant management. The County Council previously approved the submission of the grant application and the grant has subsequently been awarded. The subrecipient Alternatives to Hunger will complete the project scope of work and adhere to the requirements of the grant contract.

3a. Options / Advantages:

N/A

3b. Cost savings:

N/A

4a. Outcomes:

Project completion, scheduled for approximately Spring/Summer of 2015

4b. Measures:

Completion of construction in Spring/Summer of 2015. The Subrecipient Alternatives to Hunger will be submitting ongoing reports to the County, and a public hearing will be held at grant closeout.

5a. Other Departments/Agencies:

Alternatives to Hunger (dba Bellingham Food Bank)

5b. Name the person in charge of implementation and what they are responsible for:

Mike Cohen is the Executive Director of Bellingham Food Bank

6. Funding Source:

HUD, through the Washington State Department of Commerce’s CDBG Program

Friday, August 16, 2013
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Originator: Erin Osborn
Division Head: Mark Personius
Dept. Head: Sam Ryan
Prosecutor: Royce Buckingham
Purchasing/Budget:
Executive: Jack Louws

Initial  Date     Date Received in Council Office
E   8/26/13    8/27/13     SEP 03 2013 WHATCOM COUNTY COUNCIL
W    8/21/13    8/29/13
W 09/03/13

TITLE OF DOCUMENT:
An ordinance adopting amendments to the Point Roberts Character Plan

ATTACHMENTS:
1. Cover Memo
2. Proposed Ordinance and Exhibit “A” (Exhibit “A” is shown in strike-through/underline version & also the clean version)
3. Planning Commission Findings of Fact and Reasons for Action
4. Excerpts from the July 25, 2013 Planning Commission Meeting Draft Minutes
5. Staff Report
6. Whatcom County Code, Chapter 2.98 – Point Roberts Community Advisory Committee

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( NA ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This ordinance amends Section 9-001 – Advisory Committee, Point Roberts Character Plan as adopted in Section 8.1.1 of the 2001 Point Roberts Subarea Plan, adopted by reference in Whatcom County Comprehensive Plan, as shown in “Exhibit A”.

Proposed changes to the Point Roberts Character Plan identified in “Exhibit A” modify language that specifies how the Point Roberts Character Plan Advisory Committee is established. Proposed changes would allow the existing Point Roberts Community Advisory Committee that is established pursuant to WCC 2.98 to serve as the new Character Plan Advisory Committee.

COMMITTEE ACTION:  COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
PLN2013-00013

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Honorable Members of the Whatcom County Council & Honorable Jack Louws, Whatcom County Executive

FROM: Erin Osborn, Planner

THROUGH: Mark Personius, Long Range Planning Manager

DATE: August 26, 2013

SUBJECT: Amendments to Point Roberts Character Plan

Presented here for your consideration is a packet containing Planning Commission recommendations on proposed amendments to the Point Roberts Character Plan. Also enclosed is a draft ordinance, and Exhibit "A" in "underline/strike out version" and "clean version" which has been prepared for review by the County Council should they vote to adopt Planning Commission recommendations, and for review by the County Executive should he signify his approval by signing the ordinance.

This item is proposed to be introduced at the September 10, 2013 Council Meeting, with future discussion held in Planning & Development Committee (on a date to be determined), and pending an affirmative vote from Council will be forwarded on to Concurrent Review.

Background: The proposed amendments are intended to modify provisions in the Point Roberts Character Plan that specify how a Character Plan Advisory Committee is created. The Point Roberts Character Plan Advisory Committee that once served is no longer active, and at this time there is no advisory committee formed that acts to review commercial and institutional development proposals for conformance with the Character Plan.

The proposed amendments would allow the existing Point Roberts Community Advisory Committee that fulfills a role in providing advice and recommendations to the County Executive and County Council on needs and issues specific to the Point Roberts Community to also serve as the Point Roberts Character Plan Advisory Committee.

Thank you.
ORDINANCE NO. ____________

ADOPTING AMENDMENTS TO THE POINT ROBERTS CHARACTER PLAN

WHEREAS, the Whatcom County Council adopted Ordinance No. 94-024 on April 26, 1994 wherein the Point Roberts Subarea Comprehensive Plan was amended to include the Point Roberts Character Plan; and

WHEREAS, the Whatcom County Council adopted Ordinance No. 99-073 on November 23, 1999 which adopted amendments to the Point Roberts Character Plan text and Title 20 Zoning text relating to Point Roberts; and

WHEREAS, the Character Plan, Section 9-001 provided for an Advisory Committee called the Point Roberts Character Plan Advisory Committee (PRCPAC), which was an advisory body formed solely for the purpose of building permit application review, and this Advisory Committee has been inactive for many years; and

WHEREAS, the Point Roberts Community Advisory Committee, which was established by Whatcom County Council in 2010 through Ordinance No. 2010-008, has the capacity to fill the role that the PRCPAC previously fulfilled;

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2013; and

WHEREAS, On July 25, 2013, the Whatcom County Planning Commission held a public hearing on the proposal and during a work session recommended approval of proposed amendments as shown on Exhibit A; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:
   
a. Amend Section 9-001 – Advisory Committee, Point Roberts Character Plan as adopted in Section 8.1.1 of the 2001 Point Roberts Subarea Plan, as adopted by reference as part of the Whatcom County Comprehensive Plan, as shown in “Exhibit A”.

b. Proposed changes to the Point Roberts Character Plan identified in “Exhibit A” modify language that specifies how a Character Plan Advisory Committee is established. Proposed changes would allow the existing Point Roberts Community Advisory Committee established pursuant to WCC 2.98 to serve as the new Character Plan Advisory Committee.

2. Section 9-001. of the Point Roberts Character Plan establishes authority for the creation of an Advisory Committee whose sole purpose is to review commercial and institutional development proposals for conformance with elements of the Character Plan, and to make recommendations to the County administrative authority (County Executive, and/or Planning &
3. In 2010, Whatcom County adopted an ordinance to authorize establishment of a *Point Roberts Community Advisory Committee* (WC Ord. 2010-008), codified as Whatcom County Code, Chapter 2.98.

This committee was designed to provide advice and recommendations to the Executive and County Council on needs and issues that are specific to the Point Roberts Community. This committee is active and meets regularly in Point Roberts. The committee is distinct from the Point Roberts Character Plan Advisory Committee. It has different authority for its establishment, similar but different membership composition, and based on review of this matter by County legal staff, cannot serve as the Point Roberts Character Plan Advisory Committee, unless the Point Roberts Character Plan is amended.

4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 19, 2013.

5. On June 20, 2013, Whatcom County Planning & Development Services Department received confirmation from the Washington State Department of Commerce indicating that Commerce had received the County’s “60 Day Notice of Intent to Adopt Amendment”, and that Material ID # 19258 had been assigned to the materials received.

6. The State Environmental Policy Act (SEPA) requires that project and non-project actions be reviewed for the potential of probable significant adverse impacts to the environment, unless categorically exempt from review under SEPA. The Whatcom County Designated SEPA Official (lead agency) reviewed the proposed amendments to the Point Roberts Character Plan, and on June 25, 2013 made a determination that pursuant to WAC 197-11-800(19) the proposal is exempt from environmental review under SEPA: “Procedural actions. The proposal or adoption of legislation rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use of modification of the environment shall be exempt.”

7. On July 9, 2013, the Whatcom County Council unanimously voted to approve a resolution (Res. 2013-023) to initiate the subject amendment to the list of existing “docket” of comprehensive plan and zoning amendments previously initiated under Res. 2013-007 for consideration in 2013.

8. Notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office on July 10, 2013.

9. Notice of the Planning Commission hearing was posted on the County website on July 11, 2013.

10. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to the City of Blaine and citizen, media and other groups on the County’s e-mail list on July 12, 2013.

11. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on July 12, 2013.

13. On July 25, 2013, the Planning Commission held a work session on the subject amendments. Commissioner Honcoop moved to recommend approval of Exhibit A which contains proposed draft text in strike through underline formats, intended to amend Section 9-001 of the Point Roberts Character Plan, establishing new provisions that pertain to the creation of a Character Plan Advisory Committee. Commissioner Teigrob seconded the motion. Commissioner Vekved move to amend the motion with the following: First and second sentences of Paragraph 1 to read: The Point Roberts Community Advisory Committee, Aan existing locally-based resident’s’ advisory committee shall be utilized to work with Whatcom County on the Administration of the Character Plan. It is called the Point Roberts Community Advisory Committee. Commissioner Onkels seconded. The motion carried.

14. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendment, the County must find all of the following:

   a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any Interlocal planning agreements.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

      ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

      iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

   d. The amendment does not include or facilitate spot zoning.

   e. Amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

15. The Growth Management Act (GMA) provides that counties may adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).

16. In 1979, prior to GMA, Whatcom County adopted a subarea plan for Point Roberts, entitled “Plan for Point Roberts, a Supplement to the Whatcom County Comprehensive Plan”. This Plan was updated and amended in 1990, and updated and amended again in 2001.

17. Another local plan was created in 1994 to help implement the Point Roberts Subarea Plan. This plan established preferred architectural design elements that would be applicable to all
future commercial and institutional development within Point Roberts. The Plan, entitled the “Point Roberts Character Plan (Character Plan) was adopted as part of the 1990 Point Roberts Subarea Plan, under Ord. 94-024.

18. The Character Plan was then revised in 1999 under Ord. 99-073, and in 2001 was incorporated into Chapter 8 of the most recent version of the Point Roberts Subarea Plan, adopted in the Whatcom County Comprehensive Plan under Ord. 2001-073.

County-Wide Planning Policies

19. County-Wide Planning Policy A-2 states: The county and the cities shall provide opportunities for citizens to become involved in the growth management planning process through various mechanisms, such as surveys, public workshops, meetings, hearings, and advisory committees. The method of citizen involvement may vary based on the needs and constituents in various communities and shall include representation of both rural and urban interests on those issues that affect both urban and rural areas.

20. County-Wide Planning Policy A-3 states: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

21. County-Wide Planning Policy A-4 states: Citizen Comments and viewpoints shall be incorporated into the decision making process in development of draft plans and regulations. Consideration of citizen comments shall be evident in the decision-making process.

22. Planning and Development Services Department (PDS) has taken steps to ensure that the County’s Public Participation Plan (2012) is followed with respect to providing information to the public, and other interested parties about the details and scope of the proposed amendments under consideration. In addition, PDS has maintained a complete file on the amendments being considered, which includes background research, preliminary analysis, proposed draft text, and various agency correspondence.

23. Public notice has been published in the Bellingham Herald to inform the public of the scheduled upcoming public hearing to be held by the Planning Commission; and information about the upcoming hearing and a report containing staff analysis and recommendations has been posted to the County website, and notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office.

24. On July 12, 2013, an email describing the proposed amendment was sent to 200 interested citizens who had previously requested to be kept up to date on proposed amendments and other County projects. Staff continues to be available to respond to inquiries from interested parties about the proposal. Any input received from interested parties will be considered and may form the basis of recommendations made to County decision-makers.

25. On July 15, 2013 written correspondence was received from community member, John Lesow that offered comments to support retention of Title 20, Chapter 20.72 - Point Roberts Special
District as regulations that implement the Character Plan.

26. On July 15, 2013, anecdotal comments were received from community member, and local business owner, Pam Sheppard, in support of the proposed amendment. Opinion expressed was that the proposed amendment, if approved, would provide for greater accessibility to the Character Plan Advisory Committee and increase implementation of the Character Plan in Point Roberts.

27. County-Wide Planning Policy A-5 states: The county and the cities shall establish a system for subarea, community and neighborhood liaison to foster communication between the respective government and its neighborhoods. This system would also provide a point of contact for issues that may affect subareas, the community, or neighborhoods.

28. The Point Roberts Character Plan was born out of a local grassroots effort to preserve the rich heritage of Point Roberts Community which is based on rural farming, fishing, and related industries. It has since been adopted as part of the County’s subarea plan for Point Roberts, and is adopted by reference as part of the County’s comprehensive plan.

29. The Character Plan makes provisions for the establishment of a Character Plan Advisory Committee whose membership is drawn from a representative sample of Point Roberts community members. Key to effective implementation of the Character Plan is the role which this advisory committee plays in reviewing commercial and institutional development proposals for conformance with elements of the Plan in advance of any formal permit application.

30. Character Plan provisions require prior review of development proposals 21 days in advance of formal application for development permits (i.e. commercial building permit applications). Given that commercial development in Point Roberts may be at times infrequent; it follows that the demand for a Character Plan Advisory Committee would be intermittent, and to utilize an existing local community citizen advisory committee might be more efficient.

**Whatcom County Comprehensive Plan**

31. The GMA requires that the comprehensive plan must be an internally consistent document (RCW 36.70A.070).

32. Whatcom County’s Comprehensive Plan, Chapter 2 identifies goals and policies that both recognize and support the diversity of its citizens as they form various regions of the county. These particular goals and policies emphasize the importance of utilizing the subarea planning process to identify and support these community distinctions.

33. Whatcom County Comprehensive Plan Policy 2L-2 is to: Retain and periodically update the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Lynden-Nooksack Valley, Chuckanut-Lake Samish, Birch Bay-Blaine, Foothills, Point Roberts, South Fork Valley, and Eliza Island).

34. The above policy supports periodic updates to all of Whatcom County’s subarea planning documents, and would also support an amendment to provisions that specify how the Point Roberts Character Plan – Character Plan Advisory Committee is established.

35. The proposed amendments are further supported by Whatcom County Comprehensive Policy 2L.2(1)(d) which states that unless in conflict with the County’s Comprehensive Plan, amendments to subarea plans are not required, although local issues of concern or changed
conditions may be addressed when necessary.

36. In part, the Character Plan is implemented pursuant to Whatcom County zoning regulations, Title 20, Chapter 20.72 – Point Roberts Special District, Subsection 20.72.651 – Facility Design.

Interlocal Agreements

37. Staff has researched the matter and did not find any Interlocal agreement to which the Point Roberts community is party that would have a bearing on the relative merit of the subject amendments, or subsequent adoption.

Further Studies/Changed Conditions

Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the comprehensive plan amendment.

38. In 1994, the Point Roberts Character Plan (Character Plan) was adopted as part of the 1990 Point Roberts Subarea Plan, under Ord. 94-024. The Character Plan was revised in 1999 under Ord. 99-073, and in 2001 was incorporated into Chapter 8 of the most recent version of the Point Roberts Subarea Plan as adopted in the Whatcom County Comprehensive Plan under Ord. 2001-073.

39. February 2013 correspondence and other communications between the Whatcom County Executive’s Office and Whatcom County Planning & Development Services Department (PDS) established that the Character Plan Advisory Committee authorized by the Point Roberts Character Plan had long been inactive.

40. An inquiry was made as to whether or not the Point Roberts Community Advisory Committee, that began meeting in 2010 to review and make recommendations to County decision-makers on matters of importance that relate to the community of Point Roberts could serve as the new Character Plan Advisory Committee. After review by County legal staff it was determined that the existing Point Roberts Community Advisory Committee could not serve as the Character Plan Advisory Committee without an amendment to Point Roberts Character Plan provisions that pertain to the establishment Character Plan Advisory Committee.

41. In June of 2013, the Whatcom County Executive’s Office forwarded Whatcom County PDS a draft proposal to amend the Point Roberts Character Plan to change the way the Point Roberts Character Plan Advisory Committee is established. Proposed changes included removal of language pertaining to existing committee membership composition and appointment procedures, with new language added that would effectively assign the Point Roberts Community Advisory Committee (as authorized under Ord. 2010-008 and codified in WCC 2.98) to serve as the new Point Roberts Character Plan Advisory Committee (in addition to its existing duties).

42. In part, the Character Plan is implemented pursuant Whatcom County zoning regulations, Title 20, Chapter 20.72 – Point Roberts Special District, Subsection 20.72.651 – Facility Design.

Public Interest

43. Implementation of the Point Roberts Character Plan requires establishment of a Character Plan Advisory Committee that convenes to review commercial development proposals for
conformance with preferred architectural design elements identified as important to the preservation of the rich heritage of the Point Roberts community. Proposals for commercial development are infrequent, and the Character Advisory Committee established at one time for this specific purpose is no longer active.

44. Another advisory committee designed to serve a role in representing the Point Roberts Community on matters of importance in making recommendations to County decision-makers has an existing membership and is authorized by County ordinance and codified in WCC 2.98.

45. Amending the Character Plan to allow this existing citizen’s advisory committee, (one that has a very similar membership structure as that specified in the Character Plan) to serve in a new role as the Character Plan Advisory Committee will promote an efficient and expeditious implementation of the Character Plan provisions, thereby serving the public interest.

46. Several meetings were held in early 2013 when discussion took place during Point Roberts Community Advisory Committee (PRCAC) meetings regarding the status of Point Roberts Character Plan, its implementation, and about the importance of maintaining and implementing this Plan.

47. At the May 14, 2013 Point Roberts Community Advisory Committee meeting, John Lesow, community member, spoke to advise the Committee that ‘the Point Roberts Character Plan still officially exists despite being inoperative because there is no Character Plan Committee to act in an advisory role.’ (May 14, 2013, PRCAC, Minutes).

48. Further discussion was held indicating that “it would be easiest if the PRCAC itself were to take on the responsibility of the CP Committee” (Character Plan Advisory Committee). This discussion resulted in a Committee vote to unanimously approve PRCAC’s interest and intent to take on the advisory duties of a Character Plan Advisory Committee.

The anticipated effect on the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

49. No adverse impacts to either service providers or to the provision of capital facilities, or transportation facilities have been identified. A citizen’s advisory committee that meets regularly to serve as the Point Roberts Character Plan Advisory Committee will add to the efficient and timely review of commercial and institutional development proposals.

50. Project review in the early stages may serve to facilitate conformance with Point Roberts Character Plan objectives, and may also provide project proponents with invaluable and necessary information to assist in the development of plans that will conform to the provisions of the Character Plan.

Anticipated impact upon designated agricultural, forest and mineral resource lands.

51. It is not anticipated that the proposed amendments to the Character Plan, will have an adverse impact on Whatcom County’s designated Resource Lands. As of the date of this report, there are no Resource Lands designated in the geographic area comprising Point Roberts.

Spot Zoning

52. The subject proposal does not involve rezoning property.
Urban growth area amendments that propose the expansion of an urban growth area boundary shall be required to acquire development rights from a designated TDR sending area, unless one of the exceptions applies to the amendment.

53. The subject proposal does not modify Urban Growth Area (UGA) boundaries. The Growth Management Act requires counties to designate UGAs, and the County has not designated Point Roberts for future urban growth.

IV. CONCLUSIONS

1. The proposed amendments conform to applicable requirements of the Growth Management Act, are internally consistent with the Whatcom County Comprehensive Plan and its adopted County-Wide Planning Policies, and adopted Interlocal Agreements with the cities.

2. The proposed amendments satisfy the approval criteria of WCC 2.160.080.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amend Section 9-001 – Advisory Committee, Point Roberts Character Plan as adopted in Section 8.1.1 of the 2001 Point Roberts Subarea Plan, and adopted by reference as part of the Whatcom County Comprehensive Plan, as shown in “Exhibit A”.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this ______ day of ________________, 2013.

ATTEST: 

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

______________________________
Dana Brown-Davis, Council Clerk

Kathy Kershner, Chairperson

APPROVED as to form: ( ) Approved ( ) Denied

______________________________
Civil Deputy Prosecutor

Jack Louws, Executive

Date: _______________________

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SECTION 9-001. ADVISORY COMMITTEE

The Point Roberts Character Plan Action Group recommended that a The Point Roberts Community Advisory Committee, a new locally-based resident-led advisory committee be formed to be utilized to work with Whatcom County on the Administration of the Character Plan. This committee has been formed and is called the Point Roberts Community Character Plan Advisory Committee. Its purpose is to function will include examining commercial and institutional use structure and sign permit applications for compliance with the Point Roberts Character Plan.

Building permit applications are to be promptly examined and a determination made, with or without recommendations, within 21 days prior to the application date.

The Point Roberts Community Character Plan Advisory Committee is a local advisory body to Whatcom County through the office of the Whatcom County Executive and the Whatcom County Council Department of Planning and Development Services. Whatcom County will assist in the initial formation of the Advisory Committee. The Point Roberts Community Character Plan Advisory Committee will consist of individuals residing in Point Roberts appointed as provided in Whatcom County Code, Chapter 2.98.

The sole purpose of the Advisory Committee as it relates to the Character Plan is to examine commercial and institutional use structure and sign permit applications and make recommendations as to their compliance with the Character Plan document to the appropriate administrative authority of Whatcom County. The Advisory Committee is not involved in any other enforcement process.

It is intended that the Committee shall function in regard to the Character Plan exist for as long as the Point Roberts Character Plan remains in effect.

The Point Roberts Character Plan Advisory Committee shall be appointed by the County Executive according to Whatcom County Charter, Article 3.23. The Advisory Committee shall consist of four (4) members from the following representative organizations: Two (2) from the Point Roberts Chamber of Commerce, one (1) from the Point Roberts Taxpayers Association, and one (1) from the Point Roberts Voters Association. One (1) member will be selected from the community at large for a total of five (5) committee members. The only criteria for the representative members is that they be residents of Pt. Roberts according to the determination of residence used by the United States Immigration and Naturalization Service. Ideally, one of the committee members should be a design professional, if possible. An accredited design professional need not be a resident of Pt. Roberts. The initial selection of the one member at large will be made by the four representative members. If no decision can be made, the County Executive will appoint someone from the community as he or she sees fit. All subsequent selections of the one (1) member at large will be made on a democratic basis by all five committee members, including the retiring participants.

Member terms will be three years with an annual appointment rotation. Initially there will be a one year term, two initial two year terms, and two initial three year terms to stagger the expirations of terms and establish a rotation.

It is recommended that at least one community member at large for the first Advisory Committee be selected from the group instrumental in the formation of the Character Plan, the Character Plan Action Group.

A minimum number of 3 attendees shall constitute a quorum when conducting official business.

The Advisory Committee shall function as a democratic body and shall conduct business using Robert’s Rules of Order (Modern Edition). A Chairperson shall be democratically elected by the members of the Advisory Committee for a one year term. The Chairperson shall act as a liaison with the County on all matters pertaining to Committee business. A Secretary shall be appointed by the members of the Advisory Committee for the function of recording minutes of the meetings and preparing, filing and distributing correspondence. The term of office for the Secretary shall be one year. Regular scheduled meetings of the Character Plan Advisory Committee shall be conducted. Minutes of all meetings (regular or special) shall be distributed to the County Planning and Development Department and to the Point Roberts Library. The Advisory Committee shall also establish and adopt business rules and procedures for the transaction of official Advisory Committee business.
All participants shall adhere to a code of conduct. The participants shall ensure that all committee business and any permit reviews are dealt with objectively and at arms length. No participant shall have a conflict of interest, or appear to have a conflict of interest, in relation to any permit application under review. No participant shall receive a benefit, monetary or otherwise, arising from the business of the Advisory Committee. No participant shall have a personal interest in the outcome of any design review process. A determination of conflict can be made through a democratic vote of all participants. In the event of a potential conflict, either through voluntary recognition or committee determination, the participant shall abstain from that decision making process.
SECTION 9-001. ADVISORY COMMITTEE
The Point Roberts Community Advisory Committee, an existing locally-based residents’ advisory committee shall be utilized to work with Whatcom County on the Administration of the Character Plan. Its function will include examining commercial and institutional use structure and sign permit applications for compliance with the Point Roberts Character Plan.

Building permit applications are to be promptly examined and a determination made, with or without recommendations, within 21 days prior to the application date.

The Point Roberts Community Advisory Committee is a local advisory body to Whatcom County through the office of the Whatcom County Executive and of the Whatcom County Council. The Point Roberts Community Advisory Committee will consist of individuals appointed as provided in Whatcom County Code, Chapter 2.98.

The pertinent purpose of the Advisory Committee as it relates to the Character Plan is to examine commercial and institutional use structure and sign permit applications and make recommendations as to their compliance with the Character Plan document to the appropriate administrative authority of Whatcom County. The Advisory Committee is not involved in any other enforcement process.

It is intended that the Committee shall function in regard to the Character Plan for as long as the Point Roberts Character Plan remains in effect.

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WHATCOM COUNTY
PLANNING COMMISSION

Amendments to the Point Roberts Character Plan

FINDINGS OF FACT AND REASONS FOR ACTION

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:

   a. Amend Section 9-001 – Advisory Committee, Point Roberts Character Plan as adopted in Section 8.1.1 of the 2001 Point Roberts Subarea Plan, as adopted by reference as part of the Whatcom County Comprehensive Plan, as shown in “Exhibit A”.

   b. Proposed changes to the Point Roberts Character Plan identified in “Exhibit A” modify language that specifies how a Character Plan Advisory Committee is established. Proposed changes would allow the existing Point Roberts Community Advisory Committee established pursuant to WCC 2.98 to serve as the new Character Plan Advisory Committee.

2. Section 9-001. of the Point Roberts Character Plan establishes authority for the creation of an Advisory Committee whose sole purpose is to review commercial and institutional development proposals for conformance with elements of the Character Plan, and to make recommendations to the County administrative authority (County Executive, and/or Planning & Development Services Department) on whether or not such proposals conform to the elements of the Character Plan.

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   This committee was designed to provide advice and recommendations to the Executive and County Council on needs and issues that are specific to the Point Roberts Community. This committee is active and meets regularly in Point Roberts. The committee is distinct from the Point Roberts Character Plan Advisory Committee. It has different authority for its establishment, similar but different membership composition, and based on review of this matter by County legal staff, cannot serve as the Point Roberts Character Plan Advisory Committee, unless the Point Roberts Character Plan is amended.
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14. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendment, the County must find all of the following:

a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any Interlocal planning agreements.

b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

   i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

   ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

   iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

d. The amendment does not include or facilitate spot zoning.

e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

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21. County-Wide Planning Policy A-4 states: Citizen Comments and viewpoints shall be incorporated into the decision making process in development of draft plans and regulations. Consideration of citizen comments shall be evident in the decision-making process.

22. Planning and Development Services Department (PDS) has taken steps to ensure that the County’s Public Participation Plan (2012) is followed with respect to providing information to the public, and other interested parties about the details and scope of the proposed amendments under
consideration. In addition, PDS has maintained a complete file on the amendments being considered, which includes background research, preliminary analysis, proposed draft text, and various agency correspondence.

23. Public notice has been published in the Bellingham Herald to inform the public of the scheduled upcoming public hearing to be held by the Planning Commission; and information about the upcoming hearing and a report containing staff analysis and recommendations has been posted to the County website, and notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office.

24. On July 12, 2013, an email describing the proposed amendment was sent to 200 interested citizens who had previously requested to be kept up to date on proposed amendments and other County projects. Staff continues to be available to respond to inquiries from interested parties about the proposal. Any input received from interested parties will be considered and may form the basis of recommendations made to County decision-makers.

25. On July 15, 2013 written correspondence was received from community member, John Lesow that offered comments to support retention of Title 20, Chapter 20.72 - Point Roberts Special District as regulations that implement the Character Plan.

26. On July 15, 2013, anecdotal comments were received from community member, and local business owner, Pam Sheppard, in support the proposed amendment. Opinion expressed was that the proposed amendment, if approved, would provide for greater accessibility to the Character Plan Advisory Committee and increase implementation of the Character Plan in Point Roberts.

27. County-Wide Planning Policy A-5 states: The county and the cities shall establish a system for subarea, community and neighborhood liaison to foster communication between the respective government and its neighborhoods. This system would also provide a point of contact for issues that may affect subareas, the community, or neighborhoods.

28. The Point Roberts Character Plan was born out of a local grassroots effort to preserve the rich heritage of Point Roberts Community which is based on rural farming, fishing, and related industries. It has since been adopted as part of the County’s subarea plan for Point Roberts, and is adopted by reference as part of the County’s comprehensive plan.

29. The Character Plan makes provisions for the establishment of a Character Plan Advisory Committee whose membership is drawn from a representative sample of Point Roberts community members. Key to effective implementation of the Character Plan is the role which this
advisory committee plays in reviewing commercial and institutional development proposals for conformance with elements of the Plan in advance of any formal permit application.

30. Character Plan provisions require prior review of development proposals 21 days in advance of formal application for development permits (i.e. commercial building permit applications). Given that commercial development in Point Roberts may be at times infrequent; it follows that the demand for a Character Plan Advisory Committee would be intermittent, and to utilize an existing local community citizen advisory committee might be more efficient.

Whatcom County Comprehensive Plan

31. The GMA requires that the comprehensive plan must be an internally consistent document (RCW 36.70A.070).

32. Whatcom County’s Comprehensive Plan, Chapter 2 identifies goals and policies that both recognize and support the diversity of its citizens as they form various regions of the county. These particular goals and policies emphasize the importance of utilizing the subarea planning process to identify and support these community distinctions.

33. Whatcom County Comprehensive Plan Policy 2L-2 is to: Retain and periodically update the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Lynden-Nooksack Valley, Chuckanut-Lake Samish, Birch Bay-Blaine, Foothills, Point Roberts, South Fork Valley, and Eliza Island)...  

34. The above policy supports periodic updates to all of Whatcom County’s subarea planning documents, and would also support an amendment to provisions that specify how the Point Roberts Character Plan – Character Plan Advisory Committee is established.

35. The proposed amendments are further supported by Whatcom County Comprehensive Policy 2L-2(1)(d) which states that unless in conflict with the County’s Comprehensive Plan, amendments to subarea plans are not required, although local issues of concern or changed conditions may be addressed when necessary.

36. In part, the Character Plan is implemented pursuant to Whatcom County zoning regulations, Title 20, Chapter 20.72 – Point Roberts Special District, Subsection 20.72.651 – Facility Design.

Interlocal Agreements

37. Staff has researched the matter and did not find any Interlocal agreement
to which the Point Roberts community is party that would have a bearing on the relative merit of the subject amendments, or subsequent adoption.

**Further Studies/Changed Conditions**

Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the comprehensive plan amendment.

38. In 1994, the Point Roberts Character Plan (Character Plan) was adopted as part of the 1990 Point Roberts Subarea Plan, under Ord. 94-024.

39. The Character Plan was revised in 1999 under Ord. 99-073, and in 2001 was incorporated into Chapter 8 of the most recent version of the Point Roberts Subarea Plan as adopted in the Whatcom County Comprehensive Plan under Ord. 2001-073.

40. February 2013 correspondence and other communications between the Whatcom County Executive’s Office and Whatcom County Planning & Development Services Department (PDS) established that the Character Plan Advisory Committee authorized by the Point Roberts Character Plan had long been inactive.

41. An inquiry was made as to whether or not the Point Roberts Community Advisory Committee, that began meeting in 2010 to review and make recommendations to County decision-makers on matters of importance that relate to the community of Point Roberts could serve as the new Character Plan Advisory Committee. After review by County legal staff it was determined that the existing Point Roberts Community Advisory Committee could not serve as the Character Plan Advisory Committee without an amendment to Point Roberts Character Plan provisions that pertain to the establishment Character Plan Advisory Committee.

42. In June of 2013, the Whatcom County Executive’s Office forwarded Whatcom County PDS a draft proposal to amend the Point Roberts Character Plan to change the way the Point Roberts Character Plan Advisory Committee is established. Proposed changes included removal of language pertaining to existing committee membership composition and appointment procedures, with new language added that would effectively assign the Point Roberts Community Advisory Committee (as authorized under Ord. 2010-008 and codified in WCC 2.98) to serve as the new Point Roberts Character Plan Advisory Committee (in addition to its existing duties).

43. In part, the Character Plan is implemented pursuant Whatcom County zoning regulations, Title 20, Chapter 20.72 – Point Roberts Special District, Subsection 20.72.651 – Facility Design.
Public Interest

44. Implementation of the Point Roberts Character Plan requires establishment of a Character Plan Advisory Committee that convenes to review commercial development proposals for conformance with preferred architectural design elements identified as important to the preservation of the rich heritage of the Point Roberts community. Proposals for commercial development are infrequent, and the Character Advisory Committee established at one time for this specific purpose is no longer active.

45. Another advisory committee designed to serve a role in representing the Point Roberts Community on matters of importance in making recommendations to County decision-makers has an existing membership and is authorized by County ordinance and codified in WCC 2.98.

46. Amending the Character Plan to allow this existing citizen’s advisory committee, (one that has a very similar membership structure as that specified in the Character Plan) to serve in a new role as the Character Plan Advisory Committee will promote an efficient and expeditious implementation of the Character Plan provisions, thereby serving the public interest.

47. Several meetings were held in early 2013 when discussion took place during Point Roberts Community Advisory Committee (PRCAC) meetings regarding the status of Point Roberts Character Plan, its implementation, and about the importance of maintaining and implementing this Plan.

48. At the May 14, 2013 Point Roberts Community Advisory Committee meeting, John Lesow, community member, spoke to advise the Committee that ‘the Point Roberts Character Plan still officially exists despite being inoperative because there is no Character Plan Committee to act in an advisory role.’ (May 14, 2013, PRCAC, Minutes).

49. Further discussion was held indicating that “it would be easiest if the PRCAC itself were to take on the responsibility of the CP Committee” (Character Plan Advisory Committee). This discussion resulted in a Committee vote to unanimously approve PRCAC’s interest and intent to take on the advisory duties of a Character Plan Advisory Committee.

The anticipated effect on the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

50. No adverse impacts to either service providers or to the provision of capital facilities, or transportation facilities have been identified. A citizen’s advisory committee that meets regularly to serve as the Point Roberts Character Plan Advisory Committee will add to the efficient and timely review of commercial and institutional development proposals.
Project review in the early stages may serve to facilitate conformance with Point Roberts Character Plan objectives, and may also provide project proponents with invaluable and necessary information to assist in the development of plans that will conform to the provisions of the Character Plan.

**Anticipated impact upon designated agricultural, forest and mineral resource lands.**

51. It is not anticipated that the proposed amendments to the Character Plan, will have an adverse impact on Whatcom County’s designated Resource Lands.

As of the date of this report, there are no Resource Lands designated in the geographic area comprising Point Roberts.

**Spot Zoning**

52. The subject proposal does not involve rezoning property.

**Urban growth area amendments that propose the expansion of an urban growth area boundary shall be required to acquire development rights from a designated TDR sending area, unless one of the exceptions applies to the amendment.**

53. The subject proposal does not modify Urban Growth Area (UGA) boundaries. The Growth Management Act requires counties to designate UGAs, and the County has not designated Point Roberts for future urban growth.

**IV. CONCLUSIONS**

1. The proposed amendments conform to applicable requirements of the Growth Management Act, are internally consistent with the Whatcom County Comprehensive Plan and its adopted County-Wide Planning Policies, and adopted Interlocal Agreements with the cities.

2. The proposed amendments satisfy the approval criteria of WCC 2.160.080.

**V. RECOMMENDATION**

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

a. Amend Section 9-001 – Advisory Committee, Point Roberts Character Plan as adopted in Section 8.1.1 of the 2001 Point Roberts Subarea Plan, as adopted by reference as part of the Whatcom County Comprehensive Plan, as shown in "Exhibit A".
WHATCOM COUNTY PLANNING COMMISSION

Michelle Luke, Chair

Sam Ryan, Secretary

8-29-13
Date

8-29-13
Date

Commissioners present at the July 25, 2013 meeting when the vote was taken: David Onkels; Ken Bell; Ben Elenbaas; Gary Honcoop; Mary Beth Teigrob; Michelle Luke; Gerald Vekved.

Vote: Ayes – Bell, Elenbaas, Honcoop, Luke, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Erickson, Rainey. The Motion carried.
Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Michelle Luke, Ben Eienbaas, Jerry Vekved, Gary Honcoop, David Onkels, Mary Beth Teigrob, Ken Bell
Absent: Jeff Rainey, Rod Erickson

Staff Present: Mark Personius, Matt Aamot, Erin Osborn, Becky Boxx

Department Update
Mark updated the Commission on the following:
- Review of items before the County Council.
- Review of the upcoming Planning Commission schedule.

Public Hearing
File #PLN2013-00013: Proposed modifications to the Point Roberts Character Plan that specify how a Character Plan Advisory Committee is created. The Point Roberts Character Plan is part of the Point Roberts Subarea Plan, and adopted by reference in the Whatcom County Comprehensive Plan; any changes to the Point Roberts Character Plan require an amendment to the Whatcom County Comprehensive Plan.

Erin Osborn presented the staff report. The Point Roberts Character Plan is a set of architectural guidelines, for commercial and institutional development, which was adopted in 1994. Currently there is no Point Roberts Character Plan Advisory Committee, which in the past used to make recommendations on the development proposals. There has not been much need for the committee because so little commercial development has happened in the past. The PDS zoning administrator has followed the character plan recommendations regarding the building that has taken place. There is, however, the Point Roberts Community Advisory Committee which has a different role. After discussion it was decided this committee could handle the review but not without a Comprehensive Plan amendment. Additionally, there would be a slight change in the composition of the membership. Staff recommends approval of the proposed amendments.

The hearing was opened to the public.

Rhianon Allen, Whatcom County: This was very well advertised in the community. She is in favor of the proposal.

Arthur Reber, Whatcom County: Is chair of the Point Roberts Community Advisory Committee. The committee is in favor of the proposal. The Point Roberts Character Plan Advisory Committee is to have an architect or landscape design professional on it but the Point Roberts Community Advisory Committee feels they can call a professional if the need arises.
John Lesow, Whatcom County: Supports the proposal. He gave a history of formation of the committee and the plan. People are not building in Point Roberts perhaps because of the border congestion issues. The building that has been done has followed the guidelines which are evident in the community.

The hearing was closed to the public.

**Work Session**

Commissioner Honcoop asked how often the Character Plan is updated. Mr. Reber stated it is recommended to be updated every six years but no updates have taken place. The committee would like to review the plan for any potential updates if the amendment is approved.

Commissioner Bell asked who appoints the existing committee. Erin stated there is 1 member from the Point Roberts Chamber of Commerce, 1 member from the Point Roberts Taxpayer’s Association and 1 member from the Point Roberts Voter’s Association. The other 2 members are appointed by the Executive, with oversight also being from the Executive.

Commissioner Honcoop asked who the committee advises. Mr. Reber stated the County Council. Erin clarified that as amended the Point Roberts Community Advisory Committee, acting in its new role as Character Plan Advisory Committee, would be making recommendations to the County Executive and PDS.

Commission Honcoop moved to recommend approval of Exhibit A which contains proposed draft text in strike through underline formats, intended to amend Section 9-001 of the Point Roberts Character Plan, establishing new provisions that pertain to the creation of a Character Plan Advisory Committee. Commissioner Teigrob seconded.

Commissioner Vekved move to amend the motion with the following: First and second sentences of Paragraph 1 to read: The Point Roberts Community Advisory Committee, Aan existing locally-based resident’s advisory committee shall be utilized to work with Whatcom County on the Administration of the Character Plan. It is called the Point Roberts Community Advisory Committee. Commissioner Onkels seconded. The motion carried.

Commissioner Honcoop reworded his motion to state: recommend approval of Exhibit A which contains proposed amended draft text in strike through underline formats, intended to amend Section 9-001 of the Point Roberts Character Plan, establishing new provisions that pertain to the creation of a Character Plan Advisory Committee including findings of facts. Commissioner Teigrob seconded. Roll Call Vote: Ayes – Bell, Elenbaas, Honcoop, Luke, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Erickson, Rainey. The motion carried.

The meeting was adjourned at 8:00 p.m.

Minutes prepared by B. Boxx.
Regular Meeting

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair                                    J.E. “Sam” Ryan, Secretary
I. BACKGROUND INFORMATION

File # PLN2013-00013

File Name: Amendments to the Point Roberts Character Plan

Applicant: Whatcom County Planning & Development Services

Summary of Proposal: Amend Section 9-001 – Advisory Committee, Point Roberts Character Plan as adopted in Section 8.1.1 of the 2001 Point Roberts Subarea Plan, and adopted by reference as part of the Whatcom County Comprehensive Plan, as shown in “Exhibit A”.

Proposed changes to the Point Roberts Character Plan identified in “Exhibit A” modify language that specifies how a Character Plan Advisory Committee is established. Proposed changes would allow the existing Point Roberts Community Advisory Committee established pursuant to WCC 2.98 to serve as the new Character Plan Advisory Committee.

Staff Recommendation: Approval of the proposed amendments.

II. ANALYSIS OF THE PROPOSED AMENDMENT

Pursuant to WCC 2.160.080, the County must find that the following criteria shown in bold below are satisfied, in order to approve the proposed comprehensive plan amendments.

A. The amendment conforms to the requirements of Growth Management Act, is internally consistent with the County-Wide Planning Policies and is consistent with any Interlocal planning agreements.

Growth Management Act

The Growth Management Act (GMA) provides that counties may adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).

In 1979, prior to GMA, Whatcom County adopted a subarea plan for Point Roberts, entitled “Plan for Point Roberts, a Supplement to the Whatcom County Comprehensive Plan”. This Plan was updated and amended in 1990, and updated and amended again in 2001.
Another local plan was created in 1994 to help implement the Point Roberts Subarea Plan. This plan established preferred architectural design elements that would be applicable to all future commercial and institutional development within Point Roberts. The Plan, entitled the "Point Roberts Character Plan (Character Plan) was adopted as part of the 1990 Point Roberts Subarea Plan, under Ord. 94-024. The Character Plan was then revised in 1999 under Ord. 99-073, and in 2001 was incorporated into Chapter 8 of the most recent version of the Point Roberts Subarea Plan, adopted in the Whatcom County Comprehensive Plan under Ord. 2001-073.

County-Wide Planning Policies

County-Wide Planning Policy A-2 states:

Policy A-2: The [c]ounty and the cities shall provide opportunities for citizens to become involved in the growth management planning process through various mechanisms, such as surveys, public workshops, meetings, hearings, and advisory committees. The method of citizen involvement may vary based on the needs and constituents in various communities and shall include representation of both rural and urban interests on those issues that affect both urban and rural areas.

County-Wide Planning Policy A-3 states:

Policy A-3: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

Policy A-4: Citizen Comments and viewpoints shall be incorporated into the decision making process in development of draft plans and regulations. Consideration of citizen comments shall be evident in the decision-making process.

Planning and Development Services Department (PDS) has taken steps to ensure that the County’s Public Participation Plan (2012) is followed with respect to providing information to the public, and other interested parties about the details and scope of the proposed amendments under consideration. In addition, PDS has maintained a complete file on the amendments being considered, which includes background research, preliminary analysis, proposed draft text, and various agency correspondence.

Public notice has been published in the Bellingham Herald to inform the public of the scheduled upcoming public hearing to be held by the Planning Commission; and information about the upcoming hearing and a report containing staff analysis and recommendations has been posted to the County website.
Notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office on July 10, 2013.

On July 12, 2013, an email describing the proposed amendment was sent to 200 interested citizens who had previously requested to be kept up to date on proposed amendments and other County projects. Staff continues to be available to respond to inquiries from interested parties about the proposal. Any input received from interested parties will be considered and may form the basis of recommendations made to County decision-makers.

On July 15, 2013 written correspondence was received from community member, John Lesow that offered comments to support retention of Title 20, Chapter 20.72 - Point Roberts Special District as regulations that implement the Character Plan.

On July 15, 2013, anecdotal comments were received from community member and Point Roberts local business owner, Pam Sheppard, in support of the proposed amendment. Opinion was expressed that if approved the proposed amendments would provide for greater accessibility to the Character Plan Advisory Committee and increase implementation of the Character Plan in Point Roberts.

County-Wide Planning Policy A-5 states:

The county and the cities shall establish a system for subarea, community and neighborhood liaison to foster communication between the respective government and its neighborhoods. This system would also provide a point of contact for issues that may affect subareas, the community, or neighborhoods.

The Point Roberts Character Plan was born out of a local grassroots effort to preserve the rich heritage of Point Roberts Community which is based on rural farming, fishing, and related industries. It has since been adopted as part of the County’s subarea plan for Point Roberts, and is adopted by reference as part of the County’s comprehensive plan.

The Character Plan makes provisions for the establishment of a Character Plan Advisory Committee whose membership is drawn from a representative sample of Point Roberts community members. Key to effective implementation of the Character Plan is the role which this advisory committee plays in reviewing commercial and institutional development proposals for conformance with elements of the Plan in advance of any formal permit application.

Character Plan provisions require prior review of development proposals 21 days in advance of formal application for development permits (i.e. commercial building permit applications). Given that commercial development in Point Roberts may be at times infrequent; it follows that the demand for a Character Plan Advisory Committee would be intermittent, and to utilize an existing local community citizen
advisory committee might be more efficient.

**Whatcom County Comprehensive Plan**

The GMA requires that the comprehensive plan must be an internally consistent document (RCW 36.70A.070).

Whatcom County’s Comprehensive Plan, Chapter 2 identifies goals and policies that both recognize and support the diversity of its citizens as they form various regions of the county. These particular goals and policies emphasize the importance of utilizing the subarea planning process to identify and support these community distinctions.

Whatcom County Comprehensive Plan Policy 2L-2 is to:

- Retain and periodically update the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Lynden-Nooksack Valley, Chuckanut-Lake Samish, Birch Bay-Blaine, Foothills, Point Roberts, South Fork Valley, and Eliza Island). . .

The above policy supports periodic updates to all of Whatcom County’s subarea planning documents, and would also support an amendment to provisions that specify how the Point Roberts Character Plan – Character Plan Advisory Committee is established. The proposed amendments are further supported by Whatcom County Comprehensive Policy 2L-2(1)(d) which states that unless in conflict with the County’s Comprehensive Plan, amendments to subarea plans are not required, although local issues of concern or changed conditions may be addressed when necessary.

In part, the Character Plan is implemented pursuant to Whatcom County zoning regulations, Title 20, Chapter 20.72 – Point Roberts Special District, Subsection 20.72.651 – Facility Design.

**Interlocal Agreements**

Staff has researched the matter and did not find any interlocal agreement to which the Point Roberts community is party that would have a bearing on the relative merit of the subject amendments, or subsequent adoption.

**B. Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the comprehensive plan amendment.**

- In 1994, the Point Roberts Character Plan (Character Plan) was adopted as part of the 1990 Point Roberts Subarea Plan, under Ord. 94-024.
• The Character Plan was revised in 1999 under Ord. 99-073, and in 2001 was incorporated into Chapter 8 of the most recent version of the Point Roberts Subarea Plan as adopted in the Whatcom County Comprehensive Plan under Ord. 2001-073.

February 2013 correspondence and other communications between the Whatcom County Executive’s Office and Whatcom County Planning & Development Services Department (PDS) established that the Character Plan Advisory Committee authorized by the Point Roberts Character Plan had long been inactive.

An inquiry was made as to whether or not the Point Roberts Community Advisory Committee, that began meeting in 2010 to review and make recommendations to County decision-makers on matters of importance that relate to the community of Point Roberts could serve as the new Character Plan Advisory Committee. After review by County legal staff it was determined that the existing Point Roberts Community Advisory Committee could not serve as the Character Plan Advisory Committee without an amendment to Point Roberts Character Plan provisions that pertain to the establishment Character Plan Advisory Committee.

In June of 2013, the Whatcom County Executive’s Office forwarded Whatcom County PDS a draft proposal to amend the Point Roberts Character Plan to change the way the Point Roberts Character Plan Advisory Committee is established. Proposed changes included removal of language pertaining to existing committee membership composition and appointment procedures, with new language added that would effectively assign the Point Roberts Community Advisory Committee (as authorized under Ord. 2010-008 and codified in WCC 2.98) to serve as the new Point Roberts Character Plan Advisory Committee (in addition to its existing duties).

C. The public interest will be served by approving the comprehensive plan amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

• The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the Comprehensive Plan.

Implementation of the Point Roberts Character Plan requires establishment of a Character Plan Advisory Committee that convenes to review commercial development proposals for conformance with preferred architectural design elements identified as important to the preservation of the rich heritage of the Point Roberts community. Proposals for commercial development are infrequent, and the Character Advisory Committee established at one time for this specific purpose is no longer active.

Another advisory committee designed to serve a role in representing the Point Roberts Community on matters of importance in making recommendations to County decision-makers has an existing membership
and is authorized by County ordinance and codified in WCC 2.98. Amending the Character Plan to allow this existing citizen’s advisory committee, (one that has a very similar membership structure as that specified in the Character Plan) to serve in a new role as the Character Plan Advisory Committee will promote an efficient and expeditious implementation of the Character Plan provisions, thereby serving the public interest.

Several meetings were held in early 2013 when discussion took place during Point Roberts Community Advisory Committee (PRCAC) meetings regarding the status of Point Roberts Character Plan, its implementation, and about the importance of maintaining and implementing this Plan.

At the May 14, 2013 Point Roberts Community Advisory Committee meeting, John Lesow, community member, spoke to advise the Committee that “the Point Roberts Character Plan still officially exists despite being inoperative because there is no Character Plan Committee to act in an advisory role.” (May 14, 2013, PRCAC, Minutes). Further discussion was held indicating that “it would be easiest if the PRCAC itself were to take on the responsibility of the CP Committee” (Character Plan Advisory Committee). This discussion resulted in a Committee vote to unanimously approve PRCAC’s interest and intent to take on the advisory duties of a Character Plan Advisory Committee.

- **The anticipated effect on the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.**

No adverse impacts to either service providers or to the provision of capital facilities, or transportation facilities have been identified. A citizen’s advisory committee that meets regularly to serve as the Point Roberts Character Plan Advisory Committee will add to the efficient and timely review of commercial and institutional development proposals. Early stage project review may serve to facilitate conformance with Point Roberts Character Plan objectives, and may also provide project proponents with invaluable and necessary information to assist in the development of plans that will conform to the provisions of the Character Plan.

- **Anticipated impact upon designated agricultural, forest and mineral resource lands.**

It is not anticipated that the proposed amendments to the Character Plan, will have an adverse impact on Whatcom County’s designated Resource Lands.
As of the date of this report, there are no Resource Lands designated in the geographic area comprising Point Roberts.

D. The amendment does not include or facilitate spot zoning.

The subject proposal does not include any zoning changes and would not facilitate spot zoning.

E. Urban growth area amendments that propose the expansion of an urban growth area boundary shall be required to acquire development rights from a designated TDR sending area, unless one of the exceptions applies to the amendment.

The subject proposal does not modify Urban Growth Area (UGA) boundaries. The Growth Management Act requires counties to designate UGAs, however, the County did not designate Point Roberts for future urban growth.

III. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   
a. Amending the Point Roberts Character Plan, Section 9-001 – Advisory Committee, as adopted in Section 8.1.1 of the 2001 Point Roberts Subarea Plan, and adopted by reference as part of the Whatcom County Comprehensive Plan, as shown in “Exhibit A”.

   Proposed changes to the Point Roberts Character Plan identified in “Exhibit A” modify language that specifies how a Character Plan Advisory Committee is established. Proposed changes would allow the existing Point Roberts Community Advisory Committee established pursuant to WCC 2.98 under Whatcom County Ordinance to serve as the new Character Plan Advisory Committee.

2. Section 9-001. of the Point Roberts Character Plan establishes authority for the creation of an Advisory Committee whose sole purpose is to review commercial and institutional development proposals for conformance with elements of the Character Plan, and to make recommendations to the County administrative authority (County Executive, and/or Planning & Development Services Department) on whether or not such proposals conform to the elements of the Character Plan.

3. In 2010, Whatcom County adopted an ordinance to authorize establishment of a Point Roberts Community Advisory Committee (WC Ord. 2010-008), codified as Whatcom County Code, Chapter 2.98.
This committee was designed to provide advice and recommendations to the Executive and County Council on needs and issues that are specific to the Point Roberts Community. This committee is active and meets regularly in Point Roberts. The committee is distinct from the Point Roberts Character Plan Advisory Committee. It has different authority for its establishment, similar but different membership composition, and based on review of this matter by County legal staff, cannot serve as the Point Roberts Character Plan Advisory Committee, unless the Point Roberts Character Plan is amended.

4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 19, 2013.

5. On June 20, 2013, Whatcom County Planning & Development Services Department received confirmation from the Washington State Department of Commerce indicating that Commerce had received the County’s “60 Day Notice of Intent to Adopt Amendment”, and that Material ID # 19258 had been assigned to the materials received.

6. The State Environmental Policy Act (SEPA) requires that project and non-project actions be reviewed for the potential of probable significant adverse impacts to the environment, unless categorically exempt from review under SEPA. The Whatcom County Designated SEPA Official (lead agency) reviewed the proposed amendments to the Point Roberts Character Plan, and on June 25, 2013 made a determination that pursuant to WAC 197-11-800(19) the proposal is exempt from environmental review under SEPA: “Procedural actions. The proposal or adoption of legislation rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use of modification of the environment shall be exempt.”

7. On July 9, 2013, the Whatcom County Council unanimously voted to approve a resolution (Res. 2013-023) to initiate the subject amendment to the list of existing “docket” of comprehensive plan and zoning amendments previously initiated under Res. 2013-007 for consideration in 2013.

8. Notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office on July 10, 2013.

9. Notice of the Planning Commission hearing was posted on the County website on July 11, 2013.

10. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to the City of Blaine and citizen, media and other groups on the County’s e-mail list on July 12, 2013.
11. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on July 12, 2013.


13. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendment, the County must find all of the following:

   a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any Interlocal planning agreements.

   b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

   c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

      ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

      iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

   d. The amendment does not include or facilitate spot zoning.

   e. Urban growth area amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

14. The Growth Management Act (GMA) provides that counties may adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").
15. In 1979, prior to GMA, Whatcom County adopted a subarea plan for Point Roberts, entitled “Plan for Point Roberts, a Supplement to the Whatcom County Comprehensive Plan”. This Plan was updated and amended in 1990, and updated and amended again in 2001.

16. Another local plan was created in 1994 to help implement the Point Roberts Subarea Plan. This plan established preferred architectural design elements that would be applicable to all future commercial and institutional development within Point Roberts. The Plan, entitled the “Point Roberts Character Plan (Character Plan) was adopted as part of the 1990 Point Roberts Subarea Plan, under Ord. 94-024.

17. The Character Plan was then revised in 1999 under Ord. 99-073, and in 2001 was incorporated into Chapter 8 of the most recent version of the Point Roberts Subarea Plan, adopted in the Whatcom County Comprehensive Plan under Ord. 2001-073.

County-Wide Planning Policies

18. County-Wide Planning Policy A-2 states: The [c]ounty and the cities shall provide opportunities for citizens to become involved in the growth management planning process through various mechanisms, such as surveys, public workshops, meetings, hearings, and advisory committees. The method of citizen involvement may vary based on the needs and constituents in various communities and shall include representation of both rural and urban interests on those issues that affect both urban and rural areas.

19. County-Wide Planning Policy A-3 states: Citizens shall be notified in a timely manner of opportunities to have input and key decision points in the planning process. This should include actions such as use of telephone hotlines, notification to interest groups, pre-development meetings, early incorporation of public comments and broader notification of property owners and residents during a planning process as well as working more extensively with community and neighborhood groups. The cities shall also develop a public participation process to solicit and incorporate comments from residents outside city limits but within proposed Urban Growth Areas.

20. County-Wide Planning Policy A-4 states: Citizen Comments and viewpoints shall be incorporated into the decision making process in development of draft plans and regulations. Consideration of citizen comments shall be evident in the decision-making process.

21. Planning and Development Services Department (PDS) has taken steps to ensure that the County’s Public Participation Plan (2012) is followed with respect to providing information to the public, and other interested parties
about the details and scope of the proposed amendments under consideration. In addition, PDS has maintained a complete file on the amendments being considered, which includes background research, preliminary analysis, proposed draft text, and various agency correspondence.

22. Public notice has been published in the Bellingham Herald to inform the public of the scheduled upcoming public hearing to be held by the Planning Commission; and information about the upcoming hearing and a report containing staff analysis and recommendations has been posted to the County website, and notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office.

23. On July 12, 2013, an email describing the proposed amendment was sent to 200 interested citizens who had previously requested to be kept up to date on proposed amendments and other County projects. Staff continues to be available to respond to inquiries from interested parties about the proposal. Any input received from interested parties will be considered and may form the basis of recommendations made to County decision-makers.

24. On July 15, 2013 written correspondence was received from community member, John Lesow that offered comments to support retention of Title 20, Chapter 20.72 - Point Roberts Special District as regulations that implement the Character Plan.

25. On July 15, 2013, anecdotal comments were received from community member, and local business owner, Pam Sheppard, in support the proposed amendment. Opinion expressed was that the proposed amendment, if approved, would provide for greater accessibility to the Character Plan Advisory Committee and increase implementation of the Character Plan in Point Roberts.

26. County-Wide Planning Policy A-5 states: The county and the cities shall establish a system for subarea, community and neighborhood liaison to foster communication between the respective government and its neighborhoods. This system would also provide a point of contact for issues that may affect subareas, the community, or neighborhoods.

27. The Point Roberts Character Plan was born out of a local grassroots effort to preserve the rich heritage of Point Roberts Community which is based on rural farming, fishing, and related industries. It has since been adopted as part of the County’s subarea plan for Point Roberts, and is adopted by reference as part of the County’s comprehensive plan.

28. The Character Plan makes provisions for the establishment of a Character Plan Advisory Committee whose membership is drawn from a representative
sample of Point Roberts community members. Key to effective implementation of the Character Plan is the role which this advisory committee plays in reviewing commercial and institutional development proposals for conformance with elements of the Plan in advance of any formal permit application.

29. Character Plan provisions require prior review of development proposals 21 days in advance of formal application for development permits (i.e. commercial building permit applications). Given that commercial development in Point Roberts may be at times infrequent; it follows that the demand for a Character Plan Advisory Committee would be intermittent, and to utilize an existing local community citizen advisory committee might be more efficient.

**Whatcom County Comprehensive Plan**

30. The GMA requires that the comprehensive plan must be an internally consistent document (RCW 36.70A.070).

31. Whatcom County’s Comprehensive Plan, Chapter 2 identifies goals and policies that both recognize and support the diversity of its citizens as they form various regions of the county. These particular goals and policies emphasize the importance of utilizing the subarea planning process to identify and support these community distinctions.

32. Whatcom County Comprehensive Plan Policy 2L-2 is to: Retain and periodically update the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Lynden-Nooksack Valley, Chuckanut-Lake Samish, Birch Bay-Blaine, Foothills, Point Roberts, South Fork Valley, and Eliza Island). . .

33. The above policy supports periodic updates to all of Whatcom County’s subarea planning documents, and would also support an amendment to provisions that specify how the Point Roberts Character Plan – Character Plan Advisory Committee is established.

34. The proposed amendments are further supported by Whatcom County Comprehensive Policy 2L-2(1)(d) which states that unless in conflict with the County’s Comprehensive Plan, amendments to subarea plans are not required, although local issues of concern or changed conditions may be addressed when necessary.

35. In part, the Character Plan is implemented pursuant to Whatcom County zoning regulations, Title 20, Chapter 20.72 – Point Roberts Special District, Subsection 20.72.651 – Facility Design.
Interlocal Agreements

36. Staff has researched the matter and did not find any Interlocal agreement to which the Point Roberts community is party that would have a bearing on the relative merit of the subject amendments, or subsequent adoption.

Further Studies/Changed Conditions

Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the comprehensive plan amendment.

37. In 1994, the Point Roberts Character Plan (Character Plan) was adopted as part of the 1990 Point Roberts Subarea Plan, under Ord. 94-024.

38. The Character Plan was revised in 1999 under Ord. 99-073, and in 2001 was incorporated into Chapter 8 of the most recent version of the Point Roberts Subarea Plan as adopted in the Whatcom County Comprehensive Plan under Ord. 2001-073.

39. February 2013 correspondence and other communications between the Whatcom County Executive’s Office and Whatcom County Planning & Development Services Department (PDS) established that the Character Plan Advisory Committee authorized by the Point Roberts Character Plan had long been inactive.

40. An inquiry was made as to whether or not the Point Roberts Community Advisory Committee, that began meeting in 2010 to review and make recommendations to County decision-makers on matters of importance that relate to the community of Point Roberts could serve as the new Character Plan Advisory Committee. After review by County legal staff it was determined that the existing Point Roberts Community Advisory Committee could not serve as the Character Plan Advisory Committee without an amendment to Point Roberts Character Plan provisions that pertain to the establishment Character Plan Advisory Committee.

41. In June of 2013, the Whatcom County Executive’s Office forwarded Whatcom County PDS a draft proposal to amend the Point Roberts Character Plan to change the way the Point Roberts Character Plan Advisory Committee is established. Proposed changes included removal of language pertaining to existing committee membership composition and appointment procedures, with new language added that would effectively assign the Point Roberts Community Advisory Committee (as authorized under Ord. 2010-008 and codified in WCC 2.98) to serve as the new Point Roberts Character Plan Advisory Committee (in addition to its existing duties).

42. In part, the Character Plan is implemented pursuant Whatcom County zoning
regulations, Title 20, Chapter 20.72 – Point Roberts Special District, Subsection 20.72.651 – Facility Design.

Public Interest

43. Implementation of the Point Roberts Character Plan requires establishment of a Character Plan Advisory Committee that convenes to review commercial development proposals for conformance with preferred architectural design elements identified as important to the preservation of the rich heritage of the Point Roberts community. Proposals for commercial development are infrequent, and the Character Advisory Committee established at one time for this specific purpose is no longer active.

44. Another advisory committee designed to serve a role in representing the Point Roberts Community on matters of importance in making recommendations to County decision-makers has an existing membership and is authorized by County ordinance and codified in WCC 2.98.

45. Amending the Character Plan to allow this existing citizen’s advisory committee, (one that has a very similar membership structure as that specified in the Character Plan) to serve in a new role as the Character Plan Advisory Committee will promote an efficient and expeditious implementation of the Character Plan provisions, thereby serving the public interest.

46. Several meetings were held in early 2013 when discussion took place during Point Roberts Community Advisory Committee (PRCAC) meetings regarding the status of Point Roberts Character Plan, its implementation, and about the importance of maintaining and implementing this Plan.

47. At the May 14, 2013 Point Roberts Community Advisory Committee meeting, John Lesow, community member, spoke to advise the Committee that ‘the Point Roberts Character Plan still officially exists despite being inoperative because there is no Character Plan Committee to act in an advisory role.’ (May 14, 2013, PRCAC, Minutes).

48. Further discussion was held indicating that “it would be easiest if the PRCAC itself were to take on the responsibility of the CP Committee” (Character Plan Advisory Committee). This discussion resulted in a Committee vote to unanimously approve PRCAC’s interest and intent to take on the advisory duties of a Character Plan Advisory Committee.

The anticipated effect on the ability of the County and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

49. No adverse impacts to either service providers or to the provision of capital facilities, or transportation facilities have been identified. A citizen’s advisory
committee that meets regularly to serve as the Point Roberts Character Plan Advisory Committee will add to the efficient and timely review of commercial and institutional development proposals.

Project review in the early stages may serve to facilitate conformance with Point Roberts Character Plan objectives, and may also provide project proponents with invaluable and necessary information to assist in the development of plans that will conform to the provisions of the Character Plan.

**Anticipated impact upon designated agricultural, forest and mineral resource lands.**

50. It is not anticipated that the proposed amendments to the Character Plan, will have an adverse impact on Whatcom County’s designated Resource Lands.

As of the date of this report, there are no Resource Lands designated in the geographic area comprising Point Roberts.

**Spot Zoning**

51. The subject proposal does not involve rezoning property.

**Urban growth area amendments that propose the expansion of an urban growth area boundary shall be required to acquire development rights from a designated TDR sending area, unless one of the exceptions applies to the amendment.**

52. The subject proposal does not modify Urban Growth Area (UGA) boundaries. The Growth Management Act requires counties to designate UGAs, and the County has not designated Point Roberts for future urban growth.

**IV. PROPOSED CONCLUSION**

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

**V. RECOMMENDATION**

Based upon the above findings and conclusions, Whatcom County Planning & Development Services Department recommends approval of:

Attached “Exhibit A”, which contains proposed draft text in strike through underline format, intended to amend Section 9-001 of the Point Roberts Character Plan, establishing new provisions that pertain to the creation of a Character Plan Advisory Committee.
Chapter 2.98
POINT ROBERTS COMMUNITY ADVISORY COMMITTEE

Sections:
2.98.010 Established.
2.98.020 Purpose.
2.98.030 Function.
2.98.040 Membership – Term of office.
2.98.050 Organization – Meetings.
2.98.060 Committee staffing.

2.98.010 Established.
There is hereby established the Point Roberts community advisory committee. (Ord. 2010-008).

2.98.020 Purpose.
The committee is created to provide advice and recommendation to the executive and to the council regarding needs and issues specific to the Point Roberts community. (Ord. 2010-008).

2.98.030 Function.
The committee shall utilize its ties to the community in order to identify community needs and to develop and propose methods to address those needs. (Ord. 2010-008).

2.98.040 Membership – Term of office.
The committee shall consist of the following individuals:

A. One representative from each of the following: the Point Roberts Taxpayers’ Association, the Point Roberts Voters’ Association, and the Point Roberts Chamber of Commerce.

B. Two representatives to be appointed by the executive.

Member terms will be two years; provided, that the terms of members first appointed will be staggered so that two of the committee members shall be appointed for one year. (Ord. 2010-008).

2.98.050 Organization – Meetings.
Meetings of the committee shall be open and accessible to the public and shall comply with the requirements of the Open Public Meetings Act. The committee shall determine its meeting schedule, but shall meet at least quarterly. At every meeting, the committee will schedule an open session to take public comment on issues consistent with the charge of the committee. Written and audio records of meetings, resolutions, findings and recommendations shall be kept and such records shall be public. The committee shall adopt its own rules and procedures for the conduct of business. The committee shall elect a chairperson from among its members who shall preside at its meetings. (Ord. 2010-008).

2.98.060 Committee staffing.
The county may provide staffing based on the committee’s timely notification of staffing needs at its meetings. The committee is authorized to request from the executive’s office information from administrative departments. (Ord. 2010-008).