## 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>E. Douglas-Originator:</td>
<td>E:D</td>
<td>5/21/14</td>
<td></td>
<td>06/03/14</td>
<td>Natural Resources</td>
</tr>
<tr>
<td>G. Stoyka-Division Head:</td>
<td></td>
<td>5/21/14</td>
<td></td>
<td>6/3/14</td>
<td>Council</td>
</tr>
<tr>
<td>F. Abart-Dept. Head:</td>
<td></td>
<td>5/21/14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. Gibson-Prosecutor:</td>
<td>D:G</td>
<td>5/21/14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Bennett-Purchasing/Budget:</td>
<td>B:</td>
<td>5/27/14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>J. Louws-Executive:</td>
<td></td>
<td>5/27/14</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### TITLE OF DOCUMENT:

Portage Bay Shellfish Recovery Plan

### ATTACHMENTS:

1. Resolution approving the Portage Bay Shellfish Recovery Plan 2014 Update.

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

### SEPA review completed? ( ) Yes ( ) 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.)

Whatcom County Public Works Natural Resources staff, on behalf of the Portage Bay Shellfish Protection District Advisory Committee, will present a resolution to approve the Portage Bay Shellfish Recovery Plan. The advisory committee presented the updated shellfish recovery plan to the Whatcom County Council Natural Resources Committee on May 20, 2014.

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

THROUGH: Frank M. Abart, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager
       Erika Douglas, Senior Planner- Marine Resources

RE: Resolution Approving the Portage Bay Shellfish Recovery Plan 2014 Update

DATE: May 20, 2014

- Requested Action
The Portage Bay Shellfish Protection District Advisory Committee requests the Whatcom County Council approve the Portage Bay Shellfish Recovery Plan 2014 Update.

- Background and Purpose
The Portage Bay Shellfish Protection District Advisory Committee presented the updated Portage Bay Shellfish Recovery Plan to the Whatcom County Council Natural Resources Committee on May 20, 2014. The highest priority recommendation of the plan is a Pollution Identification and Correction (PIC) Program.

Please contact Erika Douglas at extension 50692 or Gary Stoyka at 50618 if you have any questions.
RESOLUTION NO. 2014-_____

APPROVING THE PORTAGE BAY SHELLFISH RECOVERY PLAN- 2014 UPDATE

WHEREAS, on March 24, 1998, the Whatcom County Council adopted Ordinance 98-019, creating the Portage Bay Shellfish Protection District; and

WHEREAS, Ordinance 98-019 also created the Portage Bay Shellfish Protection District Advisory Committee and adopted the Initial Closure Response Strategy; and

WHEREAS, implementation of the Initial Closure Response Strategy, Total Maximum Daily Load Detailed Implementation Plan, and Dairy Nutrient Management Act led to water quality improvements and upgrade of the shellfish growing areas by the Washington State Department of Health in 2003 and 2006; and

WHEREAS, water quality in the Nooksack River and Portage Bay have again deteriorated and the shellfish growing area is threatened with another closure; and

WHEREAS, the Portage Bay Shellfish Protection District Advisory Committee reviewed and updated the Initial Closure Response Strategy; and

WHEREAS, the Portage Bay Shellfish Protection District Advisory Committee presented the updated Shellfish Recovery Plan to the Whatcom County Council Natural Resources Committee on May 20, 2014; and

WHEREAS, work needs to continue to ensure that water quality improves and the approved shellfish harvest areas maintain "approved" status; and

NOW THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby adopts the Portage Bay Shellfish Recovery Plan- 2014 Update as the framework for identifying and managing shellfish restoration efforts in the Portage Bay Shellfish Protection District, as indicated in Exhibit A to this Ordinance.

APPROVED this _____ day of ______________, 2014.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Council Chair

APPROVED AS TO FORM:

( ) Approved ( ) Denied

Daniel L. Gibson
Chief Civil Deputy Prosecutor

Jack Louws
County Executive
Portage Bay Shellfish Protection District Shellfish Recovery Plan
Advisory Committee Recommendations to the Whatcom County Council
2014 Update

A Community Effort for Clean Water

Executive Summary
The Portage Bay Shellfish Protection District was formed by the Whatcom County Council in 1998 after the Washington State Department of Health (DOH) downgraded portions of Portage Bay to “Prohibited” and “Restricted” due to deteriorating water quality (60 acres in 1997 and 90 additional acres in 1999). The Lummi Nation estimated an economic loss of about $850,000 per year associated with the shellfish closure (LIBC 2010). The Portage Bay Initial Closure Response Strategy was developed in 1998 by a team of federal, tribal, state, and local representatives outlining potential pollution sources and actions to identify and address these sources. As a result of implementing the shellfish closure response strategy, the Total Maximum Daily Load (TMDL) Detailed Implementation Plan (Hood 2002), federal compliance enforcement inspections, and the Dairy Nutrient Management Act, many actions were taken to address agricultural sources, sewage sources, and implement monitoring, compliance enforcement, and community outreach projects. These actions resulted in improved water quality observed both in the freshwater and marine waters. Portions of the shellfish growing area were re-opened in 2003 and the remaining closed areas were re-opened in 2006.

In 2004, fecal coliform levels in the mainstem of the Nooksack River began increasing again. Between 2009 and 2012, the geometric mean of the mainstem site located at Marine Drive (M1) more than doubled and then plateaued. Similar patterns of increasing bacteria levels were observed throughout the Nooksack drainage. While the levels in the mainstem Nooksack River are still meeting water quality standards, this substantial increase creates concern for the potential impact on the shellfish growing area status. Due to elevated bacteria levels, 5 of 12 marine monitoring stations in Portage Bay were described as “Threatened” and 2 of 12 were described as sites “Of Concern” in DOH’s 2012 Annual Growing Area Review (Schultz 2013). The 2013 Annual Growing Area Review identified 4 of 12 stations as “Threatened” and 4 of 12 stations “Of Concern”.

The increasing bacteria levels and threat of another shellfish downgrade prompted the Portage Bay Shellfish Protection District Advisory Committee to begin actively meeting again in 2013 and initiate efforts to review and update the shellfish recovery plan. The Portage Bay Initial Closure Response Strategy (1998) focused on reducing fecal coliform bacteria from agriculture, on-site septic system, sewage treatment plant, and stormwater runoff sources. This update provides a summary of accomplishments that led to the original shellfish growing area upgrade and the advisory committee’s current recommendations for ongoing and new projects to prevent another shellfish downgrade. There are six objectives including 1) control agricultural sources, 2) control stormwater sources, 3) control wastewater treatment plant and on-site sewage system sources, 4) monitor water quality, 5) engage the community, and 6) provide funding for the
district program. Each of these objectives has specific recommendations to help the district meet these objectives.

However, the Portage Bay Shellfish Protection District has given highest priority to one overarching recommendation outlined below.

**Implement an effective pollution identification and correction (PIC) program.**

- Conduct water quality monitoring and use data to identify priority areas for PIC program.
- Develop and implement a comprehensive community outreach program that connects with and engages a diverse set of groups and interests. The common message is that everyone needs clean water.
- In priority areas, begin work with community outreach meetings specific to that area. Conduct additional water quality monitoring to identify hot spots within the drainage. Through a tiered-approach, work with landowners to identify problems and address these problems with technical and financial assistance if desired by the landowners. The initial stages of the program will be voluntary in nature to assist landowners with identifying and addressing pollutant sources. This will include an on-the-ground staff/contractor to work directly with landowners. For egregious problems in situations where landowners will not participate in the voluntary program, compliance and enforcement actions will be taken.
- Set milestones for contacts with the community, water quality improvements, and when the program can move into another priority area.
- Report to community members the results of the program.
**Background**

Portage Bay is located in western Bellingham Bay, between the Lummi Peninsula and Portage Island. The Portage Bay shellfish growing area lies about three and a half miles to the southwest of the mouth of the Nooksack River, the dominant freshwater discharge to this area. The bay supports commercial, ceremonial, and subsistence shellfish harvest for members of the Lummi Nation.

**Bacterial Pollution**

Fecal coliform bacteria are found in the fecal matter of human and other warm-blooded animals and is used as an indicator of water pollution. While most fecal coliform strains do not cause human illness, detection of fecal coliform in a creek or bay indicates that human and/or animal wastes and the associated harmful pathogens are polluting the water. Examples of pathogen-related illnesses are giardia, salmonella, viral gastroenteritis, hepatitis, and cholera. People are exposed to these pathogens through direct water contact, such as swimming, wading, or eating shellfish from waters with high bacteria levels. The key potential sources of bacteria that have been identified in Whatcom County coastal drainages are (1) **animal waste** from agricultural operations, domestic pets, waterfowl, and urban wildlife, and (2) **human sewage** from failing on-site sewage systems (OSS), leaking sewers, or cross-connections (WCPW 2012).

![Map of Whatcom County monitoring regions depicting the Nooksack River watershed in orange.](image_url)

**Watershed Characteristics**

The Nooksack River watershed is approximately 826 square miles, straddles the borders with Canada and Skagit County, and discharges into Bellingham Bay (Figure 1). The watershed includes a diverse landscape ranging from the Cascade Mountain Range, the foothills, and into the lowlands. The lower basin, beginning at river mile 36.6, has been the focus of fecal coliform bacteria reduction efforts. Land uses in the upper basin are predominately timber management.
and recreational uses on federal, state, and private lands. In the upper basin there is some agriculture, commercial and residential use along the valley floors. In contrast, in the lower basin there is a mix of agriculture, rural residential, and urban land uses. Whatcom County is a top dairy and berry producer in Washington State, with the majority of agricultural production occurring in the Nooksack basin. The wastewater treatment plants for the cities of Everson, Lynden, and Ferndale discharge into the Nooksack River. (Joy 2000)

Shellfish Growing Area
In 1996, the Lummi Nation voluntarily closed a 60-acre portion of the commercial shellfish growing area in Portage Bay at the request of the Washington State Department of Health due to water quality that did not meet the National Shellfish Sanitation Program (NNSP) standards (Lummi Nation 2002). The Portage Bay Shellfish Protection District was formed by the Whatcom County Council in 1998 after the Washington State Department of Health (DOH) downgraded Portage Bay to “Prohibited” and “Restricted” due to deteriorating water quality (60 acres in 1997 and 90 additional acres in 1999). The Lummi Nation estimated an economic loss of about $850,000 per year associated with the shellfish closure (LIBC 2010). The Portage Bay Initial Closure Response Strategy was developed in 1998 by a team of federal, tribal, state, and local representatives outlining potential pollution sources and actions to identify and address these sources.

In this same time period, the Washington State Department of Ecology conducted a Total Maximum Daily Load (TMDL) study for fecal coliform in the Lower Nooksack River (Joy 2000). Samples were collected and analyzed for fecal coliform from a primary monitoring network of six mainstem, eleven tributary, and four point source locations. Some of the primary findings from this study were that bacteria levels doubled on the mainstem of the Nooksack River between Lynden and Ferndale. Tributaries discharging to this portion of the mainstem had consistently high bacteria levels. Target fecal coliform geometric means were established to help guide bacteria reduction efforts in the watershed. Through the shellfish closure response strategy, federal compliance enforcement inspections, the Dairy Nutrient Management Act, the and TMDL Detailed Implementation Plan (Hood 2002) many actions were taken to address agricultural sources, sewage sources, and implement monitoring, compliance enforcement, and community outreach projects. These actions resulted in improved water quality observed both in the freshwater and marine waters. Portions of the shellfish growing area were re-opened in 2003 and the remaining closed areas were reopened in 2006.

In 2004, fecal coliform levels in the mainstem of the Nooksack River began increasing again. Between 2009 and 2012, the geometric mean of the mainstem site located at Marine Drive (M1) more than doubled from 16 to 40 FC/100mL (Figure 2). The geometric mean at M1 generally plateaued in 2012 and held at 32 FC/100ml in December 2013. Similar patterns of increasing bacteria levels were observed throughout the Nooksack drainage as illustrated in Figure 3, representing bacteria levels observed over time in Fishtrap Creek.
Figure 2. Fecal coliform 30 sample geometric mean at Marine Drive between 2002 and 2014. The red line indicates the TMDL goal and yellow dashed line indicates the period in which the rapid increase of bacteria was observed.

Figure 3. Fecal coliform 30 sample geometric mean between 1999 and 2012. Red line indicates DOE geometric mean threshold for fecal coliform standard.
As of April 2014, all of the monitored creeks discharging into the Nooksack River were exceeding water quality standards for fecal coliform bacteria (Figures 4, 5, and 6). At the majority of stations, fecal coliform levels measured in the last twelve months have been higher than those levels seen in the last three years (Figures 5 and 6).

Figure 4. Portage Bay Shellfish Protection District (Nooksack watershed) monitoring stations. Purple dots indicate mainstem stations and blue dots indicate creeks discharging to the Nooksack River.
Figure 5. Fecal coliform geometric means for Nooksack watershed monitoring stations. The black diamond indicates the geometric mean for samples collected in the last twelve months. The blue bar indicates geometric means for samples collected over the last three years. The yellow line illustrates the water quality standard.

![Portage Bay Shellfish Protection District](image)

Figure 6. Percent of samples exceeding 200 FC/100mL for Nooksack watershed monitoring stations. The black diamond indicates percent exceeding 200 FC/100mL for samples collected in the last twelve months. The blue bar indicates percent exceeding 200 FC/100mL for samples collected over the last three years. The yellow line illustrates the water quality standard.

While the levels in the mainstem Nooksack River are still meeting water quality standards, this substantial increase creates concern for the potential impact on the shellfish growing area status. Due to elevated bacteria levels, 5 of 12 marine monitoring stations in Portage Bay were described as “Threatened” and 2 of 12 were described as sites “Of Concern” in DOH’s 2012 Annual Growing Area Review (Schultz 2013). The 2013 Annual Growing Area Review identified 4 of 12 stations as “Threatened” and 4 of 12 stations as “Of Concern” as illustrated in Figure 7 (Schultz 2014). Figure 8 provides an illustration of marine water quality in Portage Bay over time.
National Shellfish Sanitation Standards for Marine Waters:
- Geometric mean <14 fecal coliform/100mL, and
- Estimated 90th percentile <43 fecal coliform/100mL

DOH 90th Percentile Water Quality Categories:
- Well Within Std <20 MPN/100mL
- Of Concern 20-30 MPN/100mL
- Threatened 30-43 MPN/100mL
- Prohibited >43 MPN/100mL

Figure 7. Portage Bay marine water quality status in December 2013.

Figure 8. Washington State Department of Health graph illustrating fecal coliform bacteria levels in Portage Bay over time.

The increasing bacteria levels and threat of another shellfish downgrade prompted the Portage Bay Shellfish Protection District Advisory Committee to begin actively meeting again in 2013.
and initiate efforts to review and update the shellfish recovery plan. The Portage Bay Initial Closure Response Strategy (1998) focused on reducing fecal coliform bacteria from agriculture, on-site septic system, sewage treatment plant, and stormwater runoff sources. This update will provide a summary of accomplishments that led to the original shellfish growing area upgrade and the advisory committee’s current recommendations for ongoing and new projects to prevent another shellfish downgrade.

**Overall Program Recommendations**
Dedicate sufficient resources to implement an effective Pollution Identification and Correction (PIC) Program. The program should be adequately staffed to coordinate the implementation of the shellfish recovery plan, support water quality monitoring, identification of priority drainages, community outreach and education, inspections to identify potential pollutant sources, technical and financial assistance, and a regulatory backstop. The program should identify priority areas, focus efforts in priority areas, and show measurable outcomes.

The current pollution identification and correction efforts in the Portage Bay Shellfish Protection District are being implemented through the Whatcom Clean Water Program, guided through the Washington Shellfish Initiative, which is a partnership of federal, tribal, state, and local agencies. It is currently funded through 2015 and the state agencies are leading the pollution identification efforts. The Advisory Committee recommends transitioning this program into a locally-driven, locally-supported, and sustainable program funded through a combination of federal, state, and local resources.

**Objective 1: Control Agricultural Sources**
Agricultural wastes originating in the Nooksack River watershed were identified in the Sanitary Surveys of Portage Bay (DOH 1997, Lennartson 2003) and Portage Bay Initial Response Strategy (1998) as the primary potential contributor of fecal coliform pollution in the Nooksack watershed. Agricultural sources include dairies, commercial non-dairy farms, and non-commercial farms.

In the late 1990’s, there were approximately 200 dairy farms in the watershed. By 2003, all dairies had completed Nutrient Management Plans as required by SB6161. Additionally, the Washington State Department of Ecology implemented a dairy inspection program. The dairy inspection program was transferred to the Washington State Department of Agriculture in 2003. Each dairy is inspected approximately every two years. The 2003 Portage Bay Sanitary Survey noted that improvement of water quality seen at that time was due in part to a combination of a reduced number of dairies and implementation of Nutrient Management Plans (Lennartson 2003).

In addition to the dairy operations, there are a large number of commercial and non-commercial farm operations throughout the Nooksack River drainage. Whatcom Conservation District has consistently provided technical and financial assistance to landowners to develop farm plans and implement Best Management Practices (BMPs). The level of assistance available to landowners has varied depending on funding resources for the Conservation District.
Currently, the Whatcom Clean Water Program (through the Washington Shellfish Initiative) is a federal, tribal, state, and local partnership to improve water quality in freshwater sources impacting Portage Bay and Drayton Harbor. The program includes water quality monitoring, non-dairy farm inspections, technical and financial assistance for landowners and a compliance/enforcement backstop. The initial area of focus has been the Bertrand subwatershed.

**Recommendation 1.1:** Provide letters of support for financial assistance programs for dairies to implement upgraded best management practices and updated nutrient management plans to protect water quality. Most of these funds are allocated through the state and the USDA Natural Resources Conservation Service (NRCS).

**Recommendation 1.2:** Provide letters of support for technical assistance programs for dairies to complete risk management assessments and adaptively manage farm operations as conditions change to protect water quality.

**Recommendation 1.3:** Provide letters of support for programs that provide financial assistance for aquaculture as well as upland farming.

**Recommendation 1.4:** Continue concentrating investigation and enforcement follow-up in priority drainages identified through water quality monitoring programs using quality assurance project plans (QAPPs) and standard protocols. Due to the large number of non-commercial animal rearing operations throughout Whatcom County, an inspection program should be implemented for non-dairy commercial agricultural operations and hobby farms as well as dairy farms. Corrective actions should be taken when problems are found.

**Recommendation 1.5:** Dedicate adequate staff resources to support, uphold, and enforce the Critical Areas Ordinance (CAO). Provide farmers the flexibility to operate in CAO buffers through the Conservation Planning on Agricultural Lands (CPAL) Program. Provide farmers with the ability to voluntarily comply within a set timeframe prior to invoking enforcement actions. A tiered approach is recommended for this program which would include 1) community education, 2) involvement in fixing the problem (through technical and financial assistance), and 3) an enforcement backstop for landowners that do not voluntarily take action to protect critical areas and demonstrate egregious violations.

**Recommendation 1.6:** Provide technical assistance to non-dairy farmers to complete risk assessments of their farm operations and recommend solutions to protect water quality. Provide financial assistance to non-dairy farmers to implement the recommended solutions.

**Recommendation 1.7:** Support a collaborative team of local, state, tribal, and federal agencies to avoid duplication of roles and interactions with landowners. The team will meet periodically, share data, and share information regarding inspections.

**Recommendation 1.8:** Conduct a comprehensive review of the utility and adequacy of the Whatcom County manure management ordinance. Update the ordinance accordingly.

**Objective 2: Control Stormwater Sources**
Stormwater sources originating in the Nooksack River watershed were identified in the Sanitary Surveys of Portage Bay (DOH 1997, 2003) as minor potential contributors of fecal coliform pollution in the Nooksack watershed. There are stormwater outfalls in the vicinity of the shellfish beds located to the west of Lummi Shore Road. These discharges have had inconsistent fecal coliform levels and volumes, thus representing a minor source. The cities of Lynden and Ferndale and portions of unincorporated Whatcom County have National Pollution Discharge Elimination System (NPDES) Phase II permits for stormwater. These permits have requirements for stormwater program elements including 1) public education and outreach, 2) public involvement, 3) illicit discharge detection and elimination, 4) construction site stormwater control, 5) pollution prevention, good housekeeping, and operation and maintenance, 6) post construction stormwater management for new development and redevelopment, 7) compliance with TMDL requirements, and 8) monitoring.

**Recommendation 2.1:** Partner with Lynden, Ferndale, and other special districts (e.g. WID’s) to develop a program to assist with the maintenance of neighborhood stormwater ponds/facilities.

**Recommendation 2.2:** Provide support to Lynden, Ferndale, and other special districts for stormwater retrofits that provide water quality improvement and protection.

**Recommendation 2.3:** Identify potential areas for riparian restoration along tributaries to the Nooksack River and share these with Lynden, Ferndale, and other special districts for potential project partnerships.

**Objective 3: Control Wastewater Treatment Plant and On-Site Sewage System Sources**

Sewage sources originating in the Nooksack River watershed were identified in the Sanitary Survey of Portage Bay (DOH 1997, 2003) as low to medium potential contributor of fecal coliform pollution in the Nooksack watershed. Potential sewage sources include wastewater treatment plants (WWTP) at Everson-Nooksack, Lynden, and Ferndale, as well as on-site sewage systems (OSS) throughout the watershed. The NPDES permits for the WWTPs have been updated since the initial closure response strategy and effluent thresholds were drastically decreased to meet the TMDL requirements. There have been several upgrades to the WWTP facilities and operations and they each routinely meet the NPDES permit requirements. There are future upgrades planned for the Everson-Nooksack and Ferndale plants.

**Recommendation 3.1:** Provide support for the upgrade of the City of Everson wastewater treatment plant.

**Recommendation 3.2:** Request annual reports on the status of Everson, Lynden, and Ferndale wastewater treatment plants. Requested information would include how well operations met permit requirements, permit exceedances for bacteria levels, failures of the system (pump stations, etc.), maintenance/repairs completed, and any projected upgrades to the plant or collection system. Provide letters of support for needed repairs or upgrades of systems identified through these reports (e.g. grants, loans, etc.).
Recommendation 3.3: Review how sewage is treated in Deming, potential problems, and develop recommendations as needed.

Recommendation 3.4: Expand the Marine Recovery Area (MRA) or Sensitive Area for the On-Site Sewage System Operation and Maintenance Local Management Plan to include priority drainages (based upon water quality) of the Portage Bay Shellfish Protection District. Require an evaluation of all OSS in these priority areas within three years once the area has been included in the MRA.

Recommendation 3.5: Continue to support the low-interest loan program for OSS repairs and replacements.

Objective 4: Monitor Water Quality
Since 1998, the Northwest Indian College has been collecting fecal coliform samples at sites in the Nooksack River watershed. A portion of this sampling was completed to support the Nooksack River TMDL Detailed Implementation Plan (Hood 2002). In the Nooksack River watershed, the number of sites and frequency of sampling has varied over the years due to funding limitations. Forty-nine sites were identified throughout the watershed for monitoring to support the implementation of the Nooksack TMDL. In 2007 following the upgrade of the shellfish growing areas, the sites were reduced to approximately fifteen long-term ambient sites to monitor water quality patterns in the major tributaries to the Nooksack (Figure 5).

In 2012, Whatcom County began supplementing this monitoring program with a second sampling event per month at about fifteen priority sites. Currently, the Nooksack River routine monitoring program includes twice monthly sampling at fifteen fixed-network sites in the Nooksack River watershed. Additionally, in 2013, DOE began implementing short-term ambient monitoring and bracket sampling in the Bertrand subwatershed to assist pollution identification and correction efforts in this area. The short-term ambient monitoring project involves bi-weekly sampling of 10 fixed network sites. The bracketing monitoring further segments areas where consistently high bacteria counts have been observed.

The Lummi Natural Resources Department has conducted an ambient water quality monitoring program of Reservation waters since 1993 and that now includes sampling at approximately 50 surface water sites. As part of the program, the Nooksack River mainstem where it flows into the Reservation near Marine Drive is sampled approximately four times per month.

Recommendation 4.1: Continue implementing a water quality monitoring program with long-term ambient, short-term ambient, and bracketing elements. Routine monitoring should occur throughout the basin to characterize the mainstem of the Nooksack and the major tributaries to the Nooksack. Long-term ambient results will be reviewed once per year to identify new focus areas. Focus areas will have short-term ambient stations and bracketing monitoring to help identify sources of bacteria. Consider adding a long-term ambient station to characterize bacteria levels in Silver Creek.
Recommendation 4.2: Monitoring data should be used to implement a response strategy to identify and address pollution sources. The previous Portage Bay Response Strategy will be reviewed to determine successes and challenges and to update the response strategy. Progress of the Whatcom Clean Water Program will be considered.

Recommendation 4.3: Tributary reaches between sample stations should be ground surveyed to identify animal access and drainage from non-dairy commercial farms and hobby farms in addition to commercial dairy farms.

Recommendation 4.4: When a monitoring station has met the water quality standard for one year, sampling frequency should be reduced to one time per month (rather than twice per month) to focus resources elsewhere and to communicate progress in this drainage.

Recommendation 4.5: Partner with Ferndale and Lynden on urban stormwater sampling and source control.

Objective 5: Engage the Community
Community outreach programs are invaluable in developing the community’s understanding of water quality status, impacts to shellfish beds and recreational uses of water, and engaging community members in identifying and implementing programs and projects to improve and protect water quality.

An example of a successful watershed restoration project driven by community involvement was the Tenmile Watershed Restoration Project. Fecal coliform bacteria levels in this subwatershed dropped below the TMDL targets and remained at these levels for several years. In the past two years, bacteria levels have been increasing once again. In the fall of 2013, ReSources reinvigorated a community effort to improve water quality in this subwatershed. There were approximately 50 community members at the first meeting and 30 community members are remaining engaged in the effort.

Recommendation 5.1: As a pollution identification and correction program moves into a new priority drainage, host a kick-off meeting to describe water quality issues and how the program will move forward in the specific drainage area. For each priority drainage, a standard process for community outreach should be implemented with a minimum of three community meetings (pre-project, mid-term, and project-end), postcard notifications, and a question and answer session. Periodically re-evaluate how to approach each focus area.

Recommendation 5.2: Create an educational position at the Whatcom Conservation District to develop and implement a rural education program including topics such as small farms, manure management, pasture rotation, and OSS operation and maintenance. The program should be evaluated on a regular basis for effectiveness using surveys and other tools.

Recommendation 5.3: Create a community-driven, neighbor to neighbor process to communicate water quality problems and find community solutions.
Recommendation 5.4: Work with community members and landowners to develop positive reinforcement by celebrating good BMPs and successes. Build community awareness of the issues, solutions, and continued progress. Examples include signs recognizing implemented BMPs (e.g. pasture rotation, cover crop signs) and regular progress reports to the County Council and newspapers.

Recommendation 5.5: Use public access television, radio, the internet, and newspapers as tools in community outreach to inform a broader community about water quality issues, patterns, impacts, and solutions to improve water quality.

Recommendation 5.6: Provide training opportunities for individuals working in the shellfish protection district to learn about farm plans, the content and requirements, and how best management practices are adapted to meet changing land, animals, and environmental conditions.

Recommendation 5.7: Place signs at high public use locations at creeks that have consistently high bacteria levels (e.g. Lynden Park along Fishtrap Creek) alerting the public of the potential public health threat with water contact recreational activities.

Recommendation 5.8: Install signs at main creek crossings indicating current water quality status.

Recommendation 5.9: Work with Lynden, Ferndale, and other special district to develop and comprehensive stormwater outreach program that with assist with meeting NPDES Phase II stormwater requirements for urban areas in the Nooksack drainage. The messages should connect stormwater, water quality, marine waters, and shellfish harvest. Include presentations to City Councils in this program.

Recommendation 5.10: Continue support for dairy and livestock education programs such as websites, presentations, and the dairy speaker series.

Objective 6: Funding
Recommendation 6.1: Update the Shellfish Protection District ordinance in 2014 to continue the Portage Bay Shellfish Protection District through at least 2016.

Recommendation 6.2: Provide adequate funding to implement the Portage Bay Shellfish Recovery Plan.

References


**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></td>
<td>05/13/2014</td>
<td></td>
<td>06/02/2014</td>
<td>Finance/Admin Services Committee</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td>05/13/2014</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>05.27.14</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**
Annual presentation from the Washington Counties Risk Pool

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>NO</td>
</tr>
</tbody>
</table>

| Should Clerk schedule a hearing? | Yes | 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.)

**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](http://www.co.whatcom.wa.us/council).
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
--- | --- | --- | --- | --- | ---
Division Head: | | | | 5/20/2014 | Fin/Council
Dept. Head: | 4/30/14 | | | |
Prosecutor: | | | | |
Purchasing/Budget: | | | | |
Executive: | | | | |

TITLE OF DOCUMENT:
Ordinance amending WCC 3.08, purchasing system, bid specification

ATTACHMENTS:

SEPA review required? | ( ) Yes | ( ) 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.)
This ordinance will amend Whatcom County Code 3.08, Purchasing System, to modify the requirements for bid specifications, deposits, and awards.

COMMITTEE ACTION:
5/20/2014: Held in Committee (Welmer absent) and allowed Executive to review documentation and give Council a response on what they think will be the best possibility.

COUNCIL ACTION:
5/6/2014 Introduced 7-0

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.
ORDINANCE# __________

AMENDING WHATCOM COUNTY CODE SECTION 3.08, PURCHASING SYSTEM, TO MODIFY THE REQUIREMENTS FOR BID SPECIFICATIONS, DEPOSITS, AND AWARDS

WHEREAS, Whatcom County Code 3.08 exists, in part, to define the check and balance roles of the legislative and executive branches of Whatcom County government in the contract awarding process; and

WHEREAS, Whatcom County Code Section 3.08.090 sets forth the requirement for bid specifications, deposits, and awards; and

WHEREAS, many contracts entered into by the county range from hundreds of thousands to millions of dollars; and

WHEREAS, Whatcom County Code Section 3.08.090 (N) currently allows these large contracts to be administratively amended to a cumulative amount not to exceed $10,000 or 10 percent of the original contract, whichever is greater; and

WHEREAS, the County Council wishes to increase its direct ability to be a check and balance in the important function of amending contracts by modifying the requirements for contract amendments.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code 3.08.090 (N) is hereby amended as outlined Exhibit A to this ordinance.

ADOPTED this ______ day of _____, 2014

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown Davis, Council Clerk

Carl Weimer, Chairperson

APPROVED as to form:

( ) Approved  ( ) Denied

__________________________
Civil Deputy Prosecutor

Jack Louws, Executive

Date:_______________________
3.08.090  Bid specifications, deposits and awards.

N. Contracts entered into by the county may be administratively amended to a cumulative amount not to exceed $10,000 ________ or 10 ______ percent of the original contract, whichever is greater; larger amounts require council approval.
TITLE OF DOCUMENT: Amendment No. 1 to Ordinance No. 2013-027 Establishing the Superior Court Fourth Judge Courtroom Renovation Project Fund and Establishing a Project Based Budget for the Superior Court Fourth Judge Courtroom Renovation Project.

ATTACHMENTS: Ordinance Amendment, Memo to County Executive, Exhibit “A” New 4th Superior Courtroom & Remodel Supplemental Budget Request

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.)

Amendment No 1 to the Superior Court Fourth Judge Courtroom Renovation Project Budget requests additional appropriation authority of $1,422,464 for a new Project Based Budget total of $1,622,464.
ORDINANCE NO. __________

AMENDMENT No. 1 TO ORDINANCE No. 2013-027 ESTABLISHING THE SUPERIOR COURT FOURTH JUDGE COURTROOM RENOVATION PROJECT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR THE SUPERIOR COURT FOURTH JUDGE COURTROOM RENOVATION PROJECT

WHEREAS, the Washington State Legislature approved the addition of a fourth Superior Court judge for Whatcom County, and

WHEREAS, the Courthouse needs renovations to accommodate space needs for a new courtroom and additional staff, and

WHEREAS, the initial architect and engineering phase of the project has been completed; and

WHEREAS, the County is now ready for the construction phase of the project,

NOW THEREFORE BE IT ORDAINED by the Whatcom County Council that Ordinance No. 2013-027 is hereby amended adding $1,422,464 of expenditure authority to the original project budget of $200,000, for a total amended project budget of $1,622,464.

ADOPTED this ____ day of ____, 2014.

ATTEST: WHATCOM COUNTY COUNCIL WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk Carl Weimer, Chair of the Council

APPROVED AS TO FORM: ( ) Approved ( ) Denied

Chief Civil Deputy Prosecutor

________________________

Jack Louws, Executive

Date: _______________________
MEMO TO: Jack Louws, County Executive

FROM: Michael Russell, Facilities Manager

DATE: May 15, 2014

RE: Supplemental Budget Request

Background and Purpose

AS-Facilities Management is requesting a supplemental budget of $1,422,464 to fund the construction of the new 4th Superior Courtroom and Remodel at the Whatcom County Courthouse. The modifications will include the South 2nd Floor Courtroom to convert it into a Superior Courtroom with the appropriate jury room space. This in turn leads to adjustment to the 2nd Floor remodeling of the Prosecuting Attorneys Appellate Division. Included in this request is the remodeling of the conference rooms 512, 513 and 5th floor corridor to allow a Commissioners Courtroom. This will require the remodeling of the 5th floor North end for the Commissioners Chambers and settlement conference rooms.

Funding and Source

The Funding request is for $1,422,464.00 from the General Fund. The account is #346100 – Superior Court 4th Judge’s Courtroom.

If you have any questions, please contact me at extension 50575.

Thank you,

Enclosures (1)
1a. Description of request:
The addition of the 4th Superior Courtroom. The modifications include the South 2nd Floor Courtroom to convert it into a Superior Courtroom with the appropriate jury room space. This in turn leads to adjustments to the 2nd Floor remodeling of the Prosecuting Attorneys Appellate Division.
Included in this request is the remodeling of the conference rooms 512, 513 and 5th floor corridor to allow a Commissioners Courtroom. This will require the remodeling of the 5th floor North end for the Commissioners Chambers and settlement conference rooms.

1b. Primary customers:
Whatcom County judicial system, Public Defender, Prosecuting Attorney’s Office and the Citizens of Whatcom County and all of the Cities we serve.

2. Problem to be solved:
This additional Superior Court Judge and Courtroom has been a long awaited goal for the County and its Citizens. The completion of this work will help to relieve the backlog of cases waiting for a Courtroom and a Superior Court Judge.

3a. Options / Advantages:
This additional Superior Court Judge and Courtroom has been a long awaited goal for the County and its Citizens. The completion of this work will help to relieve the backlog of cases waiting for a Courtroom and a Superior Court Judge.

3b. Cost savings:
The cost savings will be in the ability for the County and its Citizens to expedite being heard by a Superior Court Judge.

4a. Outcomes:
The completion of this work will help to relieve the backlog of cases waiting for a Courtroom and a
Supplemental Budget Request

Administrative Services

Supp'ld # 1863

Fund 346  Cost Center 346100

Originator: Michael Russell

Facilities Management

Superior Court Judge

4b. Measures:
The completion of this work will help to relieve the back log of cases waiting for a Courtroom and a Superior Court Judge

5a. Other Departments/Agencies:
Whatcom County Facilities Management

5b. Name the person in charge of implementation and what they are responsible for:
Michael Russell

6. Funding Source:
General Fund
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td></td>
<td>5/15/14</td>
<td></td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td>5/15/14</td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Agenda Date** | **Assigned to:**
--- | ---
05/20/14 | Intro
06/03/14 | Finance Committee; Council

**TITLE OF DOCUMENT:** 2014 Supplemental Budget Request #11

**ATTACHMENTS:** Ordinance, Memoranda & Budget Modification Requests

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) NO</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.)

Supplemental #11 requests funding from the General Fund:

1. To appropriate $1,422,464 to fund transfer from Non-Departmental to Superior Court 4th Judge Remodel Project Fund.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
5/20/2014: Introduced 6-0, Weimer absent

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>
ORDINANCE NO.
AMENDMENT NO. 11 OF THE 2014 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 2014 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund - Non Departmental</td>
<td>1,422,464</td>
<td>-</td>
<td>1,422,464</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>1,422,464</td>
<td>-</td>
<td>1,422,464</td>
</tr>
</tbody>
</table>

ADOPTED this ____ day of ________________, 2014.

ATTEST:

Dana Brown-Davis, Council Clerk

Carl Weimer, Chair of the Council

APPROVED AS TO FORM:

Jack Louws, County Executive

Date: _______________________

I:\BUDGET\SUPPLS\2014_Suppl\Supplemental #3-2014.doc
### Summary of the 2014 Supplemental Budget Ordinance No. 11

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund - Non Departmental</td>
<td>To fund transfer for Superior Court remodel.</td>
<td>1,422,464</td>
<td>-</td>
<td>1,422,464</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td></td>
<td>1,422,464</td>
<td>-</td>
<td>1,422,464</td>
</tr>
</tbody>
</table>
Supplemental Budget Request

Non-Departmental

Supp1 ID # 1864 Fund 1 Cost Center 4530 Originator: Marianne Caldwell

Expenditure Type: One-Time Year 2 2014 Add'l FTE □ Add'l Space □ Priority 1

Name of Request: Transfer to fund Superior Ct Remodel

X

Department Head Signature (Required on Hard Copy Submission) Date

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>2910.1000</td>
<td>Fund Balance</td>
<td>($1,422,464)</td>
</tr>
<tr>
<td>8351.346</td>
<td>Operating Transfer Out</td>
<td>$1,422,464</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
Transfer out to fund Superior Court 4th Judge courtroom remodel project. See related Suppl ID 1863.

1b. Primary customers:

2. Problem to be solved:
Funding is needed to fund 2nd floor remodel, 5th floor remodel, furnishings, court recording equipment, construction coordinator time, and temporary move of Prosecuting Attorney personnel to Civic Center in preparation for the addition of the 4th Superior Court judge.

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
   General Fund fund balance

Thursday, May 15, 2014
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></td>
<td>05/19/2014</td>
<td></td>
<td>06/03/2014</td>
<td>Finance / Council</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td>05/19/2014</td>
<td></td>
<td>06/03/2014</td>
<td>Finance / Council</td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td>05/20/14</td>
<td></td>
<td>06/03/2014</td>
<td>Finance / Council</td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td>6/19/14</td>
<td></td>
<td>06/03/2014</td>
<td>Finance / Council</td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>05/27/14</td>
<td></td>
<td>06/03/2014</td>
<td>Finance / Council</td>
</tr>
</tbody>
</table>

TITLE OF DOCUMENT:
Contract for Services for benefit consultant for the self-insured medical program – Kibble & Prentice, a USI Company

ATTACHMENTS:
1. Memorandum to Executive Louws
2. Contract for Services with Kibble & Prentice

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.)

This agreement is for benefit consultation services for the County’s self-insured medical program.

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: Karen Goens, HR Manager
RE: BENEFITS CONSULTANT – KIBBLE & PRENTICE
DATE: May 19, 2014

Enclosed are two (2) originals of a Contract for Services for benefits consulting between Whatcom County and Kibble & Prentice for your review and signature.

Background and Purpose
Whatcom County monitors key elements of the self-insured medical plan in-house, yet requires outside expertise to monitor claims data, analyze benefit options, provide actuarially-sound plan pricing, bid for competitive stop loss coverage, and guidance for health care reform compliance and other technical administrative matters.

Martin "Marty" Andrews of Kibble & Prentice was unanimously recommended again by the review committee following a Request for Qualifications process. Continuing with Kibble & Prentice as benefits consultant will lend continuity for our self-insured health plan in relation to the multiple plan choices we now offer employees. Kibble & Prentice provides a high quality, County-focused team, with experience and knowledge of our self-insured medical program and competitive pricing.

The agreement before you would commence January 1, 2015 and run through December 31, 2017 with a renewal option of up to three more years. The competing bidder’s price for the three-year agreement was $27,000 higher.

Funding Amount and Source
The self-insured medical program is funded through contributions collected internally from departments per eligible employee. The budgeted plan cost in 2014 is $6,436,636. Consultant costs will be $48,500 in 2015; $51,000 in 2016; and $53,500 in 2017.

Differences from Previous Agreement
This service agreement continues previous services and adds predictive modeling and more extensive employee communications.

Please contact me at extension 50550 if you have any questions or concerns regarding the terms of this agreement.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** Administrative Services – Human Resources (HR)

**Contract Administrator:** Karen S. Goens, HR Manager

**Contractor's / Agency Name:** Kibble & Prentice, a USI Company

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>Yes</td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>No</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>No</td>
</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process?</td>
<td>Yes</td>
</tr>
<tr>
<td>Is this contract excluded from E-Verify?</td>
<td>No</td>
</tr>
</tbody>
</table>

**Contract Amount:** $48,500 in 2015

**Scope of Services:**

Provide benefit consultation services for the County's self-insured medical program

**Term of Contract:** 3 yrs + up to 3 yr renewal

**Expiration Date:** December 31, 2017

**Contract Routing Steps & Signoff:**

1. Prepared by: KSGoens
   
   Date: 04/25/2014 [electronic]
2. Attorney reviewed: Daniel L. Gibson
   
   Date: 04/26/14 [electronic]
3. AS Finance reviewed: N/A
   
   Date: 6/19/14 [electronic]
4. IT reviewed: N/A
   
   Date: 6/19/14 [electronic]
5. Corrections made:
   
   Date: 6/19/14 [electronic] hard copy printed
6. Attorney signoff: Daniel L. Gibson
   
   Date: 04/26/14 5/20/14
7. Contractor signed: Todd M. Mahon
   
   Date: 5/20/14
8. Submitted to Exec Office: KSGoens
   
   Date: 5/20/14 [summary via electronic; hardcopies]
**WHATCOM COUNTY CONTRACT**

**ATTORNEY REVIEW**

[submit via electronic transmittal]

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Administrative Services – Human Resources (HR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Person:</td>
<td>Karen S. Goens, HR Manager</td>
</tr>
<tr>
<td>Contractor's Name:</td>
<td>Kibble &amp; Prentice, a USI Company</td>
</tr>
</tbody>
</table>

**First Review:**

☑ Approved As Is; Prepare Hardcopy for Signoff

**Needs Revision:** Attorney Comments for suggested changes: Karen, just a few small items that I want to draw to your attention: 1) I struck the first #31.1 as we should only have one such clause; 2) I modified #34.1 as professional liability policies do not typically provide additional insured status to parties such as us, and the ACORD forms from the past do not appear to have provided such status to us for last year and this year; thus I dropped the additional insured language and instead addressed the necessity of Contractor maintaining its professional liability coverage for the period of the statute of limitations following expiration of the contract; 3) I need you to insert a more precise time for the quarterly payment in Exhibit B; 4) I assume that Exhibit C will be the up-to-date certificate of insurance when this contract goes into effect.

**Second Review:**

☐ Implemented Attorney Corrections as Indicated

☐ Approved; Prepare Hardcopy for Signoff

☐ Additional Corrections Needed; Attorney Comments for suggested changes:

Please indicate any Special Dates or clauses that require calendaring:

Leave this page attached to summary coversheet until final signoff by attorney. Do not leave attached when routing to Contractor for signature.
CONTRACT FOR SERVICES
Benefits Consultant – Self-Insured Medical Program

Kibble & Prentice, a USI Company, 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), p. 10,
- Exhibit C (Certificate of Insurance), p. 11,
- Exhibit D (Business Associate Agreement), pp. 12 to 14.

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 January, 2015, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2017.

The general purpose or objective of this Agreement is to provide benefits consultation for the County’s self-insured medical plan 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 shall not exceed $48,500 for 2015; $51,000 for 2016; $53,500 for 2017. 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 19th day of May, 2014.

CONTRACTOR:

Kibble & Prentice, a USI Company

Todd C. McMahon. CCO/SVP

STATE OF WASHINGTON

COUNTY OF KING

On this 19th day of May, 2014, before me personally appeared Todd C. McMahon to me known to be the CCO/SVP of Kibble & Prentice and 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 Bothell. My commission expires 10/1/15.

Contract for Services
Benefits Consultant – 2015-2017

v 1.0
WHATCOM COUNTY:
Recommended for Approval:

Karen S. Goens, Human Resources Manager Date

Approved as to form:

Daniel L. Gibson 05/20/14
Daniel L. Gibson, Chief Civil Deputy Prosecutor Date

Approved:

Accepted for Whatcom County:

By: ____________________________
    Jack Louws, Whatcom County Executive

STATE OF WASHINGTON
COUNTY OF WHATCOM
ss

On this __________ day of __________, 2014, 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:

KIBBLE & PRENTICE, a USI Company

Martin (Marty) Andrews, Senior Vice President, Employee Benefits
Stacey Thomas, Account Manager, Employee Benefits
Lara Jones, Benefit Analyst

Address: 601 Union Street – Suite 1000
Seattle, WA 98101-4064

Mailing Address: SAME

Contact Name: Marty Andrews
Contact Phone: (206) 676-5672
Contact FAX: (206) 577-5956
Contact Email: marty.andrews@kpcom.com

Contract for Services
Benefits Consultant – 2015-2017
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 three years, and for a total of no longer than six years from the inception of the contract.

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.

Contract for Services
Benefits Consultant - 2015-2017
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.

31.1 Ownership of Items Produced:
When the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

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 Professional Liability insurance with the following minimums: $10 million/Claim and $10 million Aggregate. Contractor shall continue to carry this coverage for at least three years beyond the term of this contract. If for any reason the coverage is discontinued during the term of this agreement or within three years after the end of the contract term, Contractor agrees to purchase tail coverage to insure coverage as required hereunder for at least three years beyond the conclusion of the contract term.

34.2 Industrial Insurance Waiver: Not Applicable

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, employees, or and subcontractor’s employees. The Contractor also agrees to defend, indemnify and hold harmless the County, its officers, agents or employees from all loss or expense, including, but not limited to, judgments, setoffs, attorneys’ fees and costs resulting from Contractor’s breach of this provision.

Contract for Services
Benefits Consultant – 2015-2017

Page 5

v 1.0
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: Not Applicable

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:

Karen S. Goens, Human Resources Manager
Administrative Services Department
311 Grand Avenue – Suite 107
Bellingham, WA 98225-4038
(360) 676-6802
kgoens@co.whatcom.wa.us

Contract for Services
Benefits Consultant – 2015-2017
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: Not Applicable

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.
Kibble & Prentice will perform consulting services including but not limited to the following analytics and strategy projects:

1. Regular monitoring and analysis of data from third party medical and prescription plan administrators.
2. Preparation of Quarterly Group Experience Reports and on-site visits to Whatcom County administrators to provide financial updates and to discuss marketplace and benefit trends.
3. Renewal Projections for coming plan year, including plan options and pricing based on an actuarially-sound basis (relative to one another) and using predictive modeling tools.
4. Development of "what if" recommendations for plan design changes if projected costs exceed contribution caps.
5. Consultation for third party administrator, network, pharmacy manager, and other benefits vendor selection.
6. Bidding and evaluation to obtain competitive rates and benefits for excess coverage and options.
7. Calculation of potential fee costs for Whatcom County with regard to the Patient Protection and Affordable Care Act.
8. Presentations and reports to the Medical Advisory Committee.
9. Implementation and delivery of employee communications and meetings about the Qualified High Deductible Health Plan and Health Savings Account and other medical plan choices.
10. Other incidental consultation, as needed.

Adjustments to projects contained within this Scope of Work may be made by mutual agreement between the Contractor and Contract Administrator.
EXHIBIT "B"
(COMPENSATION)

As consideration for services outlined in Exhibit "A" (Scope of Work), the County agrees to compensate the Contractor:

$48,500 in 2015
$51,000 in 2016
$53,500 in 2017

The County will make quarterly payments each year in four equal parts for services covered under the flat rate and will pay invoices by the end of the first month of each quarter.
EXHIBIT "C"
(INSURANCE)

ACORD CERTIFICATE OF LIABILITY INSURANCE

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(s) 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 to lieu of such endorsement(s).

Producers:
USI
1445 Rose Avenue
Suite 4200
Dallas, TX 75202

Insurers:
Onex USI Holdings Corp.
200 Summit Lake Drive
Suite 350
Valhalla, NY 10595

Certificate Number:
ELU13277213

Issued by:
XL Specialty Insurance Company

Certificate Holder:
Idaho State Insurance Fund
PO Box 83720
Boise, ID 83720

Coverage:
Professional Liability (E&O)

Expiration Date:
12/31/2013

Limit of Liability:
$10,000,000 aggregate

RE: Kibble & Prentice Holding Company (a 100% owned subsidiary of USI Insurance Services LLC), 601 Union Street, Suite 1000, Seattle, WA 98101-2925

Exclusions:

Professional Liability/Errors & Omissions Liability coverage is extended to all subsidiaries and dba's of Onex USI Holdings Corp./USI Insurance Services LLC. All USI employees are covered under this policy for the work performed as directed by USI.

Re: Kibble & Prentice Holding Company (a 100% owned subsidiary of USI Insurance Services LLC), 601 Union Street, Suite 1000, Seattle, WA 98101-2925

Certificate Holder:
Idaho State Insurance Fund
PO Box 83720
Boise, ID 83720

Should any of the above described policies be cancelled before the expiration date thereof, notices will be delivered in accordance with the policy provisions.

Authorized Representative:

© 1989-2010 ACORD CORPORATION. All rights reserved.

ACORD 25 (2010E)
1 of 1
The ACORD name and logo are registered marks of ACORD

LAOHO

Contract for Services
Benefits Consultant – 2015-2017

Page 11

v 1.0

46
EXHIBIT "D"
(BUSINESS ASSOCIATE AGREEMENT)

EMPLOYEE BENEFIT SERVICE AGREEMENT - BAA AMENDMENT

This Agreement is entered into this 1st day of September, 2013 ("Effective Date") by and among Kibble & Prentice Holding Company ("K&P") and Whatcom County ("Client").

WHEREAS, Client desires K&P to assist in the following services:

Benefit Consulting Services. Serve as the Client's advisor for purposes of evaluating employee benefit insurance options for medical coverage.

NOW THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, the Parties agree as follows:

SECTION 4. BUSINESS ASSOCIATE AGREEMENT - AMENDMENT

K&P has been retained by the Client's group health plan ("Covered Entity") as its benefits consultant and will perform certain services on behalf of the Covered Entity, in its capacity as a broker, consultant or other service provider with respect to activities of the Covered Entity as a "group health plan" as defined in 45 C.F.R. § 160.103. In connection with the provision of such services by K&P, the Covered Entity may disclose to K&P certain Protected Health Information (as defined below), concerning the Covered Entity and its activities.

K&P and the Covered Entity desire to enter into a business associate agreement for the purpose of addressing the Privacy Rule, the Security Rule, and the Electronic Transaction Rule, (as those terms are defined below), and for addressing the privacy and security provisions set forth in the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), contained in Title XIII, Subtitle D, of the American Recovery and Reinvestment Act of 2009, and for making appropriate updates in accordance with final regulations issued in January 2013. In consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, K&P and the Covered Entity agree as follows:

AMENDED SECTIONS ONLY:

4.1. DEFINITIONS

4.1.8 "Protected Health Information" shall mean any information, including genetic information, that: (a) relates to the past, present, or future physical or mental health or condition of an Individual; (b) the provision of health care to an Individual; (c) or the past, present, or future payment for the provision of health care to an Individual; and that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual.

4.2. SAFEGUARDING PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION

4.2.1(d) Minimum Necessary. K&P will, in its performance of the functions, activities, services and operations specified above, make reasonable efforts to use, to disclose, and to request only the minimum amount of Covered Entity's Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that K&P will not be obligated to comply with this minimum-necessary limitation if neither K&P nor Covered Entity is required to limit its use, disclosure or request to the minimum necessary. K&P and Covered Entity acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the HITECH Act and HHS guidance.

4.2.3 Subcontractors and Agents. K&P will require any of its subcontractors and agents to which K&P is permitted by this Agreement, or in writing by Covered Entity, to disclose Covered Entity's
Protected Health Information and/or Electronic Protected Health Information, to provide satisfactory assurances through a written agreement that meets the applicable requirements of 45 C.F.R. § 164.504(e) that such subcontractor or agent will comply with the same privacy and security safeguard obligations with respect to Covered Entity's Protected Health Information and/or Electronic Protected Health Information that are applicable to K&P under this Agreement.

4.2.4 Prohibition on Sale of Records. K&P shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual unless the Covered Entity or K&P obtains from the Individual, in accordance with 45 C.F.R. § 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that Individual, except as otherwise allowed under the HITECH Act.

4.4. INDIVIDUAL RIGHTS

4.4.1 Access. K&P will make available to Covered Entity or, at Covered Entity's direction, to an individual (or the individual's personal representative) for inspection and obtaining copies Covered Entity's Protected Health Information about the Individual that is in K&P's custody or control, so that Covered Entity may meet its access obligations under 45 C.F.R. § 164.524. If the Protected Health Information is held in an Electronic Health Record, then the Individual shall have a right to obtain from K&P a copy of such Information in an electronic form. K&P shall provide such a copy to Covered Entity or, alternatively, to the Individual directly, if such alternative choice is clearly, conspicuously, and specifically made by the Individual or Covered Entity.

4.4.3(d) Availability of Disclosure Information. K&P will maintain the Disclosure Information for at least 6 years following the date of the accountable disclosure to which the Disclosure Information relates (3 years for disclosures related to an Electronic Health Record, starting with the date specified by HHS). K&P will make the Disclosure Information available to Covered Entity within 60 calendar days following Covered Entity's request for such Disclosure Information to comply with an Individual's request for disclosure accounting. With respect to disclosures related to an Electronic Health Record, K&P shall provide the accounting directly to an Individual making such a disclosure request, if a direct response is requested by the Individual.

4.4.4 Restriction Agreements and Confidential Communications. K&P will comply with any agreement that Covered Entity makes that either (i) restricts use or disclosure of Covered Entity's Protected Health Information pursuant to 45 C.F.R. § 164.522(a), or (ii) requires confidential communication about Covered Entity's Protected Health Information pursuant to 45 C.F.R. § 164.522(b), provided that Covered Entity notifies K&P in writing of the restriction or confidential communication obligations that K&P must follow. Covered Entity will promptly notify K&P in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct K&P whether any of Covered Entity's Protected Health Information will remain subject to the terms of the restriction agreement. K&P will comply with any restriction request if: (i) except as otherwise Required by Law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (ii) the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out-of-pocket in full.

4.6. TERM AND TERMINATION

4.6.1 Term. This Agreement shall be effective on the later of September 1, 2013 and the date that K&P's services to the Covered Entity commence and shall terminate when all Protected Health...
Information provided by Covered Entity to K&P, or created or received by K&P on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such Information, in accordance with the termination provisions in this section.

4.6.2 Right to Terminate for Cause. Covered Entity may terminate Agreement if it determines, in its sole discretion, that K&P has breached any provision of this Agreement, and upon written notice to K&P of the Breach, K&P fails to cure the Breach within 30 calendar days after receipt of the notice. Any such termination will be effective immediately or at such other date specified in Covered Entity's notice of termination.

4.6.3 Return or Destruction of Covered Entity's Protected Health Information

Upon termination of this Agreement for any reason, K&P, with respect to Protected Health Information received from the Covered Entity, or created, maintained, or received by K&P on behalf of Covered Entity, shall:

4.6.3.1 retain only that Protected Health Information which is necessary for K&P to continue its proper management and administration or to carry out its legal responsibilities;
4.6.3.2 return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining Protected Health Information that K&P still maintains in any form;
4.6.3.3 continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic Protected Health Information to prevent use or disclosure of the Protected Health Information, other than as provided for in this section, for as long as K&P retains the Protected Health Information;
4.6.3.4 not use or disclose the Protected Health Information retained by K&P other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out at Section 2.1(b) which applied prior to termination; and
4.6.3.5 return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by K&P when it is no longer needed by K&P for its proper management and administration or to carry out its legal responsibilities.

Upon Covered Entity's direction, K&P will transmit the Protected Health Information to another business associate of the Covered Entity at termination, and/or could add terms regarding K&P's obligations to obtain or ensure the destruction of Protected Health Information created, received, or maintained by subcontractors.
**Whatcom County Council Agenda Bill**

**CLEARANCES**

<table>
<thead>
<tr>
<th>Originator:</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>James Lee, P.E.</td>
<td>JEL</td>
<td>5-20-14</td>
<td>06/03/2014</td>
<td>Finance/Council</td>
<td></td>
</tr>
</tbody>
</table>

**RECEIVED**

**MAY 27 2014**

**WHATCOM COUNTY COUNCIL**

**TITLE OF DOCUMENT:**

Construction Contract Award for Gooseberry Point Ferry Dolphin Replacement CRP No. 914004

**ATTACHMENTS:**

1. Memo
2. Resolution amending County Road Project (CRP) No. 914004 and awarding construction contract
3. Approval to Award Construction Contract
4. Project Summary and Vicinity Map
5. Project Cost Breakdown
6. Bid Tabulation
7. Low Bid Proposal

**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.)

Resolution amending CRP No. 914004 and authorizing additional funds for the award of the Gooseberry Point Ferry Dolphin Replacement contract to Orion Marine Contractors, Inc. as low bidder in the amount of $698,631.50.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

---

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).
Memorandum

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

Through: Frank M. Abart, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director
       James E. Lee, P.E., Engineering Manager

Date: May 20, 2014

Re: Gooseberry Point Ferry Dolphin Replacement
    CRP No. 914004
    Construction Contract Award

Attached for your review and signature is the standard construction contract award package for the Gooseberry Point Ferry Dolphin Replacement Project, CRP 914004. This package consists of the following: agenda bill, resolution to amend the CRP and award the contract, approval of contract award, project summary and vicinity map, project cost breakdown, tabulation of all bids and the low bid proposal.

Requested Action
Public Works respectfully requests that the County Council authorize the County Executive to enter into a contract for the Gooseberry Point Ferry Dolphin Replacement Project to the low bidder, Orion Marine Contractors, Inc. in the amount of $698,631.50 including all taxes. This recommendation is based on a review of the four (4) bids received.

Background and Purpose
This project consists of replacing the existing deteriorated wooden dolphins with modern, steel pile-supported dolphins to allow for safe berthing of the Whatcom Chief. The project is listed as Item No. 39 on the 2014 Annual Construction Program.

Funding Amount and Source
The project will be funded with Whatcom County road funds.

Please contact James Lee at extension 50617 if you have any questions or concerns regarding the terms of this agreement.

In accordance with W.C.C. 3.08.230, I concur with this recommendation:

Sara Winger, Purchasing Coordinator   05/20/2014
RESOLUTION NO. __________

AMENDING COUNTY ROAD PROJECT No. 914004 AND AUTHORIZING ADDITIONAL FUNDS FOR THE AWARD OF A CONTRACT FOR "GOOSEBERRY POINT FERRY DOLPHIN REPLACEMENT."

WHEREAS, this project is included in the officially adopted 2014 Annual Construction Program as Item No. 39;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that CRP No. 914004 is formally amended to include the construction of the Gooseberry Point Ferry Dolphin Replacement Project. The Contract for this project is awarded to Orion Marine Contractors, Inc. in the amount of their bid of $698,631.50.

An appropriation from the officially adopted Road Fund Budget and based on the County Engineer's estimate is hereby made in the amounts and for the purposes shown:

<table>
<thead>
<tr>
<th>PURPOSE</th>
<th>AMOUNT OF APPROPRIATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Engineering</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>Right-of-Way</td>
<td>$0.00</td>
</tr>
<tr>
<td>Subtotal</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>Construction Contract</td>
<td>$698,631.50</td>
</tr>
<tr>
<td>Construction Engineering/Testing/Contingency</td>
<td>$60,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$833,631.50</strong></td>
</tr>
</tbody>
</table>

BE IT FURTHER RESOLVED that the construction is to be accomplished by Contract in accordance with RCW 36.77.020 et. seq.

APPROVED this ____ day of _________, 20__.  

ATTEST:  

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON  

Dana Brown-Davis, Clerk of the Council  
Carl Weimer, Council Chair  

APPROVED AS TO FORM:  

Daniel L. Gibson  
Chief Civil Deputy Prosecutor
Gooseberry Point Ferry Dolphin Replacement

CRP No. 914004

APPROVAL FOR CONTRACT AWARD

Approval is hereby granted to award the Contract as follows:

Project: Gooseberry Point Ferry Dolphin Replacement; CRP No. 914004

To: Orion Marine Contractors, Inc.

In the amount of their bid proposal $698,631.50 including all taxes.

Jack Louws, Whatcom County Executive
Approving Authority

Daniel L. Gibson
Chief Civil Deputy Prosecutor

Date

05/20/14
Ferry Dock Improvements
CRP #914004

Construction Funding Year(s): 2014 - 2019

Project Narrative:
This project includes improvements to the ferry docks. This project is listed #39 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 |

| Funding Sources: |
| Federal | $ |
| State | $ |
| Local | $1,500,000 (STIP 2014-2019) |

Environmental Permitting: HPA, SEPA, CORPS 404, COUNTY SHORELINES

Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A
## Project Cost Breakdown

**Gooseberry Point Ferry**  
**Dolphin Replacement**  
**CRP No. 914004**

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Whatcom County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Engineering</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>Right of Way</td>
<td>$0.00</td>
</tr>
<tr>
<td>Contract</td>
<td>$698,631.50</td>
</tr>
<tr>
<td>Construction Engineering, Testing and</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>Contingency</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$833,631.50</strong></td>
</tr>
<tr>
<td>ITEM NO.</td>
<td>DESCRIPTION</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>MOBILIZATION</td>
</tr>
<tr>
<td>2</td>
<td>TYPE B PROGRESS SCHEDULE</td>
</tr>
<tr>
<td>3</td>
<td>MARINE SURVEYING</td>
</tr>
<tr>
<td>4</td>
<td>SPCC Plan</td>
</tr>
<tr>
<td>5</td>
<td>REMOVAL OF STRUCTURES AND OBSTRUCTIONS</td>
</tr>
<tr>
<td>6</td>
<td>FURNISHING STEEL TEST PILE</td>
</tr>
<tr>
<td>7</td>
<td>DRIVING TEST PILE</td>
</tr>
<tr>
<td>8</td>
<td>FURNISHING STEEL BACKING PILES (30&quot;x 3/8&quot;)</td>
</tr>
<tr>
<td>9</td>
<td>DRIVING STEEL BACKING PILES (30&quot;x 3/8&quot;)</td>
</tr>
<tr>
<td>10</td>
<td>FURNISHING STEEL FENDER PILES (12 3/4&quot;x3/4&quot;)</td>
</tr>
<tr>
<td>11</td>
<td>DRIVING STEEL FENDER PILES (12 3/4&quot;x3/4&quot;)</td>
</tr>
<tr>
<td>12</td>
<td>REACTION CAPS</td>
</tr>
<tr>
<td>13</td>
<td>FENDER CAPS</td>
</tr>
<tr>
<td>14</td>
<td>HDPE SLEEVE</td>
</tr>
<tr>
<td>15</td>
<td>UNANTICIPATED SITE WORK</td>
</tr>
</tbody>
</table>

Subtotal: $857,900.00
Subtotal: $643,900.00
Subtotal: $799,529.00
Subtotal: $840,033.03
Subtotal: $911,960.00

Total: $891,563.00
Total: $858,431.50
Total: $867,488.97
Total: $911,435.52

I hereby certify that the amounts tabulated herein are correct and accurately represent the amounts contained in the Engineer's estimate and the respective bid proposals opened at 2:30 P.M., May 13, 2014 for Gooseberry Point Ferry Dolphin Replacement, CRP No. 914004.

Joseph P. Rutan, P.E.
County Engineer

On this day personally appeared before me, Joseph P. Rutan, P.E., known to me to be the County Engineer and the person described herein and who executed the within and foregoing instrument.

Date

This 25th day of May, 2014

SANDRA L. MOCK
NOTARY PUBLIC
Residing At: Ellensburg
My commission expires: 6/29/2017

Bold Indicates Corrected Amounts
DATE: May 6, 2014

TO: Whatcom County Executive and Council
Whatcom County Courthouse
311 Grand Avenue
Bellingham, Washington 98225

Gentlepersons:

This certifies that the Undersigned: has examined the location of the project site and the conditions of work; and has carefully read and thoroughly understands the contract documents entitled: "Gooseberry Point Ferry Dolphin Replacement Project, CRP No. 914004" Whatcom County, Washington, including the "Bid Procedures and Conditions," "Specifications and Conditions," "Contract Forms," "Construction Plans," and "Appendix," governing the work embraced in this project, and the method by which payment will be made for said work. The Undersigned hereby proposes to undertake and complete the work embraced in this project in accordance with said contract documents, and agrees to accept as payment for said work, the schedule of lump sum and unit prices as set forth in the "Bid" below.

The Undersigned acknowledges that payment will be based on the actual work performed and material used as measured or provided for in accordance with the said contract documents, and that no additional compensation will be allowed for any taxes not included in each lump sum or unit price, and that the basis for payment will be the actual work performed and measured or provided for in accordance with the said contract documents.

The Undersigned certifies that it is not currently disqualified from bidding on any public works contract under RCW 39.06.010 or RCW 39.12.065(3).
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>UNIT MEASURE</th>
<th>ITEM DESCRIPTION</th>
<th>APPROX. QUANTITY</th>
<th>UNIT PRICE IN FIGURES</th>
<th>EXTENDED PRICE IN FIGURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LUMP SUM</td>
<td>MOBILIZATION</td>
<td>L.S.</td>
<td>$60,000.00 L.S.</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>2</td>
<td>LUMP SUM</td>
<td>TYPE B PROGRESS SCHEDULE</td>
<td>L.S.</td>
<td>$3,000.00 L.S.</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>3</td>
<td>LUMP SUM</td>
<td>MARINE SURVEYING</td>
<td>L.S.</td>
<td>$5,000.00 L.S.</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>4</td>
<td>LUMP SUM</td>
<td>SPCC Plan</td>
<td>L.S.</td>
<td>$1,000.00 L.S.</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>5</td>
<td>LUMP SUM</td>
<td>REMOVAL OF STRUCTURES AND OBSTRUCTIONS</td>
<td>L.S.</td>
<td>$70,000.00 L.S.</td>
<td>$70,000.00</td>
</tr>
<tr>
<td>6</td>
<td>EACH</td>
<td>FURNISHING STEEL TEST PILE</td>
<td>1</td>
<td>$4,000.00 per EA</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>7</td>
<td>EACH</td>
<td>DRIVING STEEL TEST PILE</td>
<td>5</td>
<td>$1,500.00 per EA</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>8</td>
<td>LINEAR FOOT</td>
<td>FURNISHING STEEL BACKING PILES (30&quot;DIA x ¾&quot;&quot;)</td>
<td>800</td>
<td>$175.00 per L.F.</td>
<td>$140,000.00</td>
</tr>
<tr>
<td>9</td>
<td>EACH</td>
<td>DRIVING STEEL BACKING PILES (30&quot;DIA x ¾&quot;&quot;)</td>
<td>8</td>
<td>$1,500.00 per EA</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>10</td>
<td>LINEAR FOOT</td>
<td>FURNISHING STEEL FENDER PILES (12 3/4&quot;DIA x 1/2&quot;&quot;)</td>
<td>2,240</td>
<td>$60.00 per L.F.</td>
<td>$134,400.00</td>
</tr>
<tr>
<td>11</td>
<td>EACH</td>
<td>DRIVING STEEL FENDER PILES (12 3/4&quot;DIA x 1/2&quot;&quot;)</td>
<td>28</td>
<td>$1,500.00 per EA</td>
<td>$42,000.00</td>
</tr>
<tr>
<td>12</td>
<td>LUMP SUM</td>
<td>REACTION CAPS</td>
<td>L.S.</td>
<td>$50,000.00 L.S.</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>13</td>
<td>LUMP SUM</td>
<td>FENDER CAPS</td>
<td>L.S.</td>
<td>$50,000.00 L.S.</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>14</td>
<td>EACH</td>
<td>HDPE SLEEVE</td>
<td>28</td>
<td>$25,000.00 per EA</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>15</td>
<td>DOLLARS</td>
<td>UNANTICIPATED SITE WORK</td>
<td>EST</td>
<td>$1</td>
<td>$40,000.00</td>
</tr>
</tbody>
</table>

Subtotal $643,900.00
WSST (8.5%) $54,731.50

TOTAL BID AMOUNT (Bid Items 1-15) $698,631.50
NON-COLLUSION DECLARATION

GOOSEBERRY POINT FERRY
DOLPHIN REPLACEMENT

CRP NO. 914004

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

2. That by signing the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. Eastern Time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse, and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.
BIDDER IDENTIFICATION

The name of the Bidder submitting this proposal, the address and phone number to which all communications concerned with this proposal shall be made, and the number which has been assigned indicating the Bidder is licensed to do business in the State of Washington are as follows:

Firm Name: Orion Marine Contractors, Inc.
Address: 1112 East Alexander Avenue
          Tacoma, WA  98421
Telephone: 253-552-1140
Contractor's WA Registration Number: ORIONMC899N9
Contractor's WA UBI Number: 602-971-534
Contractor's WA Employment Security Department Number: 607-972-000
Contractor's WA Excise Tax Registration Number: 602-971-534

The Firm submitting this proposal is a:

- [ ] Sole Proprietorship
- [X] Corporation, Incorporated in the state of Delaware

The names and titles of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

<table>
<thead>
<tr>
<th>Name (printed)</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Thomas Coultas</td>
<td>Assistant Secretary</td>
</tr>
<tr>
<td>Name (printed)</td>
<td>Title</td>
</tr>
<tr>
<td>Name (printed)</td>
<td>Title</td>
</tr>
<tr>
<td>Name (printed)</td>
<td>Title</td>
</tr>
</tbody>
</table>

NOTE: Signatures of this proposal must be identified above. Failure to identify the Signatories will be cause for considering the proposal irregular and for subsequent rejection of the bid.
BID PROPOSAL SIGNATURE AND ADDENDUM
ACKNOWLEDGMENT

The bidder is hereby advised that by signature of this proposal he/she is deemed to have acknowledged all requirements and signed all certificates contained herein. The undersigned hereby agrees to pay labor not less than the prevailing rates of wages or less than the hourly minimum rate of wages as specified in the Specifications and Conditions for this project.

☐ CASH
☐ CERTIFIED CHECK
☐ CASHIER’S CHECK
☐ PROPOSAL BOND

IN THE AMOUNT OF __________________________ DOLLARS

($__________) PAYABLE TO WHATCOM COUNTY

IN THE AMOUNT OF 5% OF THE BID.

Receipt is hereby acknowledged by addendum(s) No.(s) 1, ___, & ___

SIGNATURE OF AUTHORIZED OFFICIAL(S)

(PROPOSAL MUST BE SIGNED)

Thomas Coultas (Seal)

FIRM NAME: Orion Marine Contractors, Inc.

STATE OF WASHINGTON  )
PIERCE ) ss.
COUNTY OF WHATCOM  )

On this 13th day of May 2014, before me personally appeared

Thomas Coultas, to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.

Kathleen P Moran
Notary Public
State of Washington
Commission Expires 7-12-2015

NOTARY PUBLIC, in and for the State of Washington, residing at: Spanaway, WA
My Commission Expires: July 12, 2015

This proposal form is not transferable and any alteration of the firm’s name entered hereon without prior permission from the County will be cause for considering the proposal irregular and for subsequent rejection of the bid.

Gooseberry Point Ferry
Dolphin Replacement
CRP 914004
CERTIFICATE OF SECRETARY
OF
ORION MARINE CONTRACTORS, INC.

MAY 6, 2014

I, Cass E. Bruneau, the duly qualified and acting Assistant Secretary of Orion Marine Contractors, Inc., a Delaware corporation (the "Company"), hereby certify that below is a true, correct and complete copy of resolutions duly approved and adopted by written consent of the Sole Member of the Board of Directors of the Company, which resolutions have not been revoked, modified, amended or rescinded and are still in full force and effect on and as of the date hereof:

Authorization to Sign Proposals and Contracts:

    BE IT RESOLVED, by the sole member of the Board of Directors of Orion Marine Contractors, Inc., (the "Company") that Thomas E. Coultas, Area Manager & Assistant Secretary of the Company, be, and hereby is authorized, empowered and directed for and on behalf of the Company to negotiate for and sign any and all bid proposals and/or contracts, and any and all related agreements or documents related thereto which this Company might enter for the furnishing of services of the Company under such terms, conditions and stipulations, and for consideration as he might deem to be in the best interest of the Company.

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate in the name and on behalf of the Company on and as of the date first written above.

Cass E. Bruneau, Assistant Secretary

I, Kathleen P. Moran, notary public in the State of Washington, do hereby certify that Cass E. Bruneau is the duly elected Assistant Secretary of the Company authorized to execute and deliver this certificate, and the signature set forth above is his genuine signature.

Kathleen P. Moran, Notary Public
State of Washington
Commission Expires 7-12-2015
KNOW ALL MEN BY THESE PRESENTS, that we, Orion Marine Contractors, Inc. of 1112 E. Alexander Avenue, Tacoma, WA 98421, as principal, and the Liberty Mutual Insurance Company, a corporation duly organized under the laws of the State of Massachusetts and having its principal place of business at 175 Berkeley Street, Boston, MA 02116 in the State of Washington, as Surety, are held and firmly bound unto Whatcom County in the full and penal sum of five percent (5%) of the total bid amount appearing on the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, jointly and severally, firmly by these presents.

The condition of this bond is such that, whereas, the principal herein is herewith submitting his or its bid proposal for Gooseberry Point Ferry Dolphin Replacement, CRP No. 914004 bid proposal, by reference thereto, being hereby made a part hereof.

NOW, THEREFORE, if the said bid proposal submitted by the said PRINCIPAL be accepted, and the contract be awarded to said PRINCIPAL, and if said PRINCIPAL shall duly make and enter into and execute said contract and shall furnish the performance bond as required by the bidding and contract documents within a period of ten (10) days from and after said award, exclusive of the day of such award, then its obligation to pay the above-mentioned penal sum as liquidated damages shall be null and void, otherwise it shall remain and be in full force and effect.

SIGNED AND SEALED this 6th day of May, 2014.

Orion Marine Contractors, Inc.
Principal Thomas Coultas, Asst Secretary
By (Seal)

Liberty Mutual Insurance Company
Surety
By Attorney-In-Fact
Maria D. Zuniga

The Attorney-in-fact who executes this bond on behalf of the surety company, must attach a copy of his power-of attorney as evidence of his authority.
THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Certificate No. 81300.05

American Fire and Casualty Company
The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Joseph R. Aultman, Marc W. Boots, Maria D. Zuriga, P. T. Osburn, Richard Covington, Vickie Lacy and appoint, Joseph R. Aultman, Marc W. Boots, Maria D. Zuriga, P. T. Osburn, Richard Covington, Vickie Lacy, the same force and effect as though manually affixed.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of Companies, is in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a true and correct copy of the power of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When executed, such instruments shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 2nd day of April, 2014.

The undersigned, Assistant Secretary, of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, West American Insurance Company, hereby do 

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which are now in full force and effect as follows:

ARTICLE IV - OFFICERS - Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitations as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman or by the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts - SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the Chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Gregory W. Davenport, the undersigned, Assistant Secretary, of American Fire and Casualty Company, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 6th day of May, 2014.

By:
Gregory W. Davenport, Assistant Secretary
Resolution supporting cooperation in Regional Consortium required for HOME Investment Partnerships Program federal funding for affordable housing.

ATTACHMENTS:
Memo to Executive & Council
Resolution, Home Investment Partnerships Program fact sheet, additional info on HUD program consortia
Skagit County letter of support

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( ) 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.)

Resolution authorizing County Executive to sign Interlocal Cooperative Agreement with other jurisdictions in Skagit County, Whatcom County and Island County agreeing to participate as a member of a regional consortium that will qualify the region for additional funding to address homelessness and the shortage of homes affordable to lower-wage workers and others.

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, Director
DATE: May 22, 2014
RE: Regional Consortium to qualify for annual affordable housing grant

Whatcom County’s Plan to End Homelessness has shown how multi-agency cooperation leads to better outcomes for people facing homelessness. We now have an opportunity to cooperate to establish a three-county consortium that will bring more nonlocal matching grant revenue to Whatcom County for addressing homelessness and the shortage of affordable housing.

The U.S. Department of Housing and Urban Development (HUD) HOME program provides formula grants to participating jurisdictions to expand the supply of affordable housing, particularly rental housing for low and very low income households. Working alone, Whatcom County is too small to qualify for annual federal grants from the HUD HOME Investment Partnerships Program. But working together with our neighbors in Skagit and Island Counties, we can qualify our region for annual federal matching grants from the HOME Program. Bellingham is large enough to qualify independently for this program. More info about the HOME Program is attached in a one-page summary and, for those who want more detail, in a 14-page explanation of HOME Consortium requirements.

The Skagit County Board of Commissioners requests that our County Council adopt the attached Resolution, authorizing you to sign an Interlocal Cooperation Agreement agreeing to cooperate as a member of the new regional HOME Consortium. Skagit County has offered to serve as Lead Agency and as the HUD grantee. If successful, each county would use the additional revenue in its existing county systems for ending homelessness and addressing the shortage of homes that lower-wage workers, fixed-income seniors, disabled veterans and others can afford to lease or own. As a member of the HOME Consortium, Whatcom County obligations would be limited; essentially, to provide input and stay supportive, and to consider accepting a pass-through grant, estimated to be $150,000 per year, that Whatcom County can use to support our existing programs for tenant-based rental assistance that prevents and ends homelessness for hundreds of families each year.
Paul Schissler is assisting Whatcom County with the paperwork and process to establish the regional Consortium. Paul is available to help answer questions and can be reached at (360) 201-8900 and PaulS@Schissler.com.

Enclosures:
- 1 Page HOME Program fact sheet
- 14 Page HOME Program info pack
- Skagit County Memo requesting participation
- Draft Resolution authorizing participation in Consortium
- Draft Interlocal Cooperative Agreement with Skagit, Island, and other municipalities
RESOLUTION NO. ________________

Authorizing Interlocal Cooperation Agreement with other municipalities in Skagit County, Whatcom County and Island County, agreeing to participate as a Member of a regional Consortium that will qualify the area for additional funding to address homelessness and the shortage of homes affordable to lower-wage workers and others

WHEREAS, the region has a shortage of homes that lower-wage workers and other low-income people can afford; and

WHEREAS, cooperation among local governments supports existing local efforts aimed at reducing homelessness and increasing the supply of homes lower-wage workers and others can afford to lease or own; and

WHEREAS, the federal government offers funding and technical assistance aimed at increasing the supply of decent, safe and affordable housing available to low-income and very low-income families, including offers from the HOME Investment Partnerships Program (HOME Program) created in the National Affordable Housing Act of 1990: and

WHEREAS, the HOME Program allows geographically contiguous areas to establish a HOME Consortium in order to obtain grant funds under the HOME Program guidelines for eligibility; and

WHEREAS, eligible Members of a potential three-county HOME Consortium have determined that cooperating to establish a Consortium will increase the level of matching funds available for use within the region and, thereby, assist in meeting the housing affordability needs of the region; and

WHEREAS, the Interlocal Cooperation Act in Chapter 39.34 of the Revised Code of Washington authorizes units of general local government to enter into interlocal agreements to cooperate for public benefit purposes;

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council authorizes Jack Louws, County Executive, as the authorized Chief Administrative Official and authorized representative to sign an Interlocal Cooperation Agreement that allows Whatcom County to participate as a Member of a Consortium for an initial period ending in July 2018.

APPROVED THIS ______ day of June, 2014.

ATTEST:

Dana Brown-Davis, Clerk of the Council
Carl Weimer, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
Home Investment Partnerships Program

HOME Program
Number: 14.239
Agency: Department of Housing and Urban Development
Office: Office of Community Planning and Development

PROGRAM INFORMATION

Authorization (040):
National Affordable Housing Act 1990, Title II.

Objectives (050):
To expand the supply of affordable housing, particularly rental housing, for low and very low income Americans; to strengthen the abilities of State and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing; and to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of affordable housing.

Types of Assistance (060):
FORMULA GRANTS

Uses and Use Restrictions (070):
For use by participating jurisdictions or Insular Areas for housing rehabilitation, tenant-based rental assistance, assistance to homebuyers, acquisition of housing and new construction of housing. Funding may also be used for other necessary and reasonable activities related to the development of non-luxury housing, such as site acquisition, site improvements, demolition and relocation. Ten percent of a participating jurisdiction's allocation may be used for administrative costs. Funds may not be used for public housing modernization, matching funds for other Federal programs, reserve accounts or operating subsidies for rental housing, Annual Contributions Contracts, or activities under the Low Income Housing Preservation Act except for priority purchasers.

Eligibility Requirements (080)

Applicant Eligibility (081):
States, cities, urban counties, and consortia (of contiguous units of general local governments with a binding agreement) are eligible to receive formula allocations; funds are also set aside for grants to Insular Areas.

Beneficiary Eligibility (082):
For rental housing, at least 90 percent of HOME funds must benefit low and very low income families at 60 percent of the area median income; the remaining ten percent must benefit families below 80 percent of the area median. Assistance to homeowners and homebuyers must be to families below 80 percent of the area median.
Special Attention of:

All CPD Field Office Directors
All CPD Field Office Directors
All CPD Division Directors
All HOME Participating Jurisdictions

Notice: CPD-13-002
Issued: April 9, 2013
Expires: This NOTICE is effective until it is amended, superseded, or rescinded
Supersedes CPD 08-01
Cross Reference: 24 CFR Parts 91 & 92

Subject: Notice of Procedures for Designation of Consortia as a Participating Jurisdiction for the HOME program

Table of Contents
I. Purpose
   A. Background
II. Eligibility Requirements for Forming a Consortium
   A. Consortium Members
   B. Administrative Capacity
   C. Advantages and Drawbacks to Forming a Consortium
III. The Process for Designation of a Consortium as a HOME PJ
   A. State Certification
   B. Consortium Agreement
   C. HUD Review of Qualification Documents
      (1) Process Chart for New Consortia
      (2) Process Chart for Existing Consortia with Automatic Renewal Provisions
      (3) Process Chart for Existing Consortia with No Automatic Renewal Provisions
   D. System to track the HOME Consortia Participation Decisions
   E. Digital Storage of Consortia Agreements
IV. Making Changes to a Consortium
   A. Amending the Consortium Agreement
   B. Member Withdrawal
   C. Changing the Lead Entity
   D. Disbanding a Consortium
V. Developing and Submitting the Consolidated Plan for New Consortia
VI. Schedule of Submissions for Approving New Consortia and Renewing Existing Consortia
VII. General Information
   A. Headquarters Contact
   B. Other Resources
   C. Paperwork Reduction Act
VIII. Attachments
   (1) Checklist for Automatic Renewal of Consortium Agreements
   (2) Sample Automatic Renewal Provision
   (3) HOME Consortia Calendar
I. Purpose

This Notice provides guidance on the procedures for approving two or more contiguous local governments to participate as a consortium in the HOME Investment Partnerships (HOME) Program. The Notice supersedes HUD Notice CPD 08-01; it is applicable to Units of General Local Government (UGLGs) that wish to form or have formed a consortium to participate in the HOME program and existing consortia.

A. Background

The HOME program is authorized by the HOME Investment Partnerships Act (referred to as “the Act”), Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701), as amended.

A HOME consortium consists of contiguous UGLGs that separately may not qualify to receive HOME funds. These UGLGs may join together to form a consortium for the purpose of receiving a HOME allocation and administering the HOME program as a single Participating Jurisdiction (PJ). The Act provides that a consortium is eligible to be a HOME PJ if the Secretary determines that the consortium (1) has sufficient authority and administrative capacity to carry out the purposes of the Act on behalf of its member UGLGs and (2) will, according to a written certification by the state, direct its activities to the alleviation of housing problems within the state.

HUD Field Offices approve new consortia and the renewal and amendment of consortium agreements during the current fiscal year by August 1; this ensures that the consortia will be eligible to receive HOME funds in the next federal fiscal year.

A list of consortia that are participating in the HOME program for the current fiscal year is available on the web at: http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/index.cfm.

II. Eligibility Requirements for Forming a Consortium

A. Consortium Members

The UGLGs of a proposed consortium must be geographically contiguous according to the Census Bureau or other authoritative maps. A river or other body of water may separate the UGLGs if there is a road or a bridge that makes them contiguous. HUD makes the final determination on the contiguity of members of a proposed consortium.

Special considerations for urban counties, non-urban counties, and metropolitan cities:

(1) An urban county is defined by Section 102(a)(6) of the Housing and Community Development Act of 1974, as amended. As a practical matter, an urban county is a county that is receiving a Community Development Block Grant (CDBG) entitlement grant and includes UGLGs that sign cooperation agreements with the county. When UGLGs agree to be part of an urban county for the CDBG program, they also agree to participate in the HOME program if the urban county is a PJ or joins a consortium. Accordingly, when an urban county joins a HOME consortium, a UGLG that is a member of the urban county is included in the consortium through
its participation in the urban county. The authorized official of the urban county signs the consortium agreement on behalf of the entire urban county. While an UGLG participating in the urban county may only receive a formula allocation under the HOME program as part of the urban county, this does not preclude the urban county or a UGLG participating with the urban county from applying for HOME funds through the state PJ.

In many urban counties, there are UGLGs that have chosen not to participate in the CDBG urban county. These UGLGs can choose to join the HOME consortium, but they must sign the HOME consortium agreement to do so. By signing the consortium agreement, the UGLG within the urban county, not participating in the CDBG urban county, becomes a member of the HOME consortium.

(2) A non-urban county. This is a county that is not receiving a CDBG entitlement grant as an urban county.

A non-urban county may join a HOME consortium. However, the county cannot on its own include the whole county in the consortium, only the unincorporated area of the county. An incorporated unit of local government within the non-urban county that wishes to participate as a member of the consortium must sign the HOME consortium agreement. By signing the consortium agreement, the unit of general local government within the non-urban county becomes a member of the consortium.

(3) A metropolitan city is defined by the CDBG statute. As a practical matter, a metropolitan city is a city that is receiving a CDBG entitlement grant.

A metropolitan city may be a HOME consortium member. However, if a metropolitan city has a Joint Grant Agreement with an urban county for the CDBG program and wishes to receive HOME funding with the urban county, it must form a HOME consortium with the urban county. The HOME consortium and CDBG entitlement under a joint grant agreement must have the same program year in order to receive funding. Therefore, a metropolitan city that has a Joint Grant Agreement with an urban county does not participate in the HOME consortium through the urban county.

Note: The CDBG program regulations allow a metropolitan city located, in whole or in part, within an urban county to be included as part of that county for the purposes of planning and implementing a joint community development and housing program (24 CFR 570.308). This request is approved by HUD through the submission of a "Joint Grant Agreement."

B. Administrative Capacity

In order to be eligible to become a HOME PJ, a consortium’s representative member or “lead entity” must have the sufficient legal authority and administrative capacity to carry out the purposes of the HOME program on behalf of its members.

If the consortium designates an urban county or a metropolitan city as the lead entity, the consortium will be considered to have sufficient administrative capacity to carry out the purposes of the HOME program, unless the urban county or metropolitan city has significant performance problems with its CDBG or HOME program. Significant performance problems include, but are not limited to one or more deobligations for failure to meet HOME deadline requirements, open CPD monitoring findings,
open HUD OIG audit findings, or evidence of poor performance or reporting based on HOME reports.

If the consortium designates as a lead entity an existing public agency that has relevant experience (e.g., successful experience in administering CDBG or the HOME program as a state recipient), the consortium may also be considered to have sufficient administrative capacity to carry out the HOME program. However, an UGLG that does not receive a CDBG grant or a newly created public agency that is established to administer the HOME program for a consortium would not be considered to have sufficient administrative capacity unless it includes as its administrator(s) a person or persons with relevant experience in successfully administering the HOME and/or CDBG programs.

If the Field Office is satisfied that the consortium meets the eligibility requirements for participation in the HOME program and that it has the necessary legal authority and administrative capacity to carry out the HOME program, it will approve the consortium request and notify the Office of Affordable Housing Programs (OAHP) at HUD Headquarters as provided in Section VI. HUD, at its discretion, may review the performance of an existing consortium that wishes to re-qualify to determine whether it continues to have sufficient authority and administrative capacity to successfully administer the program. If HUD determines that the consortium does not have sufficient authority and administrative capacity to successfully administer the program, it may revoke the consortium’s designation as a PJ.

C. Advantages and Drawbacks to Forming a Consortium

The formation of a consortium can be a positive force for affordable housing production. It permits an area, which otherwise might not be assured HOME funding, to plan and carry out an affordable housing program. Formation of a consortium also enables neighboring units of local government to develop collaborative approaches that address regional housing needs in a coordinated way. Assessing housing needs and developing strategies regionally can assist jurisdictions in meeting their obligation to affirmatively further fair housing by expanding housing choice across jurisdictional boundaries for all low-income households in the housing market area.

HOME funds are distributed (after set-asides) by formula with 40 percent of the funds going to states and 60 percent of the funds going to UGLGs. The amount that each state receives is based on two calculations: 80 percent of a state’s funds are based on the demographic profile of the non-entitled areas of the state, while 20 percent of its funds are based on the demographic profile of the whole state. Except for states that receive the minimum allocation of $3,000,000, the amount available to a state is reduced when a consortium is formed because the demography of the consortium is included only in the calculation for 20 percent of the funds, and not in the calculation for 80 percent of the funds. When a Field Office discusses the merits of forming a consortium, the prospective members need to understand that the formation of a consortium could result in a loss of HOME funds to the state as a whole.

The amount of funds available for UGLGs is divided among a greater number of jurisdictions each year, primarily due to the addition of new consortia. Therefore, the amount allocated to a new consortium will depend, in part, on how many jurisdictions receive a share of the total funds available. It will also depend on the amount of HOME funds that Congress appropriates each Fiscal Year and the demographic profile of each jurisdiction.

In the event that a consortium fails to receive a HOME allocation in any one year and none of the members qualify as PJs based on separate formula allocations, HUD will reallocate the funds to the state consistent with 24 CFR 92.451(c)(2)(i).
Since a consortium administers the HOME program as a single PJ, it is important that the member UGLGs are able to establish a working relationship to meet the affordable housing needs of every member. Each consortium must designate a representative member, also referred to as the lead entity, to assume the overall responsibility for the consortium's compliance with the HOME program requirements. The consortium members should trust the lead entity's ability to assume this responsibility, and all members must be committed to cooperatively achieve the objectives of the Consolidated Plan. Since HUD enters into the HOME grant agreement with the lead entity, the lead entity is responsible for the consortium as a whole and must be able to provide adequate administrative oversight of its member UGLGs, including ongoing responsibilities during the period of affordability for completed HOME projects regardless of location within the consortium boundaries.


III. THE PROCESS FOR DESIGNATION OF A CONSORTIUM AS A HOME PJ

To be considered for approval as a new HOME consortium, or for a consortium with no automatic renewal clause in its written agreement seeking to renew its qualification period, or for a consortium that is required to amend its consortium agreement to add members or modify provisions, the following qualification documents must be provided to the appropriate Field Office prior to June 30:

A. State Certification  *(Required for all new consortia, renewing consortia with no automatic renewal provision, and renewing consortia with a change in membership).*

This is a written certification by the state declaring that the consortium will direct its activities to the alleviation of housing problems within the state. The state certification may be signed by the Governor or his/her authorized designee who signs as "Authorized Official."

B. Consortium Agreement *(Required for all new consortia and renewing consortia with no automatic renewal provision).*

This is a legally binding consortium cooperation agreement executed by all members of the consortium, which contains the following provisions and attachments:

1. **Program Activity:** The members of the consortium agree to cooperate to undertake or to assist in undertaking housing assistance activities for the HOME program.

2. **Representative Appointment:** One consortium member is authorized to act in a representative capacity as the lead entity for all members of the consortium for the purposes of administering the HOME program.

3. **Representative Responsibilities:** The lead entity assumes overall responsibility for ensuring that the consortium's HOME program is carried out in compliance with the requirements of the HOME program, including requirements concerning the Consolidated Plan.
NOTE: The agreement must not contain a provision for veto, or any other clause, that would allow a consortium member to obstruct the implementation of the consortium's approved Consolidated Plan.

(4) Fair Housing: In a statement in the agreement, each consortium member agrees to affirmatively further fair housing.

(5) Term: The consortium’s qualification period is specified (the consecutive three year qualification period during which the consortium is to qualify to receive HOME funds), and members are prohibited from withdrawing from the consortium during this period.

The agreement must specify the three federal fiscal years for which the consortium is receiving HOME funding. For example, if the agreement was executed in 2011 for FY 2012 funding, the correct qualification period is from FY 2012 to FY 2014.

NOTE: The qualification period for all consortia is based on the federal fiscal year. Individual consortia may establish program year start dates that do not coincide with the federal fiscal year. However, the agreement must state the three federal fiscal years for which it is applicable. HUD will reject any consortium agreement that does not state specifically and accurately the three federal fiscal years of the consortium’s qualification period.

If one or more urban counties are members of a new consortium, the agreement may specify a lesser number of fiscal years in order to coincide with the number of years remaining in an urban county's qualification period for the CDBG program so that the CDBG urban county qualification period and the HOME consortium qualification period terminate at the same time. If an urban county consortium member fails to re-qualify as an urban county for the CDBG program during the qualification period included in the consortium agreement, the consortium agreement terminates with the last fiscal year for which the urban county qualified for the CDBG program. A new consortium agreement must be executed for the succeeding qualification period.

Even though a consortium’s qualification period may end, the consortium agreement must, at a minimum, remain in effect until the HOME funds received during each of the federal fiscal years of the qualification period are expended on eligible activities or returned to HUD. The new agreement is governed by the requirements of this Notice or its successor.

If the consortium fails to meet the minimum threshold to receive a HOME allocation for the first federal fiscal year of its qualification period, it must request to be considered to receive a HOME allocation in each of the subsequent two years.

(6) Automatic Renewal: At the option of the consortium, the agreement may provide that it will automatically be renewed for participation in successive three-year qualification periods. HUD recommends that a newly created consortium consider not including automatic renewal provisions in its initial three-year consortium agreement as a precautionary measure, in case the consortium decides not to continue participation as a consortium for the next qualification period.

Automatic renewal provisions must be clearly stated. Attachment 2 contains an example of acceptable automatic renewal provisions. Agreements containing both automatic renewal and
not automatic renewal (i.e., an agreement with a specific end date) will be rejected.

Where automatic renewal provisions are used, the agreement must state that, the lead entity and all members agree that the consortium agreement will be renewed automatically for participation in successive three-year qualification periods.

By the date specified in HUD’s consortia designation notices or listed on HOME’s Consortia webpage: http://www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/, the lead entity must notify each consortium member in writing of its right to not participate for the successive three-year qualification period. A copy of the notification must be sent to the Field Office. Automatic renewal provisions must also include a stipulation requiring the consortium to adopt any amendments to the agreement that incorporate future changes necessary to meet the requirements for consortia agreements in subsequent qualification periods. Failure of the lead entity to notify consortium members of their right not to participate in a subsequent three-year qualification period or to submit amendments to HUD in the absence of a stipulation requiring the consortium to adopt any amendments to the agreement that incorporate future changes necessary to meet the requirements for consortia agreements in subsequent qualification periods will void the automatic renewal provision in the agreement.

If a new member is added for the first year of a new qualification period, an amendment to add the new member(s) must be submitted by consortia with automatic renewal agreements. If the agreement provides that the lead entity has the authority to amend the HOME consortium agreement on behalf of the consortium’s members, then only the lead entity’s authorized official is required to sign the amendment.

For consortia agreements with automatic renewal provisions, at re-qualification if there is no change to the consortium agreement, the Field Office must notify OAHP indicating that there has been no change. However, if the consortium submits a new agreement, regardless of the automatic renewal provisions contained in a previously approved agreement, the Field Office must submit the new agreement to OAHP since this new agreement supersedes any previous agreement. In addition, if there is any change in consortium membership for the first year of re-qualification, the lead entity must submit the state certification to the HUD Field Office. If a member decides not to participate in the new qualification period, the consortium must notify the field office, which then must notify OAHP that the member is no longer a part of the consortium.

If the consortium does not establish automatic renewal in the consortium agreement, then the consortium must negotiate a new consortium agreement and have it signed by all members during the last year of its current qualification period. Failure to submit a new HOME consortium agreement by the established deadline will result in the consortium’s disqualification to receive a HOME formula allocation during the upcoming fiscal year.

(7) **Program Year:** As required by the Consolidated Plan final rule at 24 CFR § 91.402(a), all UGLG members of a HOME consortium must be on the same program year for the CDBG, HOME, ESG and HOPWA programs. The consortium agreement must state the beginning and end dates of the consortium’s program year. A waiver of this requirement is necessary for a newly formed consortium whose members are not all on the same program year that would like a transition period to get its members on the same program year schedule.
(8) **Authority to Amend Agreement**: The agreement must specify that the lead entity is authorized to amend the agreement to add new members or to incorporate automatic renewal provisions or for other reasons approved by HUD on behalf of the entire consortium, unless otherwise specified in its agreement. If this provision is not included and the consortium wishes to amend the consortium agreement to add new members or incorporate automatic renewal provisions or make other amendments approved by HUD, all consortium members must sign the amendment to the agreement.

(9) **Signatures**: The agreement must be signed by the chief executive officer or authorized official of each member UGLG. The authorized urban county official signs the agreement on behalf of its participating UGLGs. All members of the HOME consortium must sign the agreement, including any UGLGs within a non-urban county that wish to participate as members of the consortium. UGLGs participating in a consortium as members of an urban county do not sign the consortium agreement. A metropolitan city with a joint grant agreement with an urban county must sign the consortium agreement as a separate member of the consortium.

(10) **Attachment - Resolutions**: The authorizing resolutions by the governing body of each member UGLG, or other acceptable evidence, must be submitted indicating that the Chief Executive Officer or other designated official has the authority to sign the agreement.

In addition to the state certification and consortium agreement, the consortium must submit a legal opinion in which the lead entity's counsel cites applicable law to conclude that the terms and provisions of the agreement are fully authorized under state and local law. The legal opinion shall also state that the agreement provides full legal authority for the consortium to undertake or assist in undertaking housing assistance activities for the HOME program.

**C. HUD Review of Qualification Documents**

The HUD Field Office reviews documents submitted by a consortium to determine whether it is comprised of geographically contiguous UGLGs, whether it has sufficient administrative capacity to carry out the purposes of the HOME program on behalf of its member jurisdictions, and to ensure that there is a written certification from the state. The Field Office will also ensure that all UGLG members of the consortium are on the same program year for HOME, CDBG, ESG, and HOPWA prior to approval unless a waiver of this requirement has been approved.

In addition, Field Office counsel should review each new consortium's submissions to determine whether the consortium has sufficient legal authority to carry out the HOME program.
1. **Process Chart for New Consortia**

- **Proposed consortium** → **Send notice of intent to participate to HUD field office**
  - Fully executed consortium agreement including:
    - All members signatures
    - Requirements under Section III of this Notice
    - Automatic renewal or not

- **HUD field office** → **Review consortium agreement**
  - Contiguity of members
  - Administrative capacity of lead entity

- **OAHP** → **Create participation spreadsheets** → **Post Working Participation Spreadsheets and Agreements on Consortium Digital Library (CDL)**

- **HUD Field Office** → **Certifies consortia membership to OAHP** → **OAHP submit final list of new consortia and respective membership to CPD Systems Development & Evaluation Division (SDED)**
2. **PROCESS CHART FOR EXISTING CONSORTIA WITH AUTOMATIC RENEWAL PROVISION**

- **Existing consortium with automatic renewal provisions**
  - Send notice of intent to participate to HUD Field Office
  - Send notice of right to no longer participate to all members

- **If adding new members, submit amendment or new agreement to HUD Field Office**
  - HUD field office
  - Review documentation submitted by consortium, if any, and communicate changes or no change in membership to OAHP

- **OAHP**
  - Create participation spreadsheets
  - Post Working Participation Spreadsheets and Agreements on Consortium Digital Library (CDL)

- **HUD Field Office**
  - Certifies consortia membership to OAHP
  - OAHP submit final list of new consortia and respective membership to CPD SDED
3. PROCESS CHART FOR EXISTING CONSORTIA WITH NO AUTOMATIC RENEWAL PROVISIONS

- Existing consortium with no automatic renewal provisions
  - Send notice of intent to participate to HUD Field Office and notice of right to no longer participate to all members
  - Fully executed consortium agreement including:
    - All members signatures
    - Requirements under Section III of this Notice

- HUD field office
  - Review consortium agreement
    - Contiguity of members
    - Administrative capacity of lead entity
  - Continued,
    - Sufficient legal standing
    - Accuracy
    - Completeness

- OAHP
  - Create participation spreadsheets
  - Post Working Participation Spreadsheets and Agreements on Consortium Digital Library (CDL)

- HUD Field Office
  - Certifies consortia membership to OAHP
  - OAHP submit final list of new consortia and respective membership to CPD SDED
D. System to track the HOME Consortia Participation Decisions

As described in this Notice, OAHP in HUD Headquarters maintains the official files for consortia agreements, creates consortia participation directories, and an online digital library for the use of HUD Headquarters and Field Office staff, and corresponds directly with Field Office staff regarding consortia status. Accordingly, it is important for CPD Field Office staff to work closely with OAHP to ensure the most current consortia documents are submitted, reviewed, and posted to the Consortia Digital Library, the web-based library used to track consortia member participation.

E. Digital Storage of Consortia Agreements

When a consortium agreement is received by OAHP and determined to be complete, it is scanned and saved as a PDF file and placed in a central directory on the HUD Headquarters local area network (LAN). If the agreement is later amended, the amendment is also scanned and saved as a PDF file on HUD’s LAN.

All pertinent information for each HOME consortium is maintained on the HOME Consortia Digital Library (CDL). The HOME CDL, is located on the HUD intranet site and is only accessible to HUD staff.

The CDL is organized by Field Office. Each CPD Field Office has its own CDL page which lists its consortia, if any, by the name of the lead entity. Each CDL page contains the “final participation” spreadsheet for each consortium, which is the consortium's current list of members on which the most recent HOME formula allocation was based. It also contains the “working participation” spreadsheet, which identifies any changes in consortium participation from its final participation spreadsheet. The CDL also houses the current consortium agreement and any amendments.

IV. MAKING CHANGES TO A CONSORTIUM

A. Amending the Consortium Agreement

A consortium agreement can be amended for the following purposes:

1. To add new members for the remaining fiscal years of the qualification period. The agreement must be amended in the fiscal year before the year in which the new member is to be added. The consortium must provide the Field Office with a copy of the authorizing resolution from the new member’s governing body and an amendment to the consortium agreement signed by the Chief Executive Officer of the lead entity if the consortium agreement authorizes the lead entity to sign on behalf of all members and the Chief Executive Officer of the new member. If the consortium agreement does not authorize the lead entity to sign on behalf of all members, all members must sign the amendment, including the lead entity and the new member. A change in the make-up of any consortium must be communicated to OAHP.

2. To add automatic renewal provisions. The agreement may be amended at any time during the consortium’s qualification period to add automatic renewal provisions. If the agreement is amended in the last year of a consortium’s qualification period, the automatic renewal provisions will be used to re-qualify the consortium for the next three-year qualification period provided the amendment is executed prior to the September 30 statutory deadline for participation.

3. For other reasons upon written approval from the appropriate HUD Field Office.
B. Member Withdrawal

During the qualification period no member may withdraw from a consortium. For consortia without automatic renewal provisions, members may elect to withdraw at the end of a qualification period by not signing the new consortium agreement for the next qualification period. For consortia with automatic renewal provisions, at the end of each qualification period the lead entity must notify all members of their right not to continue to participate in the consortium for the next qualification period. If one or more members elect not to continue participation, the lead entity must notify the field office in writing. This information must be submitted to OAHP by the date indicated on the consortia calendar (Attachment 3).

NOTE: Neither a new agreement nor an amendment are necessary when one or more members withdraw from a renewing consortium with automatic renewal provisions at re-qualification.

C. Changing the Lead Entity

A consortium may wish to change its lead entity under certain circumstances. This change can only occur at the end of its qualification period and requires execution of a new consortium agreement. The consortium, under direction of the new lead entity, is considered a new PJ and must meet the allocation and participation thresholds of the HOME program. The previous lead entity will be responsible for all undisbursed HOME funds and outstanding projects initiated under its consortium agreement and for all long-term responsibilities of the HOME program. The new lead entity will assume responsibility for all HOME funds received during its qualification period(s).

If the lead entity of a new consortium was formerly a HOME PJ, the consortium is considered a new PJ and must meet the allocation and participation thresholds of the HOME program. However, excess accumulated match contributions from any member previously participating in the HOME program, may be counted toward the consortium’s match liability.

D. Disbanding a Consortium

Once a consortium is designated a PJ by HUD, it remains a PJ until all remaining funds in its HOME Investment Trust fund are expended. If the consortium’s qualification period has ended and it is not re-qualifying for another three-year period, it may elect to return any undisbursed HOME funds to HUD. However, the lead entity has continuing responsibilities to comply with the HOME regulations beyond the qualification period and the term specified in the consortium agreement throughout the periods of affordability for its completed HOME projects. A lead entity’s financial and monitoring responsibilities include the following:

Program Income. Program income under the HOME Program is defined at 24 CFR 92.2. Program income derived from consortium activities undertaken by a consortium member or within the geographic boundaries of a consortium member continues to be the consortium’s program income even after the member terminates its participation in the consortium (24 CFR 92.503(a)(3)). The lead entity could permit a member that no longer participates in the consortium to retain program income as a subrecipient for future HOME projects pursuant to a written agreement (§ 92.503(a)(1)). Program income must be used in accordance with HOME requirements.

Repayments. Any HOME funds invested in housing that does not meet the affordability requirements, is terminated before completion, or is determined to be ineligible must be repaid by the consortium. While the lead entity could attempt to collect the amount subject to repayment from a consortium member, project owner, developer, etc., the lead entity is responsible for repayments to HUD (§ 92.503(b)).
Recaptured Funds. Recaptured funds received from a consortium’s homebuyer program during the period of affordability are deposited in its HOME Investment Trust Fund local account. The lead entity may permit a consortium member that no longer participates in the consortium to retain the recaptured funds as a subrecipient pursuant to a written agreement (§ 92.503(c)).

Monitoring. The consortium is responsible for reviewing the performance of each subrecipient at least annually (§ 92.504(a)). The lead entity is responsible for applying the same requirements to its members as are applicable to its subrecipients (§ 92.101(d)). The lead entity has continuing monitoring responsibilities during the period of affordability for all activities funded by the consortium.

V. DEVELOPING AND SUBMITTING THE CONSOLIDATED PLAN FOR NEW CONSORTIA

It is important that new consortia have sufficient time to develop their Consolidated Plans and to meet the citizen participation requirements of 24 CFR Part 91. Field Office staff should work informally with new consortia to identify the start of the consolidated program year and to determine the timeframe for developing the Consolidated Plan. The Field Office can then formally notify the consortium of its allocation amount on a predetermined date that triggers the notice of intent to participate and allows enough time for the consortium to submit its Consolidated Plan in accordance with the HOME Program regulations at 24 CFR Part 92. HUD staff should be cautious about releasing allocation information to prospective new PJs that could be considered formal notice that starts the timeframe for the regulatory and statutory deadlines.

The date that the Field Office formally notifies the consortium of its formula allocation amount will determine the date that the Consolidated Plan is due according to the timeline below.

- The consortium submits a written notification of its intent to be a PJ no later than 30 days after receiving notice of its formula allocation amount (Section 92.103).

- The consortium submits a Consolidated Plan to the Field Office within 90 days of providing notification of its intent to be a PJ (Section 92.104).

To receive HOME funds, the consortium submits the Consolidated Plan for the entire geographic area encompassed by the consortium. If an urban county is a member of a HOME consortium, the consortium submits the Consolidated Plan; the urban county, like all other CDBG entitlement grantees in the consortium, is only required to submit its own non-housing Community Development Plan (Section 91.215(e)), Action Plan (Section 91.220) and the required Certifications (Section 91.225(a) and (b)), as part of the consortium’s Consolidated Plan.

NOTE: A new consortium must submit the complete Strategic Plan required by Sections 91.215, 91.220 and 91.225. A consortium that has previously participated in the HOME program and submitted a complete Strategic Plan may submit only the Action Plan and Certifications unless it is required to submit a new five-year complete Strategic Plan (see Section 91.15(b)). If Joint Grant Agreement participants form a consortium for the HOME program, the Consolidated Plan submitted by the urban county will also serve as the Consolidated Plan for the HOME consortium, because the UGLGs in the consortium are the same as the UGLGs in the urban county Joint Grant Agreement. As required by the Consolidated Plan final rule at 24 CFR § 91.402(a), all members of the consortium must adopt the same program year prior to being approved by the Field Office as a HOME consortium. A newly formed consortium whose members have not adopted the same program year may request a waiver for a transition period to get its members on the same program year schedule.
VI. SCHEDULE OF SUBMISSIONS FOR APPROVING NEW CONSORTIA AND RENEWING EXISTING CONSORTIA

The following schedule will govern the procedures for approving and renewing consortia:

NOTE: When a published date falls on a weekend or a holiday, the deadline will be the next business day.

By March 1, to be considered for an allocation of HOME funds in the next fiscal year, all re-qualifying consortia (with or without automatic renewal provisions) and proposed new consortia must provide to their Field Offices written notification of their intent to participate as a consortium.

Field Offices must notify OAHP of any potential new consortia on or before March 1. When a potential new consortium is identified, OAHP will work with CPD’s System Development and Evaluation Division (SDED) at Headquarters to create a working participation spreadsheet. This spreadsheet will identify members of the proposed consortium, including local incorporations within non-urban counties and will be posted on the CDL.

By June 1, the lead entity of a consortium that intends to renew its consortium agreement through automatic renewal provisions must notify each of its members of their right not to participate in the next qualification period.

NOTE: This date is provided as a guide to meet the June 30 deadline. Based on the organizational structure, location and availability of its members, the lead entity may need to allow more time to determine the status of its membership for the next qualification period.

Prior to June 15, each member that does not intend to participate in the next qualification period with a consortium that is renewing its agreement through automatic renewal provisions must submit written notification to the lead entity. The lead entity must provide copies of these communications to its Field Office by June 30 so that Headquarters can be notified of any change in consortium membership by August 1.

By June 30, a proposed new consortium, a renewing consortium that must sign a new agreement, or a consortium that is amending its current agreement must submit the documents that are required in Section III of this Notice to its Field Office.

NOTE: Any delay in receipt of the consortium documents must not postpone the Field Office's ability to meet the August 1 deadline below.

By August 1, Field Offices must approve all consortium agreements and amendments and send these documents to OAHP.

The Field Office must also notify OAHP by August 1 of the continued participation of consortia that are due to re-qualify through automatic renewal provisions with no change in consortium membership.

OAHP updates the working participation spreadsheets posted on the CDL and provides them to SDED. OAHP also scans any new consortium agreements and amendments for storage on the CDL.

By August 20, OAHP notifies Field Offices of the availability of the updated working participation spreadsheets on the CDL. Field Office staff must review the working participation spreadsheet of each new or renewing consortium, (including those with automatic renewal provisions) in the Field Office jurisdiction with the consortium lead entity to verify its accuracy. It is suggested that Field Office staff review the
working participation spreadsheet for each consortium, not only those that are due to re-qualify, to avoid any mistakes in participation that result in incorrect formula allocations to consortia.

By September 10, Field Office CPD Directors must certify the accuracy of the membership of each consortium due to re-qualify via email to OAHP. The CPD Field Office Director must also communicate in writing any necessary changes to the working participation spreadsheet by this date to allow sufficient time for changes to be reflected in the next year’s allocation of HOME funds. Directors are reminded that it is imperative that the information in the worksheet be confirmed with the consortium’s lead entity prior to transmitting it to OAHP.

NOTE: This date may not be extended without prior written authorization from Headquarters. In order to allow sufficient time to run the formula and meet the statutory deadline of September 30, it is important that Field Office staff certify consortia status with OAHP by September 10.

VII. GENERAL INFORMATION

A. Headquarters Contact

All required documents and correspondence concerning consortia should be submitted to Dora Rivera, Headquarters, Office of Affordable Housing Programs, at Dora.I.Rivera@hud.gov or faxed to (202) 708-1744 (this is not a toll-free number).

B. Other Resources

- **HOME Consortia Webpage:**

- **HOME Consortia List:** Current Consortia and qualification periods:

- **HOME New PJ Notice:** HUD Notice CPD 06-05, *Instructions for Designating New Participating Jurisdictions: Reserving and Obligating Funds: and Numbering Home Investment Partnership Agreements* or superseding notices:

- **Consortia Digital Library (CDL):** Includes Consortia working and final participation spreadsheets and PDF versions of current agreements and amendments (this intranet site is accessible to HUD staff only):

- **HOME Consortia Guidebook:** *Establishing and Managing a Successful Home Consortium Guidebook*, HUD 2006-08-CPD. Copies are available from OAHP or online at:

- **Consortia Builder – A Tool to Estimate Funding:** Developed to provide guidance on how to combine the demography of proposed member governments for the purpose of qualifying for a HOME formula allocation. It uses U.S. Census and HOME data to calculate an estimate of the amount of HOME funds that a potential consortium might qualify for under the HOME formula. Having an estimate of the HOME allocation and administrative funds available (10% of the allocation) also helps
potential consortia design their regional housing and staffing plans. More information available at: www.hud.gov/offices/cpd/affordablehousing/programs/home/consortia/builder

C. Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2506-0171. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.
CHECKLIST FOR AUTOMATIC RENEWAL OF CONSORTIUM AGREEMENTS

HUD will recognize the automatic renewal of the consortium agreement if:

☐ The authorizing resolution of each member unit of general local government authorizes the automatic renewal of the agreement for successive qualification periods;

☐ The agreement will remain in effect at least until the HOME funds from each of the federal fiscal years of the agreement’s specified qualification period, and each successive qualification period for which the agreement is renewed, are expended on eligible activities;

☐ The agreement specifies that it will automatically be renewed for the consortium’s participation in successive qualification periods of three federal fiscal years each;

☐ The agreement specifies that by the date specified by HUD’s consortia designation notice or HOME Consortia web page, the lead entity will notify each consortium member in writing of its right to decide not to participate for the successive qualification period and the lead entity will send a copy of each notification to the HUD Field Office;

☐ The agreement specifies that if a consortium member decides not to participate in the consortium for the next qualification period, the lead entity will notify the HUD field office before the beginning of the new qualification period;

☐ The agreement specifies that the consortium will adopt any amendments to the agreement that are necessary to meet HUD requirements for consortia agreements in successive qualification periods;

☐ The agreement specifies that before the beginning of each new qualification period, the Lead Entity will submit to the HUD Field Office a statement of whether or not any amendments have been made to the agreement, a copy of each amendment to the agreement, and, if the consortium’s membership has changed, the state certification required under 24 C.F.R. § 92.101(a)(2)(i); and

☐ The agreement specifies that the automatic renewal provision will be void if the lead entity fails to notify a consortium member of its right not to participate for the next qualification period or the lead entity fails to submit a copy of each amendment to the agreement as required.
This agreement shall automatically be renewed for the Consortium’s participation in successive qualification periods of three federal fiscal years each. No later than the date specified by HUD’s consortia designation notice or HOME Consortia web page, the Lead Entity shall notify each Consortium Member in writing of its right to decide not to participate in the Consortium for the next qualification period and the Lead Entity shall send a copy of each notification to the HUD Field Office.

If a Consortium Member decides not to participate in the Consortium for the next qualification period, the Consortium Member shall notify the Lead Entity, and the Lead Entity shall notify the HUD Field Office, before the beginning of the new qualification period.

Before the beginning of each new qualification period, the Lead Entity shall submit to the HUD Field Office a statement of whether or not any amendments have been made to this agreement, a copy of each amendment to this agreement, and, if the Consortium’s membership has changed, the state certification required under 24 C.F.R. § 92.101(a)(2)(i). The Consortium shall adopt any amendments to this agreement that are necessary to meet HUD requirements for consortium agreements in successive qualification periods.

The automatic renewal of the agreement will be void if: the Lead Entity fails to notify a Consortium member or the HUD field office as required under this automatic renewal provision or the Lead Entity fails to submit a copy of each amendment to this agreement as required under this automatic renewal provision.

NOTE: In addition to the required language for the automatic renewal provision, in order for HUD to recognize the automatic renewal of the agreement, the authorizing resolution of each member unit of general local government must authorize the automatic renewal of the agreement for successive qualification periods, and the agreement must remain effective at least until the HOME funds from each of the federal fiscal years of the agreement’s specified qualification period, and each successive qualification period for which the agreement is renewed, are expended on eligible activities.
## HOME CONSORTIA CALENDAR
### Summary of Deadlines

<table>
<thead>
<tr>
<th>Deadline</th>
<th>Consortium</th>
<th>Status of Consortium</th>
<th>Field Office</th>
<th>Headquarters</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 1</td>
<td>Sends written notification to Field Office of intent to participate</td>
<td>✓</td>
<td>✓</td>
<td>Notifies OAHP of any potential new consortia</td>
</tr>
<tr>
<td>June 1</td>
<td>Lead entity notifies members of their right not to participate in next qualification period</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 15</td>
<td>Members notify lead entity of their intent not to participate</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 30</td>
<td>Submits all required documentation for Field Office review</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>
| August 1          |  | ✓ | ✓ | ✓ | • Approves new and amended consortium agreements and submits required documentation to OAHP  
• Notifies OAHP of renewing consortia with automatic renewal provisions and no changes in membership  
• OAHP creates/updates participation spreadsheets and submits to SDED  
• OAHP scans consortia agreements  |
| August 20         |  | ✓ | ✓ |  | Contacts consortia to confirm that working participation spreadsheets on CDL are accurate  
OAHP posts working participation spreadsheets to for Field Office CPD Directors on CDL for verification  |
| September 10      |  | ✓ | ✓ |  | Certifies to OAHP membership of consortia  
OAHP certifies accuracy of all consortia to SDED  |
| September 30      | Designation process complete for eligibility to receive HOME funds by formula |  |  |  |  |

(Statutory deadline)

www.hud.gov espanol.hud.gov 89
To: Potential Members of a Regional HOME Consortium for Housing Affordability: Anacortes, Blaine, Burlington, Concrete, Coupeville, Everson, Ferndale, Hamilton, Island County, La Conner, Langley, Lynden, Lyman, Mount Vernon, Nooksack, Oak Harbor, Sedro-Woolley, Sumas, and Whatcom County

From: Skagit County Board of Commissioners

Date: May 6, 2014

Re: Support for a Resolution Agreeing to Regional Cooperation for Housing Affordability

The Skagit County Board of Commissioners requests that you adopt a Resolution to authorize an Interlocal Cooperation Agreement with other municipalities in Skagit County, Whatcom County and Island County.

Local governments working together can accomplish more as we all try to address the shortage of homes that lower-wage workers and others can afford.

By agreeing to participate as a Member of a Regional Consortium, you will help our region become eligible for additional matching grants in an effort to end homelessness and address the shortage of homes affordable to lower-wage workers, fixed-income seniors, disabled veterans and other low-income individuals who cannot afford to lease or own.

To become eligible, we are required to follow the guidelines in the “HOME Investment Partnerships Program” which calls for a Resolution from local governments that agree to cooperate at the regional level. More information about the HOME Program is attached, in a one (1) page summary, and for those who want more detail, in a fourteen (14) page explanation of HOME Consortium requirements.

Skagit County has offered to serve as Lead Agency and as the HUD grantee, and we ask you to adopt a Resolution (attached), agreeing to cooperate as part of the HOME Consortium. Eighteen (18) other local governments in our three (3) County area are being asked to join the Consortium, including: Island, Skagit and Whatcom Counties and each Town and City in our three County area (except Bellingham, which currently receives HOME funding and is therefore ineligible). If local governments cooperate, our three Counties would qualify for grant funds, and the grant amount would increase if each Town participates, based on our combined population total.

The Resolution authorizes an Interlocal Cooperation Agreement with Skagit County as the Lead Agency of a HOME Consortium. As a Member of the HOME Consortium, your obligations would be limited, as listed in the Interlocal Cooperation Agreement; essentially, to provide input and stay supportive. No City, Town or County will be required to accept HOME grant funds, and no matching funds would be required of a City or Town.
Paul Schissler is assisting Skagit County with the paperwork and process for establishing the regional Consortium, and Mr. Schissler is available to help answer questions before and during the agenda when Council takes up this Resolution. He can be reached at (360) 201-8900 and by e-mail at PaulS@Schissler.com.

We ask that at your earliest opportunity, you adopt this Resolution authorizing the Interlocal Cooperation Agreement. Thank you for your consideration.

Respectfully Submitted,

Tim Holloran, County Administrator
INTERLOCAL COOPERATION AGREEMENT
TO ESTABLISH A HOME CONSORTIUM AND RECEIVE FUNDS
UNDER THE NATIONAL AFFORDABLE HOUSING ACT
FOR THE PROGRAM YEARS 2015 THROUGH 2017

This Interlocal Cooperation Agreement (hereinafter Agreement) is entered into by and between Skagit County (hereinafter Lead Agency), Island County, Whatcom County, plus other municipal government names to be added here (hereinafter Members) for the purpose of establishing a regional HOME Consortium to receive and administer federal funds under the HOME Investment Partnership Program. This Agreement will become effective upon adoption by the Members and approval by the U.S. Department of Housing and Urban Development (HUD).

RECITALS

WHEREAS, the three-county region has a shortage of homes that lower-wage workers and other low-income people can afford, using thirty percent of gross household income for housing costs; and

WHEREAS, cooperation among local governments supports existing local efforts aimed at reducing homelessness and increasing the supply of homes lower-wage workers and others can afford to lease or own; and

WHEREAS, the federal government offers funding and technical assistance aimed at increasing the supply of decent, safe and affordable housing available to low-income and very-low-income families, including the HOME Investment Partnerships Program (HOME Program) created in the National Affordable Housing Act of 1990 (NAHA), as implemented by HUD through regulations at Title 24, Code of Federal Regulations, Part 92 (HOME regulations); and

WHEREAS, HOME regulations allow a group of contiguous units of general local governments (UGLGs) to organize as Members that establish a HOME Consortium for the purposes of obtaining HOME grant funding from HUD that will assist in improving the supply of decent, safe and affordable homes for low-income people and will strengthen partnerships among all levels of government and the private sector; and

WHEREAS, the Members have determined that obtaining HOME grant funding will increase their ability to assist with efforts to end homelessness and for the provision of affordable homes for residents with incomes at or below sixty percent of the area median income; and

WHEREAS, the Members are not individually eligible to obtain an allocation of HOME grant funding from HUD; however, the Members can cooperate to establish a HOME Consortium that will be eligible to obtain an allocation of HOME grant funding from HUD; and

WHEREAS, the Members have determined that it will be mutually beneficial and in the public interest to enter into this Interlocal Cooperation Agreement to establish a HOME Consortium in order to become eligible for HOME grant funding; and

WHEREAS, the Interlocal Cooperation Act in Chapter 39.34 of the Revised Code of Washington permits local governments to enter into agreements to cooperate for beneficial
purposes and these purposes can include regional cooperation to establish a HOME Consortium; and

WHEREAS, HOME regulations specify the topics and content that Members must include in an interlocal cooperation agreement that establishes a HOME Consortium, and the HOME regulations require that the HOME Consortium Members select one Member to act as Lead Agency for all Members in communications with HUD and as the HOME grant recipient on behalf of the Consortium; and

WHEREAS, Skagit County has offered to serve as the Lead Agency on behalf of the Members that enter into an interlocal cooperation agreement for the purpose of implementing a regional HOME-funded program to enhance cooperation among local jurisdictions to increase the availability of resources available to local governments to address the housing-related problems of lower-income people and to implement local Plans to End Homelessness; and

WHEREAS, the Lead Agency has offered to administer such federal funds for itself and on behalf of the Members;

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, the Members mutually agree to the following terms and conditions.

1. DEFINITIONS

For the purpose of this Agreement, the terms defined in this section have the meanings given to them:

A. “Consolidated Plan” is a HUD required document that serves as a planning and budgeting document for the Consortium and as a HOME grant funding application. The Consortium will develop a Consolidated Plan by May 15, 2015.

B. “Consortium” means the Members and Lead Agency acting together pursuant to this Agreement.

C. “HOME Regulations” means the rules, regulations and guidelines promulgated pursuant to the NAHA, including but not limited to 24 CFR Parts 91 and 92, as amended.

D. “Lead Agency” means Skagit County, designated by the Members as the unit of general local government to act in a representative capacity for all Members for the purpose of entering into a HOME grant agreement with HUD.

E. “Member” means an unit of general local government that is a signatory to this Agreement and therefore becomes a Member of the Consortium (Note that proposed Members of the Consortium include: Island County, Coupeville, Langley, Oak Harbor, Whatcom County, Blaine, Everson, Ferndale, Lynden, Nooksack, Sumas, Skagit County, Anacortes, Burlington, Concrete, Hamilton, Laconner, Lyman, Mount Vernon, and Sedro-Woolley)

F. “Subrecipient” means a Member who carries out HOME-funded activities after entering into a separate written agreement with the Lead Agency.
2. **PURPOSE**

The purpose of this Agreement is to establish a HOME Consortium that will be eligible for HOME grant funds to increase the Members’ ability to assist in the provision of housing affordable for low-income residents.

3. **AGREEMENT**

   A. **Term:** The initial term (also known as “qualification period”) of this Agreement shall be for a period with an end date of June 30, 2018 that includes the federal fiscal years 2015, 2016 and 2017, with funding potentially becoming available after June 30, 2015. Members agree to participate for the term of this agreement and may choose to opt out of future agreements.

   B. **Execution:** This Agreement shall be executed by the appropriate officers of each Member and the Lead Agency pursuant to authority granted them by their respective governing bodies, and a copy of the authorizing resolutions and executed Agreement shall be filed promptly at the offices of the Lead Agency. *(Sample resolution attached)*

   C. **Consolidated Plan:** The Lead Agency is responsible for preparing and submitting the Consolidated Plan to HUD. The Members shall cooperate in the preparation of the Consolidated Plan by providing input during the preparation of the Consolidated Plan and by assisting the Lead Agency in holding any required public meetings during the preparation of the Consolidated Plan.

   D. **Program Administration:** Skagit County, as Lead Agency, agrees to have decision-making authority regarding the Consolidated Plan and implementation, as well as oversight and authority on issues affecting the Consortium activities. The Lead Agency will be entitled to up to ten percent of the HOME Consortium grant allocation, as well as up to ten percent of program income, for eligible planning and administrative costs. The Lead Agency will provide staff support for a HOME Consortium Advisory Committee that will assist with preparation of the Consolidated Plan, project selection criteria, and selection of recommended projects for HOME funding agreements.

   E. **Allocating HOME Program Funding:** The annual allocation of HOME program funds will be based on the recommendation from the HOME Consortium Advisory Committee and adopted in the Consolidated Plan and annual Action Plan.

   F. **HOME Consortium Advisory Committee:** An Advisory Committee shall be created for the purpose of identifying the general activities and priorities to be undertaken by the Consortium with HOME grant funds. Each Member may appoint a representative to serve on the Advisory Committee. The Advisory Committee will also participate in the development of the Consolidated, establish decision-making procedures for the Consortium, serve in an advisory capacity for the programs and projects funded with HOME expenditures, make recommendations to the Lead Agency’s governing body,
and provide advice for the successful implementation of the Consolidated Plan and the HOME Consortium’s programs.

G. **Matching Funds:** No Member will be required to accept HOME grant funds, and no matching funds will be required of a Member that does not enter into a separate written agreement for HOME-funded activities. Members shall be responsible for providing matching funds for any HOME pass-through grant funds allocated to and accepted for use by that Member under terms to be specified in a HOME Subrecipient agreement. No matching funds will be required from a Member that does not enter into a HOME Subrecipient agreement.

Matching funds shall be reported to the Lead Agency, in a format to be determined by the Lead Agency, by the end of each federal fiscal year of this agreement.

H. **Affirmatively Furthering Fair Housing:** The Lead Agency and the Members agree to affirmatively further fair housing with all HOME Consortium funds under this Agreement in compliance with 24 CFR 92.350. Each Member that enters into a HOME Subrecipient agreement will be responsible for compliance with HUD regulations and, if applicable, for their own preparation and submission to HUD of an Analysis of Impediments to Fair Housing Choice. The Members agree that funding activities will be prohibited if a Member does not affirmatively further fair housing within its jurisdiction or impedes actions intended to comply with the Consortium's fair housing certification. The Members acknowledges noncompliance by a Member may provide cause for funding sanctions or remedial actions by HUD.

I. **Program Income:** Program Income as defined at 24 CFR 92.2 generated by a Member will be held by each Member in a separate account specific to the HOME Program. Program Income will be used first before any additional HOME funds are drawn or requested for reimbursement, and appropriate documentation of the receipt and use of program income will be provided to the Lead Agency in a format to be determined by the Lead Agency and as required for reporting to HUD.

J. **Indemnification:** Each Member agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other Members of the Consortium harmless from such liability. It is further provided that no liability shall attach to Skagit County as Lead Agency by reason of entering into this agreement except as expressly provided herein. The Members of the Consortium agree to reasonably cooperate in the event litigation is brought against one or more of the Members pursuant to this Agreement by any third party.

#### 4. LEAD AGENCY RESPONSIBILITIES

A. **Responsibilities:** The Lead Agency will be the governmental entity required to execute all grant agreements for HOME funds received from HUD pursuant to the
Consortium’s request for HOME funds. The Lead Agency will thereby become and will be held by HUD to have full responsibility for the execution of the HOME Program in compliance with HOME rules, including the requirements of the Consolidated Plan. The Lead Agency will be responsible for leading the development of the Consortium’s Consolidated Plan with an annual Action Plan component and for required administrative functions such as reporting on the activities of the Consortium and serving as the liaison between HUD and Consortium Members, for meeting the requirements of other applicable laws, and for the performance of the HOME-funded activities including the HOME-funded projects and activities to be conducted by the Subrecipients.

B. **Pass-through Grant Funds:** The Lead Agency shall monitor the performance of any Member that receives pass-through HOME and will hold a Member jurisdiction accountable, under terms to be specified in HOME Subrecipient agreement, for compliance with the requirements set forth in HUD regulations.

C. **Administrative Activities for the Consortium:** The Lead Agency agrees to provide administrative functions for the Consortium, and specific administrative tasks include, but are not limited to, coordinating the public participation process, developing necessary forms and implementation agreements with Members that receive pass-through HOME funds, drafting program descriptions, notices of funding availability and requests for proposals, confirming that a Subrecipient is not debarred from federal funds, providing technical assistance to project sponsors, confirming compliance of funded projects as specified in a HOME Subrecipient agreement, and preparing required reports.

D. **Administrative Activities for Members:** The Lead Agency’s administrative obligations to the Members shall be limited to the performance of the administrative and program tasks necessary to make HOME funds available to the Members under terms to be specified in HOME Subrecipient agreements and to provide reporting to HUD on the various projects funded with HOME funds under provisions to be specified in HOME Subrecipient agreements.

E. **Reporting Requirements:** The Lead Agency will require Subrecipients with HOME-funded activities or projects to provide the Lead Agency with HOME Program activity reports including information about program income, if any, derived from the HOME-funded activities.

F. **Communication:** The Lead Agency will be responsible for communicating periodically, at least once per quarter, to each Member and other interested parties, providing a Consortium status report, an update on prior communications, and requests for feedback and input on pertinent topics. Additional communication protocol will be established during the development of the Consolidated Plan.
5. MEMBERS’ RESPONSIBILITIES

A. Action Plan/Consolidated Plan Submissions: The Members shall provide input that will assist the Lead Agency with the preparation of a Consolidated Plan.

B. Reporting Requirements: If a Member receives any HOME funds under terms to be specified in a HOME Subrecipient agreement, the Member shall prepare and submit to the Lead Agency for consolidation into a combined report the following reports, if applicable, for submission to HUD according to applicable deadlines: Analysis of Impediments to Fair Housing, Citizen Participation Plan, Minority Business Enterprise/Women's Business Enterprise reports, federal cash transaction reports, and annual HOME Consolidated Action Plan Evaluation Report(s)(CAPER) as well as preparing and submitting any other reporting requirements that are required by HUD.

C. Lead Agency and Member Cooperation: The Lead Agency shall cooperate and work with each Member that receives any HOME pass-through funds under terms to be specified in a HOME Subrecipient agreement for activities to be conducted or performed within the Member’s jurisdiction during the Federal Program Years this Agreement is in effect.

D. Disallowed Expenditures: Each Member that receives pass-through HOME funds under terms to be specified in a HOME Subrecipient agreement shall assume full responsibility for repayment of HOME funds for all expenditures made by their jurisdictions that are disallowed by HUD.

E. Eligible Expenditures: Each Member that receives pass-through HOME funds under terms to be specified in a HOME Subrecipient agreement shall assume overall responsibility for ensuring their projects related to the Consortium’s HOME Program are carried out in compliance with the requirements set forth in HUD regulations.

F. Eligibility Review and Compliance Monitoring: Members that receives pass-through HOME funds under terms to be specified in a HOME Subrecipient agreement shall provide monitoring of their projects funded with HOME funds to ensure that they comply with applicable Federal laws and regulations including property standards. Members shall be responsible for determining eligibility and confirming the compliance of the HOME Program projects with applicable Federal laws and regulations.

6. SPECIAL PROVISIONS

A. Amendments: All amendments to this Agreement must be in writing and signed by all Members except that the Lead Agency shall have authority to amend to the Agreement on behalf of all Members to add new Members to the Consortium.

B. Severability: Invalidation of any one or more of the provisions of this Agreement shall in no way affect any of the other provisions thereof, which shall remain in full force and effect.
C. Financial Obligations of the Parties: Each party's financial obligations under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge those obligations. Nothing in this Agreement constitutes a debt, a direct or indirect multiple fiscal year obligation, a pledge of the credit of either party, or a payment guarantee by either party to the other party. No Member incurs any financial obligation unless it later signs a HOME Subrecipient agreement.

IN WITNESS THEREOF, the undersigned Members have executed this Agreement;

A separate signature page will be added for each Member.

Each Member’s legislative process will adopt a Resolution authorizing a signature on this Agreement. A sample Resolution with the required content is attached.

Potential members include: Island County, Coupeville, Langley, Oak Harbor, Whatcom County, Blaine, Everson, Ferndale, Lynden, Nooksack, Sumas, Skagit County, Anacortes, Burlington, Concrete, Hamilton, Laconner, Lyman, Mount Vernon, and Sedro-Woolley
A RESOLUTION of the ______________________
to authorize an Interlocal Cooperation Agreement with other municipalities in
Skagit County, Whatcom County and Island County, agreeing to participate
as a Member of a regional Consortium that will qualify the area for additional
funding to address homelessness and the shortage of homes
affordable to lower-wage workers and others

WHEREAS, the region has a shortage of homes that lower-wage workers and
other low-income people can afford; and

WHEREAS, cooperation among local governments supports existing local
efforts aimed at reducing homelessness and increasing the supply of homes lower-wage
workers and others can afford to lease or own; and

WHEREAS, the federal government offers funding and technical assistance
aimed at increasing the supply of decent, safe and affordable housing available to low-
income and very low-income families, including offers from the HOME Investment
Partnerships Program (HOME Program) created in the National Affordable Housing Act
of 1990; and

WHEREAS, the HOME Program allows geographically contiguous areas to
establish a HOME Consortium in order to obtain grant funds under the HOME Program
guidelines for eligibility; and

WHEREAS, eligible Members of a potential three-county HOME Consortium
have determined that cooperating to establish a Consortium will increase the level of
matching funds available for use within the region and, thereby, assist in meeting the
housing affordability needs of the region; and

WHEREAS, the Interlocal Cooperation Act in Chapter 39.34 of the Revised
Code of Washington authorizes units of general local government to enter into interlocal
agreements to cooperate for public benefit purposes;

NOW, THEREFORE, BE IT RESOLVED that ______________________
authorizes its Chief Executive Officer (or other authorized official) to sign an Interlocal
Cooperation Agreement that allows _____________ to participate as a Member of a
Consortium for an initial period ending in July 2018.

ADOPTED at a legislative meeting prior to July 1, 2014

(Add standard signature block for legislative resolutions)
**TITLE OF DOCUMENT:** Bid #14-24 Whatcom County Courthouse – Courtroom Renovations

**ATTACHMENTS:** Memos from Finance and Facilities

---

**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 courtroom renovations. Two bids were received and Facilities would like to award to the low bidder, Faber Construction Corp. in the amount of $949,309.71. This is a planned project. Funding for this project is included in agenda bill 2014-206 that will be considered on June 3, 2014.
DATE: May 22, 2014

TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manger
SUBJECT: Award of Bid 14-24 Courtroom Renovations

---

**Background & Purpose**

Bids were advertised for the Whatcom County Courthouse - Courtroom Renovations. Two bids were received on Tuesday May 14, 2014, 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>Faber Construction Corp.</td>
<td>873,330.00</td>
<td>75,979.71</td>
<td>$ 949,309.71</td>
</tr>
<tr>
<td>Tiger Construction</td>
<td>879,000.00</td>
<td>76,473.00</td>
<td>$ 955,473.00</td>
</tr>
</tbody>
</table>

Facilities Management is requesting approval to award the bid and to enter into a contract with the low bidder, Faber Construction Corp. for a total amount of $949,309.71.

**Funding**

This is a planned project. Funding for this project is included on agenda bill 2014-206 that will be considered on June 3, 2014.

I concur with this recommendation.

---

Approved as Recommended:

AS Finance Manager

County Executive

Date of Council Action  

---
MEMO TO: Brad Bennett, Finance Manager

FROM: Michael Russell, Facilities Manager

DATE: May 14, 2014

RE: Recommend to Accept Bid Award #14-24 – Courtroom Renovations

On Tuesday, May 14, 2014 two bids were received in response to Whatcom County Bid #14-24, Courtroom Renovations. The following bids were received:

- **Faber Construction Corp** in the amount of: $949,309.71
- **Tiger Construction LTD** in the amount of: $955,473.00

**Faber Construction Corp** 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 **Faber Construction Corp** be accepted for this project.

Funding amount needed for this contract is $949,309.71 + $189,861.95 contingency 20%, including WSST for a total of $1,139,171.66.

Funding is provided by the General Fund.

If you need additional information, please contact me at extension 50575.
TITLE OF DOCUMENT:
South Fork Park – Professional Design Services Contract

ATTACHMENTS:
1. Contract for Professional Design Services: South Fork Park

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.)

Parks requests approval of the attached contract with Reichhardt & Ebe Engineering, Inc. for professional design services for South Fork Park.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** Parks & Recreation  
**Contract or Grant Administrator:** Rod Lamb  
**Contractor’s / Agency Name:** Reichhardt & Ebe Engineering, Inc.

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
</table>
| Is this a New Contract? | Yes  
| If not, is this an Amendment or Renewal to an Existing Contract? | No  
| Original Contract # |  
| Does contract require Council Approval? | No  
| Is this a grant agreement? | No  
| If yes, grantor agency contract number(s) |  
| CFDA # |  
| Is this contract grant funded? | No  
| If yes, associated Whatcom County grant contract number(s) |  
| Is this contract the result of a RFP or Bid process? | Yes  
| Contract |  
| Cost Center: | 3240614001 |

If yes, indicate exclusion(s) below:
- Professional services agreement for certified/licensed professional  
- Contract work is for less than 120 days  
- 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.  
- Interlocal Agreement (between Gov’t)  
- Public Works - Local Agency/Federally Funded FHWA

| Contract Amount: (sum of original contract amount and any prior amendments) | $55,522.94 |
| This Amendment Amount: |  
| Total Amended Amount: | $55,522.94 |

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:**
Preparation of design drawings and construction documents for a new parking and trail head facility located at South Fork Park. The new facility will be located off of Mosquito Lake Road in Acme. Specific services include: site surveying, geotechnical investigation, civil engineering, cost estimating & permitting.

**Term of Contract:** 12 months  
**Expiration Date:** 6/5/2015

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

---

**Council Contract Number:** 201405017
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
RE: Award of Professional Services Contract for South Fork Park
DATE: 5/21/2014

Enclosed are two (2) originals of professional services contract for South Fork Park between Whatcom County and Reichhardt & Ebe Engineering, Inc. for your review and signature.

- Background and Purpose
  Parks requests approval of the attached contract with Reichhardt & Ebe Engineering for professional design services required for future park improvements at South Fork Park.

  This contract will complete the design and permitting for a new parking and trail head facility at South Fork Park located off of Mosquito Lake Road in Acme. Proposed facilities include vehicle parking, pedestrian walkways, restrooms and signage.

- Funding Amount and Source
  This project will be funded by REET II funds. ASR 2014-5026 ($75,000) approved by County Council on November 20, 2012 (Ordinance No. 2012-048).

- Differences from Previous Contract
  This is a new contract.

Please contact Rod Lamb at extension 31727, if you have any questions or concerns regarding the terms of this agreement.

Encl.
Reichhardt & Ebe Engineering, Inc., 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 6,
- Exhibit A (Scope of Work), p. 7,
- Exhibit B (Compensation), p. 8,
- Exhibit C (Certificate of Insurance).

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 6 day of June, 2014, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 5 day of June, 2015.

The general purpose or objective of this Agreement is to: provide civil engineering design services for South Fork Park, 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 shall not exceed $55,522.94. 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 ____________, 20__.

CONTRACTOR:

Reichhardt & Ebe Engineering, Inc.

Dale Burns, Vice President

STATE OF WASHINGTON

COUNTY OF ____________

On this 2nd day of May, 2014, before me personally appeared Dale Burns, to me known to be the Vice President (Title) of Reichhardt & Ebe Engineering (Company) and 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
______________________________
Evenson, WA
______________________________
My commission expires 05/13/17.
WHATCOM COUNTY:
Recommended for Approval:

Department Director  5/23/14

Approved as to form:

Prosecuting Attorney  5/23/14

Approved:
Accepted for Whatcom County:

By:________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
) ss
COUNTY OF WHATCOM )

On this ______ day of __________, 20__, 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:

Reichard & Ebe Engineering, Inc.
(Type in Name of Contractor/Firm)

Dale Buys, Vice President
(Type in Name & Title of Signatory Authorized by Firm Bylaws, if applicable)

Address:
423 Front Street
Lynden, WA 98264

Mailing Address:
Same As Above

Contact Name: Dale Buys

Contact Phone: 360.354.3607

Contact FAX: 360.354.0407

Contact Email: dale@recivil.com

Contract for Services Agreement
[Insert more specific appellation]
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: Not Applicable

11.1 Termination for Default: Not Applicable

11.2 Termination for Reduction in Funding: Not Applicable

11.3 Termination for Public Convenience: Not Applicable

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 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: Not Applicable

23.1 Labor Standards: Not Applicable
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:** Not Applicable

33.1 **Right to Review:** Not Applicable

34.1 **Proof of Insurance:**

a. **Professional Liability** - $1,000,000 per occurrence is required:
All insurance policies shall provide coverage on an occurrence basis. 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 must provide proof of the purchase of a tail coverage policy for a minimum of three years from the completion date of this contract or any amendment to this contract.

The County, its departments, elected and appointed officials, employees, agents and volunteers shall be named as additional insureds on Provider’s and Provider’s subcontractors’ insurance policies by way of endorsement for the full available limits of insurance maintained by the Provider and subcontractor, and all coverage shall be primary and non-contributory. A statement of additional insured status on a Certificate of Insurance shall not satisfy these requirements, an endorsement will be necessary.

A certificate of insurance that provides proof of these requirements shall be provided by the contractor to Whatcom County Parks prior to execution of this contract.

34.2 **Participation by County – No Waiver.** The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of Contractor’s indemnity obligations under this Agreement.

34.3 **Survival of Contractor’s Indemnity Obligations.** The Contractor agrees all Contractor’s indemnity obligations shall survive the completion, expiration or termination of this Agreement.

34.4 **Industrial Insurance Waiver:** Not Applicable
34.5 Defense & Indemnity Agreement:
To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Agreement; or 3) are based upon the Contractor's or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Provider shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County. In the event of the concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workers' compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement, are reflected in the Contractor's compensation, and have been mutually negotiated by the parties.

Contractor's initials acknowledging indemnity terms: __ _

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 applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status.

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.

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

Contract for Services Agreement
[Insert more specific appellation]
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:

Rod Lamb, Design & Development Supervisor
Whatcom County Parks & Recreation
3373 Mt. Baker Hwy
Bellingham, WA 98226

37.2 Notice: Not Applicable

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: Not Applicable

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.
1. PROJECT UNDERSTANDING

Reichhardt & Ebe Engineering Inc., (CONSULTANT) will provide professional design services to Whatcom County Parks (OWNER) for the preparation of Plans, Specifications and Estimates, for parking lot and trailhead improvements at the South Fork Regional Park located in Acme, WA. The project site is located off of Mosquito Lake Road east of Highway 9. This project is funded with OWNER funds.

2. ASSUMPTIONS

This scope of work is based on the following assumptions:

1. The CONSULTANT will submit 50% and 90% PS&E for OWNER Review.
2. The CONSULTANT will utilize WSDOT format specifications for the basis of this project.
3. The OWNER will provide the Consultant the preliminary Master Plan layout in AutoCAD format. Also provided by the OWNER will be GPS coordinates of the flagged trail routes.
4. The OWNER is not requesting Bidding or Construction support at this time.
5. The CONSULTANT reserves the opportunity to shift budget between work tasks. The CONSULTANT shall obtain OWNER approval prior to shifting budget between work tasks.

3. WORK TASKS

Work Item 1 - Project Administration:

As part of the project, the CONSULTANT will prepare monthly invoices for the OWNER.

The CONSULTANT shall schedule and coordinate with OWNER.

Included in this task are miscellaneous coordination meetings as described in the fee proposal.

CONSULTANT Deliverables/Products:

- Invoices, Project Schedule Updates

Work Item 2 – Project Programming / Site Survey

The CONSULTANT will compile acquired franchise utility information for the project area, coordinate with the Team surveyor to collect topographic survey, and the OWNERS Biologist to create a comprehensive base map of the project site. Included is the incorporation of OWNER provided information in the mapping to locate a trail alignment.

Included in this work is coordination with OWNER provided Biologist, Whatcom County River and Flood and Department of Health to determine requirements for different park amenities.

CONSULTANT Deliverables/Products:

- Base map in AutoCAD Civil3D.

Work Item 3 – Horizontal Layout

The CONSULTANT will incorporate OWNER provided CAD drawing of Master Plan park layout. The CONSULTANT will verify parking and roadway geometry in compliance with Whatcom County Standards.

Included in this work is coordination with PDS to define site access requirements, the Fire Marshal on roadway section requirements, and Whatcom County River and Flood to determine requirements for different park amenities.

CONSULTANT Deliverables/Products:

Contract for Services Agreement
[Insert more specific appellation]
• Preliminary layout of proposed park amenities.

Work Item 4 – Vacant

Work Item 5 – Environmental Process and Permitting

The CONSULTANT will assist the OWNER in the preparation of permit submittals. It is intended that minimal exhibits and construction quantities will be required. The CONSULTANT will also provide a memorandum describing the impacts to the floodplain, and required mitigation in regard to compensatory flood storage.

CONSULTANT Deliverables/Products:
• Miscellaneous exhibits and quantities.

Work Item 6 – Geotechnical

The CONSULTANT will coordinate the completion of and review the results of geotechnical investigations on the project site.

CONSULTANT Deliverables/Products:
• No work products will be prepared as a part of this work item.

Work Item 7 – Vacant

Work Item 8 – Drainage Design

The CONSULTANT will identify project impacts, design appropriate mitigation and prepare a Stormwater Site Plan acceptable to Whatcom County.

CONSULTANT Deliverables/Products:
• Complete stormwater mitigation design strategy.
• Stormwater Site Plan report.

Work Item 9 – Preliminary Design

The CONSULTANT will perform geometric design, identify initial permitting quantities, and prepare a preliminary cost estimate. This work will be to a 50% design level for the OWNERS review.

CONSULTANT Deliverables/Products:
• 50% Plans and Estimate for OWNER review.

Work Item 10 – Final Design

The CONSULTANT will incorporate the OWNER’s comments on the preliminary design and finalize the design of the project components. The consultant will also prepare specifications in WSDOT format and a final cost estimate.

CONSULTANT Deliverables/Products:
• 50% Plans and Estimate for OWNER review.

Work Item 11 – Subconsultants

The CONSULTANT will contract with Compass Point Survey to provide topographic survey of the project site. Also, GeoTest will be contracted to perform geotechnical investigations sufficient to complete the intended work. The respective sub-consultant scopes and fees are attached.

Work Item 12 – Reimbursables

The CONSULTANT will request reimbursement for office supplies utilized for the above listed project work items.
As consideration for the services provided pursuant to Exhibit A - Scope of work, the county agrees to compensate the contractor according to the hourly rates provided below. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed. Mileage at IRS rate, other expenditures such as subconsultants, printing, postage and telephone charges shall be reimbursed at actual cost plus 5%.

Contractor will invoice monthly. Invoices will include employee hours worked with tasks accomplished. Requests for reimbursement of expenses must be accompanied by copies of paid invoices itemizing costs incurred. Costs of alcoholic beverages are not eligible for reimbursement. Compensation shall not exceed $63,401.83. Any work performed prior to the effective date of this contract or continuing after the completion date of the same unless otherwise agreed upon in writing, will be at the contractor's expense.

Progressive billings must be approved by the Parks Design & Development Supervisor before payment is made.

The Contract Number, set forth, shall be included on all billings or correspondence in connection therewith.

FEES:
Fees for work items 1-6 shall be a maximum amount not to exceed of $55,522.94 including reimbursable expenses.

**Reichhardt and Ebe Engineering**
- Engineer – E-I: $62.26
- Engineer - E-II: $67.92
- Engineer – E-III: $80.66
- Engineer – E-IV: $92.68
- Engineer – E-V: $105.42
- Engineer – E-VI: $118.15
- Engineer – E-VII: $130.89
- Tech – T-I: $42.45
- Tech – T-II: $53.77
- Tech – T-III: $52.26
- Tech - T-IV: $70.75
- Tech – T-V: $79.24
- Tech – T-VI: $90.56
- Clerical – C-I: $32.12
- Clerical – C-II: $41.04
- Clerical – C-III: $48.11
- Clerical – C-IV: $56.60

**Compass Point Survey (Subconsultant)**
- 2 Person Field Crew w/ robotic equipment: $170.00
- 1 Person Field Crew w/ robotic equipment: $140.00
- 1 Person Field Technician: $100.00
- Survey Technician – Office: Research and Calculations: $75.00
- Survey Technician – Office: Drafting: $60.00
- Survey Technician – Office: Paperwork, etc.: $50.00
- Professional Land Surveyor: $80.00

**GeoTest Services (Subconsultant)**

SEE ATTACHED GEOTEST SERVICES, INC. - 2014 FEE SCHEDULE
# FEE SCHEDULE
2014

## ENGINEERING, GEOLOGICAL & ENVIRONMENTAL SERVICES

<table>
<thead>
<tr>
<th>Profession</th>
<th>Hour Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Engineer</td>
<td>135.00</td>
</tr>
<tr>
<td>Geotechnical Engineer</td>
<td>135.00</td>
</tr>
<tr>
<td>Technical Director</td>
<td>120.00</td>
</tr>
<tr>
<td>Engineering Geologist</td>
<td>90.00</td>
</tr>
<tr>
<td>Environmental Professional</td>
<td>90.00</td>
</tr>
<tr>
<td>Project Manager</td>
<td>80.00</td>
</tr>
<tr>
<td>Geotechnical Technician</td>
<td>75.00</td>
</tr>
<tr>
<td>Geologist</td>
<td>75.00</td>
</tr>
<tr>
<td>CESCL (Certified Erosion &amp; Sediment Control Lead)</td>
<td>75.00</td>
</tr>
</tbody>
</table>

## CONSTRUCTION INSPECTION SERVICES

<table>
<thead>
<tr>
<th>Inspection</th>
<th>Hour Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concrete Inspection</td>
<td>60.00</td>
</tr>
<tr>
<td>Prestressed Concrete Inspection</td>
<td>60.00</td>
</tr>
<tr>
<td>Masonry Inspection</td>
<td>60.00</td>
</tr>
<tr>
<td>Grout Inspection</td>
<td>60.00</td>
</tr>
<tr>
<td>Fireproofing Inspection</td>
<td>60.00</td>
</tr>
<tr>
<td>Lateral Framing Inspection (Wood &amp; Steel)</td>
<td>60.00</td>
</tr>
<tr>
<td>Proprietary Anchor Inspection</td>
<td>60.00</td>
</tr>
<tr>
<td>Structural Steel Welding and Bolting Inspection</td>
<td>65.00</td>
</tr>
<tr>
<td>In-Place Density - Nuclear Gauge, Soils &amp; Asphalt</td>
<td>65.00</td>
</tr>
<tr>
<td>Soils Observation</td>
<td>65.00</td>
</tr>
<tr>
<td>Laboratory Technician</td>
<td>60.00</td>
</tr>
<tr>
<td>Field Technician</td>
<td>60.00</td>
</tr>
<tr>
<td>Field Sampling</td>
<td>60.00</td>
</tr>
<tr>
<td>Technical Review/Reporting</td>
<td>65.00</td>
</tr>
</tbody>
</table>

## SPECIALTY SERVICES

<table>
<thead>
<tr>
<th>Service</th>
<th>Hour Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bolt Pull-out Tests</td>
<td>90.00</td>
</tr>
<tr>
<td>Ground Penetrating Radar (GPR)</td>
<td>150.00</td>
</tr>
<tr>
<td>Pachometer (Magnetic) Rebar Location</td>
<td>90.00</td>
</tr>
<tr>
<td>Concrete &amp; Asphalt Coring</td>
<td>90.00</td>
</tr>
<tr>
<td>Schmidt Hammer</td>
<td>90.00</td>
</tr>
<tr>
<td>Windsor Probe</td>
<td>90.00</td>
</tr>
<tr>
<td>Brick Shear Testing (2 man crew)</td>
<td>150.00</td>
</tr>
<tr>
<td>Floor Flatness Testing (Dipstick)</td>
<td>100.00</td>
</tr>
<tr>
<td>Moisture Emission Testing</td>
<td>90.00</td>
</tr>
</tbody>
</table>
## Materials Testing

### Concrete
- Compressive Strength - Concrete ............................................................. 22.00 ea
- Compressive Strength - Concrete (cast by others) ............................... 30.00 ea
- Compressive Strength - Drilled Cores (includes trimming and testing) ... 60.00 ea
- Compressive Strength - Sawed Specimens (includes trimming and testing) 60.00 ea
- Shotcrete Panel - 3 Cores Per Panel .................................................. 200.00 ea
- Additional Shotcrete Cores ................................................................. 75.00 ea
- Flexural Strength - 6" x 6" Beams ......................................................... 45.00 ea
- Air Dry Unit Weight ........................................................................... 35.00 ea
- Trimming Specimens – Per End (when required) ............................... 15.00 ea

### Masonry
- Compressive Strength - Mortar, 2" x 4" Cylinder .................................. 22.00 ea
- Compressive Strength - Grout, 4" x 4" x 8" Prism .................................... 22.00 ea
- Compressive Strength - 2" x 2" Cubes (Cementitious Grout) .............. 22.00 ea
- Compressive Strength - 2" x 2" Cubes (Epoxy Grout) ......................... 30.00 ea
- Compressive Strength - Composite Prism ......................................... 100.00 ea
- Compressive Strength - Masonry Units .............................................. 100.00 ea

### Aggregate
- Sieve Analysis, with Wet Wash ......................................................... 125.00 ea
- Sieve Analysis, Dry Only .................................................................... 75.00 ea
- Sieve Analysis, % Passing #200 Sieve ................................................. 75.00 ea
- Specific Gravity and Absorption - Fine Aggregate ............................. 75.00 ea
- Specific Gravity and Absorption - Coarse Aggregate .................... 60.00 ea
- Uncompacted Voids - Fine Aggregate ............................................... 150.00 ea
- Unit Weight and Voids .................................................................... 40.00 ea
- Sand Equivalent .................................................................................. 80.00 ea
- Moisture Content ................................................................................ 35.00 ea
- Percent Fracture ................................................................................. 60.00 ea
- Organic Impurities Test ..................................................................... 40.00 ea
- Clay Lumps and Friable Particles ...................................................... 80.00 ea
- Lightweight Pieces ............................................................................ 75.00 ea
- Flat/Elongated Particles .................................................................... 80.00 ea

### Asphalt
- Asphalt Content & Gradation (Ignition Furnace) ................................ 225.00 ea
- Maximum Specific Gravity (Rice Density) ........................................ 80.00 ea
- Asphalt Core Density/Thickness ....................................................... 40.00 ea
  - Hot Mix Furnished, Set of 3 ............................................................ 300.00 ea
  - Lab Mixed, Set of 3 ......................................................................... 350.00 ea
### Clearances

<table>
<thead>
<tr>
<th>Originator</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
</tr>
</thead>
</table>

### Title of Document

**Discussion regarding the county's use of Roundup**

### Attachments

None

### SEPA review required?

( ) Yes ( ) 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.)

### 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)
### TITLE OF DOCUMENT:
Repeal the Eliza Island Plan and amend provisions in the Whatcom County Comprehensive Plan and Zoning Code relating to the subarea plan.

### ATTACHMENTS:
1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes

Other background information is on file at the Council office.

### 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.)

Repeal the Eliza Island Plan and amend provisions in the Whatcom County Comprehensive Plan and Zoning Code relating to the subarea plan. The Eliza Island Plan was adopted in 1994, prior to the first Whatcom County Comprehensive Plan that was adopted under the GMA.

**NOTE:** Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2015.
May 5, 2014

To: Jack Louws, The Honorable Whatcom County Executive
   The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the Eliza Island Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

The comprehensive land use plan designation in the 1994 Eliza Island Plan is not the same as the designation in the current Whatcom County Comprehensive Plan. Additionally, the Eliza Island Plan is 20 years old and contains some outdated information. Therefore, we recommend repealing the subarea plan and amending provisions in the Whatcom County Comprehensive Plan and Zoning Code relating to the subarea plan.

Planning & Development Services is requesting Council consideration of these amendments on June 3. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council will not render a final decision on the proposal until early 2015.

Thank you for your consideration of this matter.
WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2014; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on April 24, 2014; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive plan amendments on April 24, 2014; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to the subarea plan.
   b. Amending Whatcom County Zoning Code Plan provisions relating to the subarea plan.
   c. Repealing the Eliza Island Plan (1994).

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to citizen, media and other groups on the County’s e-mail list on April 8, 2014.
5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 8, 2014.

6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 11, 2014.

7. The Planning Commission held a public hearing on the subject amendments on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments 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

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Eliza Island Plan was adopted in 1994. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan’s land use designation is not the same as the Whatcom County Comprehensive Plan’s land use designation.

County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. There are no interlocal agreements relating to the Eliza Island Plan.

Further Studies/Changed Conditions

14. The Eliza Island Plan was adopted in 1994.

15. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended.

16. Adoption of the Whatcom County Comprehensive Plan constitutes a changed condition that warrants repealing the 1994 Eliza Island Plan.

Public Interest

17. Repealing the 1994 Eliza Island Plan will serve the public interest by removing a 20 year old plan that is no longer necessary because of adoption of the Whatcom County Comprehensive Plan.

Spot Zoning

18. The subject proposal does not involve rezoning property.
CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The Whatcom County Zoning Code is hereby amended as shown on Exhibit B.

Section 3. The Eliza Island Plan (1994) is hereby repealed as shown on Exhibit C.

Section 4. 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 __________, 2015.

ATTEST:

Dana Brown-Davis, Council Clerk

Carl Weimer, Chairperson

Civil Deputy Prosecutor

Jack Louws, Executive

Date: ______________________
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-2: Retain and periodically review the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Birch Bay Community Plan, Foothills, Point Roberts, and South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county’s first Growth Management comprehensive plan adopted in 1997.

1. Utilize a process which ensures consistency between the Whatcom County Comprehensive Plan and subarea plans. The subarea plan review process should include the following steps:

   a. Consistency Analysis. The County should review subarea plans based on the priority order in subsection “b” for gaps, overlaps, or inconsistencies. Topics include, but are not limited to, plan boundaries, growth forecasts, land uses, capital facilities and services, horizon year, and other appropriate issues.

   b. Regional and Local Government Coordination. The County should consult and coordinate with cities where city-associated UGAs are included in subarea plan boundaries.

   c. Public Participation. Each subarea plan update process will be based on a public participation program that addresses citizen input on the key issues associated with the subarea plan update.

   d. Subarea Plan Amendment. Only those portions of existing subarea plans in conflict with the Comprehensive Plan are required to be amended. Local issues of concern or changed conditions may be addressed.

   e. Comprehensive Plan Revisions. Where the subarea plan process recommends growth levels, growth boundaries, or other essential features, Comprehensive Plan amendments will be considered in conjunction with the subarea plan update process.
Land capacity analysis may also be updated if appropriate.

2. Prioritize review of subarea plans. Subarea plans should be reviewed in the following order.

a. Post-GMA Subarea Plans addressing UGAs. These subarea plans should be reviewed and amended, if necessary, during Whatcom County’s periodic review of the comprehensive plan. Subarea plans addressing UGAs associated with a city should be coordinated with the city’s comprehensive plan update process.

b. Post-GMA Subarea Plans addressing Rural Areas. These subarea plans should subject to a consistency review. If significant inconsistencies are found, these should be considered for potential update during Whatcom County’s periodic review of the comprehensive plan. Minor updates may be considered through the County’s docket process in subsequent years.

c. Pre-GMA Subarea Plans. These should be repealed or updated in accordance with County department work programs or the docketing process. Priority criteria may be used to determine the order of update. Example criteria include:

   i. whether update is needed for health, safety, or welfare concerns;

   ii. whether there is a city-associated UGA included in the subarea plan boundaries – in which case, the subarea plan update could be timed to be developed in association with or following city comprehensive plan update process;

   iii. whether the subarea plan would benefit from broader policy concepts to be completed in advance or in tandem, such as agricultural land protection measures;

   iv. whether a significant policy objective would be met by amending the plan.

In the event there is an inconsistency between a Subarea Plan and the Whatcom County Comprehensive Plan, the Whatcom County Comprehensive Plan shall prevail.
NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the Lake Whatcom Subarea Plan (file # 2014-00002) and the South Fork Valley Subarea Plan (file # 2014-00003). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Exhibit B

Amend Chapter 20.35 of the Whatcom County Zoning Code as follows:

20.35.010 Purpose.

The Eliza Island District has been formed as a separate district due to its unique character. The purpose of this district is to allow for a harmonious mixture of residential, seasonal residential, recreational, and accessory uses. In addition, the district requires that new uses complement the island character by adherence to the goals and policies of the Eliza Island Subarea Plan. When making a determination about uses, consideration will be given to the rural land use policies as outlined in the Comprehensive Plan, as well as cumulative impacts of uses in this rural area. (Ord. 2011-013 § 2 Exh. B, 2011; Ord. 94-032, 1994).
Exhibit C

(Repealing the Subarea Plan)
ELIZA ISLAND PLAN
A Component of the Whatcom County Comprehensive Plan

WHATCOM COUNTY IS A NUCLEAR FREE ZONE
As approved by the voters of Whatcom County, County Initiative Measure #1-84, November 6, 1984; Adopted by Whatcom county Resolution #85-29, June 20, 1985.

Whatcom County Executive
Shirley Van Zanten

Whatcom County Council
Barbara E. Brenner
Marlene Dawson
Kenneth R. Henderson
Larry Harris
Robert A. Imhof
Ward Nelson
Alvin Starkenburg

Whatcom County Planning Commission
Emil Baijot
Rod Erickson
David Ernst
Clare Fogelsong
Leslie Hamilton
Jerry Landcastle
Elaine McRory
David Simpson
Phillip Urso

Eliza Island Citizen Advisory Committee
David Boeringa
Myrna Boeringa
Linda Bothell
Theo Hames
Glenn Hawley
Jack Hovde
Lenny Hovde
Robert Littleton
Salvatore Papetti
Joan Potter
William Potter
Hal Thurston
Bert Webber
Sue Webber
Glenn Wielick
Mary Writer
Nicholas Zaferatos
Dean Peterson

Whatcom County Planning and Development Services Department
Nathan W. Brown, Director
Daniel W. Taylor, Planning Division Manager
Project Staff:
Jeffrey R. Griffin, Project Planner
Sarah Bussard Watts, Planner II
Elizabeth K. Olsen, Chief Cartographer
Carole Magner, Clerk III/Word Processor
Jane Doughty, Receptionist

Whatcom County, Washington

May, 1994
## TABLE OF CONTENTS

1. INTRODUCTION  
   Land Use Planning ........................................... 1  
   Citizen Advisory Committee ................................ 1  
   Plan Implementation ......................................... 2  

2. LAND USE ELEMENT  
   History ..................................................... 3  
   Current Land Use .......................................... 3  
   Population Characteristics .................................. 3  
   Land Use Goals and Policies ................................ 4  
   Land Use Designation ....................................... 5  

3. COMMUNITY FACILITIES AND UTILITIES ELEMENT  
   Transportation/Access ......................................... 6  
   Fire Protection and Emergency Services .................... 6  
   Public Safety .............................................. 7  
   Power Supply and Communications ............................ 7  
   Solid Waste ................................................ 8  
   Sewage Disposal ........................................... 8  
   Water Supply ............................................... 8  
   Community Facilities and Utilities Goals and Policies .... 9  

4. ENVIRONMENTAL CHARACTERISTICS ELEMENT  
   Climate ...................................................... 11  
   Topography .................................................. 11  
   Shore Processes and Erosion ................................ 11  
   Seismic Hazards ............................................ 12  
   Plants, Fish and Wildlife Habitat ........................... 12  
   Environmental Goals and Policies ........................... 13  

5. APPENDICES  
   Appendix A: Geologic Conditions ............................ 15  
   Appendix B: Marine Shoreforms ................................ 15  
   Appendix C: Soils .......................................... 16  
   Appendix D: Hydrogeologic Conditions ....................... 16  
   Appendix E: Biologic Conditions ............................ 17  
   Appendix F: Bald Eagle History and Management ........... 19  

6. BIBLIOGRAPHY  
   Publications and Documents .................................. 22  
   Personal Contacts .......................................... 23  

7. ENABLING ORDINANCE & ZONING ................................ 24
introduction
VICINITY MAP
CHAPTER 1. INTRODUCTION

Land Use Planning

The following document plans for the physical development and conservation of Eliza Island. It is intended to serve as a guide for the preparation and adoption of official controls, such as zoning regulations, and to provide a basis for reviewing proposed public and private projects. Although comprehensive plans have been adopted for the majority of the County, planning for land use on Eliza Island was never effected. This has not been a serious problem, however, as the existing subdivision and Beach Club restrictions, and apparent preference for vacation use by individual lot owners, have largely dictated the kind of land use the island has experienced over the last thirty or so years. Whether or not this preference and intensity of use will continue for the next thirty years is questionable due to increasing population and increasing ownership distribution.

A comprehensive plan is a source of reference to aid in developing, correlating and coordinating official regulations and controls, and is a means for promoting the general welfare. It is also a means for anticipating and influencing the orderly and coordinated development of land and building uses. Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, which states that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The Eliza Island Comprehensive Plan has been developed in response to statutory authority as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

Many planning elements are required by the Washington State Growth Management Act as well. These include planning for capital facilities, transportation, economic development, housing, industrial and commercial land, protecting agricultural, mineral, and forestry resource lands, and critical environmental areas. These elements are being addressed under a broad County-wide Comprehensive Plan, a separate planning process that is currently in its formulative stages of development.

Minimum requirements for the Eliza Island Plan are: (1) the plan must contain a land use element, providing policies for and showing the general distribution and location of land for various uses such as, for example, residential, recreational, commercial, and open space; and (2) a circulation element, setting policy for and outlining transportation and utility routes. The Eliza Island Comprehensive Plan contains additional elements in light of its unique qualities, which is especially important where county-wide policies are or may be too generalized.

Citizen Advisory Committee

A Citizen Advisory Committee, composed of property owners on Eliza Island, was formed on April 17, 1993 to work together with County planning staff in developing the proposed Eliza Island Comprehensive Plan and implementing zoning. Members fully participated in a consensus process throughout the course of eleven meetings over a one year period. The Committee chose to survey all property owners on Eliza Island during the summer of 1993 on land use issues important to the development of the Comprehensive Plan. The Committee also coordinated with the Eliza Island Beach Club Board, a property and homeowners association serving the island community.
Plan Implementation

Implementation of the plan will require and guide the amendment of existing zoning regulations for Eliza Island. It could also direct the County to address pertinent issues through other mechanisms, such as zoning regulations. Under the direction of the Comprehensive Plan, zoning classifies land according to allowed uses. Generally accepted rationale for zoning includes the preservation of property values or community character and the more nebulous "promotion of the general welfare." The typical zoning ordinance, by zone district, establishes uses as either outright permitted, permitted conditionally (subject to additional review, a public hearing, and the imposition of conditions), or prohibited. Current zoning regulations on Eliza Island were temporarily established in 1974. These regulations are very generalized and provide little or no assurance from the County as to future uses and character of the area. Other existing programs or land use controls are described below.

Shoreline Management Program

The Shoreline Management Program, established in 1976, contains policies and regulations for shore-front properties. The Conservancy Designation was applied to the majority of Eliza Island shorelines in 1976. The purpose of the Conservancy Designation is to obtain long-term, wise use of natural resources, encourage multiple use whenever practical, and prevent forms of development which would be unsafe or incompatible with geo-hydraulic processes. Two areas on Eliza Island received a Natural Designation in 1976, the Federal Reserve at the south end and the South Beach wetland area. The Natural Designation was applied to areas having high value in a natural condition. Development in these areas is limited to low key, compatible recreational facilities.

Beach Club Rules and Covenants

All property owners within the Eliza Island plat belong to the Eliza Island Beach Club which was incorporated in 1961. Subdivision covenants limit improvements to lots to a single family dwelling and appurtenant structures, and a guest house which may not be rented. Building plans must be submitted to the Board of Directors of the Beach Club who approve the general location and layout of proposed improvements with regard to health and nuisance.

In July 1976, Rules of the Island were adopted prohibiting private piers, mobile homes, or trailers. Private motorized vehicles, other than Beach Club owned ones, are not allowed on the island except for delivery of fuel, building materials, and for owners who require them for health reasons. Airplanes may not use trails or roads for travel to and from owners' lots.

Federal Policy for Reserves

The lighthouse reserve at the southern tip of the island is Federally owned and managed by the Bureau of Land Management in Wenatchee. This agency plans to allow the property to remain in a natural state in the public interest. Tidelands adjacent to this property are State owned.

Eliza Rock is located just southeast of Eliza Island and is a San Juan Islands National Wildlife Refuge (NWR) managed by the U.S. Fish and Wildlife Agency. Federal guidelines recommend avoidance of this area by air and water craft, and prohibit public access on the Rock.
land use

element
LEGEND

1) All tidelands are 2nd. class
2) Tracts A, B, C and D are Community Tracts.
   Tract D, not shown, denotes all 2nd. class tidelands
   In Sect. 32, Twp. 37, R.2E., W.M.

 Walkways and Utility Easement

Sources: 1985 Aerial Photo, Whatcom County Planning Dept.
Plat Map, Whatcom County Engineering Dept.,
NOAA Nautical Chart # 18421, USGS Topo. Map "Eliza Island"
Quadrangle.
CHAPTER 2. LAND USE ELEMENT

History

For many years, the island, named by the Native Americans "Tukwitch" for its bow shape, was frequented often by members of the Lummi Nation. These people found the island's surrounding waters attracted a healthy population of herring during the spring when the fish spawn. It was in 1791 that an early Spanish explorer, Lieutenant Francisco Eliza, came upon the San Juan Islands and provided for the island's present name.

In the late 1880's, the island was purchased by Illinois Senator Eugene Canfield and developed into a large chicken ranch. After smugglers depleted the poultry supply, a potato farm was started but soon abandoned. Pacific American Fisheries Incorporated (P.A.F.) purchased the island in 1899 for storage and fish trap construction, and repair of fish traps, boats, and other gear. P.A.F also put a large reduction plant into operation which produced commercial fertilizers from fish scraps from the local canneries. During this period, several hundred people lived on the island. The banning of fish traps substantially slowed all activity, and a fire in 1938 closed the site. In 1940, the Navy purchased Eliza and used it as a bombing range for military aircraft during World War II. In 1948, Oregon State University leased the island and conducted a study of pheasants. In the early 1950's, the island was again purchased and selectively logged (mostly second growth) for timber.

Eliza Island Development Company acquired most of Eliza in 1961 and subdivided it into 139 residential parcels and five common tracts, covering all the island except for a Federal lighthouse reserve at the southern tip. The subdivision was extensively advertised as a recreational get-away and is now owned by a number of private individuals and managed by the Eliza Island Beach Club.

Current Land Use

Of the 139 residential lots on Eliza, approximately 55 structures have been built, ranging in size from small cabins to three bedroom houses. Most of the lots are owned separately and are in the 25-30,000 square footage range. Actual buildable lot area, however, is much smaller on most of the shoreline lots.

The five community tracts are owned and managed by the Eliza Island Beach Club. These tracts include the airstrip (Tract A), a community area which includes a large marsh and playground area (Tract B), an eroding "isthmus" to the south of the island (Tract C), the intertidal area encompassing the island except for the south end (Tract D), and the caretaker/equipment storage community area (Tract E). The Club allows only members and guests access to their community owned tidelands.

The lighthouse reserve at the southern tip of the island is Federally owned. Tidelands adjacent to this property are State owned. State and Federal laws allow public access to the tidelands and uplands for low intensity, recreational use.

Population Characteristics

The current population ranges from two year-round residents (the caretakers) to approximately 144 people over the Fourth of July holiday. Although there are no zoning restrictions prohibiting permanent occupancy, the islanders have chosen, thus far, to use their lots and cabins for seasonal and recreational purposes only.
The zoning adopted in the 1970s allows a density of one unit per acre, which would not allow further subdivision of the existing lots unless the islanders decided to change the use of the community tracts, or the Federal government sold the southern end, both of which are unlikely. Therefore, under existing zoning and covenant restrictions, the maximum theoretical population on the island could become 417 persons, assuming permanent occupancy of 139 lots at three persons per household. The accustomed recreational use of the lots, along with limitations on the cost of potable water, however, should limit population growth.

**Land Use Goals and Policies**

**Goals:**

1. Given the exceptional natural and wildlife resources of the island, and a strong desire by islanders to preserve these resources for future generations to enjoy, Eliza Island should maintain its unique qualities through the continued development of modest sized structures designed and located in a manner which minimizes impacts to the island’s character.

2. Encourage the dedication of land for both passive and active recreation, preserve the environmental quality of the island and maintain the island character.

**Policies:**

**Physical Development**

1. Site design and building layout should take advantage of natural topography, vegetation and solar access. Vegetated buffers should be utilized between cabins and other developments.

2. Non-porous surfaces should be minimized and directed away from marine bluffs to prevent erosion.

3. Development should be limited in height and size in order to maintain the islands rural and scenic qualities, reduce cumulative environmental impacts occurring from full buildout, and encourage a recreational island lifestyle.

4. Material used for development on the island should be compatible with the islands scenic qualities. Trailers and mobile homes should be prohibited.

5. Commercial land uses on the island should be prohibited.

6. Applicants for development on Eliza Island should not be required to transport County personnel. The County should be responsible for their own transportation to the island.

**Open Space**

1. The aesthetic value and open views of the beaches and shoreline areas should be preserved.

2. Eliza Rock should continue to be utilized as a natural open space area and wildlife refuge.
3 Whatcom County and the Eliza Island Beach Club should acknowledge the lighthouse reserve at the south end of the island as publicly owned and a permanent open space area for passive recreational use.

4 The community tracts of the island subdivisions should continue to be utilized for passive recreation, natural open space, caretaker facilities, and small plane access.

Recreation

Recreational camping should be allowed on individually owned lots provided all health related concerns are addressed.

Noise

Uses on the island should not present incompatible noise nuisances to residents.

Land Use Designation

An "Island" plan designation has been formed for Eliza Island. This new designation was created because no other existing plan designation appropriately characterized the Island and its' seasonal residential, residential, and recreational mixture of land uses.
community facilities and utilities element
LEGEND

- Vacation Home
- Walkways and Utility Easements

Sources: Whatcom Co. Assessor's Office.
Eliza Island Beach Club, 1993.

COMMUNITY FACILITIES AND UTILITIES

Whatcom County Planning Department
April 1994
CHAPTER 3. COMMUNITY FACILITIES AND UTILITIES ELEMENT

Transportation/Access

Access is by private or chartered boat or plane, with the majority using private boats. The island has one boat dock and an airstrip for the residents' use. The 25-foot long dock is located at the end of a 100-foot pier on the mid-west shore of the island and is primarily used for loading and unloading. Boats are then moored at one of the sixty personally owned buoys. During the summer months, Eliza Island may be serviced by the Island Shuttle Express, a privately operated ferry that departs daily from Bellingham with the San Juan Islands as its destination, but may stop at Eliza Island upon request.

The airstrip, located in the mid-west center of the island, is unpaved and 1510 feet long, and is suitable for small propeller plane use only. The lack of night-time lighting restricts landings to daylight hours. Several air taxis service the island with commuter planes upon request.

Eliza Rock is designated as a National Wildlife Reserve and as such is closed to the public to protect breeding colonies of seabirds, endangered and threatened species, and marine mammals. Boaters are requested to stay at least 200 yards away from these islands to avoid disturbance to these animals. In addition, Federal Aviation Authority (FAA) guidelines state all aircraft are requested to maintain a minimum altitude of 2000 feet over refuges, wilderness areas, and primitive areas (FAA Advisory Circular 91-36C). Low-flying aircraft may pose a threat to marine birds while nesting or wintering on Eliza Rock by causing stress to the birds at critical times.

Motorized vehicles on the island are restricted to various community-owned utility equipment. Other motorized vehicles are only allowed under unique situations. Dirt and gravel road easements lead to cabins, common tracts, and facilities.

Fire Protection and Emergency Services

Present fire protection for improvements consists of a tank/pump trailer with a capacity of 500 gallons, several fire extinguishers, and nine standpipes located throughout the island.

The island is not within a fire district boundary. An attempt to form a district was made in 1979, however the proponents only had two commissioners. The formation of a district requires at least three residents who are registered voters to serve as commissioners. Until Eliza Island annexes into a fire district or forms its own, it will not qualify for mutual aid from other districts nor from the Bellingham Fire Department and its water boat. The Bellingham Fire Department will, however, perform fee based emergency medical service to the islanders.

The Department of Natural Resources (DNR) is required by State law to suppress all wildfires on unimproved land regardless of parcel size. The DNR estimates that it would take at least two or three hours for the department to reach the island and coordinate boat, land, or helicopter operations. The Coast Guard might assist in these efforts by providing transport for fire fighters. The DNR is prohibited, however, from entering or leaning ladders against any improvements because the responsibility of protecting improvements is left to the local fire districts, or, in this case, the Eliza Island Beach Club.
Fire Flow Standards

Building and fire codes require certain levels of water service for each building type and use and are applied when long subdivisions are being developed. When the Eliza Island plat was approved in 1961, however, such standards were not required. Current codes exempt from fire flow standards single family houses and all secondary buildings under 2,500 square feet.

Public Safety

Law enforcement on Eliza Island is provided by the Whatcom County Sheriff's Department. The Sheriff's Department is located in the Whatcom County Courthouse in Bellingham and serves an area of approximately 2,087 square miles including all of Whatcom County with the exception of Bellingham, Blaine, Everson, Ferndale, Lynden, Nooksack, Sumas, and parts of the Lummi Reservation. The estimated service area population in 1991 was approximately 62,578 persons.

The department currently employs 82 full-time paid personnel assigned to the entire county and consists of four divisions: Corrections, Civil, Criminal, and Emergency Management. In addition, there are 48 full-time deputies; 36 of whom are assigned to patrolling and responding to service calls; the remaining 12 deputies perform administrative and supervisory tasks at the main station, although they are also available to respond to calls. There are 13 administrative staff and approximately 45 jail staff. Currently the Sheriff's Department is conducting a staffing survey to determine whether the department has enough personnel to provide an adequate level of service.

The Sheriff's Department will respond to calls from the island. It is estimated, however, that the response time for in-progress crimes would be at least one hour. Transportation would have to be arranged either by Coast Guard escort or by flight services at the Bellingham International Airport. The Sheriff's Department does not have adequately sized boats of their own to respond to calls outside of the harbor area.

Power Supply and Communications

There is no public source of electricity supplied to Eliza Island. Some individual cabins are powered by privately owned generators and some cabins operate low voltage, 12 volt systems supplied from storage batteries which are charged by generator or solar collection arrays. Other cabins have no electricity. Heat is produced by wood burning stoves and propane heaters.

A phone CB at the caretaker's house can be used to contact the Coast Guard in the event of an emergency. Cellular phones are also available to the caretakers and private owners. Television and radio reception are limited.

The island has the potential for wind and/or solar energy generation which might serve as an appropriate energy alternative for the islanders' seasonal recreation usage, resulting in a reduced reliance on imported fuels.

Due to the unique nature of Eliza Island, the limited services available and the seasonal use of many structures, Whatcom County is authorized under the Uniform Building Code to allow some flexibility when issuing construction permits for projects on Eliza Island. This may include the allowance for pier and post foundations, wood stoves as the primary heating source, and reduced energy code compliance.
Solid Waste

Solid waste is either burned or packed off the island and disposed on the mainland. Most burning activities require a permit from Whatcom County Fire Division. Only burning of natural vegetation and untreated lumber materials is permissible. Any activity releasing airborne particulates must also comply with the regulations of Northwest Air Pollution Authority. In addition, activity may be suspended whenever the County or the Department of Natural Resources declare a burn ban. The Beach Club also monitors burning activity.

Sewage Disposal

Sewage disposal is by septic tank with individual drainfields. Increased use from existing drainfields designed for limited use may become problematic. New systems require full compliance with the Whatcom County Health Department standards. Some systems may require careful design to account for slow or rapid infiltration rates, depending upon soil conditions (see Appendix C for soils information.)

One of the principal criterion used to determine whether an area is urban or rural in character is the availability of a public sewer system. Development of a public sewer system would be costly and would conflict with the goals of keeping the island rural and recreational. A more appropriate solution for Eliza Island is to continue the use of septic systems, but at a level of intensity which maintains the environmental integrity of the island.

Water Supply

Up until 1993, water had been supplied to residents from a single well treated by a chlorination system and stored within five fiberglass boat molds and one steel tank with a total capacity of 100,000 gallons. Although this system provided the water necessary to the island lot owners for 30 years, it failed to meet current health standards due to limitations in both quantity and quality. During August 1991, water became unavailable because the well yield became too low during the summer to meet daily demand and sufficient quantities had not been stored in the tanks when water was available during the winter and spring months.

Amendments to the Growth Management Act were adopted in 1991 through House Bill 1025. Section 63 of the legislation, including the amendments, states that local jurisdictions shall require: "Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building..." Accordingly, in July 1991, the County established an interim policy to address this mandate. Due to the water situation on Eliza Island, the County would not issue new residential building permits until evidence of an adequate water supply is demonstrated. In this case, it must be approved by the State Department of Health because it has jurisdiction for approving public water systems.

In 1991, the Eliza Island Beach Club appointed a water committee to investigate options available to provide potable water for island lot owners. After a review of alternatives, this committee decided that turning salt water into potable water was the best alternative (see Appendix D for a discussion of ground-water resources on the island) and was the first in the State of Washington to receive state and local agency endorsement. This consent was based upon part-time, recreational use of the cabins on the island, at a water rate to be determined based upon demonstrated usage. The reverse osmosis, de-salinization plant was constructed in 1993 and began service to a portion of the lot owners that year. As a requirement of state approval, a Water Conservation Plan must be followed in order to foster water conservation practices.
Community Facilities and Utilities Goals and Policies

Goal:

Increased population on the island could necessitate improved or additional transportation systems, fire and police protection, power supplies, communication systems, solid waste disposal methods, sewage disposal, and water supply. These improvements and/or additions should be designed in keeping with the overall goal of maintaining a low intensive recreational use of the island.

Policies:

Transportation/Access

1. Shoreline accessory developments, such as piers and docks, should be limited to those that are owned by and accessible to the community.

2. Federal Aviation Administration guidelines with respect to National Wildlife Refuges should be observed by those utilizing the airstrip facilities on the island and for any future expansions to avoid impacts to sensitive marine animals on Eliza Rock.

3. The use of motorized vehicles should be minimized and in accordance with island covenants, conditions, and restrictions.

4. Transportation routes on the island should continue to be of the low intensive trails type.

Fire Protection and Emergency Services

The island is poorly equipped to handle an emergency fire situation, especially under dry weather and high wind conditions. Whatcom County should support the Islanders efforts to develop a fire protection plan.

Public Safety

Whatcom County should ensure that the necessary staff and equipment are available in the Whatcom County Sheriff’s Department to provide adequate protective services for the Eliza Island population.

Power Supply - Energy Code

1. Whatcom County should encourage the physical development of passive or active solar heating and water heating, and wind power plants for residential uses on the island.

2. Whatcom County should allow code flexibility to the extent permissible for construction of cabins that will be used on a part-time recreational basis.

Solid Waste

Islanders are encouraged to follow the "carry in, carry out" rule in the handling of waste. Disposal on the island should be prohibited.
Sewer Systems

Whatcom County should discourage the siting of a public sewer system on Eliza Island. The use of individual septic systems should be encouraged in accordance with Whatcom County Health Department standards.

Water Systems

1. Whatcom County encourages the Eliza Island Water Conservation Plan.

2. Whatcom County should coordinate with Washington State Department of Health by encouraging recreational land use on the island which is consistent with the capabilities of the island's approved water system.
environmental characteristics element
ELIZA ISLAND PLAN

Legend:
- Vacation Home
- Caretaker's Residence/Community Facility
- Forest Habitat
- Grassland
- Saltmarsh/Wetland
- Rocks, bare or awash, at Mean Lower Low Water
- Eelgrass bed
- Kelp bed

Source: 1986 Whatcom Co. Aerial photo, Field Survey April 1993

Environmental Characteristics

Whatcom County Planning Department
April 1994
CHAPTER 4. ENVIRONMENTAL CHARACTERISTICS ELEMENT

Climate

The Island experiences a temperate marine climate, characterized by mild temperatures, muted extremes, and narrow diurnal fluctuations. Winters are wet and mild, with an average daily temperature of 36 degrees F in January. Summers are relatively cool and dry, with average daily temperatures in July of 63 degrees F. The Vancouver Island mountains and the Olympic Mountain Range in northwestern Washington shelter the island from major storms moving landward off the Pacific Ocean and produce a rain shadow effect. Based on the nearest available formal weather stations, Olga on Orcas Island and Bellingham Airport, average annual precipitation is estimated to be less than 32 inches per year, most of which falls between October 1 and March 31.

Topography

The irregularly shaped island has an area of 158 acres, or approximately one-quarter square mile, enclosed by approximately 3.1 miles of shoreline. The island is T-shaped with different surface features on each peninsula (see figure 3). The western bedrock knob is fairly flat with the highest elevation being twenty feet above sea level. The rocks of the southern bedrock knob have an elevation up to 87 feet with a slope of 12 percent. The central region has the highest elevation of 88 feet. The northern point of the island consists of a narrow ridge that descends northward from the high point of the island. The eastern shore consists of a marine bluff created by wave erosion and small slope failures. The eastern part of the island is connected to the western knob by a low-lying area bounded by beach berms and containing a saltwater marsh.

Shore Processes and Erosion

Rates of erosion and shoreline retreat are undocumented on Eliza Island, but based on similar shorelines in other parts of the region, the glacial bluffs might be expected to retreat at approximately one foot per decade, but will do so in an episodic fashion, losing a few feet in a small slide every several decades. It will be centuries before the south end is cut off from the rest of the island.

Two aspects of shore processes bear directly on development practices on Eliza Island. The first concerns development of the low-lying barrier beach. The berms that form portions of both the south and north beaches were built by wave action and as a result are subject to further wave action in the future. The berms have been modified by human activity as well. Although flooding does not occur frequently, it can and will occur again. Serious damage may occur if high water is accompanied by wave action. The south beach is retracting gradually over time and this will accelerate if feeder bluffs are bulk-headed. In addition, short term erosion may occur as a response to large storms. Erosion will put any structure near the berm at risk and will increase pressure to armor the shoreline. The impact of a small earthquake-generated tsunami could be devastating to structures built on or adjacent to the berm.

The second concern involves development of the bluffs. Although erosion rates are slow, small landslides can be expected to continue. Armoring of the shoreline with bulkheads or rip rap to limit erosion or stabilize bluffs will result in the loss of sediment supply to the beach and may result in greater erosion down-drift. All efforts should be made to locate structures so that the pressure to bulkhead is minimized. Clearly, bulkheading represents a significant change to the natural character of the shoreline and is accompanied by loss of important shoreline habitat.
Many of the problems property owners have with erosion and slope failure on shoreline sites can be traced to clearing of vegetation. Much of the stability of shoreline bluffs is due to the root strength created by bluff top and bluff slope vegetation. Just as importantly, vegetation controls bluff hydrology and prevents slope failures due to soil saturation. Trees prevent the infiltration of water during rainstorms and remove large amounts of water from the soil through evapotranspiration. When the vegetation is removed, the stability is weakened, increasing the natural rate of erosion. This acceleration can lead a property owner to consider protections such as bulkheads, seawalls, and rip-rap. However, because shoreline environments are a balance of large and changing forces, disruption can have unforeseen consequences. Not only is the delicate interplay between geologic, hydrologic and biologic systems easily damaged, but a structural modification at one point along a shoreline can have impacts to other areas away from the site. An alternative method of bank stabilization is to re-introduce vegetation to the area and locate improvements as far from the bluff edge as possible.

Seismic Hazards

The Uniform Building Code includes a Seismic Risk Map for the United States which considers potential earthquake intensity and resulting damage. Five zones are identified with the following relationships to potential damage: Zone 0 - no damage, Zone 1 - minor damage, Zone 2 - moderate damage, Zone 3 - major damage, and Zone 4 - areas within Zone 3 that are in proximity to major fault systems. The Puget Sound Basin lies in the Circum-Pacific earthquake belt that extends along the West Coast of North and South America. Based upon this and the geologic structure of the region, it has been categorized as within seismic risk Zone 3. There are no known faults within the island that are considered active (movement having occurred within the past 10,000 years).

Seismic vibration would be the major result from an earthquake. The degree of shaking is primarily dependent on two variables, the geologic unit involved and the degree of water saturation (see Appendix A, Geologic Conditions). The sand and gravel deposits of the Outwash and Undifferentiated Glacial deposits are susceptible to seismic shaking. Organic soils in the wetland area and any areas of artificial fill are highly susceptible to shaking, especially in thick deposits. The fine soil components of deposits within the lowland, central area of the island are highly susceptible to liquefaction when shaken because of the high water table.

Plants, Fish, and Wildlife Habitat

The habitats on Eliza Island provide plants, fish, and wildlife with their basic requirements for survival, such as food, water, and cover, as well as special seasonal requirements related to growth and reproduction. The open waters offshore provide important habitat for thousands of organisms, including phytoplankton and zooplankton, subtidal macroalgae (seaweed), benthic invertebrates, fish, and marine birds and mammals. Many species require both marine and non-marine habitats at different times in their life cycles. The physical features of the irregular shoreline including promontories, bluffs, cliffs, cobble and sandy beaches and marshes create a variety of habitat and forage opportunities for many species. Rich marine bird habitat is found in shallow bays where the birds forage on eelgrass plants, small fish, and invertebrates.

A wide variety of life inhabits the uplands of Eliza Island both seasonally and year-round. The assortment of vegetation provides habitat for many species of birds and insects as they utilize several differing types of habitat; one species may forage for a variety of insects in lowland clearings including the salt marsh and return to forested areas for shelter, while another may visit the nearshore environment from a nesting site on another island (see also Appendix E, for further discussion of habitat types).
Planning for habitat protection on Eliza Island requires that activities affecting habitat be managed in a comprehensive manner to insure that the best representation and distribution of habitats remain to preserve the natural values and functions of those habitats. Virtually every land use action affects wildlife habitat. When recognizing the dependency of wildlife on soils, vegetation, clean air and water, one can appreciate the importance of minimizing the adverse impacts on wildlife through careful land use. Incremental habitat loss results in cumulative impacts and ultimately the need for crisis management. Cumulative adverse impacts on habitat is the greatest threat to wildlife, generally, and species diversity, specifically. Potential cumulative impacts must be identified in the planning process. Further, the creation of clearly stated policies directly linking various land use elements with wildlife requirements is needed.

**Environmental Goals and Policies**

**Goals:**

1. Protect and preserve the diversity of plant and animal species on Eliza Island and the surrounding shoreline areas.

2. Protect the general health, safety and welfare by insuring that development in geological hazardous areas minimizes the danger to life and property and is environmentally sound. Prevent erosion and landslides on steep slopes.

3. Promote residential landscaping that preserves and is compatible with natural vegetation and requires low levels of water consumption.

**Policies:**

**Shoreline Bluffs**

1. Vegetation removal on eroding shoreline bluffs and banks should be prohibited to maintain bank stability. Natural vegetation should be retained along marine bluffs.

2. The dumping of any vegetation or debris over the edge of a bluff will increase the potential for landslide and should be prohibited.

3. The visual integrity of the shoreline should be protected. Encroachment on geohydraulic processes should be prohibited. Developments should be located well away from the waters edge.

4. Shore defense works should be located, designed, and maintained in a manner which preserves or enhances the quality of affected waters, and conserves or enhances fish and wildlife resources and their respective habitats.

5. Non-structural, non-obtrusive shore defense works are preferred over artificial, structural alternatives.

6. Saturating soils along bluffs should be prevented by minimizing watering and maintaining natural vegetation in order to help prevent slope failure.
Land Clearing

1 The visual integrity of the uplands should be protected. Land clearing on the island should be minimized.

2 Minor tree de-limbing and small tree thinning is emphasized as preferable to clearing for view access and to decrease shading.

3 Because of erosion problems caused by large areas of exposed soil, construction sites should not be cleared until shortly before actual construction is to begin. Land clearing, grading, and filling should be limited to the minimum amount necessary to accomplish the primary purpose of the development.

Seismic

When located within areas of high seismic risk, new construction should be reviewed to minimize damage due to earthquakes.

Flooding

1 Flood prevention activities should rely upon appropriate placement and construction of developments to minimize the necessity for artificial defense systems.

2 Maintenance of flood protection berms should minimize disruption to natural shore processes and sensitive environmental areas. Gravel used to rebuild berms should not be excavated from below the ordinary high water level.

Plants and Fish and Wildlife Habitat

1 Natural vegetation should be retained as much as possible when developing sites in order to provide a continuous wildlife habitat. Large trees and snags should be preserved.

2 Kelp and eelgrass beds and other marine plants surrounding the island should be protected and enhanced.

3 Critical habitat of threatened, rare and endangered wildlife species should be preserved and protected.

4 Whatcom County should work with the property owners of Eliza Island, citizen groups, the State of Washington, and other agencies in identifying and protecting bald eagle habitat, near shore habitat, and general environmental quality of the island.

5 Whatcom County should encourage island property owners to use the current use tax assessment provisions of RCW 84.34, and/or conservation easements to reduce taxation and retain important wildlife habitats, such as bald eagle nest areas, in open space.

Marsh/Wetland

Whatcom County should work with the property owners of Eliza Island, citizen groups, the State of Washington, and other agencies in developing management practices to restore and enhance the salt water marsh on Eliza Island.
appendices
GEOLOGIC CONDITIONS AND MARINE SHOREFORMS

Source: Easterbrook, Don J. Geologic Map of Western Whatcom County, Wa., U.S.G.S. 1973
Adapted from Wolf Bauer, P.E., 1975
Appendix A: Geologic Conditions

Eliza Island consists of three basic geologic formations: 1) bedrock, 2) glacial deposits, and 3) alluvial deposits.

The bedrock forms the rocky knobs at the south and the west ends of the island and underlies glacial materials along portions of the northeastern shore. The bedrock consists of phyllite of Jurassic and Cretaceous Age (many tens of millions of years old). This phyllite is slightly recrystallized sandstone and shale that preserves some sedimentary characteristics but is unfossiliferous.

The glacial deposits overlie the bedrock and form most of the eastern part of the island. These poorly exposed sediments were deposited during the Fraser glaciation, approximately 15,000 years ago. The Coastal Atlas suggests (but is uncertain) that these materials consist of advance outwash, glacial till, and glacial-marine drift.

Alluvial deposits make up the central, lowland area and are composed of stratified sands, silts, and gravels. These deposits are largely the result of the building of a barrier beach system between the eastern and western portions of the island, which may have originally been separated by water. This beach building occurred during the Holocene, the last 10,000 years, and continues today.

The bedrock provides generally stable building sites and erodes extremely slowly, but may present difficulties in excavation and construction of septic systems. The glacial deposits are subject to greater rates of shoreline erosion and are less stable, particularly on steep slopes or where ground-water is abundant. The low-lying alluvial deposits may be subject to flooding and though soils may perk, the high water table may limit their application for septic systems.

Appendix B: Marine Shoreforms

South shore: The south shore of Eliza Island consists of a broad crescent-shaped barrier beach backed by a broad backshore and marsh/ Meadow. This beach comprises a single drift cell, contained between the rocky promontories at the southern and western ends of the island. The material that forms this beach is derived from the erosion of the glacial bluffs at the southeast end of the embayment. This beach retreats landward slowly as the bluff erodes and eventually may cut off the narrow neck of land at the south end, creating an island of the southern tip of the island. Eroded material is moved by shore-drift along the beach to the west, although reversals will occur depending on wind and wave directions.

East shore: The eastern shore consists of a north-south trending shore bluff of glacial material. This shore forms a drift cell bounded by the rocky southern point and by the sharp point at the northeastern end of the island. The bluffs are generally less than fifty feet high and a narrow beach has formed at the base of the bluffs. Eroded material is moved both north and south along the shore depending on wave conditions, but the predominant movement is toward the north as a result of the greater fetch from the south.

North shore: The western half of the north beach is an accretion beach terminating at the rocky western promontory. The berm is higher and broader than the berm on the south shore and may be older. The beach is fed by erosion of the bluff at the northern end of the island and by erosion of the low terrace between the bluff and the accretion beach. Exposure to the north is protected somewhat by Lummi and Portage Islands.
ELIZA ISLAND
PLAN

LEGEND
80 Kickerville Silt Loam, 3% to 5% slopes
81 Kickerville Silt Loam, 6% to 15% slopes
111 Neptune very gravelly Sandy Loam, 0% to 3% slopes
117 Pickett - Rock outcrop complex, 5% to 30% slopes
143 Shalcar Muck, drained, 0% to 2% slopes
184 Whitehorn silt Loam, 0% to 2% slopes


SOIL UNITS

Whatcom County Planning Department
April 1984
Appendix C: Soils

The northwest shoreline contains the Neptune soil type. It consists of very deep, excessively drained soil, on a marine terrace. Permeability of this soil is very rapid. It has a slope of 0-3 percent. The soil is subject to rare periods of flooding from tidal inundation. The rapid permeability does not allow proper filtration of septic field overflow. The absorption fields need to be surrounded by Health Department approved fill to compensate for this problem.

The south central region contains Shalcar muck. It is a very deep well drained soil common in depressional areas on outwash terraces, till plains, and stream terraces. This soil was formed from herbaceous and woody organic material that was deposited upon rock materials. Permeability is moderately slow near the surface and rapid through underlying material. It has a slope of 0-2 percent. The high water table and the low strength make this soil unsuited for homesite development.

White Horn silt loam is located in the center of the island. It is poorly drained on wave eroded, glacial marine drift plains. Slope is between 0-2 percent. Permeability is very slow and water capacity is high.

Nearly fifty percent of the island is composed of Kickerville silt loam. There are two variations of the soil depending on its slope. Kickerville with a slope of 3-8 percent is located on the tips of the north and south peninsulas. Kickerville with a slope of 8-15 percent is located in between. Both soil types are very deep, and well drained on outwash terraces. The main limitations to homesite development is the steepness of slope, especially with slope of 8-15 percent. The limitations for septic tank absorption fields is the poor filter ability of the underlying rock. Placing the drainfield in approved fill helps compensate for this problem.

On the west peninsula there is a small region of Pickett Rock soil. It is on glacially eroded backslopes and ridgetops. The soil is well-drained and moderately deep. Permeability is moderate. It has a slope of 5-30 percent.

Appendix D: Hydrogeologic Conditions

The geology has two types of water-bearing material: the bedrock of sandstone and conglomerate where water is stored principally in fractures and fissures, and the overlying glacial material, where water is stored in both the permeable sands and gravel and in the less permeable but still porous clays and tills. The storage capacity of the latter materials is judged to be at least ten times as good as the bedrock and the transmissivity (ability of the water to move through the materials) generally is judged to be higher and much less variable. A 1961 report by Leland R. Jones characterized the island's potable water as follows:

Explorations consisted of reconnaissance, three churn drill holes, and electrical resistivity geophysical explorations. These explorations showed that there is only one potential source of potable domestic water. This area is roughly the northern half of the main body of the island. In this area, the water can be obtained from a relatively thin sand stratum confined between layers of clay. The sand stratum evidently connects with or drains overlying gravel and clay strata which collect rain water. Because of its relatively low permeability, special measures are necessary to obtain an adequate water supply in the area.
Ground Water Recharge

Precipitation falling on the land surface of the island is the only known source of recharge for which figures can be computed (estimated at 32 inches per year). The amount of this precipitation actually reaching the ground water supply varies from place to place on the island according to surface topography, extent and type of vegetation, and characteristics of the soil and geologic material.

Saltwater Intrusion

The proximity of saltwater makes island ground water resources among the most fragile and sensitive systems in nature. Beneath the surface are both fresh ground water and salt ground water with a diffusion zone in between. The fresh ground water is constantly moving seaward, "leaking out." If fresh ground water is also removed by pumping, then, unless an equivalent amount of water is returned to the aquifer in the vicinity of the well, or, unless there is an impervious layer separating the fresh water from the saltwater, the net effect is to raise the level of the saltwater in the ground due to reduced head. To insure against saltwater intrusion, the well depth must be within the fresh water zone and recharge must be sufficient both to offset "leakage" and pumping, and to keep the saltwater a safe distance from the bottom of the well.

In 1961, Leland R. Jones conducted a ground water investigation on Eliza Island to determine what ground water supplies, in addition to the existing well, were available. Three wells were drilled at different locations and all encountered saltwater between 46-54 feet. No attempt to drill deeper was performed although there are reports that a very deep privately owned well on the island supplies freshwater.

It was determined after this study that a horizontal trench well would provide the desired quantity of water. An attempt then followed to build a trench filled with gravel that would intercept fresh ground water as it moved along the gradient from the higher areas of the island to the flat marsh area. It was estimated from salinity tests taken from the lowland ponds that "at least 40 or 50 gallons per minute (of fresh water) are flowing to the pond." The finished horizontal trench well, however, was abandoned due to high salinity levels.

Appendix E: Biologic Conditions

The greatest diversity of species occurs in "edge" areas where different habitat zones adjoin or overlap. Prime examples of edge areas are the forest/aquatic interface and the marsh/thicket/woodland interface where greater diversity of vegetation results in the presence of many insect and bird species. This island, with its forested areas, shorelines, open space areas, and marsh and estuaries, provides many areas of edge habitat. Categorized below are five habitat zones within or around Eliza Island: Forest; Field-and-Thicket; Wetlands; Shorelands; and Open Salt Water.

Forest Habitat

The dominant tree species on the island is Douglas fir. Other important constituent trees are western hemlock, western red cedar, madrone and bigleaf maple. Willow, vine maple, and western yew are also present. Shrubs commonly found in association with deciduous and mixed coniferous and deciduous forests include wild rose, ocean spray, elderberry, salmonberry, thimbleberry, wild gooseberry, chokecherry, and hazelnut. Typical herbaceous plants include deer fern, vanilla leaf, twisted stalk, trillium, false Solomon's seal, star flower, bleeding heart, yellow violet, stinging nettle and buttercup in moderately moist areas.
LEGEND

Forest Habitat
Field and Thicket Habitat
Wetland Habitat
Shoreline Habitat
Eelgrass Beds
Kelp Beds

\*
Rocks, bare or awash, at Mean Lower Low Water

fa.
fathom (6 feet)

BILOGIC CONDITIONS

ELIZA ISLAND
PLAN

figure 6
Birds generally associated with forest habitats in the region include hawks, bald eagles, ospreys, grouse, owls, band-tailed pigeons, Vaux’s swifts, hummingbirds, woodpeckers, flycatchers, swallows, ravens, jays, crows, chickadees, bushtits, nuthatches, brown creepers, wrens, robins, thrushes, kinglets, waxwings, starlings, vireos, wood warblers, Bullock’s orioles, brown-headed cowbirds, Western tanagers, grosbeaks, finches, siskins, rufous-sided towhees, red crossbills, juncos, sparrows and the great blue heron.

Field-and-Thicket Habitat

The field and thicket habitat encompasses open space areas, yards and hedge rows, trail thickets and dense underbrush which grows along banks and cliffs above the beaches. Flora commonly includes English ivy, honeysuckle, and scotchbroom and native species such as the wild rose, salmonberry and red elderberry.

Birds commonly found in shrub and thicket habitats include California quail, ring-necked pheasants, swallows, chickadees, bushtits, wrens, wood warblers, brown-headed cowbirds, rufous-sided towhees, juncos, and sparrows.

Wetland Habitat

A relatively large salt marsh, one of the few in Whatcom County, is located in the island’s south central area. The bottom of the mudflat consists of rich organic sediment while numerous amphipods, plankton, and other organisms live in the mudflat’s shallow water. Along the northern perimeter of the mudflat, in a few centimeters of standing water, grow sedges. The ground immediately surrounding the mudflat is thoroughly saturated with salt water. This area is characterized by mats of pickleweed interlaced with orange dodder, salt grass, salt weed, gum weed, and various grasses, including the exotic Reed canary grass. Between the south beach and the entire grass lowland lie three meter high dunes, all of which are covered with dune grass.

Aquatic birds visiting the wetland may include great blue herons, loons, grebes, swans, geese, ducks, bald eagles, falcons, ospreys, hawks, coots, rails, plovers, killdeer, snipes, sandpipers, phalaropes, gulls, terns, kingfishers, swallows, crows, long-billed marsh wrens, water pipits, common yellowthroats, and blackbirds.

Due to a number of drainage ditches, wet meadows, the salt marsh, and vacationers, the island supports a large number of mosquitos. Because of this, the Beach Club has maintained a practice of draining these areas and spraying with pesticides. Unfortunately, this has a detrimental effect on the habitat and aesthetic value of the wetland. The loss of open water restricts its use by a variety of birdlife and aquatic insects, and leaves the site more vulnerable to invasive noxious weeds such as Reed canary grass.

Shoreland Habitat

The shoreland habitat includes all of the beaches on Eliza Island, along with the tidelands. This area provides habitat for many species of plants and animals and serves as rearing grounds for species from other habitat areas.

Lichens and surfgrass typically grow on the marine shorelines of Eliza Island. Various algae also are found, including sea lettuce, sea staghorn, rockweed, bull kelp, and sea moss. The sea grasses and algae species, especially the kelp beds, are vital links in the marine food cycle. They provide shelter as well as feeding areas for birds and spawning areas for fish. Marine fishes inhabiting nearshore waters adjacent to shorelines include several varieties of surf perchers, rockfishes, greenlings, lingcod, and sculpins. Many of these species are important
food sources for marine birds and mammals. Shellfish include crabs, shrimp, clams, mussels, and scallops which are collected along shorelines. Area tidepools host a variety of marine life including periwinkles, limpets, barnacles, rock crabs, sea anemones, chitons, sponges, tunicates, and starfish.

The tidal flats on the north and south bays of Eliza Island appear to support a rich growth of marine flora. Of these, perhaps the most important species is the eelgrass. Eelgrass typically grows on sandy or muddy substrates in the outer edge of the intertidal region of Puget Sound. Dense beds of eelgrass support a diverse assemblage of species. Several types of epiphytic plants (plants that grow on other plants) as well as animals can live on the eelgrass blades, and an array of diatoms, protozoans, worms, small crustaceans, and other organisms thrive on the food material found in or on the substrate around eelgrass communities. These organisms in turn provide food and cover for invertebrates and larger animals, such as rockfish, shellfish, and juvenile salmonids. Eelgrass also benefits larger mammals, such as orcas, seals, and sea lions, which feed on species of fish and crab that rely on eelgrass for cover of food. Black brant rely heavily on eelgrass during the winter. Additionally, eelgrass bed provide a substrate for spawning herring, and help to buffer erosional impacts from wave action.

Open Salt Water

The salt water surrounding Eliza Island provides a path for many migratory fish such as pink, sockeye, coho, chum, and chinook salmon. These waters also provide spawning and feeding grounds for herring, shrimp, Dungeness crab, and many other organisms. Anadromous as well as local fish and plankton species attract such marine mammal species as harbor seals, river otters, minke whales, and several different bird species.

There are a number of birds that use this habitat in quite different ways. Kingfishers, crows, oyster catchers, sandpipers and great blue herons are not birds of open salt water. However, they do use the edges for feeding. Eagles and osprey sometimes feed over open water. There are a number of other birds that use the open water more or less extensively. Some, like the murres, guillemots, auklets, and brants live most of their lives there. Others, such as the loons, geese, saltwater ducks, sandpipers, phalaropes, gulls, terns and cormorants may only use open salt water seasonally and may spend considerable time either in fresh water habitats or on land.

Eliza Rock

Eliza Rock is designated as a National Wildlife Reserve and as such is closed to the public to protect breeding colonies of seabirds, endangered and threatened species, and marine mammals. According to the Puget Sound Environmental Atlas, this particular area is the nesting site of black oyster catchers, glacous-winged gulls, and pigeon guillemonts. Harbor seals are also known to haul out on this small island.

Appendix F: Bald Eagle History and Management

Introduction

The bald eagle (Haliaeetus leucocephalus) is classified as a threatened species and is protected by both state and federal laws. The Washington Bald Eagle Protection Rules (WAC 23212-292) and enabling legislation (RCW 77.12.655) were enacted in 1986 to protect bald eagles and their habitat. The goal is to eventually de-list bald eagles from the threatened category. To meet this goal, criteria outlined in the Pacific Bald Eagle Recovery Plan must be met. The North Puget Sound Region has "recovered", but minimum criteria have not been met statewide or in
Location of Viable Nests and Protective Buffer on Eliza Island, 1993

figure 7
In fact, only 49% (24 of 51) and 70% (7 of 10) of the subregions have met minimum breeding population recovery goals in the Pacific region and Washington respectively. The outlook is optimistic, but it will be well into the 21st century before bald eagles are de-listed.

It will always be important, if not required, to maintain bald eagle habitat. Currently, under Washington's Bald Eagle Protection Rules, site-specific management plans are developed when land use changes are proposed which may affect bald eagle habitat. Landowners are often unaware of potential land use restrictions until they apply for a county or state permit to alter the landscape. Developing a management plan often involves a site visit between the landowner and eagle biologist. The process can be very time consuming and frustrating for both the landowner and biologist.

Through planning, eagle habitat can be maintained over the entire island without causing undue burden on individual landowners. Management conditions, if accepted by the landowner, will become a condition of development permits. Only landowners within 400 feet of a viable nest site and those objecting to conditions set forth in this plan will site specific plans be developed with the Washington Department of Wildlife (WDW).

Eliza Island Bald Eagle History

Residents report nesting bald eagles on Eliza Island since at least the early 1970's, although WDW has only been documenting nesting since 1980. Of seven historic nest sites, only 3 currently contain nests (Figure 7). Three of the nests have fallen since 1989 and nest #4 recently lost a supporting branch and is partially fallen. Nest #6 is believed to have been built at least 20 years ago, although it has never been documented or reported as active. The eagles last used nest #5 during the summer of 1993. Nest #5 is in a "white" or "grand" fir which break or blow down relatively easily. Although the tree has made it through recent strong winds, it is not considered to be a good long term nest tree.

Reports of a nest on the north end of the island have not been confirmed despite aerial surveys and ground searches. The eagles have apparently tried building a new nest on lot 134 in 1993. Only a few sticks remain and it does not appear to be a preferable nest tree.

Eagle Habitat Management

The nest history on Eliza Island eagles emphasizes the dynamic nature of forest habitat and the need for long term planning. Wind storms have removed three nest trees and numerous perch and potential nest trees. Construction and land clearing has added to the net loss in eagle habitat. Lots have also been landscaped to exclude forest regeneration. The overall result is increased wind throw and reduced recruitment of new trees. Although there may appear to be enough trees to support nesting eagles, suitable eagle trees are being lost at a rapid rate. The goal is to maintain suitable habitat 50, 100, and 200 years from now. Landowners who landscape to eliminate forest regeneration often fail to recognize the long term consequences of their actions. As eagle habitat is lost, it forces even more restrictive measures on adjacent landowners to protect remaining habitat. The key is to plan ahead and spread the responsibility over numerous landowners before the majority of the habitat disappears.

Disturbance must also be considered in eagle management. Human activity can cause a nest site to fail or be abandoned. However, determining what is "disturbing" to an individual or pair of eagles is difficult. Every eagle has a different tolerance level for a given activity. Some birds will perch next to a running bulldozer while others will flush at the sight of a kayak 1000 feet away. Some eagles may acclimate while others may completely abandon the area if an activity
is persistent. Few studies have been conducted and recommended "disturbance free" nest buffers have been "best guess" estimates.

Seasonal considerations are also important when determining the potential impact of an activity. The nesting season is generally January 1 through August 15th in Washington. The most critical time is late February through early June. From just prior to incubation until the eaglets are about 4 weeks old, adult eagles are more prone to flush from disturbance with more serious consequences. Eggs and young eaglets need persistent adult attention. Adults flushed from the nest expose the eggs and young to predation (gulls, ravens, etc.) and potential hypothermia. Once the eaglets reach about 4 weeks old (late May or early June), the importance of adult attendance diminishes and nestling mortality is generally low. However, there is still a concern that human activity may cause fewer food deliveries or premature fledgling. Reduced food or early fledgling would result in increased mortality and would not be obvious to an observer. The mortality would probably occur after fledgling, miles from the nest, leading an observer to conclude human activity had no impact on the eagles.

Since reaction to disturbance is so variable and difficult to document, the only alternative is a conservative approach. The most widely accepted disturbance free buffer recommendations for during the nesting season vary from 660 to over 1200 feet. Given the relative small scale construction that is likely to occur on Eliza Island and apparent tolerance of the eagles, it is reasonable to use the smaller buffer.
bibliography
BIBLIOGRAPHY

Publications and Documents


Snohomish County Planning Department. Draft Hat Island Comprehensive Plan.


22


**Personal Contacts**

Atkeson, Anne. Environmental Health Specialist, Whatcom County Department of Health.


Fischer, Jim. Area Manager, Bureau of Land Management. Wenatchee.


Reis, Bob. Fire Prevention Specialist, Department of Natural Resources Northwest Region. November 30, 1992.

Shipman, Hugh. Coastal Geologist, Department of Ecology Shorelands and Coastal Zone Management Program.

WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1994 Eliza Island Plan and
Amend Provisions in the Whatcom County Comprehensive Plan and
Zoning Code relating to the Eliza Island Plan

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to the subarea plan.
   b. Amending Whatcom County Zoning Code Plan provisions relating to the subarea plan.
   c. Repealing the Eliza Island Plan (1994).

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to citizen, media and other groups on the County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 8, 2014.

6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 11, 2014.

7. The Planning Commission held a public hearing on the subject amendments on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments 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

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: "A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan."
11. The Eliza Island Plan was adopted in 1994. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan’s land use designation is not the same as the Whatcom County Comprehensive Plan’s land use designation.

**County-Wide Planning Policies**

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

**Interlocal Agreements**

13. There are no interlocal agreements relating to the Eliza Island Plan.

**Further Studies/Changed Conditions**

14. The Eliza Island Plan was adopted in 1994.

15. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended.

16. Adoption of the Whatcom County Comprehensive Plan constitutes a changed condition that warrants repealing the 1994 Eliza Island Plan.

**Public Interest**

17. Repealing the 1994 Eliza Island Plan will serve the public interest by removing a 20 year old plan that is no longer necessary because of adoption of the Whatcom County Comprehensive Plan.

**Spot Zoning**

18. The subject proposal does not involve rezoning property.
CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use); and
2. Approval of Exhibit B, amendments to Whatcom County Zoning Code; and
3. Repealing Exhibit C, the Eliza Island Plan (1994).

WHATCOM COUNTY PLANNING COMMISSION

[Signatures]

David Onkels, Chair

Sam Ryan, Secretary

May 1, 2014

Commissioners present at the April 24, 2014 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Walter Haugen, Gary Honcoop, David Hunter, Natalie McClendon, David Onkels, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendments.
NOTE:

In order to avoid redundancy, Exhibits A, B and C are only attached to the proposed Ordinance that will be considered by the County Council.
Commissioner McClendon asked under what circumstances are subarea plans needed?

Mr. Aamot stated staff has thought about that. They think it may be good to retain the plans for active communities and those that stand alone from other areas.

Commissioner McClendon asked how the subarea plans relate to the Comprehensive Plan.

Mr. Aamot stated they add detail to the countywide plan.

Commissioner Bell asked if more resources were applied to the subarea plans would there be more activity? For example, Lake Whatcom is a large area which makes it difficult for people to come together as they do in a smaller area such as Birch Bay.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00003: Repealing the South Fork Valley Subarea Plan, which was adopted in 1991, and amending related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot presented the staff report. (A map and aerial photo of the subarea was shown with the boundaries) The South Fork Plan was adopted in 1991; right after the GMA was adopted in 1990. The population projection for the subarea was through 2000. It had a more flexible planning period, however, that planning period has ended so it is not consistent with the current comprehensive plan period of 2029. There were five land use designations in the plan. There were two forestry zoning districts but the subarea plan only had one forestry land use designation. Some of the areas have been rezoned or now have different comprehensive plan designations. One of the policies in the plan reaffirms the 1970 comprehensive plan, which is outdated. That policy is now outdated and creates a conflict. Staff recommends repeal of the plan.

The hearing was opened to the public.

There was no public testimony.

The hearing was closed to the public.

Commissioner Honcoop moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; and repeal of Exhibit B-the South Fork Valley Subarea Plan. Commissioner Teigrob seconded.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00004: Repealing the Eliza Island Plan, which was adopted in 1994, and amending related provisions in the Whatcom County Comprehensive Plan and Zoning Code.
Matt Aamot presented the staff report. (A map and aerial photo was shown of Eliza Island with relationship to Lummi Island, Bellingham and the Chuckanut area. There is a U.S. Light House Reserve on the southern end of the island. The plan was adopted in 1994. When it was adopted the Eliza Island zoning district was adopted under Title 20. The Comprehensive Plan designation now rural. During the Rural Element update the zoning text was changed. It used to allow for ½ acre lot sizes and now it is 5 acres. In the plan there are not the inconsistencies that are in the other plans. There are some outdated things. Staff recommends repeal of the plan.

The hearing was opened to the public.

There was no public testimony.

The hearing was closed to the public.

Commissioner Elenbaas moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; Approval of Exhibit B-Amendments to the Whatcom County Zoning Code; and repeal of Exhibit C-the Eliza Island Plan. Commissioner Hunter seconded.

Commissioner Bell stated Eliza Island seems perfect for a subarea plan because they are separate and have different interests from the rest of the county. Is the only reason they don’t have one because they aren’t active?

Mr. Aamot stated it gets to how many resources does staff put into a plan and they do have a unique zoning district which regulates land use. Mr. Bell’s point was well taken.

Commissioner Hunter noted that all of the lots are vested so the real issue may be water resources.

Commissioner Haugen asked if a desalinization plant was an option if more people wanted to live there.

Mr. Aamot did not know.

Commissioner Honcoop stated this was a GMA issue that was appealed so that will drive what is done.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

The meeting was adjourned at 7:15 p.m.

Minutes prepared by B. Boxx.
**CLEARANCES**

<table>
<thead>
<tr>
<th>Originator:</th>
<th>Date Received in Council Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matt Aamot</td>
<td>5/5/2014</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Division Head:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mark Personius</td>
<td>5-5-14</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dept. Head:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sam Ryan</td>
<td>5-7-14</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Prosecutor:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Royce Buckingham</td>
<td>5-8-14</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Purchasing/Budget:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>05/12/14</td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**

Repeal the South Fork Valley Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

**ATTACHMENTS:**

1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes

Other background information is on file at the Council office.

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

Should Clerk schedule a hearing? ( ) Yes ( X ) No

Requested Date: ( ) Yes ( X ) No

1 The Council must hold a hearing if they want to change the Planning Commission’s recommendation (WCC 2.160.100(B)).

**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.)

Repeal the South Fork Valley Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans. The South Fork Valley Subarea Plan was adopted in 1991, prior to the first Whatcom County Comprehensive Plan that was adopted under the GMA.

NOTE: Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2015.

**COMMITTEE ACTION:**

5/20/2014: Introduced 6-0, Weimer absent

**COUNCIL ACTION:**

5/20/2014: Introduced 6-0, Weimer absent

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.
May 5, 2014

To: Jack Louws, The Honorable Whatcom County Executive
The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the South Fork Valley Subarea Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

Most of the comprehensive land use plan designations in the 1991 South Fork Valley Subarea Plan are not the same as the designations utilized in the current Whatcom County Comprehensive Plan. The Subarea Plan has an “Urban Reserve” designation, but the current Comprehensive Plan does not include any urban designations in the Subarea. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The South Fork Valley Subarea Plan does not address LAMIRDs. Finally, the 1991 Subarea Plan utilized a 10 to 20 year planning period. Therefore, we recommend repealing the Subarea Plan and amending provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

Planning & Development Services is requesting Council consideration of these amendments on June 3. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council will not render a final decision on the proposal until early 2015.

Thank you for your consideration of this matter.
WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2014; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on April 24, 2014; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive plan amendments on April 24, 2014; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to subarea plans.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to citizen, media and other groups on the County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 8, 2014.
6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 11, 2014.

7. The Planning Commission held a public hearing on the subject amendments on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments 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

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").
10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The South Fork Valley Subarea Plan was adopted in 1991. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.

County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. There are no interlocal agreements relating to the South Fork Valley Subarea Plan.

Further Studies/Changed Conditions

14. The South Fork Valley Subarea Plan was adopted in 1991.

15. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1991 South Fork Valley Subarea Plan does not address LAMIRDs.

16. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1991 South Fork Valley Subarea Plan is not consistent with the County Comprehensive Plan.

17. The 1991 South Fork Valley Subarea Plan utilized a different planning period than the Whatcom County Comprehensive Plan.

18. Changed conditions, including adoption of the Whatcom County Comprehensive Plan and the passage of time, warrant repealing the 1991 South Fork Valley Subarea Plan.

Public Interest

19. Repealing the 1991 South Fork Valley Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

Spot Zoning

20. The subject proposal does not involve rezoning property.
CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The South Fork Valley Subarea Plan (1991) is hereby repealed as shown on Exhibit B.

Section 3. 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 ________________, 2015.

ATTEST:

Dana Brown-Davis, Council Clerk

Carl Weimer, Chairperson

APPROVED as to form:

( ) Approved   ( ) Denied

Jack Louws, Executive

Date: _______________________

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-2: Retain and periodically review the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Birch Bay Community Plan, Foothills, Point Roberts, South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county’s first Growth Management comprehensive plan adopted in 1997.

1. Utilize a process which ensures consistency between the Whatcom County Comprehensive Plan and subarea plans. The subarea plan review process should include the following steps:

   a. Consistency Analysis. The County should review subarea plans based on the priority order in subsection “b” for gaps, overlaps, or inconsistencies. Topics include, but are not limited to, plan boundaries, growth forecasts, land uses, capital facilities and services, horizon year, and other appropriate issues.

   b. Regional and Local Government Coordination. The County should consult and coordinate with cities where city-associated UGAs are included in subarea plan boundaries.

   c. Public Participation. Each subarea plan update process will be based on a public participation program that addresses citizen input on the key issues associated with the subarea plan update.

   d. Subarea Plan Amendment. Only those portions of existing subarea plans in conflict with the Comprehensive Plan are required to be amended. Local issues of concern or changed conditions may be addressed.

   e. Comprehensive Plan Revisions. Where the subarea plan process recommends growth levels, growth boundaries, or other essential features, Comprehensive Plan amendments will be considered in conjunction with the subarea plan update process.
Land capacity analysis may also be updated if appropriate.

2. Prioritize review of subarea plans. Subarea plans should be reviewed in the following order.

a. Post-GMA Subarea Plans addressing UGAs. These subarea plans should be reviewed and amended, if necessary, during Whatcom County’s periodic review of the comprehensive plan. Subarea plans addressing UGAs associated with a city should be coordinated with the city’s comprehensive plan update process.

b. Post-GMA Subarea Plans addressing Rural Areas. These subarea plans should subject to a consistency review. If significant inconsistencies are found, these should be considered for potential update during Whatcom County’s periodic review of the comprehensive plan. Minor updates may be considered through the County’s docket process in subsequent years.

c. Pre-GMA Subarea Plans. These should be repealed or updated in accordance with County department work programs or the docketing process. Priority criteria may be used to determine the order of update. Example criteria include:

i. whether update is needed for health, safety, or welfare concerns;

ii. whether there is a city-associated UGA included in the subarea plan boundaries – in which case, the subarea plan update could be timed to be developed in association with or following city comprehensive plan update process;

iii. whether the subarea plan would benefit from broader policy concepts to be completed in advance or in tandem, such as agricultural land protection measures;

iv. whether a significant policy objective would be met by amending the plan.

In the event there is an inconsistency between a Subarea Plan and the Whatcom County Comprehensive Plan, the Whatcom County Comprehensive Plan shall prevail.
Amend the Land Use Action Plan in Chapter 2 of the Whatcom County Comprehensive Plan as follows:

6. Undertake a limited planning process for exclave parcels and incorporate the results along with the Newhalem-Diablo area plans in the Foothills and South Fork-Subarea Plans.

NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the Lake Whatcom Subarea Plan (file # 2014-00002) and the proposed repeal of the Eliza Island Plan (file # 2014-00004). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Exhibit B

(Repealing the Subarea Plan)
SOUTH FORK VALLEY SUBAREA

a component of the

Whatcom County Comprehensive Land Use Plan

- Cherry Pt. - Ferndale Subarea
- Lake Whatcom Subarea
- Urban Fringe Subarea
- Lummi Island Subarea
- Chuckanut - Lake Samish Subarea
- Lynden - Nooksack Valley Subarea
- Birch Bay - Blaine Subarea
- Foothills Subarea
- South Fork Valley Subarea
- Pt. Roberts Subarea
SOUTH FORK VALLEY SUBAREA
COMPREHENSIVE PLAN
APRIL 1991

WHATCOM COUNTY IS A NUCLEAR FREE ZONE
As approved by the voters of Whatcom County, County
Initiative Measure #1-84, November 6, 1984; Adopted by
Whatcom County Resolution #85-29, June 20, 1985.

WHATCOM COUNTY EXECUTIVE
Shirley Van Zanten

WHATCOM COUNTY COUNCIL
Donald G. Hansey
Robert A. Imhoff
Emily Jackson
Margaret M. Laidlaw

Marvin G. Vanderpol
Dennis Vander Yacht
Daniel M. Warner

WHATCOM COUNTY PLANNING COMMISSION
Emil Baijot
Lyle Balcom* 
Fred Bierlink
David Ernst
Robert Funkhouser*
Lois Garlick

Larry Harris
Jim Heeringa
Gerry Landcastle
Elaine McRory
John Shintaffer*
David Simpson

*Former Planning Commission Members

WHATCOM COUNTY PLANNING DEPARTMENT STAFF
Daniel W. Taylor, Director of Land Use and Economic Planning
Diane E. Harper, Assistant Director
Carl F. Batchelor, Planner III
Terry Galvin, Planner III
Craig Mapel, Planner III
Sarah Bussard Watts, Planner I
Jeff Griffin, Planner I
Gordon Scott, Planner I
Jennifer Olson, Administrative Secretary
Elizabeth K. Olsen, Chief Cartographer
Chris Behee, Cartographer
Carole Magner, Clerk III/Word Processor
Heidi Karl, Receptionist/Secretary I

Whatcom County Planning Department
401 Grand Ave.
Bellingham, WA 98225
(206) 676-675
# Table of Contents

I. **Comprehensive Land Use Planning**
   - Statutory Authority ........................................ 1
   - Definition and Application .................................. 1
   - Subarea Planning Concept ................................... 2
   - Whatcom County Planning Process ......................... 2
   - Plan Format .................................................. 2

II. **Goal Statements** ........................................... 4

III. **Population Forecasts** ..................................... 6

IV. **Subarea Description, Findings, Issues, and Recommendations** ........ 10

V. **Land Use Designations**
   - Introduction .................................................. 26
   - Urban Reserve ................................................ 27
   - Rural ............................................................ 28
   - Forestry ......................................................... 33
   - Agriculture ..................................................... 34
   - Commercial ...................................................... 35

VI. **Land Use Policy**
   - Urban Reserve ................................................ 39
   - Rural ............................................................ 40
   - Forestry ........................................................ 41
   - Agriculture ..................................................... 44
   - Commercial ...................................................... 47

VII. **Community Facilities and Utilities Policy** ....................... 48

VIII. **Economic Development Policy** ................................ 55

IX. **Environmental Resources and Constraints Policy** .............. 57

X. **Land Development Options and Guidelines** ....................... 62

XI. **Comprehensive Plan Amendments** ................................ 64
SECTION I
COMPREHENSIVE LAND USE PLANNING
STATUTORY AUTHORITY

Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The South Fork Valley Subarea Comprehensive Plan has been developed in response to statutory authority as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

DEFINITION AND APPLICATION

The Whatcom County Comprehensive Plan is defined as an official public document to be used by both the public and private sectors as a policy guideline for making orderly decisions concerning the future use of land in the county. The plan has been formulated using a public review process that includes analysis and recommendations by Planning staff, community response, policy formulation by the Whatcom County Planning Commission, and final review and passage by the Whatcom County Council.

The South Fork Valley Comprehensive Plan is comprehensive, general and long-range in nature. The plan is comprehensive in that it encompasses major geographic areas of the county and the functional elements that bear on physical development. The plan is general in that it summarizes major policies and proposals and is not, by statute, a detailed regulation. The plan is long-range in application because it addresses current issues, as well as anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. It serves to amend the 1970 Whatcom County Comprehensive Plan for the geographic area defined as the South Fork Valley Subarea. The 1970 plan served as a basic plan for the past 20 years, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

The County is aware that changes will continue and realizes that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be reviewed on a seven to ten year basis.

SUBAREA PLANNING CONCEPT

Because of the county's diverse physical and cultural composition, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be applied in a uniform and consistent manner. Denoted as "subareas", these geographic areas were delineated to address various land use related issues that appeared to be unique to particular areas of the county.

The criteria used by the Commission to delineate subarea boundaries include natural and physical features; political subdivisions such as sewer, water, fire and school districts; existing land use patterns; and the presence of a city or town to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and are considered as a practical means of revising the comprehensive plan in a consistent and orderly fashion.
WHATCOM COUNTY PLANNING PROCESS

The Whatcom County comprehensive planning process is defined as a continual process of evaluating goals, conducting various land-related studies, and then using the goals and studies to fashion a balanced and practical set of land use policies and proposals for future land uses in the county. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors include the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation, economic, and environmental resource characteristics; the forecasting of population levels and the county's economic vitality; the analysis of issues both technical and citizen related; the development of policies to resolve or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.

The planning process is continual. The implementation of the comprehensive plan, through the application and use of various regulatory tools, must be continually monitored. The effectiveness of the planning process in Whatcom County relies on the County's ability to keep the major components of the plan current through periodic review and adoption of any necessary amendments.

PLAN FORMAT

The Comprehensive Plan for the South Fork Valley Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

1. **Comprehensive Land Use Planning:** To assist both the public and private sectors in understanding the development, adoption, and amendment of the comprehensive plan policies and map.

2. **Goal Statements:** To provide the overall direction for land use planning in Whatcom County.

3. **Population Forecasts:** To correlate anticipated demand for land uses with the supply of land.

4. **Subarea Description:** To generally define subarea characteristics and establish issue topics as determined by area residents, the Planning Commission, and the planning staff.

5. **Rationale and Locational Criteria:** To establish the necessity of land use designations and the spatial determinants to be used in applying land use designations.

6. **Policies:** To provide the primary decision-making tools required to address the land use, community facility and utility, transportation/circulation, parks and recreation, and the environmental resource and economic issues of the subarea.

7. **Amendment Criteria:** To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

8. **Comprehensive Land Use Plan Map:** To reflect the spatial distribution of the policy statements together with the policies; perhaps, the most widely used component of the comprehensive plan.
Whatcom County Planning Process

GOALS

CONTINUOUS UPDATE

IMPLEMENTATION
Zoning Ordinance
Subdivision Regs.
Shoreline Mgt.
City agreements
Floodplain Regs.

WHATCOM COUNTY COUNCIL

PROPOSED SUBAREA COMPREHENSIVE PLAN

INVENTORY AND ANALYSIS
BY SUBAREA
Land Use
residential
commercial
industrial
Transportation
Comm. Services
Population
Parks-Recreation
Physical Features
Shoreline Mgt.

PRELIMINARY SUBAREA COMPREHENSIVE PLAN

DETERMINATION OF ISSUES

SUBAREA CITIZEN PARTICIPATION:
Phase 1

FORMULATION OF PRELIMINARY
SUBAREA POLICIES AND PLAN
MAP BY PLANNING COMMISSION

SUBAREA CITIZEN PARTICIPATION:
Phase 2

REFINEMENT OF PRELIMINARY
SUBAREA POLICIES AND PLAN
MAP BY PLANNING COMMISSION

PUBLIC HEARING

figure 1
COMPREHENSIVE LAND USE PLANNING

STATUTORY AUTHORITY

Statutory authority for county comprehensive land use planning is established in the Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The South Fork Valley Subarea Comprehensive Plan has been developed in response to statutory authority as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

DEFINITION AND APPLICATION

The Whatcom County Comprehensive Plan is defined as an official public document to be used by both the public and private sectors as a policy guideline for making orderly decisions concerning the future use of land in the county. The plan has been formulated using a public review process that includes analysis and recommendations by Planning staff, community response, policy formulation by the Whatcom County Planning Commission, and final review and passage by the Whatcom County Council.

The South Fork Valley Comprehensive Plan is comprehensive, general and long-range in nature. The plan is comprehensive in that it encompasses major geographic areas of the county and the functional elements that bear on physical development. The plan is general in that it summarizes major policies and proposals and is not, by statute, a detailed regulation. The plan is long-range in application because it addresses current issues, as well as anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. It serves to amend the 1970 Whatcom County Comprehensive Plan for the geographic area defined as the South Fork Valley Subarea. The 1970 plan served as a basic plan for the past 20 years, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

The County is aware that changes will continue and realizes that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be reviewed on a seven to ten year basis.

SUBAREA PLANNING CONCEPT

Because of the county's diverse physical and cultural composition, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be applied in a uniform and consistent manner. Denoted as "subareas", these geographic areas were delineated to address various land use related issues that appeared to be unique to particular areas of the county.

The criteria used by the Commission to delineate subarea boundaries include natural and physical features; political subdivisions such as sewer, water, fire and school districts; existing land use patterns; and the presence of a city or town to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and are considered as a practical means of revising the comprehensive plan in a consistent and orderly fashion.
WHATCOM COUNTY PLANNING PROCESS

The Whatcom County comprehensive planning process is defined as a continual process of evaluating goals, conducting various land-related studies, and then using the goals and studies to fashion a balanced and practical set of land use policies and proposals for future land uses in the county. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors include the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation, economic, and environmental resource characteristics; the forecasting of population levels and the county's economic vitality; the analysis of issues both technical and citizen related; the development of policies to resolve or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.

The planning process is continual. The implementation of the comprehensive plan, through the application and use of various regulatory tools, must be continually monitored. The effectiveness of the planning process in Whatcom County relies on the County's ability to keep the major components of the plan current through periodic review and adoption of any necessary amendments.

PLAN FORMAT

The Comprehensive Plan for the South Fork Valley Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

1. **Comprehensive Land Use Planning**: To assist both the public and private sectors in understanding the development, adoption, and amendment of the comprehensive plan policies and map.

2. **Goal Statements**: To provide the overall direction for land use planning in Whatcom County.

3. **Population Forecasts**: To correlate anticipated demand for land uses with the supply of land.

4. **Subarea Description**: To generally define subarea characteristics and establish issue topics as determined by area residents, the Planning Commission, and the planning staff.

5. **Rationale and Locational Criteria**: To establish the necessity of land use designations and the spatial determinants to be used in applying land use designations.

6. **Policies**: To provide the primary decision-making tools required to address the land use, community facility and utility, transportation/circulation, parks and recreation, and the environmental resource and economic issues of the subarea.

7. **Amendment Criteria**: To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

8. **Comprehensive Land Use Plan Map**: To reflect the spatial distribution of the policy statements together with the policies; perhaps, the most widely used component of the comprehensive plan.
Figure 1
Whatcom County Planning Process Diagram
GOAL STATEMENTS

The following goals provide the general direction for making land use decisions in the subarea and Whatcom County as a whole. They were developed and adopted by the Planning Commission and County Council in July 1979.

REGIONAL DESIGN GOALS

1. Future urban development should occur within or immediately adjacent to existing urban areas in order to eliminate sprawl and strip development, assure the provision of an adequate range of urban services, conserve agricultural and forestry lands, optimize investments in public services and conserve energy resources.

2. Future development in rural areas should be low density, complement existing rural character, contribute to the conservation of agricultural and forestry land and not result in demands for urban-level services.

GROWTH MANAGEMENT GOALS

1. To promote a conscientious program designed to plan, guide, and influence the appropriate location, timing, intensity, type, and servicing of diverse land use patterns.

2. To determine the required amounts of land anticipated to be utilized within the planning period (15 years) while retaining options for future land use decisions beyond the planning period.

3. To encourage a predictable pattern of urban and rural development which utilizes previously committed land areas and existing facility investments before committing new areas for development.

4. To ensure that a beneficial balance exists between the supply and demand for public services. To encourage the cooperation among municipalities, special districts, and associations in the planning and provision of public services. To discourage the proliferation of unnecessary special purpose districts.

5. To develop a concise, equitable, and practical set of land use regulations intended to implement the goals, policies, and proposals of the County Comprehensive Plan in a timely and orderly fashion.

LAND USE GOALS

1. To conserve the agricultural and forestry lands of Whatcom County for the continued production of food, forage, and timber crops while promoting the expansion and stability of the County's agricultural and forestry economies.

2. To plan urban residential development in areas that can be economically and efficiently served with existing or planned services, optimize energy use, function as integral neighborhood units, and can environmentally support intensive land uses.

3. To encourage adequate community and neighborhood commercial facilities in appropriate locations while avoiding incompatible land uses and the proliferation of unnecessary new commercial areas.

4. To encourage a balanced and diversified economy in order to assure desirable local employment opportunities and to strengthen and stabilize the tax base. To accommodate anticipated economic
development in an environmentally responsible manner with due consideration for public cost, energy availability, land use compatibility, and transportation accessibility.

5. To promote the availability of economical and attractive housing for all income, age, and ethnic groups, while also enhancing the integrity and identity of existing communities.

6. To promote a functional, coordinated, and multi-mode transportation system which provides for the safe and efficient movement of people and goods, avoids undesirable environmental impacts, and optimizes public investments and the conservation of energy resources.

7. To encourage adequate facilities and services which provide diverse education, recreation, cultural, and social opportunities.

CULTURAL AND NATURAL RESOURCES

1. To identify and manage environmentally sensitive areas in such a manner as to prevent destruction of the resource base and reduce potential losses to property and human life.

2. To continue the identification of cultural and natural resources and formulate viable methods to preserve and conserve such resources in recognition of their irreplaceable character.

3. To promote a park and recreation system which is integrated with existing and planned land use patterns and is diverse, abundant, and assures maximum public access and usage.

CITIZEN INVOLVEMENT AND INTERGOVERNMENTAL COORDINATION

1. To assure opportunity for citizens to be involved in the formulation of land use goals, policies and proposals and to provide a structure for citizen participation in the planning program of federal, state, regional, and local agencies.

2. To participate in intergovernmental coordination with federal, state, provincial, regional, and local agencies, to develop a coordinated approach to problems which transcends local government bodies and to create an environment for the exchange of information and technical assistance.

SOUTH FORK SUBAREA PLAN GOALS

1. To identify and manage those environmentally sensitive areas in the South Fork planning area, including wetlands, steep slopes and other geologically hazardous areas, unstable drainage basins, critical wildlife habitat, frequently flooded areas, and shorelines.
INTRODUCTION

The purpose of population forecasting, as it relates to land use planning, is to accommodate the long-term spatial requirements of various land uses such as residential, commercial, industrial, recreational, and public facilities. Population forecasting is also of assistance in decision-making for land use related matters, such as determining the appropriate scale and location of public works facilities and land development activities. Population forecasts are subject to revision which may be accomplished in the comprehensive plan update process.

The population information contained in this section is a summary of the forecasts prepared by several agencies. Due to the large area in the East Whatcom census tract (census tract 101), much of the information available covers both the Foothills Subarea and the South Fork Subarea. Conclusions regarding the South Fork Subarea involve assumptions about the similarities and differences between the two subareas. Therefore, this information has been used in a qualitative manner or as a general guideline, rather than as a specific numerical forecast.

Table 1 indicates the historic and projected population changes of Whatcom County. The graphs in Figure 2 represents total Whatcom County and unincorporated Whatcom County population trends. Conclusions about population growth derived from Table 1 include:

- Unincorporated Whatcom County grew 43% between 1970 and 1980.
- Unincorporated Whatcom County grew 28% between 1980 and 1990.
- Total growth for the County (including incorporated cities) decade was 18%. This was slightly higher than the 1985 state Office of Financial Management projection of 16.68%

SOUTH FORK VALLEY SUBAREA APPLICATION

To relate this information to the South Fork Valley Subarea Comprehensive Plan, the following assumptions have been made based upon the data provided in the graphs, Table 1, and Background Document.

1 Location of population growth: The majority of population growth will occur in the unincorporated town of Acme with scattered growth on the valley edge between the agriculture and commercial timber lands.

2 Reasonable population growth: The rate of population growth in the South Fork Valley Subarea should be at unincorporated Whatcom County rates. However because this subarea is located 20 to 30 minutes from the city of Bellingham and is not located between any major economic centers it may grow somewhat slower than other subareas. This slower growth may be compounded by the many environmental constraints that exist here. The state predicts a 39% growth from 1980 to 2000 for Whatcom County as a whole; however, unincorporated areas have been growing much faster than the cities. (Table 1). A realistic growth rate projection for the subarea should be from 1.0 to 2.0 percent annually during the next 10 years. That means that the subarea may grow as much as 20 to 40 percent over the next 15 to 20 years.

3 Zoning limitations on population growth: The zoning adopted in the 1970s would allow a growth in dwelling units, and presumably population, of over 2,100%. That means the population would increase to 26,664 assuming 3 persons per household (based on a maximum possible density of
one dwelling per acre in the General Protection zone district, excluding county, state, and tribal lands). The zoning implementing this comprehensive plan allows approximately a 200% increase over the existing number of houses for the length of the current planning period (10 to 20 years) plus any bonuses obtained through the PUD process. Assuming a 20 year planning period, the proposed zoning allows a growth rate of approximately 10% per year, well above the projected growth rate of 1.0 to 2.0 percent annually.

ASSUMPTIONS AND VARIABLES RELATING GENERALLY TO POPULATION FORECASTS

All population forecasts are based on assumptions which affect the numerical results and different population forecasting agencies do not make the same assumptions. The following items are intended to present an overview of assumptions as they relate to Whatcom County populations:

1. In-migration\(^5\) will continue to contribute substantially to population increases at the Washington State and Whatcom County levels.

2. The trend of decreasing family size and population per household will continue.

3. Labor market potential and location will affect population distribution, gross natural increase and in-migration levels.

4. The purpose of the population forecast affects assumption utilization, which in turn affects the results.

Agencies which prepare population forecasts often make revisions due to changes in the variables affecting their assumptions. The following variables are intended as an overview for potential Whatcom County population forecast revisions, and may not affect all the agencies whose forecasts are contained herein:

1. Changes in Whatcom County birth, death, and in-migration rates.

2. Changes in the level of industrial development and the related labor market potential of Whatcom County.

3. Changes in the Canadian economy and the related level of Canadian spending\(^6\) in Whatcom County.

4. Changes in the demand for the products of local resources such as agriculture, forestry, fishing and mining by local, state, national, and international markets.
FIGURE 2
POPULATION TRENDS AND FORECASTS, 1970-2000
WHATCOM COUNTY

INCORPORATED AND UNINCORPORATED

1. WCCOG
2. CB&I
3. OFM
4. BPA

1990 Census

UNINCORPORATED

Mean

1990 Census

Year

Population
Footnotes for Text and Graphs

5 In-migration is equal to total population less natural increase, in which natural increase is equal to total births less total deaths.
6 The Whatcom County Council of Government's population forecast exhibits a high correlation with the Canadian Impact Study and is thus presumed to accommodate Canadian spending.

TABLE 1
POPULATION CHANGES

<table>
<thead>
<tr>
<th>Actual Year</th>
<th>Unincorp. What. County</th>
<th>% Change Over Decade</th>
<th>All of What. County</th>
<th>% Change Over Decade</th>
</tr>
</thead>
<tbody>
<tr>
<td>1910</td>
<td>20,183</td>
<td></td>
<td>49,511</td>
<td></td>
</tr>
<tr>
<td>1920</td>
<td>19,621</td>
<td>-2.8</td>
<td>50,600</td>
<td>2.2</td>
</tr>
<tr>
<td>1930</td>
<td>23,112</td>
<td>17.8</td>
<td>59,128</td>
<td>16.9</td>
</tr>
<tr>
<td>1940</td>
<td>25,860</td>
<td>11.9</td>
<td>60,355</td>
<td>2.1</td>
</tr>
<tr>
<td>1950</td>
<td>26,462</td>
<td>2.3</td>
<td>66,733</td>
<td>10.6</td>
</tr>
<tr>
<td>1960</td>
<td>25,990</td>
<td>-1.8</td>
<td>70,317</td>
<td>5.4</td>
</tr>
<tr>
<td>1970</td>
<td>34,004</td>
<td>30.8</td>
<td>81,983</td>
<td>16.6</td>
</tr>
<tr>
<td>1980</td>
<td>48,628</td>
<td>43.0</td>
<td>106,701</td>
<td>30.2</td>
</tr>
<tr>
<td>1990</td>
<td>68,593</td>
<td>28.2</td>
<td>127,780</td>
<td>18.5</td>
</tr>
<tr>
<td>Projected</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>64,451</td>
<td>3.0</td>
<td>148,200</td>
<td>17.2</td>
</tr>
</tbody>
</table>

INTRODUCTION

In 1979 prior to beginning the Comprehensive Plan update process, 10 Subarea boundaries were established by the Whatcom County Planning Commission. The criteria used by the commission to delineate subarea boundaries include natural and physical features; political boundaries such as sewer, water, fire and school districts; existing land use patterns; and the presence of a city or town to act as a nucleus for the area. The boundaries for the South Fork Valley and adjacent Foothills Subareas were revised by the Planning Commission in 1987.

In November 1990, the Whatcom County Planning Department published the Draft Background Document for the South Fork Valley Subarea. The document contains descriptions of existing conditions related to land use, the physical environment, transportation, and community facilities and utilities. In addition, the document identifies specific issues for the subarea. For additional detail concerning analysis, findings and issues, the South Fork Valley Subarea Background Document can be consulted.

The following section addresses the issues identified in the background document, and develops recommendations that help formulate specific comprehensive plan policy statements found in the policy section of this document. After a general description of the South Fork Valley Subarea, a summary of Findings is presented relating to each element analyzed in the background document. Following the findings, there is a review of critical Issues relevant to the subarea with Recommendations to address these issues in a timely manner.

SUBAREA DESCRIPTION

Findings: The South Fork Valley Subarea is comprised of the South Fork Nooksack River watershed and the portion of the Samish River watershed within Whatcom County. It is located in the southeast corner of the western one third of Whatcom County and includes approximately 61,204 acres or 95 square miles of valley and mountains. The subarea is bounded on the north by the main stem of the Nooksack River, on the east by the Van Zandt Dike and the Mount Baker National Forest, on the south by Skagit County and on the west by the ridge of Stewart Mountain. Access is via Mount Baker Highway (SR542) to Highway 9 from Bellingham; via Highway 9 from the south and Mosquito Lake Road from the east; and via Park Road from the west.

The South Fork of the Nooksack River is the dominant environmental feature in the valley of the Subarea. It provides scenic beauty, recreational opportunities, wildlife habitat, water for human consumption, and hydroelectric power to the nearby community. The river is pastoral and meandering in the valley with gravel islands, channel bars, and minor braiding across point bars. Further upstream above the Saxon Bridge the river takes on the characteristics of a mountain stream with occasional presence of rocky narrow gorges and steep banks.

The river and its tributary streams contain large populations of anadromous and resident fish. These include a number of species of salmon, dolly varden, steelhead, and trout. There is one major fish production facility operating in the South Fork Valley Subarea. The Skookum Creek Fish Hatchery is located adjacent to and receives its water from Skookum Creek. The hatchery is owned and operated by the Lummi Indian Nation.

The population of this Subarea is approximately 1200 people. Most of the 404 houses are scattered along the valley floor or along the foothills of the mountains to the east or west. Much of the valley is flood prone and is used for agricultural purposes. Dairy farming and hay production are the predominate agricultural
activities. Unincorporated communities include Acme, Van Zandt and Wickersham. Acme is the only town with potential for growth. Environmental constraints which are prevalent in the subarea, hamper expansion of Van Zandt and Wickersham. The Nooksack Indian Tribe collectively own close to 500 acres in the subarea.

1. ENVIRONMENTAL FEATURES

Air and Climate

Findings: Air quality is generally quite good except for brief periods of pollution in late fall and winter under conditions of clear skies, light wind, and a sharp temperature inversion. The average rainfall in the valley is between 50 and 60 inches per year with amounts as high as 84 inches recorded east of Van Zandt. The subarea experiences approximately 25 inches more of precipitation than is experienced in the lowland areas of the County. In the more mountainous regions east of the subarea, precipitation totals have reached 120 inches per year.

Issue: The mountains on each side of the valley tend to trap pollution. Air quality degradation is a problem during slash burning or during periods of climatic inversions in conjunction with wood stove smoke and smog from regional urban areas.

Recommendation: Commercial and industrial uses that emit measurable air pollutants should be discouraged.

Topography

Findings: The South Fork Valley Subarea features a landscape of rugged forested slopes and cleared valleys. Elevations in the valley range from 240 to 400 feet above sea level. The highest point in the subarea is 4,574 feet above sea level on Bald Mountain in the extreme southeast corner of the subarea. Slopes of 15% or greater cover approximately 60% of the subarea. Slopes of 40% or greater account for 15% of the subarea.

Issue: Steep slopes on each side of this valley, many of which are over 40% in grade, pose a risk to the health, safety, and welfare of the citizens when incompatible development is located in areas of significant hazard.

Recommendation: Slopes greater than 15% in grade should be identified and the risk to development below should be assessed. Where it has been determined that an unacceptable risk to the public is present, development should be curtailed.

Geology

Findings: The upper Nooksack River area consists of ancient, uplifted, and deeply dissected erosion surfaces cut into a complex series of metamorphic rocks. These are overlain by early tertiary sandstones, shales, and coal beds which occupy the central portion of the Nooksack River Basin. All three forks of the Nooksack River flow through valleys which were initially stream-cut and later modified by glaciation. Generally the valley floors are underlain by a fill several hundred feet thick of glacial and stream sediments. There are thirteen separate geologic units identified in the South Fork Valley Subarea: alluvial deposits, Sumas Outwash, undifferentiated glacial deposits, landslide deposits, Chuckanut Formation, Huntington Formation, Chilliwack Formation, Turtleback Complex, phyllite, pre-Tertiary Serpentinite, Twin Sisters Dunite, Mesozoic sedimentary rocks, and Jurassic sediments.
The mountain regions of the subarea have a history of slope failure on each side of the South Fork Valley. This is particularly true on the Stewart Mountain. Analysis of geology, soils and drainage patterns indicate that these slopes are inherently unstable in their natural state. Further instability results when these slopes are altered by human activity.

In the past year there has been an increase in the number of seismic events in the South Fork area. Reaction can be amplified on the greater slope angles that exist on over 50% of the Subarea, and on slopes with fractured bedrock. The alluvial deposits that comprise the valley floor can also amplify the seismic event.

**Issue:** The combination of steep slopes and unstable geologic units of Chuckanut and phyllite in conjunction with the large amounts of rainfall have resulted in conditions conducive to slides, mass wasting, debris flows, and other forms of erosion. These conditions pose a risk to the health, safety, and welfare of the citizens when incompatible development is located in areas of significant hazard.

**Recommendation:** Slopes of 40% or greater and other areas susceptible to erosion hazards should be altered as little as possible. This is particularly important in the Stewart Mountain and Van Zandt Dike areas which are relatively unstable in conjunction with existing development at the base of these ranges.

**Recommendation:** Geologically hazardous areas should be identified and the risk determined to development below these areas. Where it has been determined that an unacceptable risk to the public is present, development should be appropriately curtailed.

**Issue:** The Deming area has been seismically active in recent years producing numerous measurable events. If they continue, these events could produce some damage to new and existing structures in the subarea.

**Recommendation:** New development and construction should be located away from steep slopes and meet current UBC standards.

**Issue:** Mineral extraction can have long term negative effects upon the natural environment. Coal reserves are recorded in the Fall Creek headwaters above Hillside Road. Future mining of this resource could lead to erosion, mine runoff, and leachate contamination in the Nooksack River and local groundwater.

**Recommendation:** Careful consideration of all costs and benefits should be given before any extensive mining projects take place in the subarea.

**Soils**

**Findings:** There are 100 different soils identified in the subarea. These can be grouped according to landscape into five broad categories: soils on alluvium and floodplains, soils on outwash terraces, soils on glaciomarine drift plains, soils on foothills, and soils on mountains. Alluvial and flood plain soils have severe limitations for development due to their rapid permeability, unstable base and/or their susceptibility to flooding. Mountain soils are severely limited because of steep unstable slopes and unreliable groundwater supplies. The least restricted soils in this subarea are the outwash soils which are concentrated along the edges of the South Fork Valley and in the valley region along Mosquito Lake Road.

Approximately 6% of the soils in the subarea are found in the valley of the South Fork. The U.S. Department of Agriculture, Soil Conservation Service, has determined that most of the valley soils are prime agricultural soils when either drained or irrigated. Over 85% of the Subarea is comprised of soils in the mountains. Soils in these mountains are well suited for commercial timber production.
Issue: Limited suitability of soils for development (very rapid permeability rates and/or high seasonal water tables in lowland valleys; and steep slopes, poor permeability, and shallow depths to impermeable layer in mountains) may limit population growth and minimum parcel sizes in the subarea. Many of the soils are poorly suited for septic tank systems. The most suitable soils also have extremely rapid permeability with a potential for contaminating surface waters and ground water. The cost of developing sewer systems is generally not considered to be feasible at this time, given the low population base and dispersed settlement patterns.

Recommendation: Residential densities should be kept to a maximum of one dwelling unit per five acres throughout the subarea, with the exception of areas where public sewer and water services are available or where prior development at higher densities has already taken place. Lower residential densities (one dwelling per ten or twenty acres) should be maintained where soils are severely limited and steep and unstable slopes exist.

Issue: Whatcom County is experiencing a significant loss of prime farmland soils due to increased development pressure and changes in the agriculture industry.

Recommendation: Whatcom County should seek every means available to preserve prime agricultural soils for future agricultural use.

Issue: Soils on forested mountain regions are thin and can be susceptible to sliding and other forms of erosion. Disturbance of these soils through road development or over harvesting of timber resources can lead to slope destabilization and increased erosion, thus reducing future production and creating potential hazards in the valley below.

Recommendation: Whatcom County should seek to identify erodible soils and preserve their stability.

Recommendation: Whatcom County should encourage sustainable forestry practices. A coordinated harvesting schedule and road construction program should be developed and maintained by the members of the timber industry. Both the schedule and program should be subject to review by the community.

Surface Water Resources

Findings: There are two major watershed basins in the South Fork Valley Subarea: 1) the South Fork Nooksack River Basin and; 2) the Samish River Basin. The most significant surface water features in the South Fork Valley Subarea are the Nooksack River and its tributaries. The South Fork Nooksack River system provides scenic beauty, recreational opportunities, wildlife habitat, water for human consumption, and hydroelectric power. Recreational uses of the river includes floating, fishing, wildlife observation, and scenery viewing. The South Fork river also provides habitat and spawning grounds for a number of wildlife species. The salmon is highly valued among these for their commercial value.

Water quality in the South Fork River and its tributaries is good but declining. This is in part due to increased forest practices in the watershed. The increased volumes of surface water runoff during periods of heavy rainfall are contributing to stream bank and surface soil erosion, earth slides, stream sedimentation, channel siltation and debris loading.

The South Fork Nooksack River is prone to flooding as is many of it's tributaries. Tributary flooding has taken place on almost every creek draining Steward Mountain in recent years. Notable among these are Jones Creek and Sygitowicz Creek, where major flooding and debris deposits took place in 1983. Jones drains immediately north of the unincorporated town of Acme.
Floods generally occur during the late fall when heavy rains fall (sometimes on snowpack), and in the spring when melting snow is supplemented by rainfall. Severe flooding occurs when there is a combination of above average temperatures causing rapid snow melt and above normal precipitation.

The United States Geological Survey (U.S.G.S.) has determined that a flow rate in excess of 19,000 cubic feet per second (cfs) at Deming will result in some flood damage from the Nooksack River. Geographically the 1977 Flood Insurance Study, conducted by the Department of Housing and Urban Development, has identified approximately 70% of valley region within the boundaries of the 100 year floodplain. The U.S.G.S. currently has one active gaging station on the South Fork at river mile 14.8 which has kept annual records from 1935 to 1977.

Wetlands in the South Fork Subarea are found near the channels of the South Fork of the Nooksack River and the Samish River and comprise roughly 20% of the valley. They provide excellent hydrological utility, offering natural flood control, flood desynchronization, and flow stabilization of the South Fork of the Nooksack River during periods of high water. They also aid in ground water recharge and maintenance of stream flows.

**Issue:** Flooding occurs frequently in the South Fork Valley Subarea. Floods have been increasing both in occurrence and area in recent years causing damage to both the natural and built environments. Should a 100 year event take place, wide spread damage would occur to the community.

**Recommendation:** Whatcom County should encourage the use of land in the 100 year floodplain for low density agricultural purposes and low density recreational use.

**Issue:** Site analysis of the 1977 Floods Insurance Maps (FIRM), produced by the Department of Housing and Urban Development, indicates that some of the floodplain boundaries appear to be in error.

**Recommendation:** Whatcom County is currently updating their informational base. Changes to the FIRM floodplain maps should be made to correct errors that exist in the subarea.

**Issue:** Forest cover can enhance water quality by reducing the impact of precipitation on the ground surface and by holding the soil with tree roots. Soil erosion and sediment flow to surface waters are thereby reduced. Also, through the reduction of erosion, the quality and quantity of both surface water and groundwater are enhanced.

**Recommendation:** Whatcom County should continue to play an active role in monitoring Forest Practices Applications. The County should also continue to cooperate with federal, state, and local agencies, and tribes as appropriate, in monitoring and protecting water quality in the Nooksack drainage. Existing and future development that may have negative impacts on the water quality of the Nooksack should be closely controlled. With 86% of the subarea forested, it is important that relationships between forest practices, environmental quality, and the role that public agencies play in mitigating adverse impacts on these systems be clearly understood.

**Issue:** Preservation of a high level of water quality is extremely important to the successful maintenance of native and hatchery fish populations.

**Issue:** The U.S.G.S. currently has one active gauging station on the South Fork river located near Wickersham. Data from this station does not provide the information necessary to meet the minimum flow requirements necessary to meet the standards set forth in WAC 173-501-030 and, subsequently, to address many issues associated with river flows.

**Recommendation:** Whatcom County should work with the U.S.G.S. to immediately install one additional gaging station immediately upstream from the confluence of the South Fork and the main stem of the
Nooksack River. Gaging stations should be installed as soon as possible in those tributary creeks of the South Fork drainage that are under the jurisdiction of WAC 173-501-030.

**Recommendation:** Whatcom County should develop a Nooksack basin water resource plan with the cooperation of the Nooksack Indian Tribe, the Lummi Indian Nation, and small cities. This planning process was endorsed by the Whatcom County Council, the Lummi Tribal Business Council and the Nooksack Tribal Council in 1989. An overall Nooksack Basin Plan would investigate all three forks as well as the mainstem of the Nooksack River for water quality and quantity concerns. This should include both study and evaluation of low flow and high flow readings and standards.

**Issue:** Wetlands and reoccurring flooding offer considerable development constraints in the valley region of the subarea if preserved. By contrast, unrestricted dredging, filling, and draining of these wetlands would destroy valuable habitat for fish and wildlife and reduce the ability of the wetlands to store flood water and filter sediment and pollutants.

**Recommendation:** Many of the wetlands are a valuable natural resource and need to be protected. However, there is currently no information available that have sorted out those wetlands with high value/high function attributes from the small isolated low value/low function wetlands. A study of this kind is necessary in order to determine to what extent the wetlands in the South Fork Valley should be drained and filled. Until this is done, Whatcom County should discourage fill, drainage or alteration of wetlands.

**Issue:** Jones Creek, McCarty Creek, Standard Creek, Hardscrabble Creek, Sygitowicz Creek and Fall Creek, all located on the east side of Stewart Mountain and draining into the South Fork of the Nooksack River, have a history of instability and deposit large amounts of sediment and debris into the valley below during heavy rain periods. Jones and Sygitowicz Creeks in particular, pose a hazard to the Community. Debris torrents and flooding were recorded in 1979, 1983, 1985, and 1989. The effects of these debris torrents resulted in damage to homes, transportation routes, and loss of fish habitat.

**Recommendation:** The headwaters and mountainous upstream reaches of these creeks should be altered as little as possible. The areas affected by potential flooding from these streams should be identified and with development appropriately restricted. Whatcom County should encourage minimal use of these stream corridors, drainage swales and alluvial areas for building sites.

**Issue:** Jones Creek erodes the existing gravel berm located on the southeast bank of the creek and uphill from the Turkington Road bridge. During periods of extremely high precipitation, the stream can penetrate the berm and flow down Turkington Road and can cause damage to structures downstream.

**Recommendation:** A retention berm sufficient to contain drainage during peak flow periods should be constructed from the Turkington Road bridge and extending upstream to the private bridge located at the end of Galbraith Road. Specifications should be determined by the Whatcom County Division of Engineering.

**Ground Water Resources**

**Findings:** Ground water supplies in the subarea are generally abundant and of high quality where wells have been drilled. Since ground water tends to conform to topography, the most abundant sources are the wells that are closest to the river valleys. Supplies diminish moving uphill away from the streams and toward the areas where the bedrock is closest to the ground surface. In theory, the areas having the least potential for ground water are the mountain areas where soils are thin and glacial deposits are nonexistent. Since these areas are almost exclusively used for timber production, very few wells have been drilled and information about groundwater quantity and quality is virtually nonexistent.
**Issue:** Although groundwater seem to be abundant in the South Fork Valley, good groundwater information is scarce and well logs are spotty. There are no current groundwater studies for the South Fork Subarea. Detailed hydrologic studies have never been done.

**Recommendation:** Whatcom County should embark on a detailed study of hydrologic features in the South Fork Basin.

**Issue:** Areas where the water table is five feet or less from the surface, particularly along the 100 year floodplain, deserve particular consideration with respect to septic system use because of the potential for groundwater contamination.

**Recommendation:** Residential densities should be as discussed in the section on soils issues. Detailed studies of the ground water resources of the South Fork Subarea are needed.

**Plants and Animals**

**Findings:** The South Fork Valley Subarea, with its mountains and streams, provides habitat for a wide diversity of plant and animal species. Foremost in importance among the plant species are the forests of Douglas fir, Cedar, and Hemlock upon which the region has been economically dependent for many years. The most significant aquatic animal species are the salmon and steelhead which inhabit the rivers and streams of the area. Equally significant is the presence of an elk herd which roams the east and southern portions of this subarea.

The South Fork Valley Subarea is valuable in a number of ways relating to plants and animals. It is the southeastern terminus of low elevation wildlife habitat, with a wide riparian zone, general food and prey base, and bio-diversity.

**Issue:** The fish of the Nooksack River and its tributaries are an important economic and recreational resource. The viability of fish habitat in the South Fork Nooksack River is dependent upon preservation of water quality and unobstructed access to spawning areas.

**Recommendation:** Whatcom County should make every effort to preserve the high level of water quality in the Nooksack system and should assure the preservation of habitat for fish.

**Issue:** Property damage can occur when the elk herd travels from the foothills into the valley.

**Issue:** Travel corridors necessary for elk habitat are severely constrained by Highway 9 and other roads, cleared and extensively managed areas, and clearcutting. Increased hunting and fishing in conjunction with decreased habitat due to overcutting, development and increased recreation activity are putting both the elk herd and salmon runs at risk. There is a need to protect sensitive salmon spawning areas and elk roaming areas from encroachment while preserving opportunities for recreational and scientific observation.

**Recommendation:** The County should work with the Washington State Departments of Wildlife and Fisheries and the local Indian tribes to educate residents on the importance of protecting the wildlife environment and encourage enhancement of the resource.

2.LAND USE
Findings: There are approximately 61,204 acres in the South Fork Valley Subarea. The region is largely can be described as rural with dispersed development in the valley. There are a number of environmental constraints many of which are derived from large amounts of rainfall in the region. Most notable among them are floodplain, steep and unstable slopes and wetlands. The subarea is largely a resource area with an economy based on fisheries, agriculture, and forestry.

Of the 61,204 acres in the subarea, a large portion of it is not suitable for various land uses. Soil conditions influenced by recent glaciation, limit the amount of land suitable for development. Much of the land is too steep to be built upon safely. Most of the valley region is flood prone, and is better suited for agricultural. Within the South Fork Subarea's 95 square miles, there are approximately 1,269 parcels.

There is 52,887 acres of forest land comprising 86.4% of the subarea. Approved forest practice applications in the last three and one half years amount to 6,384.50 acres or approximately 12 percent of the forest land. This means that between three and four percent (1,800 av.) is being harvested annually assuming a 50 year rotation. At a 3.5% harvest rate, to would take approximately 18 years to harvest the 32,000 acres currently in an age class over 40 years.

Agriculture is the second largest land use in the study area with 5,355 acres or 8.7% of the study area. Close to 60% of the parcels are over 40 acres in size. Another 30% average between 20 and 40 acres. There are several dairy farms in the valley. Other agricultural practices include meat production, hay, and some grain and com growing.

Residential uses amount to 509 acres or 8% of the subarea and is largely scattered on five acre, ten acre and larger tracts of land. Commercial and industrial property add up to five acres each. Developed recreational property other than parks is nonexistent.

The Skookum Creek Fish Hatchery is the major hatchery operating in the South Fork Valley Subarea. It is located adjacent to and receives its water from Skookum Creek and is operated by the Lummi Indian Nation.

Issue: Although information is scarce or lacking in many cases, actual documentation and visual evidence suggest a general decline in fish stocks in the South Fork Valley.

Issue: Preservation of a high level of water quality is extremely important to the successful maintenance of native and hatchery fish populations.

Issue: Agriculture, forest practices, and settlement can play significant roles in the degradation of fish stocks. Altering of aquatic habitats through diking, river channelization, filling, and erosion can be a result of these practices.

Recommendation: Whatcom County should continue to work with both the Lummi Indian Nation and the Nooksack Indian Tribe to protect both the fish populations and their habitat.

Issue: Recreational uses of the river are increasing and many are extremely hard on the fisheries habitat. This is especially true with extensive tubing during the summer months.

Recommendation: The Whatcom County Parks Department has made several attempts to monitor tubing activity during the summer months. Plans are ongoing and may include limited access to only certain parts of the river, as well as timing and capacity limitations.

Issue: Forestry continues to be a major land use in the South Fork Valley Subarea, and with timber reaching harvestable age and continued population growth in Whatcom County, it will continue.
**Issue:** Commercial forests cover most of the uplands above the settled valley of the South Fork. The edge of these commercially forested lands can be a source of conflict where development exists.

**Recommendation:** Whatcom County is proposing a text amendment to Title 20 (zoning ordinance) which will split the existing forestry zone into two forestry zones; a "Commercial Forestry zone" and a "Rural Forestry zone". A Commercial Forestry zone will allow only forest practices and related activity to take place within the zone thereby precluding the presence of conflicting uses like residential development. The creation of a Rural Forestry zone will allow low density development within its boundaries to facilitate the stewardship of land dedicated to timber production. Its location, typically at the foothills of mountain regions, should help to buffer commercially forested land from rural and residential development.

**Issue:** Forest practices in the South Fork Subarea are not currently being practiced at a sustained yield level. Market conditions fluctuate dramatically in the timber business making it difficult for the industry to plan cutting schedules over a long period of time. Prices in the last three years have been relatively high, resulting in large amounts of timber being cut.

**Recommendation:** The State Department of Natural Resources along with many other state, federal and local agencies have made significant progress working with the industry, environmental interests and other interested parties to both encourage sustainable and environmentally sound forest practices in Washington State and Whatcom County. Whatcom County should continue to work with the forest industry to insure that future cuts are smaller in size, not adjacent to one another, adequately buffered from streams and other water courses, buffered from steep slopes subject to slope failure, and executed using best forest practices available. The South Fork watershed should be logged on a sustainable yield rotation.

**Recommendation:** Economic viability of existing agricultural practices varies yearly. The introduction of new agricultural commodities, such as commercial deer stock and orchard crops, may help to provide for agricultural viability of appropriate areas of the valley.

**Issue:** Whatcom County is experiencing a significant loss of prime farmland soils due to increased development pressure, and changes in the agriculture industry. Although this has not yet taken place in the South Fork Valley Subarea, population trends indicate that development pressure will be there in the near future.

**Recommendation:** Whatcom County should pursue farmland preservation through the implementation of the Agricultural zoning district where feasible, and through the use of incentive programs to encourage the active agricultural use of arable land.

**Issue:** Although the majority of the lands in the valley are classified as prime for agricultural use, many are prone to flooding and standing water. Without adequate drainage, these areas cannot support agricultural practices.

**Recommendation:** Whatcom County should adopt and implement a comprehensive farm preservation program that seeks to preserve to the fullest extent possible, arable lands and to facilitate the best utility of these lands.

### Lands in Current Use Tax Status

**Findings:** Current use taxation includes lands that qualify for property tax deferments for forestry, agriculture, environmentally sensitive areas or other open spaces. Since there is a liability for back taxes plus interest when withdrawn from this status, it is anticipated that these lands will remain undeveloped during the planning period. These lands comprise a total of 37,692 acres or 62% of the subarea, of which
33,034 acres, or 54% of the subarea, are designated or classified forest lands. The remainder is in Open Space Agriculture, Open Space Timber, or Open Space/Open Space.

**Issue:** Current use taxation provides an incentive for land owners to keep their land undeveloped or developed at a very low density.

**Recommendation:** Whatcom County should encourage property owners to use the current use tax assessment provisions of RCW 84.34 to retain agriculture, forested, environmentally sensitive lands, shorelines, and unique or important wildlife.

**Public and Tribal Lands**

**Findings:** The State of Washington owns and manages 18,885 acres or 30.9% of the subarea. Whatcom County owns 16.9 acres and the Nooksack Indian Tribe owns 522.5 acres, bringing the total for public and tribal lands to 19,424 or 31% of the area.

**Issue:** The Nooksack Indian Tribe owns 522.5 acres of "Trust" land in the South Fork Valley Subarea. This land does not fall under the jurisdiction of Whatcom County. Development of this land without the coordination of a comprehensive plan nor implemented by zoning regulations could create potential use conflicts in the region.

**Recommendation:** Whatcom County should work with the Nooksack Indian Tribe to insure that compatibility is achieved.

**3. HISTORY, POPULATION, AND ECONOMICS**

**Population and Characteristics**

**Findings:** The South Fork Valley Subarea has 404 dwelling units. If one were to assume an average household of three persons, that would mean a population of 1,212. Analysis of population growth resulted in three types of population forecasts:

1. **Location of population growth:** The majority of population growth will occur in the unincorporated town of Acme with scattered growth on the valley edge between the agriculture and commercial timber lands.

2. **Reasonable population growth:** Barring any major economic changes, the rate of population growth will be at unincorporated Whatcom County rates. The state predicts a 39% growth from 1980 to 2000 for Whatcom County as a whole; however, unincorporated areas have been growing much faster than the cities (Table 1). A realistic growth rate projection for the subarea should be from 1.5 to 2.5 percent annually during the next 10 years. That means that the unincorporated county is projected grow 40 to 50 percent over the next 15 to 20 years.

3. **Zoning limitations on population growth:** The zoning adopted in the 1970's would allow a growth in dwelling units, and presumably population, of over 2,100%. That would mean the population would increase to 26,664 assuming 3 persons per household( based on a maximum possible density of one dwelling per acre in the General Protection zone district, excluding county, state, and tribal lands). The zoning implementing this comprehensive plan allows approximately 200% increase over the existing number of houses for the length of the current planning period (10 to 20 years) plus any bonuses obtained through the PUD process. Assuming a 20 year planning period, that...
allows a growth rate of approximately 10% per year, well above the projected growth rate of 1.5 to 2.5 percent annually.

**Issue:** Population growth brings increased opportunity for business and for development of services. It can bring new life into the community but can place increasing demand upon public facilities and natural resources areas. It can help a community’s tax base, thereby making feasible certain needed local improvements. The population base of the South Fork Valley Subarea has remained stable but future growth will require increased services and amenities for residents.

**Recommendation:** The proposed zoning districts should provide for adequate growth in the South Fork Valley Subarea while preserving the character of the area and quality of life that most people in the valley seem to desire. Urban growth should take place in the unincorporated town of Acme where a full set of urban service should be provided.

**Economic Activity**

**Findings:** The subarea’s economy has traditionally been based on natural resources. The quest for gold brought many of the first settlers to the area and the promise of jobs in the timber industry kept them there. This has not changed much in the ensuing years. The concern for fisheries industry is increasingly becoming a factor that impacts the economics of mineral and timber resources. Recreation and tourism unlike other parts of the county, have not taken on a large role in the subarea. The area also supports a small number of service businesses, home occupations and cottage industries.

**Issue:** Cottage industries make up a substantial portion of the businesses in the subarea and tend to be scattered throughout the Valley. Their presence is important to the economy of the subarea.

**Issue:** The economy of the valley has been primarily resource based and tied to agriculture and forestry. This may begin to shift as these industries change.

**Issue:** Although much of the valley land in the South Fork Valley is conducive to farming, many of the dairies are doing poorly and other farmers have complained that markets are far away, the growing season to short, soils to thin and wet.

**Recommendation:** Whatcom County should seek to provide every opportunity for the farmer to utilize arable land in the most efficient manner possible and to facilitate a viable agricultural industry in the South Fork Valley.

4. **COMMUNITY FACILITIES AND UTILITIES**

Community services in the subarea include education, public safety, fire protection, energy, solid waste, water and wastewater systems, transportation systems, and parks and recreation facilities.

**Sewage Disposal**

**Findings:** Sewage disposal is provided solely by individual private septic systems. During the land use inventory of the subarea during the summer of 1990, 404 dwelling units were identified as possible year around residences.

The Federal Environmental Protection Agency recommends that a residential density of over 40 dwelling unit equivalents (three bedroom home) per square mile in areas where soils are highly permeable is a potential source of ground water contamination. This is the equivalent of one dwelling per 16 acres.
Issue: There are some unreliable sources for potable water in the subarea. Areas of obtainable ground water are sporadic.

Issue: Contamination of ground water due to inadequate soils supporting individual septic systems is possible in certain areas of the subarea.

Issue: Costs involved in installing a sewer system in Acme could be prohibitive.

Recommendation: Development in the Urban Reserve area (Acme) should be limited until public sewer is provided in order to prevent health and economic impacts from contaminated surface and ground water.

Water

Findings: There are no public water purveyors in the subarea. There are two private water systems in the subarea: Wickersham Water Association is a Class 2 systems with approximately 31 connections and no room for expansion and the Van Zandt Community Club is a Class 3 system with one connection and no additional capacity. The Van Zandt System has an unreliable spring source.

The most prevalent form of water service are the individual wells serving one to two households. It is difficult to pin down the exact number of individual groundwater withdrawals but it is estimated to be approximately 500 based on 1980 U.S. Census data and the Health Department. Surface withdrawals also serve as a water source but they are hard to account for since they are not monitored.

Solid Waste

Findings: Solid waste disposal is accomplished by residents or private haulers taking refuse to a transfer station, a sanitary land fill, or to an incineration plant. County-wide mandatory garbage collection is currently being proposed to the County Council and presently Sanitary Service Corporation is the company contracted to collect waste in the South Fork Valley. The company is certified by the Washington State Utilities and Transportation Commission and has the exclusive right to collect commercial and residential garbage in the subarea.

Issue: There is a lack of recycling facilities in the subarea. Drop-off centers located in Van Zandt and Acme have been closed.

Recommendation: Recent zoning amendments have made neighborhood recycling collection centers conditionally permitted in the Rural and Forestry zones. The South Fork Valley community should work with the County Division of Solid Waste to establish such centers as a part of the county wide curbside recycling program.

Fire Protection

Findings: The South Fork Subarea is served by Whatcom County Fire Protection District #16, with the primary Fire station located at Acme and a second station in Van Zandt. The Washington Department of Natural Resources is responsible for fire protection on state managed forest lands. The Uniform Fire Code specifies minimum flow standards for fire protection of all but single family residential structures and accessory structures under 2,500 square feet.
Issue: Some residents living along Mosquito Lake Road and upper reaches of Saxon Road are not within Fire District #16 boundaries and therefore not protected in case of fire. The Department of Natural Resources (DNR) does not have the ability to fight structure fires nor are they an emergency response agency. The DNR is responsible for all undeveloped state and private lands that are not cultivated or developed outside of fire district boundaries.

Recommendation: Development outside of Fire District boundaries should be discouraged.

Law Enforcement:

Findings: Law Enforcement in the subarea is provided by the Whatcom County Sheriff's Department. In 1988 and 1989, the type and severity of calls varied greatly. They ranged from loud parties, littering, and hot rodding to child abuse, search and rescue, and kidnapping. The most common type seem to be that of malicious mischief and burglary or suspicion of burglary. In 1988, 48 citations were issued for 342 calls for service while in 1989, 42 citations were issued for 396 calls. Calls for service in the South Fork Valley area increased by 15% from 1988 to 1989.

Issue: Response time in the Valley is perceived as being slow, especially in the summer months when use of the river is high. This is partly due to the subarea's distance from the central part of the county which can slow down response time. General rowdiness and use of alcohol associated with use of the river causes problems for residents along the river and creates driving hazards.

Recommendation: High usage of the river during the summer creates the highest need for law enforcement and magnifies the slower response time. Monitoring of river use could help alleviate this problem.

Energy

Findings: Puget Sound Power and Light Company provides energy to the South Fork Valley Subarea and has the capacity to serve additional customers. They do not, however, have any substations in the subarea nor do they own any land for use as substations. The nearest substation is located in Deming. The present peak demand in the subarea is approximately 1.5 MW (megawatts). Puget Power has no immediate plans for expansion in the area since growth has typically been slow and also because of the lack of an improved infrastructure.

Cascade Natural Gas serves the Acme area via Northwest Pipeline which runs the entire length of the subarea just east of Highway 9. Those living on Rothenbuhler, Galbraith and Hudson Roads and those along Turkington Road 3/4 mile west of Highway 9 and from Rothenbuhler Rd. to Turkington Rd. along Highway 9 are currently being served. At present there are 43 active accounts with an average use of 778 therms per year per customer.

Education

Findings: Education is provided by the Mount Baker School District which has its administrative offices at Mount Baker Junior/Senior High School in Deming. The attendance area for the South Fork Subarea utilizes Acme Elementary on Turkington Rd. and the Mount Baker Junior and Senior High School in Deming. The 1989-1990 total expenditure per student for the Mount Baker School District was $3,313.25, compared to $3,661.12 per student in 1987. The Student/Teacher ratio for the 1989-90 school year was slightly less than the previous year.

Issue: Schools serving the subarea are at capacity. Expansion of Mt. Baker Junior/Senior will alleviate some of the pressure.
Recommendation: Recent additional funding may help alleviate this problem.

Transportation

Findings: The major circulation route in the South Fork Subarea is Highway 9 also known as the Valley Highway. It begins in Woodinville, enters Whatcom County south of Wickersham, and continues to it's end in at the Canadian Border at Sumas. In the South Fork Subarea, it covers the 11 mile length of the subarea. Traffic entering Highway 9 from the Mount Baker Highway averages 2600 daily. Traffic counts at Park Rd., one mile north of the Whatcom/Skagit boundary, average 1700 vehicles daily.

The only other access points into the Subarea are via Mosquito Lake Road which feeds into Acme from the Mount Baker Highway and via Park Road which directs traffic from southern shore of Lake Whatcom to just north of Wickersham. Both of these roads are classified as Minor Collector Roads. All of the other roads in the subarea are classified as local access since they are primarily dead end roads feeding onto Highway 9 that serve local residents only.

Issue: Creating a four lane highway through the South Fork Valley to Sumas could devastate the Valley environmentally, economically, and culturally. However, Highway 9 is an existing north/south corridor that could be examined as an alternative to alleviate transportation pressures from Seattle to Vancouver.

Recommendation: If there is one thing the community in the South Fork Valley can agree on, it is that the creation of a major four lane arterial will devastate the quality of life there.

Issue: By using Highway 9, truckers travelling to Canada have been able to bypass the weigh station on Interstate 5.

Issue: Collector roads and particularly local access roads are inadequate to support increasing traffic volumes. Road widths and shoulders are narrow and their general condition is poor. The lack of adequate shoulders forces bicycle and pedestrian traffic onto the roads thus creating potential conflict and hazards

Issue: Seasonal flooding at both ends of the Valley can restrict access on Highway 9 and isolate the Valley. This is particularly true on the north end where a dip in highway 9 approximately one half of a mile north of the intersection of Potter Road and Highway 9 is frequently inundated with one to two feet of water making the road impassable. This condition hinders emergency traffic at a time when it may be needed most.

Recommendation: The Washington State Department of Transportation should embark on a road improvement plan that would elevate that section of Highway 9 which is frequently inundated by flooding so that the road base is elevated by approximately three feet.

Parks and Recreation

Findings: The subarea's location between federal recreation lands and the population centers of Northern Puget Sound and the lower British Columbia mainland contribute to its popularity as a recreational site. The Mt. Baker District in Whatcom, Skagit, and Snohomish Counties, includes 545,246 acres. As part of these federal lands, the Mt. Baker District offers year round recreation, including hiking, climbing, camping, scenic driving, berry-picking, cross country skiing and downhill skiing. There is no formal recreational facilities in the South Fork Valley Subarea.

Within the Subarea recreational activity focuses on the South Fork of the Nooksack River. River usage, especially by "tubers" has markedly increased over the years and has created a strain on the existing
facilities as and threatens habitat and water quality. Access to the river is limited by private ownership and the rivers own geographical isolation.

**Issue:** In recent years the presence of inner tubers on the South Fork of the Nooksack during the summer months has greatly affected the natural environment and quality of life along the South Fork. Problems have included: destruction of property and farm equipment; trespassing; threatening of wildlife habitat, especially in terms of fisheries; rowdiness and drunkenness; illegal and dangerous parking; short and long term camping along Saxon Road; and lack of sanitation.

**Recommendation:** The Whatcom County Parks Department has made several attempts to monitor tubing activity during the summer months. Plans are ongoing and may include limited access to only certain parts of the river, as well as timing and capacity limitations.

**Issue:** There is a lack of public access points to the river which contributes to the tubing problems.

**Recommendation:** The Whatcom County Parks Department is currently looking for locations along the South Fork of the Nooksack River that the County can either buy or lease over a long period of time. In doing so the Parks Department hopes to better control access to the river.

**Issue:** Unsupervised motorcycle use of a Whatcom County right-of-way immediately east of Skookum Creek has resulted in damage to the natural environment (wetlands, flora, fauna). The timing and frequency of this type of activity threatens salmon spawning areas, some of which are located in the immediate area and are directly impacted by this activity.

**Recommendation:** Whatcom County should work with the Department of Natural Resources, the tribes and private land owners to restrict access to this environmentally sensitive area. A gate located at the Skookum Creek Bridge would provide the most effective access deterrent. Pedestrian access should continue to be granted to this section of the Nooksack Valley.

5. **EXISTING PLANS AND LAND USE REGULATIONS**

**1970 Whatcom County Comprehensive Plan Designations**

**Findings:** Approximately 45,000 acres of the South Fork Valley are designated Forestry under the 1970 Plan. This designation promotes preservation of forest lands for their timber and mineral resources, open space, wildlife habitat, and watershed values. The Rural designation applies to 7,700 acres and includes areas where there is a mixture of part time farming, forests, and rural residences. Another 8,500 acres has been designated as floodplain acknowledging the large area of the South Fork Valley that is periodically inundated by high river flows.

**1972 General Protection Zoning District**

**Findings:** In 1972, the entire subarea was zoned General Protection (GP) under the Whatcom County Interim Zoning Ordinance. Interim zoning is intended as a stopgap measure to preserve the status quo while permanent regulations are being developed. The GP district is intended as a multiple-use zone in which expansion of business, industry and concentrated residential development is restricted to the minimum extent necessary to prevent disruption of the use and value of surrounding properties and of areas which may later prove best suited for other uses; to prevent untimely or uncompensated requirements for roads, utilities or other services requiring public finance; to avoid conflicts with the policies in the Comprehensive Plan and its amendments or supplements; and to avoid detrimental effects on public health, safety and general welfare. For anything other than low intensity uses, such as single family homes,
conditional use permits are required so that a citizen review process will occur. Little guidance is given as to what types of uses are acceptable. The General Protection zone places no restrictions on building lot sizes beyond the minimums specified by the Whatcom County Department of Health.

**Issue:** The General Protection zone creates public and administrative uncertainty regarding permitted, conditional, and prohibited uses. The zone provides little or no assurance to residents as to future uses and character of their surrounding area. The zone does not establish parcel size for forestry or non-forestry uses, thereby providing no mechanism for conservation of forest resources. In addition, the zone classification is deficient in guidelines for critically evaluating conditional uses which might occur in areas designated for forestry. Finally, the General Protection zone does not establish buffer provisions which are intended to minimize impacts between forestry and non-forestry uses.

**Recommendation:** Whatcom County is currently updating the Comprehensive Plan for the South Fork Valley Subarea and implementing Comprehensive Plan Policies by bringing the subarea into conformance with the *Official Whatcom County Zoning Ordinance Title 20*.

**Shoreline Management Program Designations**

**Findings:** The Whatcom County Shoreline Management Program was adopted in 1976 pursuant to the Washington Shoreline Management Act. The Program applies to areas generally within 200 feet of the ordinary high water mark of streams and rivers with greater than 20 cubic feet per second mean annual flow, lakes larger than 20 acres in size, and Puget Sound.
LAND USE DESIGNATIONS

Land use designations are overlay districts that when applied to a geographic area, indicate where and how the goals and policies of a Comprehensive Plan will assure the orderly and efficient development that addresses or resolves land use needs in that geographic area. The Comprehensive Land Use Plan Map illustrates the location of these designations (Figure 3).

The land use designations together with the policies, represent the most appropriate uses of land in the subarea for the planning period. These land use designations have been developed as a means of addressing land use needs, resolving particular land use problems, or preserving existing land use patterns.

Whatcom County has developed sixteen land use designations to allow for the necessary flexibility and specificity in applying land use standards. Five of the land use designations are applied in this subarea, they include URBAN RESERVE, RURAL, AGRICULTURE, FORESTRY, and GENERAL COMMERCIAL.

Land use designations establish the boundaries of those zoning districts that implement the Comprehensive Plan. The following is a descriptive summary of each designation.

1. URBAN RESERVE DESIGNATION: Residential land use designations were determined according to existing ownership and density patterns, suitability for residential uses, and availability of services as described in the URBAN RESERVE, locational criteria. Before full development of the residential zone occurs, improvements should be made to water, waste water, and transportation systems. The residential land use designation are applied by balancing the densities of the prior Comprehensive Plan and the potential carrying capacity of water sources, waste water service options and feasible transportation system service levels.

2. RURAL DESIGNATION: In the South Fork Valley Subarea, the RURAL Comprehensive Plan designation overlays those rural areas that have some environmental constraints; serve as a buffer between denser residential patterns and typical commercial forestry practices; have a multiple use capability; are predominantly parcels under current use tax status; and lack public water and sewer.

3. FORESTRY DESIGNATION: The FORESTRY designation has been applied to almost all of the forested uplands of the subarea. The designation recognizes existing land use, ownership, and parcel size patterns; environmental constraints such as steep slopes, soils unsuitable for development, 100 year floodplains, and sensitive and critical resource areas; and predominance of forestry current use taxation status.

4. AGRICULTURE DESIGNATION: The AGRICULTURE designation has been applied to the valley region where soils and topography and parcel size facilitate viable farming practices.

5. COMMERCIAL DESIGNATION: The COMMERCIAL designations were applied in recognition of the character of existing commercial centers and projected future commercial needs. The COMMERCIAL designation at Van Zandt is intended to accommodate the convenience buying needs of local residents as well as transient buying patterns. The Acme commercial area, though larger in area, serves that same consumer demands. Although the potential market area for each location occasionally may be county-wide, it is anticipated that the primary market area will be a smaller, more localized area.

To be consistent in the application of the designations, the following methodology has been used for each of the designations:

- Rationale
- Objectives
- Locational Criteria
- Implementing Zoning District
South Fork Valley Subarea Location

URBAN RESERVE DESIGNATION

Rationale

It is a well established trend in the western United States for urban areas to respond to growth pressures by outward expansion of their boundaries. With this trend comes a continuing demand for land, the most fundamental of all urban resources. Although outward expansion is an accepted city planning practice, problems have typically arisen when potential urban lands have been committed to long-term “non-urban” uses. Primarily caused by the lack of coordinated public policy among governmental jurisdictions, this situation has resulted in uncoordinated and costly service systems, inefficient transportation networks and unmanageable land use patterns.

As a means of alleviating the problems associated with outward expansion, the Comprehensive Plan establishes the URBAN RESERVE land use designation. The designation is applied to urban fringe and outlying satellite areas where previous commitments to urban densities and attendant services (sewer, stormwater drainage, schools, parks, water, fire and sheriff protection) can be efficiently provided. It is also applied to outlying satellite areas where urban densities and services have been previously planned and the available level of water and sewer service and existing land use character warrant it.

Prior to the provision of public services, the URBAN RESERVE designation is intended to maintain a low density character that discourages the establishment of interim uses and subdivision patterns that may foreclose significant future alternatives pertaining to urban densities and the efficient provision of services. It does however allow reasonable uses of property by permitting compatible residential, recreational, commercial, forestry, and agricultural land uses.

When services are available, development should occur in neighborhood units with appropriate levels of densities, uses, and circulation networks that result in an orderly, economic and expeditious transition from rural to urban land use patterns.

Objectives

The application of the URBAN RESERVE designation is intended to accomplish the following objectives:
1. To reduce urbanization and encroachment pressures on lands that are most suitable for other uses;
2. To stabilize land speculation and the artificial inflation of land values in the urban fringe and outlying satellite areas by designating an adequate amount of land for urban growth and uses during the planning period;
3. To provide land owners with a reasonable expectation of future municipal and county land use policies;
4. To reduce inequitable taxing structures on non-urban land located near urbanizing areas;
5. To conserve energy resources by reducing unnecessary travel between living, shopping, and work places; and
6. To encourage the conservation of natural resources and environmentally sensitive areas, both within and outside of the area designated as URBAN RESERVE;

Locational Criteria

The criteria to be utilized for the application of the URBAN RESERVE designation include the following:

1. Satellite areas that are of sufficient size to adequately accommodate the projected demands for residential, commercial, transportation and public uses for a ten to fifteen year period;
2. Land areas where a range of urban services such as sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation presently exist or can be economically and efficiently provided in the near future;
3. Areas that contain an adequate supply of vacant urban type land to avoid the artificial inflation of land values;
4. The boundaries of the URBAN RESERVE designation should;
a. be well defined, logical, provide a physical "sense of community," and be capable of expanding to accommodate additional urban growth as the need arises; and
b. acknowledge the existing character of land use densities and the existing or potential level of utility servicing.

Implementing Zoning District

URBAN RESIDENTIAL (UR) Zoning District: The URBAN RESERVE Comprehensive Plan Designation should be implemented by the URBAN RESIDENTIAL Zoning District.

URBAN RESIDENTIAL (UR-4) Density: The URBAN RESIDENTIAL Zoning District in the South Fork Valley should have a density of four dwelling units per acre. This density is based upon existing urban level of services including public sewer, public water, storm drainage, transportation, fire and police protection. Until such time that public sewer and water are provided, and stormwater drainage facilities are provided where specified by the Comprehensive Plan policies, the density should be one dwelling unit per five acres.

South Fork Valley Subarea Location

The URBAN RESIDENTIAL Zoning District for the South Fork Valley Subarea should be located within the urban area of the town of Acme within sections 37-05-06 and 37-05-07, and totalling 106 acres as follows:

<table>
<thead>
<tr>
<th>URBAN RESIDENTIAL-4 ACRE (UR-4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>T-R-S</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>TOTAL</td>
</tr>
</tbody>
</table>

See Figure 4 for detailed location and configuration.

RURAL DESIGNATION

Rationale

The RURAL land use designation is intended to move toward attaining the Regional Design Goal of keeping residential densities low and minimizing the demand for urban level services in rural areas. It also acknowledges physical factors such as soil percolation rates, depth to ground water, steep topography, slope stability, flood plains, ground water aquifers, and sensitive wildlife habitats that are, and will continue to be, limitations to higher densities. This type of landscape can be considered suitable for multiple uses including agriculture, forestry, mining, low density residential, home occupations, and cottage industries. Dispersed settlement patterns are a function of physical conditions such as soils, water, or topography that impose constraints to higher densities of development. Dispersed settlement patterns also can be a function of the lack of public commitment for the provision of sewer, water, and roadway improvements. Very low density residential areas offer alternative residential living styles that allow preferences for increased privacy.
and aesthetic advantages of particular sites, or small scale agriculture and forestry, as compared to that of the urban or moderately dense residential setting.

These areas may contain non-renewable natural resources, such as soils which contribute to agricultural or forestry productivity; sand and gravel deposits suitable for extraction; environmentally sensitive areas such as wetlands, steep slopes, or 100-year floodplains; or natural scenic resources that form the visual identity of an area.

Existing parcel sizes generally are large and would be able to accommodate land uses such as agriculture, forestry, or low to moderate density residential uses in future planning periods. The large parcels also provide ample buffering for cottage industries that would not be appropriate in more densely developed residential areas. Employment opportunities also exist that are associated with part to full-time agriculture, forestry, home occupations, cottage industries, neighborhood grocery stores, and related activities. An example of flexibility is the potential for future commercial development in areas where appropriate public services, such as sewer and water utilities, are available and additional commercial land is needed. In order to facilitate potential future commercial development, large parcel RURAL zoning is appropriate as an interim step in the development of an industry, while still allowing immediate rural uses such as mineral resource extraction and agriculture.

Objectives

The application of the RURAL designation is intended to accomplish the following objectives:

1. To provide flexibility concerning very low density residential, forestry and agricultural land uses while retaining a range of private and public land use options for the future;
2. To retain future options for access to non-renewable natural resources (sand, gravel, coal and minerals, and soils which contribute to agricultural and forestry productivity) and the renewable timber resources;
3. To preserve options for future zone districts when economic development potential exists;
4. To retain the rural character of an area as an alternative to urban, suburban, and commercial land use patterns elsewhere in the subarea; and
5. To provide the option of clustering in the design of new rural subdivisions in order to retain productive land uses and future options for development.

Locational Criteria

In order to define those locales where the RURAL designation would be most appropriate, the following criteria are applied:

1. Those areas that possess a very low residential density and are compatible with existing land use plans;
2. Those areas where a buffer is needed between higher density population and land use practices associated with commercial agriculture and forestry;
3. Those areas where features of the physical environment, such as 100 year flood plains, lack of adequate groundwater, slow or very rapid soil permeability rates, the presence of aquifers or groundwater recharge areas, seasonal ponding, unstable slopes, or steep topography require very low densities in order to mitigate the impacts of these physical constraints;
4. Those areas where there exists the possibility of utilization of natural resources such as soils, sand/gravel, coal or timber;
5. Those areas where there are no planned capital improvements to community facilities, utilities or transportation systems; and
6. Those areas where large parcel sizes lack of residential development are desirable to assure the feasibility of future commercial or recreational development.
Implementing Zoning District

RURAL (R) Zoning Districts: The RURAL Comprehensive Plan Designation is implemented by the RURAL 2, 5, and 10 acre zoning designations.

RURAL (R) Zoning Districts Density: The RURAL Zoning District has three densities; one dwelling units per two acres, one dwelling unit per five acres, and one dwelling unit per ten acres. The following criteria define the application of each of these densities.

1. The density of one dwelling unit per two acres should be applied where:
   a. existing density is less than or equal to one dwelling unit per five acres and average parcel size is greater than or equal to two acres;
   b. physical limitations such as lack of adequate groundwater, slow or very rapid soil permeability rates, the presence of aquifers or groundwater recharge areas, seasonal ponding, unstable slopes, or steep topography prohibit increased densities;
   c. existing public services do not justify greater densities and there are no planned capital improvements; and
   d. maximum build-out at the prescribed density level will be compatible with the surrounding land use character.

2. The density of one dwelling unit per five acres should be applied where:
   a. existing density is less than or equal to one dwelling unit per ten acres and average parcel size is greater than or equal to five acres; and
   b. items "b," "c," and "d" of Section 1 above are applicable.

3. The density of one dwelling unit per ten acres should be applied where:
   a. existing density is less than or equal to one dwelling unit per twenty acres and average parcel size is greater than or equal to ten acres;
   b. the possibility of the utilization of natural resources, such as sand and gravel, coal, or timber requires low densities to facilitate their extraction;
   c. agriculture and silviculture are, or possibly could be, viable economic enterprises;
   d. 100-year floodplains are located; and
   e. items "b," "c," and "d" of Section 1 above are applicable.

South Fork Valley Subarea Location
The RURAL 2, 5, and 10 acre Zoning Districts for the South Fork Valley Subarea should be located as follows:

### RURAL 2 ACRE (R-2A)

<table>
<thead>
<tr>
<th>T-R-S</th>
<th>ACREAGE</th>
<th>DESCRIPTION OF AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>37-05-31</td>
<td>27 Ac.</td>
<td>Town of Wickersham/platted--many lots consolidate/wet</td>
</tr>
<tr>
<td>TOTAL</td>
<td>27 Ac.</td>
<td></td>
</tr>
</tbody>
</table>

### RURAL 5 ACRE (R-5A)

<table>
<thead>
<tr>
<th>T-R-S</th>
<th>ACREAGE</th>
<th>DESCRIPTION OF AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>38-05-17</td>
<td>175 Ac.</td>
<td>Nelson Rd./short plat/parcels--5-20 Ac./17 d.u./24 lots</td>
</tr>
<tr>
<td>38-05-20</td>
<td>80 Ac.</td>
<td>End Nelson Rd./short plat/parcels--4-20 Ac./8 lots</td>
</tr>
<tr>
<td>38-05-02</td>
<td>80 Ac.</td>
<td>Mosquito Lake Rd./Avg parcel size--5 Ac./5 d.u./15 lots</td>
</tr>
<tr>
<td>37-05-35</td>
<td>42 Ac.</td>
<td>Mosquito Lake Rd./Avg parcel size--5 Ac./3 d.u./8 lots</td>
</tr>
<tr>
<td>37-05-06</td>
<td>132 Ac.</td>
<td>Turkington Rd./2 short plats/parcel sizes--2-30 Ac.</td>
</tr>
<tr>
<td>37-05-07</td>
<td>28 Ac.</td>
<td>S. Turkington Rd./Avg. parcel size--5-7 Ac./2 d.u.</td>
</tr>
<tr>
<td>37-05-07</td>
<td>67 Ac.</td>
<td>S. Acme-Galbraith Rd./parcels--6-20 Ac./</td>
</tr>
<tr>
<td>37-05-20</td>
<td>225 Ac.</td>
<td>Doren-Bowman Rd./Avg. parcel size--5-7 Ac./bench area</td>
</tr>
<tr>
<td>TOTAL</td>
<td>829 Ac.</td>
<td></td>
</tr>
</tbody>
</table>
## RURAL 10 ACRE (R-10A)

<table>
<thead>
<tr>
<th>T-R-S</th>
<th>ACREAGE</th>
<th>DESCRIPTION OF AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 37-05-32</td>
<td>57 Ac.</td>
<td>Innis Creek Rd./very wet/parcels--1-14 Ac.</td>
</tr>
<tr>
<td>37-05-29</td>
<td>19 Ac.</td>
<td></td>
</tr>
<tr>
<td>37-05-29</td>
<td>60 Ac.</td>
<td>Innis Creek Rd./two parcels/wet but some dry areas</td>
</tr>
<tr>
<td>2 37-05-20</td>
<td>140 Ac.</td>
<td>Doren Rd./Hwy 9/Avg. parcel size--10 Ac.</td>
</tr>
<tr>
<td>37-04-29</td>
<td>20 Ac.</td>
<td>1 parcel/Hwy 9</td>
</tr>
<tr>
<td>37-04-30</td>
<td>167 Ac.</td>
<td>Hwy 9/parcels--1-40 Ac./9 d.u./short plat</td>
</tr>
<tr>
<td>3 37-05-08</td>
<td>19 Ac.</td>
<td>2 parcels/Hwy 9/adjacent AG</td>
</tr>
<tr>
<td>37-05-17</td>
<td>136 Ac.</td>
<td>Hwy 9/Maleng Rd./parcels--1-25 Ac./5 d.u.</td>
</tr>
<tr>
<td>37-05-20</td>
<td>50 Ac.</td>
<td>Flanks Hwy 9/parcels--5-10 Ac.</td>
</tr>
<tr>
<td>4 37-05-05</td>
<td>35 Ac.</td>
<td>Adjacent Mosquito Lake Rd./one parcel</td>
</tr>
<tr>
<td>5 37-05-06</td>
<td>35 Ac.</td>
<td>East if Turkington Rd./two parcels</td>
</tr>
<tr>
<td>6 37-05-03</td>
<td>160 Ac.</td>
<td>Single ownership/bisected by Mosq. Lake Rd./8 parcels/1-75 Ac.</td>
</tr>
<tr>
<td>7 38-05-25</td>
<td>100 Ac.</td>
<td>Mosquito Lake Rd./avg. parcel size--10 Ac.</td>
</tr>
<tr>
<td>8 38-05-28</td>
<td>80 Ac.</td>
<td>E. end Strand Rd./parcels--1-26 Ac./2 d.u./cem.</td>
</tr>
<tr>
<td>38-05-29</td>
<td>78 Ac.</td>
<td>E. end Strand Rd./All 9-10 Ac. parcels/2 d.u.</td>
</tr>
<tr>
<td>38-05-20</td>
<td>109 Ac.</td>
<td>E. end Strand Rd./parcels--18-31 Ac./some D.F.</td>
</tr>
<tr>
<td>10 38-05-18</td>
<td>285 Ac.</td>
<td>Hillside-Caron-Potter/parcels--1-40 Ac./11 d.u</td>
</tr>
<tr>
<td>38-05-07</td>
<td>80 Ac.</td>
<td>Caron Rd./4 lots/Avg. parcel size--20-40 Ac.</td>
</tr>
<tr>
<td>11 38-05-08</td>
<td>193 Ac.</td>
<td>E. Van Zandt/short plat/parcels--4-9 Ac./wet/19 d.u</td>
</tr>
<tr>
<td>38-05-09</td>
<td>94 Ac.</td>
<td>Schombush Rd./3 short plats/parcels--4-9 Ac./10 d.u.</td>
</tr>
<tr>
<td>38-05-16</td>
<td>35 Ac.</td>
<td>Linnell Rd./5 lots/4 d.u./parcels--2-20 Ac.</td>
</tr>
<tr>
<td>38-05-17</td>
<td>96 Ac.</td>
<td>S. Potter-W. Hwy 9-E. Linnell/parcels--2-19 Ac./wet</td>
</tr>
<tr>
<td>12 38-05-05</td>
<td>44 Ac.</td>
<td>Hwy 9-Rutsatz Rd./short plat/9 lots/2 d.u./cemetary</td>
</tr>
<tr>
<td>38-05-08</td>
<td>36 Ac.</td>
<td>Hwy 9/Nooksack/short plat/3 lots</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>2369 Ac.</strong></td>
<td></td>
</tr>
</tbody>
</table>
FORESTRY DESIGNATION

Rationale

Forestry and related industries historically have been significant factors in the local economy, a role that has expanded to affect state, national and international economies. Not only is forestry economically important, forest management provides a significant renewable resource base to Whatcom County. In addition, forested areas often contain non-renewable mineral and non-mineral resources, serve as wildlife habitat, and contribute to watershed management. Population increases may create pressure to irrevocably convert forest land to other uses. It is important that Whatcom County provide for the long term productivity of forests and related resources by safeguarding prime forest areas from conversion to non-forest uses.

Objectives

The application of the FORESTRY designation is intended to accomplish the following objectives:

1. To preserve the viability of Whatcom County's forest resources and industries;
2. To promote the conservation of forest lands and provide for the sustained yield management and economic vitality;
3. To identify areas which are suitable for the long-term productivity and sustained use of forest resources;
4. To discourage residential and recreational residential uses in order to minimize conflict with and encroachment by non-forest uses and to guard against conversion of forest lands to non-forest uses;
5. To accommodate other compatible and related uses such as non-renewable resource extraction, wildlife management, watershed management, and dispersed recreation; and
6. To promote uses that are conducted in accordance with applicable local, state, and federal regulations.

Locational Criteria

The criteria to be utilized for the application of the FORESTRY designation include the following:

1. Land use and ownership patterns indicate a predominance of large parcel sizes ranging from 20 to 640 acres;
2. Parcels are usually owned by major timber industries, logging companies, the State of Washington, or private individuals engaged in woodlot operations for the purpose of growing and harvesting timber;
3. The majority of parcels are classified in Forestry Current Use tax status consistent with the provisions of Washington State law;
4. There is a minimal amount of public roads and other services that generally precede and augment residential development;
5. Certain physical constraints to residential development may also exist, such as slopes in excess of 15%, soils that are not suitable for septic systems or conventional building foundations, unstable geologic units, 100 year floodplains, or important wildlife habitats; and
6. Non-renewable natural resources such as minerals, coal, sand and gravel, or soils that are useful for forest management may also be present.

Implementing Zoning District

RURAL FORESTRY (RF) Zoning District: The FORESTRY Comprehensive Plan Designation should be implemented by application of the RURAL FORESTRY Zoning District in areas that meet the criteria set forth in the 3.03.1 of the Policy section.
RURAL FORESTRY (RF) Zoning District Density: The residential density for RURAL FORESTRY should allow one dwelling unit per twenty acres. This density is based upon existing rural level of services and utilities including fire and police protection, public and private road access, and energy service.

COMMERCIAL FORESTRY (CF) Zoning District: The FORESTRY Comprehensive Plan Designation should be implemented by application of the COMMERCIAL FORESTRY Zoning District in areas that meet the criteria set forth in the 3.03.2 of the Policy section.

COMMERCIAL FORESTRY (CF) Zoning District Density: No residential development is allowed in the COMMERCIAL FORESTRY Zoning District.

AGRICULTURE DESIGNATION

Rationale

The AGRICULTURE land use designation identifies areas suitable for the practice of commercial agriculture. Commercial agriculture is a significant industry in Whatcom County and has the potential to become increasingly significant as indicated by trends related to local farm incomes. Related industries add additional dollars to the local and regional economy as a direct result of agricultural production.

As significant as agriculture is in the local economy, agricultural lands are often considered for other purposes, namely urban or rural uses. Urban and rural encroachment can raise assessed valuation, resulting in higher property taxes for the agricultural operator. In addition, encroachment of residences not associated with agriculture can create conflicts with customary agricultural operations. Premature conversion to urban or rural uses occasionally forces the operator to cease agricultural uses. This situation is especially pronounced in the fringe areas of communities where residential growth pressures are most evident. The rapid rate of farmland conversion is being recognized by federal, state and local governments. Increasingly, communities are taking steps to inventory existing farmland and agriculturally productive soils, to determine alternative locations for residential uses, and to devise techniques for preserving farmland with the assistance and cooperation of the agricultural operator.

The comprehensive plan established the AGRICULTURE designation to promote agriculture by identifying and retaining land suitable for commercial agricultural pursuits.

Objectives

The application of the AGRICULTURE designation is intended to accomplish the following objectives:

1. To maintain and encourage the conservation of agricultural lands in Whatcom County;
2. To promote the continuation of viable economic livelihoods for the agricultural operator, agricultural producer and related agricultural services;
3. To provide clear direction for nonagricultural uses to locate in other urban or rural designations; thereby minimizing potential conflicts between agricultural operators and uses that are not directly involved in agriculture;
4. To maintain open space;
5. To conserve natural resources and natural systems;
6. To minimize energy and expense through the prioritization of agricultural operations at fertile locations;
7. To sustain existing county agricultural products;
8. To encourage the development of additional agricultural products; and
9. To encourage the stewardship approach to land management.
Locational Criteria

Areas that are suitable for application of the AGRICULTURE designation conform to the following criteria:
1. The majority of area contains Prime Farmland Soils as determined by the Soil Conservation Service;
2. The area may contain 100-year floodplains as delineated by the Soil Conservation Service and the U.S. Army Corps of Engineers;
3. Existing land uses are primarily full-time agriculture intermixed with part-time agriculture and woodlots; and minimal commitment to non farm uses has been made;
4. The area is composed of agricultural operations that have historically been and continue to be economically viable;
5. Parcel sizes are generally greater than forty acres;
6. Urban utility services including public sewer and water are not planned;
7. Special purpose districts that are oriented to enhancing agricultural operations exist, including drainage improvement and flood control;
8. Areas have a pattern of landowner capital investment in agricultural operation improvements including irrigation, drainage, manure storage, barn refurbishing, enhanced livestock feeding techniques, livestock upgrading, agricultural worker housing, etc.; and
9. Areas contain a predominance of parcels that have current use tax assessment derived from the Open Space Taxation Act. RCW 84.34.

Implementing Zoning District

AGRICULTURE (AG) Zoning District: The AGRICULTURE Comprehensive Plan Designation should be implemented by AGRICULTURE Zoning District.

AGRICULTURE (AG) Zoning District Density: The residential density for AGRICULTURE allows a density of one dwelling unit per forty acres.

COMMERCIAL DESIGNATION

Rationale

The goal of the COMMERCIAL plan designation is to provide a broad range of goods and services to people living within Whatcom County, as well as other regions. The designation intends to maximize safe and efficient on and off-site transportation systems, delineate areas that are conducive to overall site planning, acknowledge existing patterns of general commercial land use forms, and promote compatibility with surrounding non-commercial uses. The Planned Unit Development (PUD) provision is an option that may be used in the development of designated commercial areas. Additional policies on PUD's are located in the section addressing Land Development Options, Guidelines and Requirements. Zoning regulations are located in the Whatcom County Official Zoning Ordinance, Title 20.

Objectives

The application of the COMMERCIAL designation is intended to accomplish the following objectives:

1. To provide a broad range of retail goods and services that will benefit a large trade area;
2. To facilitate safe and efficient circulation systems;
3. To provide methods to attain compatibility with surrounding non-commercial uses; and
4. To promote site design that will efficiently use available commercial land.
Locational Criteria

Areas that are suitable for application of the COMMERCIAL plan designation conform to the following criteria:

1. Parcels are served by principal or minor arterials, or major collectors;
2. Parcels will be provided with urban services including public sewer and water, stormwater drainage, sheriff and fire protection; except that existing concentrations of general commercial uses may be recognized based on adequate levels of waste water disposal, water, and fire flow;
3. The designation contains a minimum of ten (10) acres configured in a concentrated and consolidated arrangement;
4. The designation is located on property where ownership patterns and land parcelization are conducive to feasible land packaging for future development; and
5. The designation is located where a public need for general commercial shopping exists.

Implementing Zoning District:

GENERAL COMMERCIAL (GC) Zoning District: Whatcom County should implement the COMMERCIAL land use designation with the GENERAL COMMERCIAL zone district.

GENERAL COMMERCIAL (GC) Zoning District Density: no requirements.

South Fork Valley Subarea Location:

The GENERAL COMMERCIAL District for the South Fork Valley Subarea should be located:

<table>
<thead>
<tr>
<th>T-R-S</th>
<th>ACREAGE</th>
<th>DESCRIPTION OF AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>38-05-17</td>
<td>1.5 Ac.</td>
<td>Everybody's Store/2 adjacent lots/Van Zandt</td>
</tr>
<tr>
<td>37-05-07</td>
<td>5 Ac.</td>
<td>Groc. Store/church/etc./single family/Hwy 9/Acme</td>
</tr>
<tr>
<td>37-05-08</td>
<td>7 Ac.</td>
<td>Fire Station/Post Office etc./single family/Hwy 9/Acme</td>
</tr>
<tr>
<td>TOTAL</td>
<td>13.5 Ac.</td>
<td></td>
</tr>
</tbody>
</table>

See Figure 4 for detailed location and configuration.
LAND USE POLICY

Land use policies specify the course of action that Whatcom County should follow in meeting the Whatcom County Goal Statements listed in Section II. Policies provide direction for the most economic, environmentally sensitive and appropriate land uses for the planning period in the South Fork Valley Subarea.

1. URBAN RESERVE POLICY

1.01 It is the policy of Whatcom County to promote an orderly transition from rural land uses and densities to urban uses and densities by designating a portion of the unincorporated area of Acme in the South Fork Valley Subarea as URBAN RESERVE.

1.01.1 The predominant land use pattern within the URBAN RESERVE area should be residential and related forms, including neighborhood commercial, neighborhood parks and other public uses. The URBAN RESERVE policy discourages the establishment of interim uses and subdivision patterns that can foreclose significant alternatives pertaining to future urban densities and the efficient provision of services. Therefore, this policy maintains the low density character of the area while permitting compatible residential, recreational, commercial, forestry, and agricultural land uses until an urban level of water, sewer, and stormwater facilities are available.

1.01.2 To implement this policy, the URBAN RESIDENTIAL zone district density of four dwelling units per acre should not be effective until such time that a full range of urban services is provided as specified in Section 1.04 below. In areas where such services do not yet exist, the applicable density should be one dwelling unit per five acres of land.

1.02 The areas designated as URBAN RESERVE should be indicated as such on the Comprehensive Land Use Plan Map.

1.03 Whatcom County should implement the URBAN RESERVE land use designation by application of the URBAN RESIDENTIAL zone district. The density in the Acme area is four dwelling units per acre and is applied based upon the URBAN RESERVE locational criteria.

1.04 It is the policy of Whatcom County to encourage efficient land use patterns and cooperation among municipalities, special districts, associations, and other governmental agencies in the provision of a full range of urban services in the URBAN RESERVE areas.

1.04.1 In the Acme URBAN RESERVE area, public sewer and water should be provided by Water District #18. Until such time that public sewer and water are provided, these areas should have a density of one dwelling unit per five acres.

1.04.2 In the Acme URBAN RESERVE area stormwater drainage facilities should be subject to the regional stormwater management plan when adopted. When adopted by the County, on-site stormwater collection and retention should be required during development in accordance with the Whatcom County Engineering Development Standards and the Regional Stormwater Management Plan.

1.04.3 Where urbanization occurs on the periphery of large parcels, urban residential subdivisions and other urban uses should be designed to buffer less intensively utilized parcels with adequate
landscaping, screening or fencing to prevent encroachment by vehicles, pedestrians, animals, and nuisances.

1.04.4 Where practical, subdivisions and other urban uses adjoining other zone districts should be designed so that vehicular and pedestrian networks are channelled to the internal area of the site and intersections with county roads are as few as possible.

1.04.5 Cluster subdivisions and Planned Unit Developments are permitted in URBAN RESERVE areas and are encouraged for developments on large parcels. These alternative methods of land subdivision are described more fully in the section titled "Land Development Options and Guidelines."

2. RURAL POLICY

2.01 It is the policy of Whatcom County to provide for very low density residential areas where multiple uses are suitable, or where community facility or resource constraints preclude higher densities, by designating certain portions of the South Fork Valley Subarea as RURAL.

2.01.1 Within the areas designated as RURAL, typical uses include low density residential, pasture, agriculture, woodlots, home occupations, and cottage industries.

2.01.2 To implement this policy, residential densities of one dwelling unit per two acres, one dwelling unit per five acres and one dwelling unit per ten acres are provided.

2.02 The areas designated as RURAL should be indicated as such on the Comprehensive Land Use Plan Map.

2.03 Whatcom County should implement the RURAL land use designation with the RURAL zone district. The residential densities are one dwelling unit per ten acres, one dwelling unit per five acres, and one dwelling per two acres, applied according to the Locational Criteria.

2.04 It is the policy of Whatcom County to encourage effective land use patterns and adequate provision of services for RURAL densities.

2.04.1 RURAL areas should be served by private water systems, water associations, and septic drainfields. Where water is obtained from off-site sources, written agreement must be made with all affected property owners and presented as part of subdivision or building permit review.

2.04.2 Several methods of creating residential lots and mixed use developments are established including conventional subdivision, cluster subdivision, and planned unit development. Additional policies are contained in the section addressing land development options, guidelines and requirements. Regulations concerning densities, parcel sizes and uses are contained in the RURAL zone text and the Planned Unit Development section of the Title 20 Zoning Ordinance.

2.04.3 Subdivisions should be designed so as to minimize intersections along existing county roads and to discourage lineal residential patterns adjacent to county roads.

2.04.4 New residential development adjacent to areas designated FORESTRY should require a covenant or deed restriction agreeing to refrain from any legal action against reasonable and lawful forest practices.
2.04.51t is the policy of Whatcom County to encourage property owners to conserve forested areas by utilizing the provisions of RCW 84.34.

3. **FORESTRY POLICY**

3.01t is the policy of Whatcom County to conserve forest lands suitable for long term productivity and sustained use of forest resources by designating certain portions of the South Fork Valley Subarea as FORESTRY.

3.01.1 To acknowledge existing forest lands and associated nonrenewable resources, portions of the South Fork Valley Subarea are designated **FORESTRY**. The principal use of such designated areas is the sustained yield management of forest resources, conducted in accordance with the Washington State Forest Practice Act (RCW 76.09) and the attendant regulations of WAC 222, which are administered by the Department of Natural Resources. Such uses include timber production, harvesting and reforestation; forest chemical use; logging road construction and maintenance; and fire prevention and suppression. Other compatible uses include watershed and wildlife habitat management, woodlot operations, certain forest industries, utilities, mineral extraction, and occasional outdoor recreation.

3.01.2t is the policy of Whatcom County to establish twenty (20) acres as the minimum parcel size for sustained yield forest management and to safeguard forest lands from potential impacts generated by secondary uses.

3.02 The areas designated as **FORESTRY** should be indicated as such on the Comprehensive Land Use Plan Map.

3.03 Whatcom County should implement the **FORESTRY** land use designation by application of the **RURAL FORESTRY** zoning district and the **COMMERCIAL FORESTRY** zoning district in accordance with the following criteria:

3.03.1 **RURAL FORESTRY**

a. **Parcel Size:** The average parcel size should be 20 acres or more.

b. **Tax Status:** The property is in a tax deferred status such as in Open Space-Timber, Open Space-Open Space, Current Use Assessment. Under some circumstances the property may not be in a tax deferred status.

c. **Ownership Status:** Private non-industrial ownership predominates.

d. **Access:** The property is located close to public roads and utilities, or is served by private roads built to Whatcom County Standards.

e. **Infrastructure:** The parcel is within a public service district (water and/or sewer, Fire District).

f. **Environmental Constraints:** Soils on the property are suitable for on-site septic disposal and conventional building. Potable domestic water is available. The property is not located in areas designated "Critical Areas" or "environmentally sensitive areas".

g. **Land Use:** The predominate land use on the parcel is forestry with some low density residential development. There is some likelihood that the property may convert to non-
forestry use at some future date in conformance with Whatcom County's Comprehensive Plan.

3.03.2 COMMERCIAL FORESTRY

a. **Parcel Size**: The minimum parcel size in this zone is 40 acres.

b. **Tax Status**: The property is in a tax deferred status of Classified or Designated Timber Land.

c. **Ownership Status**: Corporate or State Forest Land ownership predominates.

d. **Access**: The parcel is accessed by private or state forest access roads.

e. **Infrastructure**: The parcel is not located within a public service district (water and/or sewer, Fire District).

f. **Environmental Constraints**: The property is located in areas generally not suitable for normal residential development.

g. **Land Use**: The land is being managed for the long term production of forest products. This includes all activities associated with the management of commercial timber land.

h. **Soil Capability**: Soil should be capable of supporting commercially viable timber products as identified by the State Soil Survey, Department of Natural Resources (Forest Land Grades 1-7).

3.04 The following policies establish appropriate service levels for designated FORESTRY areas.

3.04.1 Forest management areas generally should be served by private logging roads; fire suppression should be provided by individual property owners and the Department of Natural Resources; and law enforcement should be provided by the Sheriff Department and the Department of Natural Resources.

3.04.2 Residential or other structural uses in designated FORESTRY areas should have individual on-site wells, springs, or streams as sources of potable water; volunteer fire protection or individual structural fire suppression systems consistent with County Fire Marshall requirements; and law enforcement provided by the County Sheriff Department.

3.04.3 When residential or other structural uses are intended to be supplied with potable water from off-site sources, written permission should be obtained from the affected property owner, prior to subdivision approval or building permit issuance, as applicable.

3.05 It is the policy of Whatcom County to encourage harmony between forestry and non-forestry land uses by the following policies:

3.05.1 Whatcom County should discourage community facilities in FORESTRY areas except dispersed and low intensity recreational opportunities, private water and septic drainfields, and private roads. Subdivision for residential purposes should require a written agreement among all affected property owners concerning any off-site water sources before subdivision or building permits occur.

3.05.2 A maximum density of one dwelling unit per twenty (20) acres should be established for those areas designated by zoning district to allow single family residential development. All residential uses should be subject to the following conditions:
a. All residential and related structures should be situated a minimum of one-hundred (100) feet from parcel boundaries.

b. All potential residents should be clearly informed of the principal use of FORESTRY areas and the intensive forest practices which may reasonably and lawfully occur in the normal course of forest management, and all new subdivisions should be subject to an agreement not to take legal action against legal and reasonable forest practices.

c. Any parcel where more than one dwelling unit can be provided should be encouraged to use the cluster subdivision method as described in section on land development options, guidelines and requirements.

d. All buildings should be set back out of potential flood and debris flow areas.

3.05.3 It is the policy of Whatcom County to require local public review of secondary uses in FORESTRY areas with the intent of determining the following:

a. The use will not cause a permanent and irrevocable commitment of the forest resource to uses not related to forestry.

b. The use will not prohibit or impact the intensive operation of adjoining forest practices.

c. The use will have fire prevention and suppression plans and will not create a fire hazard for adjoining forestry operations.

d. The use is in compliance with all applicable local, state and federal regulations.

e. The use will not significantly impact or degrade surface and subsurface water quality and quantity characteristics.

3.05.4 It is the policy of Whatcom County to encourage cooperation between forest managers and residential users within a watershed in considering and implementing the use of non-chemical controls and other methods whereby impacts on water quality are lessened.

3.05.5 It is the policy of Whatcom County to encourage leaving along streams, a strip of vegetated land of sufficient quality and width to minimize surges in runoff rates and to preserve stream bank stability.

3.05.6 It is the policy of Whatcom County to encourage leaving along the Highway 9 corridor, a strip of vegetated land of sufficient width and character to preserve the scenic value of the highway corridor.

3.05.7 Pursuant to the provisions of RCW 79.68 (Multiple Use Concept in Management and Administration of State-owned Lands) it is the policy of Whatcom County to encourage continued multiple use management of state owned forest lands.

3.05.8 It is the policy of Whatcom County to encourage private forest and woodlot owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34.

3.05.9 It is the policy of Whatcom County to encourage the Washington State Department of Natural Resources to continue County notification of all classes of forest practice applications. In
addition, the County should encourage the DNR to conduct public information programs when jointly determined to be necessary concerning forest practices that are proposed to occur within the subarea.

3.06 Whatcom County endorses the concept of cooperative resource management as developed in the Timber, Fish and Wildlife agreement, which is an agreement among industrial timber landowners, environmental groups, state resource agencies and Indian tribes for managing the states public and private timberlands and public resources.

3.07 It is the policy of the county to encourage the continuation of commercial forest management by:

3.07.1 Supporting land trades that result in consolidated forest ownerships;

3.07.2 Working with forest managers to identify and develop other incentives for continued forestry.

3.08 Whatcom County should discourage the conversion of lands designated as FORESTRY, to a use incompatible with the long term management of forest products and other natural resources.

4. AGRICULTURE POLICY

4.01 To acknowledge existing agricultural land uses and Prime Farmland soils, and to affirm the continued applicability of the 1970 Comprehensive Plan relative to agriculture, large portions of the South Fork Valley Subarea are designated AGRICULTURE.

4.01.1 Predominant uses include the cultivation and management of field, shrub, vine, greenhouse, orchard and forest crops; dairying; livestock raising; animal husbandry; beekeeping; and uses that are accessory to agricultural operations including operator and farmhand residences, small-scale product marketing and home occupations.

4.01.2 Other uses should be subject to public review to assure maintenance of the agricultural resource and compatibility with agricultural operations.

4.02 The areas designated AGRICULTURE should be implemented with the AGRICULTURE zone district.

4.02.1 The floodplain associated with the South Fork of the Nooksack river should be designated AGRICULTURE;

4.02.2 The boundaries of designated AGRICULTURE areas acknowledge existing agricultural land uses, land in agricultural current use tax assessment, areas with Prime Farmland soils, 100-year floodplain, and areas with parcel sizes or land ownership patterns of generally greater than twenty acres. In addition, the boundaries are established to minimize periphery length and peninsular forms, and maximize consolidation and unification of agricultural areas.

4.02.3 Several minimum parcel sizes are provided as follows:

a. Variable minimum parcel size should be permitted, consistent with the generally acceptable size for an economically viable operation for the particular form of intended agricultural pursuit, subsequent to affirmative review by representatives from the Bureau of Buildings and Code Administration, the Planning Department, the Cooperative Extension Agency and the Soil Conservation Service.
b. Parcels of less than five acres in size will be permitted for the residential use of retiring farm operators, public and quasi-public uses that are necessary in agricultural areas, and for purposes of securing bank loans for farm residences.

c. Forty acres should be the minimum size for parcels used solely for residential purposes, except as described above, with the intent of minimizing the introduction of people into agricultural areas who are not associated with agriculture. In addition, one dwelling will be permitted on each legally created parcel of record existing at the time of adoption of this document of greater than one acre in size.

4.03 Whatcom County should implement the AGRICULTURE land use designation by application of the AGRICULTURE zone.

4.04 Appropriate utilities and facilities in designated AGRICULTURE areas include on-site wells or water associations for the provision of potable and irrigation water, individual on-site waste water disposal systems, volunteer fire protection and law enforcement provided by the county Sheriff's Department and the Washington State Patrol.

4.04.1 The continued efforts of drainage improvement districts are encouraged to enable improved use of agricultural lands where this activity does not conflict with the preservation of high value wetlands.

4.04.2 The continued efforts of flood control and diking districts are encouraged to enhance use of the floodplain for agriculture, as well as increase protection of existing agricultural investments in land improvements and buildings when consistent with comprehensive watershed planning.

4.05 The following policies are intended to promote the continued economic viability of agriculture in Whatcom County and conserve associated resources.

4.05.1 Consolidation of adjoining parcels in the same ownership by filing a new deed is encouraged to promote easily workable farm units.

4.05.2 Residential subdivisions and other uses not related to agriculture are discouraged from locating in designated AGRICULTURE areas.

4.05.3 The stewardship approach to land management is encouraged to foster the long-term productivity of the agricultural land base, associated industries and agricultural life styles of Whatcom County.

4.05.4 The agricultural community is supported in its efforts to diversify the types of agricultural operations in the county and to continue to incorporate techniques that will enhance agricultural productivity and efficiency.

4.05.5 To enhance economic returns to the operator, direct marketing of products to the consumer is supported. In addition, to minimize "overhead" in the conduct of farm businesses, the formation of cooperatives is supported for warehousing, processing, and providing agricultural supplies and equipment.

4.05.6 To increase direct economic benefits to Whatcom County originating with agriculture, continued local processing of agricultural products is encouraged, as well as the development of additional processing facilities.
4.05.7 In recognition of the prevailing type of agricultural operation, Whatcom County encourages the continuation of the small farm as the basic unit of farm production. In addition, Whatcom County encourages the continued efforts of citizen groups engaged in promoting agricultural education, operations and marketing.

4.05.8 Locating major transportation and utility corridors that would preclude the agricultural use of land is discouraged in designated AGRICULTURE areas.

4.06 The following policies are established to address other aspects of agricultural concerns.

4.06.1 Agriculture in its various forms is the preferred use of areas designated AGRICULTURE. Although it is anticipated that adjustments to designated AGRICULTURE areas will not be necessary during the planning period, proposed conversions should be processed consistent with the Amendment Criteria Section of this document. In addition, Whatcom County should develop a system for addressing potential conversions that uses the principles established in the "Land Evaluation System Analysis (LESA)," formulated by the Soil Conservation Service.

4.06.2 Agricultural operators are encouraged to use the information and assistance that is available from the Soil Conservation Service and the Cooperative Extension Service for building siting, manure storage, recommended agricultural uses and new technologies.

4.06.3 Agricultural operators are encouraged to fence streams and ditches to prevent the direct introduction of livestock and livestock wastes to conserve surface water quality and reduce stream bank erosion and soil loss. In addition, to minimize any potential short and long-term impacts to groundwater supplies, agricultural operators are encouraged to use only those chemicals in conservative amounts that are necessary for crop production, applied according to state and federal guidelines, and to use chemicals having low potency and residuals of short duration.

4.06.4 Whatcom County supports the acquisition of conservation easements by public land trusts, consistent with the intentions of affected property owners in AGRICULTURE designated areas to:

a. Preserve agricultural operations;

b. Conserve Prime Farmland soils;

c. Conserve fish and wildlife habitats;

d. Conserve scenic resources; or

e. Conserve designated Critical Resource Areas.

4.06.5 Conservation of agricultural operations and Prime Farmland soils is encouraged through using the current use tax assessment opportunities of the Open Space Taxation Act (RCW 84.34).

4.06.6 Implementation of "special districts" and water association plans, and other capital improvements, should be approved or supported only when it is found that designated AGRICULTURE areas will benefit.

5. COMMERCIAL

5.01 It is the policy of Whatcom County to acknowledge existing patterns of commercial uses and to provide for additional future development by designating certain areas as concentrated centers for commercial activities. In designated areas, a broad range of goods and services should be
available including sales and servicing of vehicles, mobile homes and boats, eating and drinking establishments, professional offices; service and retail establishments, commercial indoor and outdoor recreation, commercial wholesaling, and public uses that are necessary for the function of the designation.

5.02 The areas designated as COMMERCIAL should be indicated as such on the Comprehensive Land Use Plan Map.

5.03 Whatcom County should implement the COMMERCIAL land use designation with the GENERAL COMMERCIAL zone district.

5.04 It is the policy of Whatcom County to encourage effective land use patterns and adequate provision of services for COMMERCIAL areas.

5.04.1 The COMMERCIAL area of Acme should be served with public water and sewer by Water District #18, sheriff protection, and volunteer fire protection. Until such time that public sewer service is available, individual on-site septic disposal may be used. However, such system should be designed to facilitate eventual inclusion in a public sewer system pursuant to the sewer plans of Water District #18.

5.04.2 Stormwater facilities for all designated COMMERCIAL areas should be consistent with the County Stormwater Management Plan when adopted, provided that in the interim, on-site collection and retention systems may be required.

5.04.3 Maximum use of designated COMMERCIAL areas should be commensurate with available fire flow, public health considerations and zone district requirements.

5.04.4 Ingress and egress points to state and county roads should be minimized by consolidating on-site circulation networks and by developing shared access points to county roads.

5.04.5 On-site circulation should be designed to accommodate private vehicles, delivery vehicles, bicycles and pedestrians; and potential vehicular/bicycle/pedestrian conflicts should be avoided by making provision for bicycle and pedestrian ways between commercial uses.

5.04.6 A screened and/or landscaped buffer should be established along the periphery of the COMMERCIAL district to minimize noise, glare, visual, and other intrusions into adjoining residential and rural areas.
COMMUNITY FACILITIES AND UTILITIES POLICIES

The implementation of land use designations is closely interwoven with the provision of community facilities such as utilities, roads, recreational areas, and emergency services. Land use designations also are affected by and effect the environmental and economic resources of an area. Policies were developed to address or resolve particular issues dealing with these interrelationships. The basic aim of these policies are the maintenance of attractiveness for residential population growth and economic development. The community utilities and services that are necessary in this subarea to maintain and enhance its resources, particularly sewage disposal, require upgrading prior to additional intensive development. Related issues are addressed in the sections on Transportation and Parks and Recreation that follow. The format of the these policy statements are:

.01Purpose
.02Coordination
.03Standards
.04Implementation

1. COMMUNITY UTILITIES AND SERVICES

1.01Purpose: It is the purpose of Whatcom County to ensure a beneficial balance between the demand for and supply of community utilities and services and to ensure that jurisdictional responsibility and service levels are consistent and predictable for the planned land uses. Community facilities and services typically include sewer and water systems, transportation networks, school and park systems, stormwater drainage systems, and fire/police protective services.

1.02Coordination: It is the policy of Whatcom County to encourage cooperation among municipalities, special districts, water associations, and other appropriate groups in the planning and provision of public services.

1.02.1 Whatcom County should cooperate and coordinate with Whatcom County Water Districts #18; Whatcom County Fire Protection Districts #16; Mount Baker School District, and the State of Washington in planning subarea service systems, particularly for areas designated as URBAN RESERVE and COMMERCIAL.

1.02.2 Whatcom County should recognize Puget Sound Power and Light Co. as the primary energy purveyor in the subarea; however, the use of alternative energy systems such as active and passive solar heating and water heating, small scale hydroelectric power, and wind power plants for residential, commercial, quasi-public, and public land uses should be encouraged through the favorable consideration of necessary site design variances whenever appropriate.

1.02.3 Whatcom County should ensure that the necessary staff and equipment are available in the Whatcom County Sheriff's Department to provide adequate protective services for the South Fork Valley Subarea population.

1.03Standards: It is the policy of Whatcom County to use availability and level of service standards for community facilities and utilities to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of citizens.
1.03.1 Whatcom County should encourage the placement and extension of sewer and water lines in areas contiguous to existing development so as to discourage the occurrence of "leap frog" development.

1.03.2 Whatcom County should discourage development in areas that are inaccessible to ambulances, sheriff's vehicles and fire fighting equipment until private roads are developed that meet emergency vehicle access requirements. Development in areas inaccessible to fire district equipment should be discouraged unless adequate on-site water and fire suppression systems are available for fire fighting.

1.04 Implementation: It is the policy of Whatcom County to use the following criteria for the implementation of adequate economically feasible services in designated land use areas.

1.04.1 URBAN RESERVE: Land areas designated URBAN RESERVE are intended for urban type densities and should be provided with a full range of urban services including publicly provided sewer and water, fire and sheriff protection, transportation and stormwater drainage systems. On-site stormwater detention is required during development and in accordance with the regional stormwater management plan when adopted. Upon completion of the stormwater management plan, facilities and land area currently used for retention may be converted to permitted uses and densities. Whatcom County recognizes specific service purveyors for the delivery of urban services in the URBAN RESERVE areas as follows:

a. **Sewer and Water**: Water District #18
b. **Law Enforcement**: Whatcom County Sheriff's Department
c. **Fire Protection**: Whatcom County Fire Protection District #16
d. **Transportation**: Whatcom County and Washington Department of Transportation
e. **Recreation**: Whatcom County Parks Department
f. **Stormwater Management**: Whatcom County

1.04.2 RURAL: Services should include on-site domestic waste water disposal systems and individual well or water associations; volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff's Department; transportation provided by Washington Department of Transportation; local access roads maintained by Whatcom County; and recreation provided by the Whatcom County Parks Department. The area designated RURAL immediately south of Galbraith road and west of Highway 9 should function as a reserve district for the existing URBAN RESERVE district to the north. When it can be demonstrated that the URBAN RESERVE district is reaching its buildout potential with sewer and water services available, this RURAL district should be subject to change to URBAN RESERVE.

1.04.3 FORESTRY: Services should include on-site domestic waste water disposal systems and individual well or water associations; volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff's Department; transportation provided by Washington Department of Transportation; local access roads maintained by Whatcom County; and recreation provided by the Whatcom County Parks Department.
1.04.4 **AGRICULTURE:** Services should include on-site domestic waste water disposal systems and individual well or water associations; volunteer fire protection from Whatcom County Fire Protection District #16 and the Department of Natural Resources; law enforcement from the Whatcom County Sheriff's Department; transportation provided by Washington Department of Transportation; local access roads maintained by Whatcom County.

1.04.5 **COMMERCIAL:** Services should include water association water where available; on-site wells and waste water systems; storm drainage consistent with the regional stormwater management plan when adopted; volunteer fire protection from Whatcom County Fire Protection District #16; law enforcement from the Whatcom County Sheriff's Department; transportation provided by Washington Department of Transportation; and local access roads maintained by Whatcom County. The Commercial area in the town of Acme should utilize both the sewer and water system of Water District #18 when they become available.

1.04.6 All sewer and water service should be provided in accordance with Whatcom County Health Department standards.

1.04.7 All stormwater drainage facilities should be provided in accordance with the regional stormwater management plan when adopted and the **Whatcom County Development Standards.**

1.04.8 All transportation service should be provided in accordance with the policies in the following transportation section, as well as all applicable state and federal standards, and the **Whatcom County Development Standards.**

1.04.9 All recreational services should be provided in accordance with the standards of the Whatcom County Parks Department.

2. **TRANSPORTATION SYSTEM**

2.01 **Purpose:** It is the policy of Whatcom County to ensure that land use patterns and transportation planning mutually support the safe and efficient movement of people and goods; are consistent in encouraging a predictable pattern of urban and rural development; and together conserve and enhance existing public investments and resources.

2.01.1 Whatcom County should use the development approval process of subdivision, zoning, and building permits to establish community circulation patterns including vehicular, pedestrian, and bicycle ways; and to secure rights-of-way and construction of all classifications of roads, pedestrian trails, and bicycle paths.

2.01.2 Whatcom County should use the development approval process to ensure that all residential development includes safe vehicular access for citizens and emergency vehicles.

2.01.3 Whatcom County recognizes the significant investments made in the existing transportation system and should reflect the following resources in any land use classification or zoning amendments:

a. Highway 9 as a scenic highway and the principal access route to the timber and agricultural resources of the subarea.

2.02 **Coordination:** It is the policy of Whatcom County to cooperate with federal, state, and municipal agencies in providing for a coordinated transportation system.
2.02.1 Whatcom County does not support the development of a major arterial freeway system to replace the present highway system in the South Fork Valley Subarea.

2.02.2 Whatcom County should promote and encourage the provision of public transit as demand increases in the South Fork Valley Subarea by incorporation when changes in the circulation system are made through the Transportation Improvement Program. For their information and review, the public transit authority should be sent copies of all major subdivisions and all PUD proposals regarding the provision of public transportation.

2.03 Standards: It is the policy of Whatcom County to maintain and enhance its natural and economic resources, land use patterns, and the safety and well-being of its citizens through the application of the following standards to its transportation system.

2.03.1 Whatcom County should approve new road construction projects or improvements to existing roads consistent with the regional stormwater management plan when adopted. Should the private or public sector begin such projects before a plan is effective, the County should implement appropriate measures to assure total containment of excess stormwater runoff for each development proposal. Upon completion of the stormwater management plan, land area currently used for retention may be converted to permitted uses and densities consistent with the applicable zone district.

2.03.2 Whatcom County should make every effort to preserve mature trees and unique wildlife habitats and other elements of the natural environment during the design and construction of road improvement projects. Where disruption of the natural environment is unavoidable, special techniques such as rounded slopes, erosion control, reseeding and revegetation should be employed to return roadsides to their natural state.

2.03.3 Bikeways and/or pedestrian walkways should be included as an integral part of the transportation system. Whenever practical, bikeways proposed in new developments should connect with the planned bikeways in the Whatcom County Trails Plan or in the Parks and Recreation Plan in this document.

2.03.4 Whatcom County should pursue with the Department of Transportation, measures to improve Highway 9 to insure adequate shoulders on each side of the highway and further, request that the highway be widened, pitched, straightened and surfaced where appropriate to increase highway safety for both the community and users.

2.03.5 Whatcom County recognizes the economic importance of preserving the scenic qualities of the Highway 9 corridor and encourages the use of setbacks, visual screening, and landscaping for all development along the highway.

2.03.6 Whatcom County should encourage development design that minimizes the amount of impervious surfaces including streets, driveways, sidewalks, etc., whenever possible. In addition, Whatcom County encourages the use of "natural" engineering design methods such as the use of open, shallow, grassed swales instead of curbs and gutters in lower density residential developments.

2.04 Implementation: It is the policy of Whatcom County to implement a safe and efficient transportation system as indicated in the following text policies and transportation plan map. When necessary, the Roadway Classification Map should be amended.
2.04.1 Whatcom County should identify the need for and approximate location of new, principle and minor arterial routes in the South Fork Valley Subarea, if necessary, and should program the construction of these routes in the Whatcom County Capital Improvement Program.

2.04.2 Whatcom County should encourage the construction of new roads contiguous to existing development. Such phased road construction is intended to discourage the occurrence of "leap frog" development.

2.04.3 Whatcom County should encourage the use of shared access roads from commercial and residential developments to limit intersections with arterials.

2.04.4 Whatcom County intends to enforce standards for clear vision at intersections in accordance with the Whatcom County Development Standards and Title 20.

2.04.5 Through the development approval process, Whatcom County should identify the short and long range traffic impacts to subarea roads. This should be done by comparing the estimated number of vehicle trips generated by a project with the planned level of service for each road segment impacted by the project including intersections according to the Whatcom County Engineering Division design standards and specifications. If it is determined that a proposed development will impact traffic resulting in service level below that planned for all affected road classifications, Whatcom County should require mitigation by the developer in order to make the necessary improvements that will maintain the pre-planned level of service or to make an equivalent cash contribution to the Whatcom County Road Fund.

2.04.6 Whatcom County should pursue with the state the redesignation of Highway 9 to a "Scenic and Recreation Highway" status provided by the Scenic and Recreation Highway Acts of 1967 and 1969.

3. **PARKS AND RECREATION**

3.01 **Purpose:** It is the policy of Whatcom County to ensure that land use patterns and parks and recreation planning mutually support each other; are consistent with the adequate provision of recreational opportunities for residents; encourage tourism; and together conserve and enhance existing public investments and resources.

3.01.1 Whatcom County should use the development approval process of subdivision, zoning, and open space applications to establish community recreational paths, and in conformance to this plan, should obtain easements for public use or ownership of land for parks and recreational opportunities.

3.01.2 Whatcom County should use the development approval process to ensure that all development makes provision for recreational opportunities for residents.

3.02 **Cooperation:** It is the policy of Whatcom County to cooperate with federal, state, and municipal agencies in providing for a coordinated parks and recreation system.

3.02.1 Whatcom County should promote and encourage the provision of public parks as demand increases in the South Fork Valley Subarea, where warranted by potential population levels and where fragile environmental features and habitats are not threatened by such development. This should be done by coordinating with the Whatcom County Parks improvement program. For information and review, the County Parks Department should be sent copies of all major subdivisions and all PUD proposals regarding provision of public recreation opportunities.
3.03 **Standards:** It is the policy of Whatcom County to maintain and enhance its natural and economic resources, and the safety and well-being of its citizens through the application of the following standards to its parks and recreation system.

3.03.1 Whatcom County should approve new park construction projects or improvements to existing parks consistent with the subarea park plans.

3.03.2 Bikeways and pedestrian walkways should be included as integral parts of the park and recreation system, and should be implemented through public and private road construction or improvement programs. Bikeways and pedestrian ways should be provided in new developments to link residential areas, shopping areas, recreational areas, and educational facilities. Whenever practical, bikeways proposed in new developments should connect with the planned bikeways adopted herein.

3.03.3 Whatcom County should encourage the use of noise buffers and visual screens between future residential areas and high use recreational areas, and should ensure adequate access to high use areas that avoid impacts on residential areas.

3.03.4 Whatcom County should encourage the use of surfacing options such as porous asphalt pavement, precast interlocking blocks, and rolled brick or cinder chips that reduce total surface runoff, slow concentration and capture particulates in all park and recreation areas.

3.03.5 Park and Recreation development should not negatively impact fish habitat in the South Fork Valley nor diminish or threaten geographic areas designated “critical areas” by the County.

3.03.6 Whatcom County should discourage the uncoordinated and unsupervised use of the South Fork of the Nooksack as a “floating river”.

3.04 **Implementation:** It is the policy of Whatcom County to implement an adequate and economically beneficial parks and recreation system as designated on the 1989 Comprehensive Park and Recreation Open Space Plan and by amending it as necessary.

3.04.1 Through the land development approval process, Whatcom County should improve public access to shorelines using such mechanisms as transfer of development rights, density bonuses, and open space property tax status.

3.04.2 Through the development approval process, Whatcom County should identify the short and long range recreational impacts to subarea parks by computing the estimated number of dwelling units generated by a project and comparing those computations against the park and recreational facility use standards and design standards. Whatcom County should request the developer to mitigate impacts of additional population.

3.04.3 Whatcom County will pursue Park and Recreation development that minimizes impacts fish habitat in the South Fork Valley and does not diminish or threaten geographic areas designated "critical areas" by the County.

3.04.4 At a future date, Whatcom County should consider conditionally allowing the development and use of a low impact camping and recreational vehicle facility located immediately north of the Acme Bridge and west of Highway 9 along the Nooksack River and within walking distance of Acme.
a. Development of such a facility will be subject to a contract rezone which will require at the minimum the following conditions:

1. The Proposal will generally conform to the policies of the South Fork Valley Subarea Comprehensive Plan and the Whatcom County Comprehensive Park and Recreation Open Space Plan;

2. The proposal will conform to the provisions of the Shoreline Management Act as amended in 1991 and the State Environmental Protection Act;

3. The proposal will be limited to low impact recreational use with no utility hook-ups or permanent fixtures or structures;

4. Commercial use of the facility will be limited to the months of May through September; and

5. Public access will be provided.

3.04.5 Whatcom County should identify the need for and the approximate location of new principal sites and connecting recreational paths in the South Fork Valley Subarea, and should program the construction of these sites and routes in the Whatcom County Parks Capital Improvement Program and Transportation Improvement Program.

3.04.6 Whatcom County should recognize the unique and fragile recreational and wildlife value of:
A. The South Fork of the Nooksack upstream from Skookum Creek.
B. The Nesset Farm
C. Hardscrabble and Sygitowicz Falls
D. Dye’s Canyon
ECONOMIC DEVELOPMENT POLICY

It is essential for planning the physical development of Whatcom County to consider the nature and extent of its present and probable future economic activities. These activities determine in large measure the size and income of the population, and thus the character and amount of development which will occur and which should be considered in the comprehensive plan. The activity which takes place in this subarea is part of a larger pattern of economic activities which can be properly understood only at regional, national or even international levels and must be considered with this in mind during the planning process.

5. ECONOMIC DEVELOPMENT

5.01 Purpose: It is the policy of Whatcom County to promote economic development in the South Fork Valley Subarea by;

5.01.1 Providing for new economic development relating to the natural resources; aquaculture, fisheries, recreation, tourism, and agricultural processing and promotion.

5.01.2 Recognizing forestry, agriculture and fisheries as the most significant potential generators of jobs, profits, and taxes in the subarea.

5.01.3 Recognizing cottage industries as a fourth category whose economic potential can be developed.

5.01.4 Recognizing and protecting the natural resources of the area, including fish, timber, minerals, scenic beauty, and recreational opportunities.

5.02 Coordination: It is the policy of Whatcom County to encourage cooperation among state agencies, municipalities, economic development groups, and private landowners to enhance its economic potential.

5.02.1 Whatcom County should promote cooperation with Water District #18 to coordinate land use and capital programming decisions in order to preserve natural economic resources and maximize economic development potential.

5.02.2 Whatcom County should encourage private forest and woodlot property owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34.

5.02.3 Whatcom County should encourage private agricultural operators to conserve the county prime farmland soils resource by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33, and RCW 84.34, and by working with agricultural organizations to implement best management practices.

5.03 Standards: It is the policy of Whatcom County to use the following standards to enhance and maintain its economic potential.

5.03.1 Existing uses that are not allowed in a zone district specified when the South Fork Valley Subarea Comprehensive Plan is adopted should be recognized for their economic investment and allowed to continue and expand as legal nonconforming uses.
5.03.2 Present land use codes and future comprehensive plan and zoning amendments should be examined for their enhancement of the economy of the subarea and region and be implemented so as to:

a. foster and promote the general welfare in the long run as well as the immediate future;
b. create and maintain a balanced and diversified economy sustained by a healthy environment;
c. strengthen and stabilize the tax base; and

d. fulfill the social, economic, and other requirements of present and future generations of Whatcom County citizens.

5.03.3 In reviewing development proposals, the regulations should be administered and enforced with particular concern for:

a. the water quality in the area, especially in the South Fork of the Nooksack River and its tributaries where aquaculture and fish spawning provide significant economic and recreational potential;

b. the visual appearance of the subarea and where appropriate: (1) maintain the rural character, (2) enhance the urbanized area with proper site screening, internal landscaping, view corridors and public access, and (3) provide area-wide sign control; and

c. the expeditious approval of uses that will provide jobs and enhance the tax base.

5.04 Implementation: It is the policy of Whatcom County to recognize the economic potential of capital improvement decisions and other non-land use programs, and to coordinate these efforts in a concerted approach to cost effective development of the area.

5.04.1 Whatcom County should continue to take an active role to promote implementing measures other than land use designation and zoning for the area, and to set priorities for the actions required for accomplishing the goals identified in this plan, particularly those categories related to economic development which tend to cut across all issues.

5.04.2 Cottage industries will be acknowledged and encouraged in rural zones, subject to maintaining consistency with the rural character of the area.

5.04.3 Direct economic activities should be incorporated in the annual Overall Economic Development Program.

5.04.4 Actions identified for enhancement of the subarea should be incorporated in the appropriate capital improvement programs.

5.04.5 Whatcom County should seek to provide every opportunity for the farmer to utilize arable land in the most efficient manner possible and to facilitate a viable agricultural industry in the South Fork Valley.

5.04.6 Whatcom County should work to preserve forest lands for the utilization of timber management and harvest and to facilitate a viable forest industry in the South Fork Valley.
ENVIRONMENTAL RESOURCES AND CONSTRAINTS POLICY

Environmental resources in the South Fork Valley Subarea are extensive and, in some cases, irreplaceable. Environmental resources that contribute to economy and livability in the South Fork Valley include the South Fork of the Nooksack River, timber, wildlife habitat, fish spawning streams, clean ground and surface water, and Prime Farmland soils.

Some of these same resources pose serious environmental constraints and hazards to development. Flooding in the South Fork River is frequent and impacts much of the valley floor. There are numerous wetlands and hydric soils throughout the valley that provide critical wetland functions but inhibit development. The steep gradient and geologic structure of the mountain ranges in the South Fork Valley Subarea in conjunction with heavy annual precipitation, contribute to slope instability and flood prone drainage basins (Figure 5).

4. ENVIRONMENTAL RESOURCES AND CONSTRAINTS

4.01 Purpose: It is the policy of Whatcom County to manage its natural resources by recognizing and conserving irreplaceable resources, by providing suitable protection for environmentally sensitive areas, by enhancing environmental quality, and by planning and zoning in accordance with environmental hazards.

4.02 Coordination: It is the policy of Whatcom County to encourage cooperation among federal and state agencies, municipalities, environmental groups, tribal governments, and private landowners to enhance its environmental resources.

4.02.1 Whatcom County should continue to use the public benefit rating system to evaluate applications for tax relief on open space land use pursuant to RCW 84.34 whereby granting of open space tax status should be dependent upon determination that the public benefit of retaining a parcel in open space outweighs the loss or deferral of revenue to the County.

4.02.2 Whatcom County should encourage property owners to use the current use tax assessment provisions of RCW 84.34 to retain the following areas in open space: steep or unstable slopes, stream corridors, wetlands, shoreline areas, and unique or important wildlife habitats.

4.02.3 Whatcom County should work with property owners, citizen groups, the Lummi Indian Nation and the Nooksack Indian Tribe, the State of Washington, and other agencies in protecting bald eagle habitat, fishery resources, and surface and groundwater quality of the subarea.

4.02.4 The County should cooperate with federal, state, and local agencies, as appropriate, in monitoring and protecting water quality in the Nooksack drainage. Existing and future developments or other activity that significantly deteriorate water quality or contribute excessive sedimentation should be curtailed.

4.02.5 Whatcom County should work with The United States Geological Survey to install one additional gauging station immediately upstream from the confluence of the South Fork and the main stem of the Nooksack River. Gauging stations should also be installed in
those tributary creeks of the South Fork drainage that are under the jurisdiction of WAC 173-501-030.

4.03 Standards: It is the policy of Whatcom County to enhance and maintain its environmental resources according to the following standards:

4.03.1 Whatcom County should promote the use of 100-year floodplain associated with stream corridors as open space. Residential development should be encouraged to be sited at sufficient distance from all streams to minimize potential loss or damage to property that may occur as the result of debris dam failure or increased duration and volume of stream flow. Whatcom County should encourage minimal use of stream corridors, drainage swales, and alluvial areas for development.

4.03.2 Whatcom County should promote groundwater of a quality suitable for domestic consumption by encouraging low density and intensity uses in locations with soils of poor quality for septic systems.

4.03.3 Whatcom County should recognize natural wetlands such as swamps, bogs, marshes, and ponds as natural catchment basins for stormwater run-off, flora and fauna habitat, and potential groundwater recharge areas. Run-off during development should be controlled as specified in the *Whatcom County Development Standards*.

4.03.4 Whatcom County should encourage utilization of steep slopes and other geologically hazardous areas for open space, very low density development or forestry. If used for development purposes, structures should comply with the provisions of the Uniform Building Code and Whatcom County's Critical Areas Ordinance. Where slopes are in excess of 10%, cluster development should be encouraged to minimize slope disturbance. Placement of residential structures on localized terraces and benches is encouraged.

4.03.5 Whatcom County should seek to protect the public from damage to life and property in drainage basins that have a history of excessive flooding, erosion, sedimentation, and debris torrents originating in the steep and unstable mountainous regions of the basin.

4.03.6 Whatcom County should encourage very low residential densities in areas of known mineral resource occurrence with the intent of retaining future access and utilization options. Subsurface mining operations should conform to Title 20, the Official Whatcom County Zoning Ordinance, as well as state and federal regulations.

4.03.7 Whatcom County should foster continued fish and wildlife habitat integrity in the South Fork Valley Subarea through identification and designation, the development approval process, and public works. Applicable habitats include eagle roosting sites and feeding areas, heron rookeries, peregrine falcon habitat, salmon and trout spawning streams and lakes, deer and elk migration routes, and wetland and waterfowl habitat.

4.03.8 Whatcom County should encourage air pollution abatement with the intent of maintaining and/or enhancing air quality, consistent with the Federal Clean Air Act, and accomplished through the coordination of local land use proposal review with the Northwest Air Pollution Authority and other environmental agencies.

4.03.9 Whatcom County should implement the necessary rules, regulations, and ordinances which are required by state law to minimize noise impacts.
4.03.1 Whatcom County should review all shoreline development proposals for adherence to the requirements of the Whatcom County Shoreline Management Program.

4.03.11 Whatcom County should insure that minimum flow standards set by the Department of Ecology under WAC173-501-030(2) are enforced.

4.03.12 Whatcom County should review and update the status of nature resource lands, and make appropriate changes to the agriculture and forestry designations in conformance with the House Bill 2929.

4.04 Implementation: It is the policy of Whatcom County to implement the enhancement of its environmental resources through the following actions.

4.04.1 Whatcom County should continue to play an active role in monitoring Forest Practices Applications. The County should closely monitor forest practices in the drainage basins of Jones Creek, McCarty Creek, Standard Creek, Hardscrabble Creek, Sygitowicz Creek, and Falls Creek.

4.04.2 Forestry and associated activities are the preferred uses in the mountainous portions of the subarea. Forested areas should be discouraged from conversion to other uses that might preclude continued forest management.

4.04.3 Whatcom County should seek funding for additional monitoring and enforcement of septic system performance in the subarea.

4.04.4 Whatcom County should encourage efforts to provide monitoring of stream and river flows in the South Fork Subarea to determine if minimum flow standards and water quality standards are being met.

4.04.5 Whatcom County should insure that all activity in the South Fork Watershed be permitted contingent upon proof that adequate water flows are available as established by the Department of Ecology under WAC 173-501-030(2).

4.04.6 Whatcom County should address any decrease in water quality that results from the application of chemical herbicides used on county roads, farm and forestry practices, and development density.

4.04.7 Whatcom County should take appropriate permanent measures to stabilize the drainage channel of Jones Creek from the private bridge on Galbraith Road to the mouth of the creek at the Nooksack River. This should include the construction of a berm between the Galbraith bridge and the Turkington bridge to protect existing development from flooding and damage caused by debris.

4.04.8 Whatcom County should address any decrease in water quality or increase in flooding capacity that results from excessive sedimentation and erosion. This should include the monitoring of agricultural practices, forestry practices, and development activity.

4.04.9 Whatcom County should maintain and enhance the public usefulness of the South Fork Valley Subarea shorelines in accordance with the Shoreline Management Program by:

a. encouraging alternative setback regulations where shared driveways, clustered buildings, and other variations from required setbacks will provide less obstructed scenic vistas for the public; and
b. using the development review process to preserve recreational access to the South Fork Valley shorelines through requiring any land development to indicate how it will avoid significant adverse impacts on or displacement of recreational uses that have no comparable, alternate sites locally.

4.04.10 Using an ecosystems approach to analyze designation and regulations of environmentally sensitive areas, Whatcom County should develop a "Critical Areas Ordinance" in conformance with the House Bill 2929. Elements of the Critical Areas Ordinance should include at the minimum:

A. Geologically Hazard Areas
B. Wetlands
C. Groundwater Recharge Areas
D. Fish and Wildlife Habitat Conservation Areas
E. Frequently Flooded Areas

F. Critical Drainage Areas

4.04.11 Until such time that a Critical Areas Ordinance has been adopted and applied to land use development, Whatcom County should review all permits in the South Fork Valley Subarea for environmental impacts that may result from development or hazards that may threaten proposed construction. The County will utilize the elements of the Critical Areas Ordinance proposed in 4.03.11 of this section and the provisions of SHB 2929, and the Minimum Guidelines to Classify Agriculture, Forest, and Mineral Lands and Critical Areas set forth in Chapter 365-190 WAC (proposed) to assist in making a determination.
SOUTH FORK VALLEY
SUBAREA
ENVIRONMENTAL CONSTRAINTS

LEGEND

- Steep Slopes Greater
  Than 40%
- Hydric Soils
- Areas With Sporadic Distribution
  Of Hydric Soils
- Wetlands
- Palustrine = Emergent,
  Scrub/Shrub
- Palustrine Forested
- Riverine
- Critical Drainage Stream
- FEMA 100 Year Floodplain Boundary
- Critical Flood Impact Area
- Low Hazard Area
- Medium Hazard Area
- High Hazard Area
- Wildlife Habitat
- Beaver Ponds
- Bald Eagle Roosting Areas
- Elk Travel Corridor
- Elk Summer Range

Figure 5

Whatcom County Planning
Department
January 1991
LAND DEVELOPMENT OPTIONS, GUIDELINES AND REQUIREMENTS

This section provides environmentally efficient options for land development that minimize public and private utility and transportation expenditures. Also provided are general information and requirements that affect the majority of land use designations in the South Fork Valley Subarea. Guidelines and requirements that are unique are provided in the applicable zoning ordinance text.

1.01 Areas that are designated URBAN RESERVE, and RURAL have the option of creating new residential parcels using the conventional subdivision method. Parcel sizes in conventional subdivisions are uniform and are specifically established in each implementing zone text.

1.02 Areas that are designated URBAN RESERVE, RURAL, and FORESTRY when implemented by the RURAL FORESTRY zoning district, have the option of creating new residential parcels using the cluster subdivision method. The purpose is to provide economic flexibility to the individual property owner, promote economic lot design, conserve non-renewable and renewable natural resources, minimize disturbances to environmentally fragile areas, promote compatibility with surrounding non-residential land uses, and provide options beyond the planning period for land use decisions. Cluster subdivision is defined as an alternative method of creating building parcels that are spatially efficient and economical, and that will retain options for future uses and densities by treating land as a commodity and resource. The following policies establish subdivision guidelines and implementation considerations.

1.02.1 Minimum parcel size should be established consistent with the provisions of specific Implementing zones or Health Department requirements; whichever are greater.

1.02.2 Subdivision design should be discouraged from forming lineal residential patterns adjacent to roads by minimizing ingress and egress points, and by consolidating access for several parcels.

1.02.3 When possible, it is preferred that residential structures be sited at the perimeter of fields or woodlots, in woodlots, or partially concealed by topographic features.

1.02.4 When possible, structures on open landscapes should be sited and designed to minimize view disruptions from adjacent properties and public roadways.

1.02.5 When a cluster subdivision is situated adjacent to a less intensive use, including large parcel residential, agriculture or forestry, the subdivision should be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals, and nuisances onto the less intensively used parcels.

1.02.6 Vehicular and pedestrian networks should be oriented to the interior of clustered subdivisions.

1.02.7 To maintain area character and settlement patterns, and to achieve visual compatibility and land carrying capacity similar with the surrounding area, the Subdivision Administrator and Hearing Examiner may request that the potential number of building sites for a particular parcel be clustered into two or more residential concentrations.

1.03 Areas that are designated URBAN RESERVE, RURAL, COMMERCIAL, and FORESTRY (when the FORESTRY designation is implemented by the RURAL FORESTRY zoning district), have the option of using the Planned Unit Development provision of the Title 20 Zoning Ordinance. Planned Unit
Development is defined as an official control that allows greater flexibility in density, bulk regulations, building types and land use mixture than is generally permitted in the specific implementing zone text. The option is intended to encourage creative site planning; permanent open space; variety in living, working and recreational settings; conservation of environmentally fragile areas; and mixed use developments.

1.04 A restrictive covenant should be attached to the face of any residential subdivision plat when located adjacent to the AGRICULTURE zone or a commercial agricultural operation in a zoning district that allows such a use; the intent of which is to facilitate the unhampered continuation of legal and customary operations associated with agricultural practices.

1.05 A restrictive covenant should be attach to the face of any residential subdivision plat when located adjacent to or immediately below forested lands subject to commercial forest practices which are located in a zoning district that allows such a use; the intent of which is to facilitate the unhampered continuation of legal operations such as noise, smoke and other nuisances associated with forest practices. This should not apply to physical damages to adjacent or downhill properties resulting from the interaction of land clearing and latent geologic and hydrologic conditions in the affected area.
COMPREHENSIVE PLAN AMENDMENTS

The South Fork Valley Subarea Plan is a policy document that is used to guide land use decisions affecting both the private and public sectors of the subarea. For the plan to function as an effective decision making document, it must be flexible enough to weather changes in public attitudes, developmental technologies, economic forces and legislative policy.

The plan envisions two general types of plan amendments. The first type is a review conducted approximately every seven years. This review should re-examine the entire plan, including a re-evaluation of goals, updates of land related elements, and the reaffirmation of land use policies and proposals. This review is the responsibility of land use policies and proposals. This review is the responsibility of the Whatcom County Planning Commission, the Planning Department Staff, and the people of the subarea.

The second type of amendment is that proposed and initiated by an individual or agency. The land uses illustrated on the Land Use Plan Map are the result of the application of the plan's goals and policies. However, it is reasonable to assume that an individual or agency may introduce land use proposals that conflict with the plan map or policies of the plan itself. In such instances, the individual or agency may purpose an amendment to the plan. Petitions for amendment of the Comprehensive Plan addressed to either the Planning Commission for adoption or amendment of comprehensive plans. In applying for a particular amendment to the plan or plan map, the individual or agency should conform to the following criteria:

1. The amendment request should conform with applicable Washington State laws governing Comprehensive Plan amendments;

2. The amendment request should conform with the goals of the subarea plan;

3. The amendment request should be compatible with the existing and planned surrounding land uses;

4. The amendment request should not result in unmitigated detrimental impacts to existing transportation systems;

5. The amendment request should not place uncompensated burdens upon existing or planned service capabilities; and

6. The amendment request should demonstrate a land usage need which is currently not met by this comprehensive plan.
SOUTH FORK VALLEY
SUBAREA

ZONING DISTRICTS

LEGEND
UR4 Urban Residential 6DU/Acre
R2A Rural 1DU/2Acres
R5A Rural 1DU/5Acres
R10A Rural 1DU/10Acres
GC General Commercial
RF Rural Forestry
CF Commercial Forestry
AG Agriculture

Whatcom County Planning
Department
March 1991

Figure 4

Whatcom County Planning
Department
March 1991

Whatcom County Planning
Department
March 1991

Whatcom County Planning
Department
March 1991
SOUTH FORK VALLEY SUBAREA
ENVIRONMENTAL CONSTRAINTS

LEGEND

- Steep Slopes Greater Than 40%
- Hydric Soils
- Area With Sporadic Distribution Of Hydric Soils
- Wetlands
- Palustrine - Emergent, Sedge/Grass
- Palustrine Forested
- Riverine
- Critical Drainage Streams
- FEMA 100 year floodplain boundary

Critical Flood Impact Area
Low Hazard Area
Medium Hazard Area
High Hazard Area
Wildlife Habitat
Beaver Ponds
Bald Eagle Roosting Areas
Elk Travel Corridor
Elk Summer Range

Figure 5

Whatcom County Planning Department
January 1991
WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1991 South Fork Valley Subarea Plan and
Amend Provisions in the Whatcom County Comprehensive Plan
relating to Subarea Plans

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to
      subarea plans.

2. A determination of non-significance (DNS) was issued under the State
   Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website
   on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been
   posted on the County website was sent to citizen, media and other groups on the
   County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State
   Department of Commerce on April 8, 2014.

6. Notice of the Planning Commission hearing for the subject amendments was

7. The Planning Commission held a public hearing on the subject amendments
   on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive
   plan amendments 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**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The South Fork Valley Subarea Plan was adopted in 1991. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.
County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. There are no interlocal agreements relating to the South Fork Valley Subarea Plan.

Further Studies/Changed Conditions

14. The South Fork Valley Subarea Plan was adopted in 1991.

15. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1991 South Fork Valley Subarea Plan does not address LAMIRDs.

16. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1991 South Fork Valley Subarea Plan is not consistent with the County Comprehensive Plan.

17. The 1991 South Fork Valley Subarea Plan utilized a different planning period than the Whatcom County Comprehensive Plan.

18. Changed conditions, including adoption of the Whatcom County Comprehensive Plan and the passage of time, warrant repealing the 1991 South Fork Valley Subarea Plan.

Public Interest

19. Repealing the 1991 South Fork Valley Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

Spot Zoning

20. The subject proposal does not involve rezoning property.
CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use); and

WHATCOM COUNTY PLANNING COMMISSION

David Onkels, Chair

Sam Ryan, Secretary

May 1, 2014

Commissioners present at the April 24, 2014 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Walter Haugen, Gary Honcoop, David Hunter, Natalie McClendon, David Onkels, Mary Beth Teigrob, and Gerald Vekved.

Vote:  Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendments.
NOTE:

In order to avoid redundancy, Exhibits A and B are only attached to the proposed Ordinance that will be considered by the County Council.
Commissioner McClendon asked under what circumstances are subarea plans needed?

Mr. Aamot stated staff has thought about that. They think it may be good to retain the plans for active communities and those that stand alone from other areas.

Commissioner McClendon asked how the subarea plans relate to the Comprehensive Plan.

Mr. Aamot stated they add detail to the countywide plan.

Commissioner Bell asked if more resources were applied to the subarea plans would there be more activity? For example, Lake Whatcom is a large area which makes it difficult for people to come together as they do in a smaller area such as Birch Bay.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00003: Repealing the South Fork Valley Subarea Plan, which was adopted in 1991, and amending related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot presented the staff report. (A map and aerial photo of the subarea was shown with the boundaries) The South Fork Plan was adopted in 1991; right after the GMA was adopted in 1990. The population projection for the subarea was through 2000. It had a more flexible planning period, however, that planning period has ended so it is not consistent with the current comprehensive plan period of 2029. There were five land use designations in the plan. There were two forestry zoning districts but the subarea plan only had one forestry land use designation. Some of the areas have been rezoned or now have different comprehensive plan designations. One of the policies in the plan reaffirms the 1970 comprehensive plan, which is outdated. That policy is now outdated and creates a conflict. Staff recommends repeal of the plan.

The hearing was opened to the public.

There was no public testimony.

The hearing was closed to the public.

Commissioner Honcoop moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; and repeal of Exhibit B-the South Fork Valley Subarea Plan. Commissioner Teigrob seconded.

Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.

File # PLN2014-00004: Repealing the Eliza Island Plan, which was adopted in 1994, and amending related provisions in the Whatcom County Comprehensive Plan and Zoning Code.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matt Aamot</td>
<td>M.A.</td>
<td>5/5/2014</td>
</tr>
<tr>
<td>Division Head:</td>
<td>Mark Personius</td>
<td>5-5-14</td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>Sam Ryan</td>
<td>5-7-14</td>
</tr>
<tr>
<td>Prosecutor:</td>
<td>Royce Buckingham</td>
<td>5-8-14</td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td>Jack Louws</td>
<td>05/12/14</td>
</tr>
</tbody>
</table>

FETCHED RECEIVED

MAY 13 2014
WHATCOM COUNTY COUNCIL

TITOE OF DOCUMENT:

Repeal the Lake Whatcom Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

ATTACHMENTS:

1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes

Other background information is on file at the Council office.

SEPA review required? (X) Yes ( ) NO
SEPA review completed? (X) Yes ( ) 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.)

Repeal the Lake Whatcom Subarea Plan and amend provisions in the Whatcom County Comprehensive Plan relating to subarea plans. The Lake Whatcom Subarea Plan was adopted in 1982, prior to enactment of the Growth Management Act GMA in 1990.

NOTE: Final approval of these amendments would occur as part of concurrent review of comprehensive plan amendments in early 2013.

COMMITTEE ACTION:

COUNCIL ACTION:

5/20/2014: Introduced 6-0, Weimer absent

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.
May 5, 2014

To: Jack Louws, The Honorable Whatcom County Executive
The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Long Range Planning Division Manager

RE: Repeal the Lake Whatcom Subarea Plan and Related Amendments

The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080. However, the GMA also requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

Most of the comprehensive land use plan designations in the 1982 Lake Whatcom Subarea Plan are not the same as the designations utilized in the current Whatcom County Comprehensive Plan. Additionally, the requirement to designate urban growth areas was not enacted until after the Subarea Plan was adopted. The Subarea Plan has “Urban Reserve” designations, but they do not match the current UGA designations. The GMA’s rural element requirements did not exist when the Subarea Plan was adopted. Finally, the Subarea Plan utilized a 15-year planning period (which ended in 1997). Therefore, we recommend repealing the Subarea Plan and amending provisions in the Whatcom County Comprehensive Plan relating to subarea plans.

Planning & Development Services is requesting Council consideration of these amendments on June 3. However, the proposed Comprehensive Plan amendments are subject to concurrent review. Therefore, the Council will not render a final decision on the proposal until early 2015.

Thank you for your consideration of this matter.
ORDINANCE NO. ____________

REPEALING THE 1982 LAKE WHATCOM SUBAREA PLAN AND AMENDING PROVISIONS IN THE WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2014; and

WHEREAS, The Whatcom County Planning Commission held a public hearing on April 24, 2014; and

WHEREAS, The Whatcom County Planning Commission recommended the comprehensive plan amendments on April 24, 2014; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to subarea plans.
   b. Repealing the Lake Whatcom Subarea Plan (1982).

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been posted on the County website was sent to the City of Bellingham and citizen, media and other groups on the County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 8, 2014.
6. Notice of the Planning Commission hearing for the subject amendments was published in the Bellingham Herald on April 11, 2014.

7. The Planning Commission held a public hearing on the subject amendments on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive plan amendments 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**

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 (“Comprehensive plans – Optional elements”).
10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: “A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.”

11. The Lake Whatcom Subarea Plan was adopted in 1982, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.

**County-Wide Planning Policies**

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

**Interlocal Agreements**

13. A portion of the Bellingham UGA is included in the Lake Whatcom Subarea.

14. An Interlocal Agreement between the City of Bellingham and Whatcom County concerning Planning, Annexation and Development within the Bellingham UGA was signed in April 2012. This interlocal agreement does not require the County to retain this subarea plan.

**Further Studies/Changed Conditions**

15. The Lake Whatcom Subarea Plan was adopted in 1982.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1982 Lake Whatcom Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1982 Lake Whatcom Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1982 Lake Whatcom Subarea Plan is not consistent with the County Comprehensive Plan.


20. The Urban Fringe Plan was adopted in 1997 and subsequently amended.
21. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1982 Lake Whatcom Subarea Plan.

Public Interest

22. Repealing the 1982 Lake Whatcom Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.

Spot Zoning

23. The subject proposal does not involve rezoning property.

CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County Comprehensive Plan Chapter 2 (Land Use) is hereby amended as shown on Exhibit A.

Section 2. The Lake Whatcom Subarea Plan (1982) is hereby repealed as shown on Exhibit B.

Section 3. 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 ______________, 2015.

ATTEST: WHATCOM COUNTY COUNCIL

__________________________ WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk Carl Weimer, Chairperson

APPROVED as to form:

__________________________ ( ) Approved ( ) Denied

Civil Deputy Prosecutor Jack Louws, Executive

Date: _____________________
Exhibit A

Amend Chapter 2 of the Whatcom County Comprehensive Plan as follows:

Policy 2L-2: Retain and periodically review the adopted Subarea Plans (Lummi Island, Cherry Point-Ferndale, Lake Whatcom, Urban Fringe, Birch Bay Community Plan, Foothills, Point Roberts, South Fork Valley, and Eliza Island). Subarea Plans represent a long history of plan development in Whatcom County and provided the foundation for the county’s first Growth Management comprehensive plan adopted in 1997.

1. Utilize a process which ensures consistency between the Whatcom County Comprehensive Plan and subarea plans. The subarea plan review process should include the following steps:

   a. Consistency Analysis. The County should review subarea plans based on the priority order in subsection “2b” for gaps, overlaps, or inconsistencies. Topics include, but are not limited to, plan boundaries, growth forecasts, land uses, capital facilities and services, horizon year, and other appropriate issues.

   b. Regional and Local Government Coordination. The County should consult and coordinate with cities where city-associated UGAs are included in subarea plan boundaries.

   c. Public Participation. Each subarea plan update process will be based on a public participation program that addresses citizen input on the key issues associated with the subarea plan update.

   d. Subarea Plan Amendment. Only those portions of existing subarea plans in conflict with the Comprehensive Plan are required to be amended. Local issues of concern or changed conditions may be addressed.

   e. Comprehensive Plan Revisions. Where the subarea plan process recommends growth levels, growth boundaries, or other essential features, Comprehensive Plan amendments will be considered in conjunction with the subarea plan update process. Land capacity analysis may also be updated if appropriate.
2. Prioritize review of subarea plans. Subarea plans should be reviewed in the following order.

   a. Post-GMA Subarea Plans addressing UGAs. These subarea plans should be reviewed and amended, if necessary, during Whatcom County's periodic review of the comprehensive plan or repealed. Subarea plans addressing UGAs associated with a city should be coordinated with the city's comprehensive plan update process.

   b. Post-GMA Subarea Plans addressing Rural Areas. These subarea plans should be subject to a consistency review. If significant inconsistencies are found, these should be considered for potential update during Whatcom County's periodic review of the comprehensive plan or repealed. Minor updates may be considered through the County's docket process in subsequent years.

   c. Pre-GMA Subarea Plans. These should be repealed or updated in accordance with County department work programs or the docketing process. Priority criteria may be used to determine the order of update. Example criteria include:

      i. whether update is needed for health, safety, or welfare concerns;

      ii. whether there is a city-associated UGA included in the subarea plan boundaries – in which case, the subarea plan update could be timed to be developed in association with or following city comprehensive plan update process;

      iii. whether the subarea plan would benefit from broader policy concepts to be completed in advance or in tandem, such as agricultural land protection measures;

      iv. whether a significant policy objective would be met by amending the plan.

In the event there is an inconsistency between a Subarea Plan and the Whatcom County Comprehensive Plan, the Whatcom County Comprehensive Plan shall prevail.
NOTE: The text of Policy 2L-2 above is also being amended in association with the proposed repeal of the South Fork Valley Subarea Plan (file # 2014-00003) and the proposed repeal of the Eliza Island Plan (file # 2014-00004). The changes to Policy 2L-2 proposed in the subject amendment are intended to be harmonious and compatible with the changes to Policy 2L-2 proposed in these other two amendments.
Exhibit B

(Repealing the Subarea Plan)
LAKE WHATCOM SUBAREA

a component of the

Whatcom County
Comprehensive Land Use Plan

- Pt. Roberts Subarea
- Lummi Island Subarea
- Cherry Pt. - Ferndale Subarea
- **Lake Whatcom Subarea**
- Urban Fringe Subarea
- Lynden - Nooksack Valley Subarea
- Birch Bay - Blaine Subarea
- Chuckanut - Lake Samish Subarea
- South Fork Valley Subarea
- Foothills Subarea
LAKE WHATCOM SUBAREA
COMPREHENSIVE PLAN
AUGUST, 1982

Whatcom County Executive
John Louws

Whatcom County Council
Shirley Van Zanten
Don Hansey
Larry McIntyre
C.J. Johnson
R.W. "Bob" Muenscher
Jim Hawley
Will Roehl

Whatcom County Planning Commission
John Vanderhage, Chairman
Al Nickinbotham, Vice Chairman
Bob Andersen
Bill Clement
Emil de Wilde
Joe Elenbaas
Jack Griffin
Peggy Hinton
Alvin Van Dalen

Whatcom County Planning Staff
Micheal E. Nicholson, Planning Director
William G. Trimm, Assistant Director
Jon Holan, Senior Planner
Sharon Hayes, Administrative Secretary
Steve Cornell, Planner I
Sandra Palm, Planner I
Michele Gierman, Graphics/Technical Assistant
Karen Daniels, Typist

Whatcom County Planning
401 Grand Avenue
Bellingham, WA 98225
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. INTRODUCTION</strong></td>
<td></td>
</tr>
<tr>
<td>Authority</td>
<td>1</td>
</tr>
<tr>
<td>Definition &amp; Application</td>
<td>1</td>
</tr>
<tr>
<td>Subarea Planning Concept</td>
<td>1</td>
</tr>
<tr>
<td>Whatcom County Planning Process</td>
<td>2</td>
</tr>
<tr>
<td>Plan Format</td>
<td>2</td>
</tr>
<tr>
<td><strong>II. SUBAREA DESCRIPTION</strong></td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>5</td>
</tr>
<tr>
<td>Findings</td>
<td>5</td>
</tr>
<tr>
<td>Citizen Participation &amp; Subarea Issues</td>
<td>6</td>
</tr>
<tr>
<td><strong>III. POPULATION FORECASTS</strong></td>
<td>9</td>
</tr>
<tr>
<td><strong>IV. GOAL STATEMENTS</strong></td>
<td>14</td>
</tr>
<tr>
<td><strong>V. RATIONAL &amp; LOCATIONAL CRITERIA FOR LAND USE DESIGNATIONS</strong></td>
<td>16</td>
</tr>
<tr>
<td>A. Urban Reserve</td>
<td>17</td>
</tr>
<tr>
<td>A.1 Urban Reserve Medium Density</td>
<td>17</td>
</tr>
<tr>
<td>B. Residential Rural</td>
<td>18</td>
</tr>
<tr>
<td>C. Rural</td>
<td>19</td>
</tr>
<tr>
<td>D. Forestry</td>
<td>20</td>
</tr>
<tr>
<td>E. Public</td>
<td>20</td>
</tr>
<tr>
<td>F. Quasi-Public</td>
<td></td>
</tr>
<tr>
<td><strong>VI. POLICIES</strong></td>
<td>22</td>
</tr>
<tr>
<td>A. Urban Reserve</td>
<td>23</td>
</tr>
<tr>
<td>B. Residential Rural</td>
<td>28</td>
</tr>
<tr>
<td>C. Rural</td>
<td>31</td>
</tr>
<tr>
<td>D. Forestry</td>
<td>34</td>
</tr>
<tr>
<td>E. Public</td>
<td>36</td>
</tr>
<tr>
<td>F. Quasi-Public</td>
<td>38</td>
</tr>
<tr>
<td>G. Community Facilities and Utilities</td>
<td>39</td>
</tr>
<tr>
<td>H. Transportation/Circulation</td>
<td>43</td>
</tr>
<tr>
<td>I. Environmental</td>
<td>47</td>
</tr>
<tr>
<td>J. Economic</td>
<td>50</td>
</tr>
<tr>
<td><strong>VII. COMPREHENSIVE PLAN AMENDMENTS</strong></td>
<td>51</td>
</tr>
<tr>
<td><strong>VIII. COMPREHENSIVE PLAN LAND USE MAP</strong></td>
<td>52</td>
</tr>
</tbody>
</table>
I. INTRODUCTION

Statutory Authority

Statutory authority for county comprehensive land use planning is established in Washington State Planning Enabling Act, in which it is stated that "each planning agency shall prepare a comprehensive plan for the orderly physical development of the county or any portion thereof..." (RCW 36.70.320). The Lake Whatcom Subarea Comprehensive Plan has been developed in response to statutory authority, as well as in recognition of the widely accepted principle that future Whatcom County land use decisions should be made in a coordinated and responsible manner by both the public and private sectors.

Definition and Application

The Whatcom County Comprehensive Plan is defined as an official public document to be utilized by both the public and private sectors as a policy guideline for making orderly and desirable decisions concerning the future use of land in the county. The plan has been formulated by the Whatcom County Planning Commission and is comprehensive, general and long-range in nature. Comprehensive, in that it encompasses major geographic areas of the county and the functional elements that bear on physical development; general, in that it summarizes major policies and proposals and is not, by statute, a detailed regulation; and long-range, in that it not only addresses current issues, but also anticipated problems and possibilities of the future.

The purpose of this document is to foster a responsible process of land use decision-making. The goals, policies and land use plan map contained herein serves to amend the 1970 Whatcom County Comprehensive Plan for the geographic area covered by the Lake Whatcom Subarea. The 1970 plan served as a good and basic plan for the 1970's, but as times change, people's attitudes, technologies and economies also change. Consequently, the primary decision-making document of local government must be revised to address current and anticipated issues of the future.

In consideration of the changes that have occurred since the existing plan was adopted, the Planning Commission resolved in December, 1978 to revise and update the 1970 Comprehensive Plan. The Commission is also aware that changes will continue through the 1980's and has realized that the policies contained herein will be subject to modification and revision over a period of time. As is discussed in the following section, this subarea plan will be revised on a five-year basis.

Subarea Planning Concept

Because of the county's diverse physical and cultural make-up, the Planning Commission elected to revise the plan on an individual geographic area basis. Thus, the Commission divided the western one-third of the county into ten logical geographic areas where the planning process could be applied in a uniform and consistent manner. Denoted as "subareas," these geographic areas were delineated to address various land use related issues that appeared to be unique to particular areas of the county.
The criteria utilized by the Commission to delineate the subarea boundaries include natural and physical features; political subdivisions, such as special purpose districts (sewer, water, fire, school, etc.); existing land use patterns; and the presence of a city or town (where applicable) to act as a nucleus for the area. Thus, subareas are planning units determined through the application of criteria and considered as a practical means of revising the comprehensive plan in a consistent orderly fashion.

Whatcom County Planning Process

The Whatcom County comprehensive planning process is defined as a continual program of evaluating goals, conducting various land-related studies, and practical set of land use policies and proposals for the future use of land in our county. Stated differently, the planning process serves as a blueprint for the logical development of the comprehensive plan, as well as the formulation of effective implementation tools.

The process describes, through a logical sequence, the various land use related factors that must be considered to effect the formulation of responsible and meaningful land use policies and proposals. These factors concern the following: the definition of county-wide goals; the inventory and analysis of land use, community facilities and utilities, transportation facilities and environmental resource characteristics; the forecasting of population levels and the county's economic vitality; the comprehension of issues, both technical and citizen related; the development of policies to resolve and/or address the relevant issues; and the transformation of policies into the plan map and attendant implementation tools.

The planning process is continual. It involves not only the formulation of the comprehensive plan document and its implementation through the application and use of various regulatory tools, but also continual monitoring and periodic updating. The success of the planning process in Whatcom County relies heavily upon the county's ability to keep the major components of the plan current. Thus, the plan should be updated every five years by the Planning Commission, and such revisions should adhere to the various sequential stages of the planning process.

Format

The Comprehensive Plan for the Lake Whatcom Subarea includes the necessary information for the appropriate formulation of land use decisions by both the public and private sectors of Whatcom County. The components of the plan include the following:

1. **Subarea Description**: To generally define subarea characteristics and establish issue topics, as determined by area residents, the Planning Commission and the planning staff.

2. **Population Forecasts**: To correlate anticipated population levels with the land use policies and map.

3. **Goal Statements**: To provide the overall direction for land use planning in Whatcom County.
Whatcom County Planning Process

GOALS

CONTINUOUS UPDATE

IMPLEMENTATION
Zoning Ordinance
Subdivision Regs.
Shoreline Mgt.
City agreements
Floodplain Regs.

INVENTORY AND ANALYSIS
BY SUBAREA
Land Use
residential
commercial
industrial
Transportation
Comm. Services
Population
Parks-Recreation
Physical Features
Shoreline Mgt.

DETERMINATION OF ISSUES

SUBAREA CITIZEN PARTICIPATION:
Phase 1

FORMULATION OF PRELIMINARY
SUBAREA POLICIES AND PLAN
MAP BY PLANNING COMMISSION

PRELIMINARY SUBAREA
COMPREHENSIVE PLAN

SUBAREA CITIZEN PARTICIPATION:
Phase 2

REFINEMENT OF PRELIMINARY
SUBAREA POLICIES AND PLAN
MAP BY PLANNING COMMISSION

WHATCOM COUNTY COUNCIL

PROPOSED SUBAREA
COMPREHENSIVE PLAN

PUBLIC HEARING
4. **Rationale and Locational Criteria:** To establish the necessity of the land use designations and the spatial requirements to be utilized for policy application to the Comprehensive Plan Map.

5. **Policies:** To provide the primary decision-making tools required to resolve the land use, community facility and utility, transportation/circulation, and environmental issues of the subarea.

6. **Comprehensive Plan Land Use Map:** To reflect the spatial distribution of the policy statements; perhaps the most widely utilized component of the comprehensive plan.

7. **Amendment Criteria:** To assist both the public and private sectors with respect to revisions of the comprehensive plan policies and map.

8. **Adoption Certification:** To acknowledge the acceptance by the Whatcom County Planning Commission and Council, City of Bellingham, and the Boundary Review Board of the Goal Statements and the subarea policies and map.
II. SUBAREA DESCRIPTION

General

The Lake Whatcom Subarea contains over 56 square miles of land and is generally bounded on the north by Mt. Baker Highway and the northern section lines of Sections 7, 8 and 9, T38N, R4E; on the south by the Whatcom-Skagit County line; on the east by the upper reaches of the Watershed; and on the west by the upper reaches of the Watershed, the City of Bellingham corporate limits and Toad Lake Road. With the exception of a small geographic area situated north of the city limits and west of Toad Lake Road, the Subarea contains the entire Lake Whatcom Watershed. Also, approximately ten square miles in the Squalicum Creek, Silver Creek and Anderson Creek drainage basins are included in the subarea.

Findings

In March 1981, the Whatcom County Planning Department completed the Background Document for the Lake Whatcom Subarea. A portion of the study contains descriptions of existing conditions within the subarea for land use, the physical environmental setting, transportation/circulation, and utilities and community facilities. In addition, the report identified specific issues for six analysis areas (North Shore, Geneva, Sudden Valley, South Bay, Forestry and Squalicum) as well as several generalized issues for the Lake Whatcom Watershed. It is intended in the process of plan revision that issues identified by all participants (staff, Planning Commission and citizens) shall be addressed and/or resolved by adoption of specific policy statements by Whatcom County.

The dominant land use in the Lake Whatcom Subarea is forestry. In fact over 83% of the total area or 30,438 acres is devoted to forestry uses. Of this total, 17,000 acres have been recorded by the County Assessor as forest current use tax status, i.e. reduced tax assessments for land devoted to the growth and harvest of forest crops for a minimum of ten (10) years. The majority of forest land is held by major timber companies such as Scott Paper, Georgia Pacific and Bloedel Development Company. The State of Washington also owns substantial holdings, considered as trust lands, that are managed by the Department of Natural Resources for the purpose of timber and mineral rights sales to various public and private interests.

The remaining 17% or 6,000 acres of land in the subarea is distributed among the balance of other uses including agriculture, public (communication, utilities and transportation), commercial, industrial, residential and vacant land uses. Vacant land use represents seven percent (7%) of the total subarea which is a relatively large land supply or reserve to accommodate future growth demands.

The Lake Whatcom Subarea is served by a sewer and water system operated by Whatcom County Water District No. 10. As the primary purveyor of sewer and water service, the district is responsible for the operation and maintenance of both systems in the Geneva and Sudden Valley communities, while on the North Shore only the sewer utility is available. However, the district anticipates becoming the primary purveyor of water source to the North Shore Urban Reserve area.
Community fire protection is provided by three Whatcom County Fire Protection Districts (junior taxing districts): 2, 4 and 18. Fire fighters are volunteer men and women residing in the vicinity of each fire hall. Law enforcement is provided by the Whatcom County Sheriff's Department. Education is provided by the Bellingham and Mt. Baker School Districts. Fiscal and human resources are generally considered adequate for each of these community services at the current level of development. However, the cutback in state revenues (at the state level) allocated for public education may impact the quality of education and may result in more vacant or unused building space in both of these school districts.

In the Lake Whatcom Subarea, the major traffic corridors are considered substandard when compared to widely accepted standards for major, secondary and collector arterials. As a result, current peak-hour traffic volumes exceed the design capacity of specific roadway segments in the Geneva Analysis Area; and unless significant improvements are made to these roads, it is predicted that serious deficiencies will begin to occur on these roads by 1985. The steady increase in the amount of vehicle accidents on subarea roads may be related directly to the operational characteristics (narrow pavement width, narrow shoulders and horizontal curvature) of subarea roads. Thus, it is imperative that roadway improvement projects are completed if the county intends to maintain a safe and efficient transportation/circulation network.

The physical and biological factors inventoried in the Lake Whatcom Subarea have been segregated into six categories as follows: (1) Topography, (2) Soils, (3) Geology, (4) Surface Water, (5) Vegetation; and (6) Wildlife.

In addition, specific physical features of the Lake Whatcom Subarea include six lakes and eleven permanent streams (some fish spawning), and includes nearly all of Lake Whatcom Drainage Basin. Moreover, Lake Whatcom, the most significant of the six lakes, serves as a reservoir for storage of water from the Nooksack River diversion system, as well as stream runoff. Furthermore, Lake Whatcom is District No. 10's domestic, and Bellingham's domestic and industrial water source.

Citizen Participation and Subarea Issues

The issues of the Lake Whatcom Subarea are associated with land use, community facilities and utilities, transportation/circulation, and the physical environment. Issue development has its origin in the subarea background planning study, prepared by the Whatcom County Planning Department, and has been augmented by comments from the citizens residing within the subarea, "special districts," Bellingham officials and the Whatcom County Planning Commission. The Whatcom County Planning Staff presented the issues to subarea citizens at four separate meetings, and the planning staff presented proposed policies intended to resolve the issues at four separate meetings. (A detailed list of issues can be found in the Lake Whatcom Subarea Background Document). The following is a summary of issues as presented to subarea citizens.

In the Geneva and North Shore analysis areas, both adjacent to the municipal city limits of Bellingham, the issues are similar in nature since both areas have urban and nonurban development patterns.
Of particular concern to Geneva area residents is the most appropriate application of a future land use designation generally north of Fremont Avenue (extended east to Lake Whatcom and west to the municipal city limits) including appropriate land uses, densities and the level of public service. Although 33 lots of the Cedarhills Subdivision are sited south of Fremont Avenue, the area between Fremont Avenue and the southern most boundary of the analysis area existing residential low densities, steep slopes and generally has no existing services. Thus, the major issue relates to the most appropriate future land use designation densities and service levels. Other issues involve provision of a remedial stormwater drainage system to protect downstream properties from excess stormwater runoff, transportation planning, conservation of environmental features and protection of water quality.

In the North Shore Analysis Area, residents are particularly concerned with the appropriate designation of geographical areas for urban and nonurban development patterns consistent with future transportation planning, community facilities and utilities including management of excess stormwater runoff to protect downstream properties, conservation of environmental features and protection of water quality. Other issues involve the appropriate pattern for development, i.e. random or sequential (eastward from Bellingham's municipal city limits) and designation of the city or Water District No. 10 as the primary purveyor of water to the Urban Reserve area.

Of particular concern to residents of the nonurban rural South Bay and Squalicum analysis areas is the recognition of large contiguous areas which are not considered as prime land for either agriculture or urban uses. Because of soil conditions, absence of existing or planned services and an existing very low density land use pattern, the major issue for both areas relates to the most appropriate application of a future land use designation. Inherent in such land designations must be provisions for maintaining the rural character, allowing a multiplicity of uses, and acknowledging the physical and cultural limitations of the area. Other issues involve appropriate maintenance of the existing transportation networks for each analysis area as well as the protection of groundwater aquifers.

The Sudden Valley Analysis Area consists primarily of the Sudden Valley Subdivision. Of particular concern to the residents of the community is the appropriate application of a future land use designation in recognition of existing mixed land use and the range of public services. Inherent in such land designations must be provisions for promoting an urban character as a stable residential development with minimum emphasis on the commercial resort character while providing for the full range of public services necessary in the community. Other issues involve the operational efficiency of the private road network, an appropriate and cost-effective stormwater drainage system to replace the existing open-ditch system, and the appropriate application of a future land use designation for the nonurban development pattern that surrounds the subdivision.

The predominate land use pattern in the Forestry Analysis Area is associated with commercial forestry practices. Because of the ownership pattern, steep slopes, poorly drained soils, absence of existing or planned services, and a very low density land use pattern, the major issue relates to the most appropriate application of a future land use designation. Other issues of
concern to commercial forest interests and residents include appropriate methods to assure compatibility between forestry practices and residential or recreational uses located in the vicinity. An additional concern expressed by citizens includes environmentally sound logging practices to prevent damage to downstream properties, streams, and lakes as a result of excess stormwater runoff.

Of particular concern to subarea residents, commercial forestry interests, Bellingham, Water District No. 10's and Whatcom County officials is the protection of water quality and quantity not only in Lake Whatcom but also in the eleven permanent streams situated in the study area. Thus, inherent in the issue of an appropriate future land use designation for each of the six analysis areas is the provision for adequate and cost-effective methods to protect water quality. Other issues involve designating the Watershed as an Environmentally Sensitive Area, pursuant to the provisions of the State Environmental Policy Act, and the appropriate future land use designation in Basin III, the southern most lake basin. A nonurban land use designation may be the most appropriate to ensure a comparatively pure water source to which the Bellingham water intake pipe may be extended.
III. POPULATION FORECASTS

Introduction

The purpose of population forecasting, as it relates to land use planning, is to accommodate the long-term spatial requirements of various land uses such as residential, commercial, recreational and public. Population forecasting may also be of assistance in decision making for land use related matters such as determining the appropriate scale and location of public works facilities and land development activities. In addition, population forecasts are subject to revision which may be accomplished in the five-year comprehensive plan update process.

The population information contained herein is a summary of the forecasts prepared by several agencies. Because of the technical difficulties involved with current and projected population assessment on a subarea basis, the information has been presented by total county, unincorporated county and incorporated community. Furthermore, this information has been used in a qualitative manner or as a general guideline, rather than as a specific numerical forecast. To relate this information to the Lake Whatcom Subarea Comprehensive Plan, the following assumptions are established:

1. The majority of population growth will occur in the Geneva, North Shore, Southwest Shore and Sudden Valley URBAN RESERVE and RESIDENTIAL RURAL areas.

2. The remainder of population growth will occur in RURAL areas.

3. The rate of population growth will be at unincorporated Whatcom County rates (Table B).

Tables A, B and C, respectively, relate to total Whatcom County, unincorporated Whatcom County, and Bellingham population trends and forecasts. Figures 1, 2 and 3 present this information in a graphical format. The remainder of the information summarizes the various assumptions and variables which may affect the included population forecasts.
FIGURE I
TOTAL WHATCOM COUNTY

TABLE A
TOTAL WHATCOM COUNTY POPULATION TRENDS AND FORECASTS: 1970-2000
(INCORPORATED AND UNINCORPORATED)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Census</td>
<td>81,983</td>
<td>106,701</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CB&amp;I: EIS1</td>
<td>103,941</td>
<td>119,771</td>
<td>132,997</td>
<td>149,217</td>
<td>167,287</td>
<td></td>
</tr>
<tr>
<td>WCCOG2</td>
<td>104,876</td>
<td>122,300</td>
<td>141,160</td>
<td>160,623</td>
<td>184,910</td>
<td></td>
</tr>
<tr>
<td>OFM3</td>
<td>106,733</td>
<td>119,297</td>
<td>132,352</td>
<td>147,976</td>
<td>156,553</td>
<td></td>
</tr>
<tr>
<td>BPA4</td>
<td>102,350</td>
<td>113,625</td>
<td>123,925</td>
<td>132,750</td>
<td>141,350</td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>---</td>
<td>---</td>
<td>118,748</td>
<td>132,609</td>
<td>147,642</td>
<td>162,525</td>
</tr>
</tbody>
</table>

ANNUAL GROWTH RATES

<table>
<thead>
<tr>
<th>Period</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1970-1980</td>
<td>2.67%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1980-1990</td>
<td>2.20%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1990-2000</td>
<td>2.06%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Refer to page 13 for footnotes.
FIGURE 2
UNINCORPORATED WHATCOM COUNTY

TABLE B
UNINCORPORATED WHATCOM COUNTY POPULATION TRENDS AND FORECASTS: 1970-2000

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Census</td>
<td>34,004</td>
<td>48,628</td>
<td>56,825</td>
<td>64,456</td>
<td>74,026</td>
<td>84,769</td>
</tr>
<tr>
<td>CB&amp;I: EIS¹</td>
<td>47,652</td>
<td>56,825</td>
<td>64,456</td>
<td>74,026</td>
<td>84,769</td>
<td></td>
</tr>
<tr>
<td>WCCOG²</td>
<td>46,451</td>
<td>55,340</td>
<td>64,305</td>
<td>73,603</td>
<td>86,210</td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>---</td>
<td>---</td>
<td>56,083</td>
<td>64,381</td>
<td>73,815</td>
<td>85,490</td>
</tr>
</tbody>
</table>

ANNUAL GROWTH RATES

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3.04%⁵</td>
<td>2.84%⁶</td>
<td>2.88%⁷</td>
</tr>
</tbody>
</table>

*Refer to page 13 for footnotes.
FIGURE 3

BELLINGHAM POPULATION

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>POPULATION (1,000's)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TABLE C


<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. Census</td>
<td>39,375</td>
<td>45,794</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CB&amp;I: EIS¹</td>
<td>44,672</td>
<td>49,336</td>
<td>53,287</td>
<td>57,873</td>
<td>62,888</td>
<td></td>
</tr>
<tr>
<td>WCCOG²</td>
<td>46,000</td>
<td>52,691</td>
<td>58,890</td>
<td>65,660</td>
<td>73,210</td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>---</td>
<td>---</td>
<td>50,691</td>
<td>56,890</td>
<td>61,660</td>
<td>68,049</td>
</tr>
</tbody>
</table>

ANNUAL GROWTH RATES

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rate</td>
<td>1.52%⁵</td>
<td>2.05%⁶</td>
<td>1.83%⁷</td>
</tr>
</tbody>
</table>

*Refer to page 13 for footnotes.
Assumptions Relating to Population Forecasts

All population forecasts are based on assumptions which affect the numerical results, and population forecasting agencies do not make the same assumptions. The following items are intended to present an overview of assumptions as they relate to Whatcom County populations:

1. In-migration will continue to substantially contribute to population increases at the Washington State and Whatcom County levels.

2. The trend of decreasing family size and population per household will continue.

3. Labor market potential and location will affect population distribution, and gross natural increase and in-migration levels.

4. The purpose of the populations forecast affects assumption utilization, which in turn affects the results.

Variables Affecting Population Forecasts

Agencies which prepare population forecasts often make revisions due to changes in the variables related to assumptions. The following variable are intended as an overview for potential Whatcom County population forecast revisions and may not affect all the agencies whose forecasts are contained herein:

1. Changes in Whatcom County birth, death and in-migration rates.

2. Changes in the level of industrial development and the related labor market potential of the Cherry Point area, as well as other locations within the county.

3. Changes in the Canadian economy and the related level of Canadian spending in Whatcom County.

4. Changes in the demand for local resources (agriculture, forestry, fishing and mining raw materials or products) with respect to local consumption or state, national or international export markets.
Footnotes


2 Whatcom County Council of Governments; Population Forecasts; June, 1980.


5 Annual growth rates are based upon the official 1970 and 1980 U.S. Census figures.

6 Annual growth rates are based upon the official 1980 U.S. Census figure and the 1990 mean calculation figure.

7 Annual growth rates are based upon the 1990 and 2000 mean calculation figures.

8 In-migration is equal to total population less natural increase, in which natural increase is equal to total births less total deaths.

9 The Whatcom County Council of Government's population forecast exhibits a high correlation with the Canadian Impact Study and is thus presumed to accommodate Canadian spending.
IV. GOAL STATEMENTS

The following goals provide the general direction for making land use decisions in the subarea and Whatcom County as a whole. They were developed and adopted by the Planning Commission and County Council in July 1979.

A. Regional Design Goals

1. Future urban development should occur within or immediately adjacent to existing urban areas in order to eliminate sprawl and strip development, assure the provision of an adequate range of urban services, conserve agricultural and forestry lands, optimize investments in public services, and conserve energy resources.

2. Future development in rural areas should be low density, complement existing rural character, contribute to the conservation of agricultural and forest land, and not result in demands for urban-level services.

B. Growth Management Goals

1. To promote a conscientious program designed to plan, guide and influence the appropriate location, timing, intensity, type and servicing of diverse land use patterns.

2. To determine the required amounts of land anticipated to be utilized within the planning period (15 years) while retaining options for future land use decisions beyond the planning period.

3. To encourage a predictable pattern of urban and rural development which utilizes previously committed land areas and existing facility investments before committing new areas for development.

4. To ensure that a beneficial balance exists between the supply and demand for public services. To encourage the cooperation among municipalities, special districts, and associations in the planning and provision of public services. To discourage the proliferation of unnecessary special purpose districts.

5. To develop a concise, equitable and practical set of land use regulations intended to implement the goals, policies and proposals of the County Comprehensive Plan in a timely and orderly fashion.

C. Land Use Goals

1. To conserve the agricultural and forest lands of Whatcom County for the continued production of food, forage and timber crops while promoting the expansion and stability of the county's agricultural and forestry economies.

2. Urban residential development should be planned in areas that can be economically and efficiently served with existing or planned services, optimize energy use, function as integral neighborhood units, and can environmentally support intensive land uses.
3. Adequate community and neighborhood commercial facilities should be encouraged in appropriate locations while avoiding incompatible land use and the proliferation of unnecessary new commercial areas.

4. To encourage a balanced and diversified economy in order to assure desirable local employment opportunities, and to strengthen and stabilize the tax base. To accommodate anticipated economic development in an environmentally responsible manner with due consideration for public cost, energy availability, land use compatibility and transportation accessibility.

5. To promote the availability of economical and attractive housing for all income, age and ethnic groups, while also enhancing the integrity and identity of existing communities.

6. To promote a functional, coordinated and multi-mode transportation system which provides for the safe and efficient movement of people and goods, avoids undesirable environmental impacts, and optimizes public investments and the conservation of energy resources.

7. Adequate facilities and services which provide diverse education, recreation, cultural and social opportunities should be encouraged.

D. Cultural and Natural Resources

1. To identify and manage environmentally sensitive areas in such a manner as to prevent destruction of the resource base and reduce potential losses to property and human life.

2. To continue the identification of cultural and natural resources and formulate viable methods to preserve and conserve such resources in recognition of their irreplaceable character.

3. To promote a park and recreation system which is integrated with existing and planned land use patterns and is diverse, abundant and assures maximum public access and usage.

E. Citizen Involvement and Intergovernmental Coordination

1. To assure opportunity for citizens to be involved in the formulation of land use goals, policies and proposals, and to provide a structure for citizen participation in the planning program of federal, state, regional and local agencies.

2. To participate in intergovernmental coordination with federal, state, provincial, regional and local agencies, to develop a coordinated approach to problems which transcend local government bodies, and to create an environment for the exchange of information and technical assistance.
V. RATIONALE & LOCAIONAL CRITERIA FOR LAND USE DESIGNATIONS

The comprehensive land use map, together with the policies, designates the most appropriate locations for the various land use patterns of the subarea. The land use designations as illustrated on the Comprehensive Plan Land Use Map represent the most appropriate uses of land in the subarea for the planning period. These designations have been developed as a means of addressing or resolving particular land use issues. To be consistent in the application of the designations, as well as to avoid confusion about how the land use map was drawn, the following rationale and locational criteria for each land use designation is set forth.

A. URBAN RESERVED

Rationale

It is a well established fact in the western United States that urban areas have traditionally responded to growth pressures by adhering to policies of outward expansion. As long as this trend continues, there will be an almost constant demand for land, the most fundamental of all urban resources. Although outward expansion is accepted as a common city planning practice, problems have typically arisen when potential urban lands have been committed to long-term "nonurban" uses. Primarily caused by the lack of written public policy among governmental jurisdictions, this situation has resulted in uncoordinated and costly service systems, inefficient transportation networks, and unmanageable land use patterns.

As a means of curbing this situation that is currently developing in the urban "fringe areas" of the county, the revised Comprehensive Plan establishes the URBAN RESERVE land use designation. The rationale underlying the designation is to reserve certain land in the fringe areas of cities and other satellite communities that have previously demonstrated an urban level of densities and attendant range of urban services for future urban purposes, and encourage interim uses that are complementary and compatible with future urban densities and services. When urban services are eventually provided to these areas, land use densities shall increase and result in an orderly, economic and expeditious transition from rural to urban land use patterns. Thus, the URBAN RESERVE designation is defined as those areas adjacent to municipal boundaries which may be urbanized at such time that a full range of urban services (sewer, water, storm drainage, transportation improvements and sheriff protection) can be efficiently provided, as well as those satellite areas where urban densities and services have been previously planned. In addition, land proposed for annexation to an adjacent municipality shall be evaluated by the Boundary Review Board pursuant to RCW 36.93.170.

Locational Criteria

The criteria to be utilized for the application of the URBAN RESERVE designation includes the following:

1. Land areas adjacent to the City of Bellingham, or satellite areas, that are of sufficient size to adequately accommodate the projected demands for residential, commercial, transportation and public uses for a 10- to 15-year time frame.
2. Land areas where a range of urban services, i.e. sewer, water, storm drainage, transportation improvements, fire and sheriff protection, and parks and recreation, presently exist or can be economically and efficiently provided in the near future.

3. Areas that contain an adequate supply of vacant urbanizable land to avoid the artificial inflation of land values.

4. The boundaries of the URBAN RESERVE designation should:
   (a) be well defined, logical, provide a physical "sense of community," and be capable of being expanded to accommodate additional urban growth as the need arises; and
   (b) acknowledge existing and potential land use densities as to their urban or rural character. Urban land use densities should be included within the urban service areas; whereas, rural land use densities may be grounds for excluding such areas.

A.1 URBAN RESERVE MEDIUM DENSITY

Rationale

Through the application of the locational criteria described above, lands adjacent to municipalities or satellite areas that are considered to be urbanized within the planning period and can be served with a full range of urban services should be designated as URBAN RESERVE. Within these areas, Whatcom County recognizes the need to provide a land supply where more affordable housing types, such as condominiums, apartments, townhouses and mobile home parks, can be situated. To address this need, an URBAN RESERVE MEDIUM DENSITY comprehensive plan land use designation is provided which includes two maximum density classifications: six dwelling units per acre and twelve dwelling units per acre. The following locational criteria provides direction for the placement of the respective medium density classifications:

Locational Criteria

1. The density classification of six dwelling units per acre should be applied to areas that are adjacent to low density urban reserve areas.

2. The density classifications of twelve units per acre should be applied to areas that are either adjacent to existing or planned residential developments containing similar density levels, or adjacent to existing or planned commercial or light industrial developments where such activities are considered as complementary and compatible with multi-family residential living.

B. RESIDENTIAL RURAL

Rationale

Not all citizens prefer to live in concentrated urban areas but instead prefer a setting of less density. This setting commonly implies that urban
utility services (public provision of both sewer and water) are not planned, sheriff and fire protection are provided to a lesser degree than in urban areas, roadways have not been scheduled for capital improvements to county standards and the residential landscape is visually different from urban areas. In addition, residents of such areas are usually not self-sufficient and instead rely on urban areas for amenities such as shopping, employment and entertainment. Thus, the RESIDENTIAL RURAL designation is intended to provide land areas in close proximity to urban areas where nonurban living patterns may develop with minimal public service costs.

Locational Criteria

The criteria to be used for the application of the RESIDENTIAL RURAL designation include the following:

1. Land currently served or planned to be served with only a partial range of urban level services, i.e. publicly provided sewer or water, fire and sheriff protection, and storm drainage (where appropriate);

2. Land areas where low density residential development currently exists and where such densities are planned to continue in the future; and

3. Lands that contain soils that are generally not considered as suitable for commercial agriculture, forestry or mineral extraction.

Because of the nonurban nature of RESIDENTIAL RURAL areas, transportation facilities are limited to a secondary arterial or lower classification, and road improvements are limited to maintenance only. In addition, the boundaries of Residential Rural areas should be well defined with physical or man-made features.

C. RURAL

Rationale

The present land use pattern in several areas of the subarea are characterized by part- to full-time farming or forestry and low density residential activity. This type of landscape can be considered as "rural," i.e. an area containing a combination of pastureland, woodlots and dispersed residential settlement land use patterns.

Dispersed settlement patterns are perhaps a function of the absence of past and future public commitments concerning the provision of sewer, water and roadway improvements, and the preference to live in a very low density rural setting. Additionally, physical conditions (soils, water or topography) may have imposed constraints to higher densities of development.

These areas may also contain nonrenewable natural resources, such as soils which contribute to agricultural or forestry productivity, or sand and gravel deposits suitable for extraction.

The rural areas of the subarea offer alternative residential living styles compared to that of the urban or moderately dense residential setting. Employment alternatives also exist that are associated with part- or full-time agriculture, forestry and home occupations. In addition, the existing
parcel sizes are sufficient to accommodate future land use disposition, beyond the planning period, as agricultural, forestry or low-to-moderate density residential areas.

Thus, the RURAL designation is important in the Subarea Plan in that it provides flexibility concerning very low density residential, forestry and agricultural land uses while retaining future private and public options pertaining to land management.

Locational Criteria

The criteria to be used for the application of the RURAL land use designation include the following:

1. Lands where the existing dwelling unit density is less than one dwelling unit per two acres, average parcel size is greater than two acres, land use history indicates a blend of part- and full-time agriculture forestry and woodlot operations;

2. Lands where sewer service is provided by on-site septic disposal and water service is provided by on-site wells, surface water supplies and water associations. In addition, future water and sewer service is not intended to be supplied by city, county or district service entities; and

3. Lands that pose physical developmental constraints such as slow soil percolation rates, seasonal ponding, the presence of aquifers or groundwater recharge areas and topography in excess of 15% slope.

D. FORESTRY

Rationale

Historically, forestry and related industries have assumed a significant role in the local economy, a role which has expanded to affect state, national and international economies. Not only is forestry economically important, it is significant in the renewable resource base afforded Whatcom County through forest management. In addition, forested areas often contain nonrenewable mineral and nonmineral resources, serve as wildlife habitats and contribute to watershed management. However, as population increases, related development may create pressure to irrevocably convert forest land. Therefore, it is imperative that Whatcom County provide for the long-term productivity of forest and related resources by safeguarding such areas from conversion to nonforest uses. Planning these areas for FORESTRY will augment the continued viability of Whatcom County’s renewable and nonrenewable resource base.

Locational Criteria

Areas which are suitable for the FORESTRY designation may be identified through analysis of the following land use, social and physical factors:

1. Land use patterns indicate a predominance of large parcel sizes ranging from 20 to 640 acres.
2. Parcels are usually owned for the purpose of growing and harvesting timber by major timber industries, logging companies, the State of Washington and private individuals engaged in woodlot operations.

3. The majority of parcels are classified in current use tax assessment, consistent with the provisions of Washington State law.

4. There is a minimal amount of public roads and other services which are generally precursors to and augment residential development.

5. Certain physical constraints to residential development may also exist such as slopes in excess of 15%, soils which are not suitable for septic tanks or conventional building foundations, unstable geologic units or wildlife habitats.

6. Nonrenewable natural resources such as minerals, coal, gravel or soils which may augment forestry management may also be present.

E. PUBLIC

Rationale

This designation recognizes those parcels and facilities currently in or planned for public ownership where the primary function is to provide public services. The intent of this designation is to assure continuation and potential expansion of acreages, facilities and services at levels consistent with population requirements and effected in a manner that is compatible with surrounding land uses.

Locational Criteria

To identify areas which are suitable for the PUBLIC designation, the following criteria are employed:

1. Parcels are currently owned or considered for ownership by public agencies such as the Federal Government, State of Washington, Whatcom County, cities (when property is situated outside of municipal boundaries), and special purpose districts such as school, fire and water districts; and

2. The function of parcel ownership is to provide public services such as recreation, education, utilities, communications, transportation (not including roadways), solid waste disposal and health care.

F. QUASI-PUBLIC

Rationale

The QUASI-PUBLIC land use designation is necessary to distinguish those areas where public institutional uses exist which are under private control; and the scope of the institutional uses is different, both in function and attendant on- and off-site impacts, from surrounding land uses. Thus, the QUASI-PUBLIC designation intends to assure continuation of institutional
functions in a manner which will not be affected by or affect surrounding land uses.

Locational Criteria

Areas which should be designated as QUASI-PUBLIC shall conform to the following criteria:

1. Parcels are owned by institutions such as churches, universities, colleges, schools or private foundations; and

2. The purpose of parcel ownership is to provide education, religious training, meeting centers, day use recreation, summer camps or a combination thereof.
VI. POLICIES

Introduction

Many land use problems may arise through urbanization of the Lake Whatcom Watershed. A most fundamental concern is the effect that urbanization will have on the waters within the watershed and upon which the population of the greater Bellingham area will be dependent in the foreseeable future. Uncontrolled urbanization will degrade water quality and reduce water quantity during critical periods of the year, thereby further degrading water quality which will affect the appearance of Lake Whatcom, jeopardize public health and increase treatment costs, and hasten the need for development of supplementary water sources. Actions are recommended as necessary for the development of appropriate land use controls that are urgently required to avoid these unnecessary consequences in both the public and private interests.*

The policies contained herein provide the basis to guide and influence the appropriate location, type, intensity, timing and servicing of land use patterns within the Lake Whatcom Subarea. The policies have been developed in accordance with the planning process and are intended to respond to a myriad of issues identified by the public and private sectors of the Subarea. During the citizen participation stages of the planning process, a concern expressed by many residents was that the Planning Commission should adhere to a very conservative and cautious approach in developing the Lake Whatcom Subarea Plan to ensure against detrimental impacts to the quality and quantity of the lake's water supply. The Planning Commission has embraced this concern and has proposed a plan that, in general, presents a status quo approach to urbanization in the watershed until the various hydrological characteristics and the effects of urbanization on the watershed are more fully known. Whatcom County, together with the City of Bellingham and District No. 10, is currently applying to the Washington State Department of Ecology to fund a diagnostic and feasibility study to determine the hydrological characteristics of the watershed.

Therefore, the focus of the following policies is to promote the conservation of the Lake Whatcom Watershed through recognition of existing patterns of Urban, Rural and Forestry land uses while deterring major alternations of the existing land use patterns until the findings of the aforementioned study are available.

The following policies address the various land use designations illustrated on the Comprehensive Plan Land Use Map, community facility and utilities, environmental features and transportation.

*AD HOC Lake Whatcom Watershed Citizens Committee Report
A. URBAN RESERVE

Intent Statement

The primary purpose of the URBAN RESERVE policy is to promote an orderly transition from rural land uses and densities to urban uses and densities, while moving toward the attainment of the Regional Design Goal with respect to future urban development. In addition, the policy intends to encourage the responsible growth of urban areas by assuring that an adequate range of urban services (sewer, stormwater drainage, schools, parks, water, fire and sheriff protection) are available to support urban level densities. When such services are available, development should occur in neighborhood units which have appropriate levels of densities, uses and circulation networks.

To facilitate future urban growth, the URBAN RESERVE policy is intended to discourage the establishment of interim uses and subdivision patterns which may foreclose significant future alternatives pertaining to urban densities and the efficient provision of services. Moreover, this policy is intended to maintain, prior to the approval of an accepted site specific plan for the implementation of services, the low density character of the area and to allow reasonable uses of property by permitting compatible residential, recreational, commercial, forestry and agricultural land uses. Finally, the designation and application of the URBAN RESERVE policy is intended to accomplish the following objectives:

1. To reduce urbanization and encroachment pressures on lands that are most suitable to intensive agricultural or forestry operations.

2. To stabilize land speculation and the artificial inflation of land values in the "urban fringe" by designating an adequate amount of land for urban growth and uses during the planning period.

3. To provide land owners with a reasonable expectation of future municipal and county land use policies.

4. To reduce inequitable taxing structures on nonurban land located near urbanizing areas.

5. To conserve energy resources by reducing unnecessary travel between living, shopping and work places.

6. To encourage the conservation of natural resources and environmentally sensitive areas, both within and outside of the area designated as URBAN RESERVE.

Policy Statement

1.01 It is herein the policy of Whatcom County to plan for future urban development in certain portions of the Lake Whatcom Subarea by designating such lands as URBAN RESERVE on the Comprehensive Plan Land Use Map. The boundaries of the Geneva and the Sudden Valley URBAN RESERVE areas have been delineated in conformance with the Locational Criteria, as set forth in the previous section. The predominate land use pattern within these URBAN RESERVE areas shall be residential and related forms, including neighborhood parks, schools, neighborhood commercial, public and recreational uses.
1.02 Within the areas designated as URBAN RESERVE, the future land use patterns are intended to be urban. Similarly, the level of services should also be urban. Thus, future urban development shall be provided with a full-range of urban services that includes public sewer and water, fire and sheriff protection, transportation facilities, parks, schools and stormwater drainage systems.

1.03 Since urban services are currently being provided by a multiplicity of service entities, i.e. city, county and district, it is the policy of Whatcom County to coordinate the service areas and standards of each service entity to attain a uniform and appropriate level of urban service. (Refer to Community Facilities and Utilities Policies to determine the agency responsible for service).

1.04 To move toward the implementation of the county’s residential land use goal and to further the intent of the URBAN RESERVE land use designation, it is the policy of Whatcom County to designate and plan for new urban neighborhoods. These neighborhoods should be based on the following commonly accepted criteria: sufficient size, utilization of man-made and natural boundaries; the manageable and efficient provision of sewer, water, transportation services, fire and sheriff protection services, and stormwater drainage; and an available supply of vacant developable land. The components of a neighborhood should include the following: an elementary school, if necessary; recreational facilities, including neighborhood parks; neighborhood commercial uses; a variety of residential structures and uses; and efficient pedestrian and vehicular circulation networks.

1.05 With the intent of acknowledging existing urban development patterns and reserving land for future urban uses, densities and service levels, it is the policy of Whatcom County to establish two (2) land use densities within the areas designated for URBAN RESERVE. Where a full range of services are available, the density shall be three (3) dwelling units per acre, and where such services are nonexistent, the density shall be one (1) dwelling unit per five (5) acres. To implement this policy for each of the URBAN RESERVE areas, the following policies are provided:

1.05.1 In the Geneve Analysis Area, Whatcom County shall amend its Zoning Map to the Urban Residential zoning district. The applicable land use density shall be three (3) dwelling units per acre where sewer, water, transportation, fire and law enforcement services currently exist.

In areas where such services do not exist, the applicable density shall be one (1) dwelling unit per five (5) acres of land area.

1.05.2 In the Sudden Valley Analysis Area, Whatcom County shall amend its Zoning Map to the Urban Residential zoning district. The applicable land use density for residential development shall be three (3) dwelling units per acre where sewer, water, transportation, fire and law enforcement services currently exist. In areas where such services do not exist, the applicable density shall be one (1) dwelling unit per five (5) acres of land area.

Whatcom County shall amend its zoning map to designate tracts of R, L, J, K, S, U, Q, N-Z and P (described in the "Protective
Covenants for Sudden Valley Condominium Tracts" dated June 9, 1977 and recorded under Whatcom County Auditor's File No. 1254476) as multi-family or condominium tracts within the Medium Density (MUR-12) zoning district with maximum densities of eight dwelling units per acre to ten (10) dwelling units per acre with a commensurate reduction in single-family lots located elsewhere in the Sudden Valley Subdivision or through a reduction of multi-family units allocated to the above described tracts including Tract Y.

Whatcom County shall amend its zoning map to designate Tract Z, W, the Byron Tract and Airport: as multiple-family or condominium tracts within the Medium Density (MUR-12) zoning district with maximum densities of three (3) dwelling units per acre. Densities may, however, be increased beyond three (3) dwelling units per acre to ten (10) dwelling units per acre with a commensurate reduction in single-family lots located elsewhere in the Sudden Valley Subdivision or through reduction in multiple-family units allocated to any parcels in Sudden Valley.

(a) Reduction of single-family lots for the purpose of increasing the density on said tracts shall be accomplished as follows: Platted single-family building lots shall be procured consistent with the provisions of Title 20.20.252 and/or 20.83.020 and .080 and designated as nondevelopable lots through the filing of an irrevocable deed restriction which has been certified by the Whatcom County Zoning Administrator. Said deed restriction shall also indicate the total number of additional units to be added to the respective area tracts resulting from the reduction of single-family lots.

(b) Reduction of multi-family units for the purposes of increasing density on said tracts shall be accomplished as follows:

Multi-family dwelling units that are allocated to said tracts may be transferred between said tracts through the filing of an irrevocable deed restriction, certified by the Whatcom County Zoning Administrator, that indicates the number of multi-family dwellings remaining on the various area tracts from which such units have been transferred and the corresponding increase in additional multi-family units to be allocated.

1.05.3 At such time that a full range of urban level services (public sewer, water, transportation, storm drainage, fire and law enforcement) can be provided to previously unserviced lands within the URBAN RESERVE area, Section 20.20.250 of the Official Whatcom County Zoning Ordinance shall be applicable.

1.06 Within the URBAN RESERVE areas, a clustering option shall be provided to the applicant for the new land subdivisions. The purpose of this option is to provide economic flexibility to the individual property owner, promote economic lot design, conserve nonrenewable natural resources and environmentally fragile areas, retain future options with respect to land use decisions, and maintain the low density Residential character of the
area. When applying the "clustering option," the URBAN RESIDENTIAL zone classification, as established in the zoning ordinance, shall be utilized to establish the overall density of the parcel of record. New land subdivisions for residential purposes shall be designed consistent with the following policies:

1.06.1 To minimize encroachments (ingress and egress) along county roads, subdivision design shall be discouraged from forming lineal residential patterns adjacent to said roads.

1.06.2 When practicable, structures on open landscapes should be sited and designed to minimize disruptions of views from adjacent properties and public roadways. In addition, it is preferred that residential structures be placed at the perimeter of fields or within existing wooded areas (although the application of solar energy technology may require some departures from these preferences in specific instances).

1.06.3 When a "cluster" subdivision is situated adjacent to less intensive uses (agriculture, forestry or large parcel residential), the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances on to less intensively utilized parcels.

1.07 The cluster method of subdivision is defined as an alternative method of creating building parcels that involves:

(a) Concentrating spatially efficient and marketable building lots while preserving the intent of the land use district; and

(b) retaining options for future uses and densities by treating the land as both a commodity and a resource.

The density of the use district defines the number of allowable dwelling units per land area. Land area not used for building purposes is designated as "Reserve Tract." Section 20.20.300 of the Official Whatcom County Zoning Ordinance further describes the purposes and uses of Clustering and the Reserve Tract.

1.08 Existing and planned land use patterns in the Geneva and Sudden Valley URBAN RESERVE areas are intended for low density residential uses. As these areas develop, it is anticipated that a demand will exist for neighborhood commercial uses. To accommodate this anticipated demand, the following policies are provided:

1.08.1 The Sudden Valley URBAN RESERVE area should be provided with neighborhood commercial shopping complexes to accommodate the neighborhood's demands for convenience goods and services. Selection of the most appropriate site should be consistent with the following: located on a collector or secondary arterial, centrally located to the service area of the neighborhood, and be approximately five (5) acres in size.

In addition, the architectural and design should be compatible with the residential character of the neighborhood.
To acknowledge the existing marina and resort near Strawberry Point, Whatcom County shall designate such use as a legal nonconforming use which shall be administered under the applicable provisions of the zoning ordinance.

1.08.2 To acknowledge the neighborhood commercial uses in the Geneva URBAN RESERVE area, such uses shall be conditionally permitted in the Urban Residential zoning district.

1.08.3 To acknowledge the geographical area in Sudden Valley containing the restaurant, clubhouse and leased condominiums as a resort area. This commercial area shall be implemented with a new zoning district which shall be incorporated into the Official Whatcom County Zoning Ordinance.

1.09 At present, several productive, large lot residential land use forms exist within the areas designated as URBAN RESERVE. Because of their well-established nature, it is conceivable that such areas may not be converted to increased urban densities in the future. As urbanization occurs on the periphery of these areas, it is important to maintain their respective character and stability while ensuring against detrimental impacts. Thus, the following design standards shall be applied to adjacent urban development:

1.09.1 Residential subdivisions and other urban uses shall buffer themselves with adequate landscaping, screening or fencing to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto less intensively utilized parcels.

1.09.2 Where practicable, subdivision and other urban uses shall be designed in such a manner as to channel their activity sources (vehicular and pedestrian networks) to the interior spaces of the site.

1.10 As part of the effort to effectively manage urban growth and so that the City of Bellingham may be aware of major subarea activities which may affect its best interests, the following policies are provided:

1.10.1 To further a joint exchange of information, Whatcom County shall send copies of applications of major land use, transportation and service entity activities proposed within the subarea to the City of Bellingham within fifteen (15) days of application receipt by the county.

1.10.2 The City of Bellingham is requested to send copies of future proposals concerning the expansion of the City's Water Service Zone and Sewer Service Zone boundaries to the Whatcom County Planning Department. The purpose of such referral is to afford the county's input in the delineation of the boundary, as well as any related Comprehensive Plan and zone district changes.

1.11 While it is not anticipated that adjustments to the URBAN RESERVE land use designation will be necessary within the planning period, unexpected population growth of the subarea may result in a need to expand the area designated as URBAN RESERVE. If such need exists, the Comprehensive Plan should be amended consistent with the Amendment Criteria Section to include additional urbanizable land commensurate with the demand.
B. RESIDENTIAL RURAL

Intent Statement

The intent of the RESIDENTIAL RURAL land use designation is to maintain the existing low density character of an area. Densities should range from one (1) dwelling unit per acre to two (2) dwelling units per acre, depending upon the range of county approved services and existing lot sizes. If there is adequate transportation capacities, publicly provided sewer or water, and lot sizes of greater than one acre exist or are planned, the density of residential development shall be one (1) dwelling unit per acre. Where a partial range of services exist or are planned, and the average lot size is less than or equal to 18,000 square feet, the density of residential development shall be two (2) dwelling units per acre. As a means of efficiently utilizing land, maintaining the present low density residential character, and retaining options regarding increased densities and services in the future, it is the intent of the RESIDENTIAL RURAL designation to provide for the option of "clustering" in the design of new subdivision proposals.

Policy Statement

1.01 Recognizing the past public commitments that have been made for low density residential and related uses, it is the policy of Whatcom County to designate the following areas as RESIDENTIAL RURAL and to depict the areas as such on the Comprehensive Plan Land Use Map:

1.01.1 The North Shore area which is generally bounded by the City of Bellingham on the west, the shoreline on the south, the eastern boundary of Water and Sewer District No. 10's ULID #11 on the east and north, and the Bonneville Power Administration Powerlines and boundary of the RR-2 zone line on the north.

The Squalicum Mountain area which exists north of the watershed boundary in Sections 13 and 14, Township 38 North, Range 3 East.

1.01.2 The Southwest Shore area which is generally bounded by Strawberry Point, the shoreline, the Lakewood-Sudden Valley property lines, and a portion of the State of Washington plat and the southwest quarter of Township 34, Section 38 North, Range 3 East.

1.01.3 The South Bay area which is generally bounded by the shoreline, the Whatcom County Park Department property line and South Bay Drive.

1.02 Within the area designated as RESIDENTIAL RURAL, typical uses shall include single-family attached and detached dwellings, preferably in a "cluster" formation; public parks and recreation facilities; home occupations; and neighborhood grocery stores.

1.03 Whatcom County shall implement the RESIDENTIAL RURAL land use designation by application of the RESIDENTIAL RURAL zone district, in which the residential density ranges from one (1) dwelling unit per acre to two (2) dwelling units per acre.

1.03.1 The density of one (1) dwelling unit per acre shall apply to the following areas: The North Shore area bounded by the ULID 16
eastern boundary described as that portion of the east line of the west half of the southwest quarter of the southeast quarter of Section 24, Township 38 North, Range 3 East of W.M., Whatcom County, Washington, lying northerly of North Shore Road and southerly of the southerly line of Bonneville Power Administration transmission line easements across said southwest quarter of the southeast quarter on the west, the Bonneville Powerlines right-of-way on the north, Sewer and Water District No. 10's ULD #11 on the east and north, and North Shore Drive on the south and the South Bay area.

1.03.2 The density of two (2) dwelling units per acre shall apply to the Southwest Shore and North Shore area (as described in Policy 1.01.1) excluding those lands described in 1.03.1 above.

1.04 Within the RESIDENTIAL RURAL zone district, new land subdivisions for residential purposes may be designed with either a conventional or cluster lot layout pattern. Whichever subdivision pattern is used, the following policies shall pertain to the subdivision design.

1.04.1 The overall density of development, pertinent to the original parcel of record, shall not exceed the density provisions addressed in Policies 1.03.1 and 1.03.2 above.

1.04.2 To minimize encroachments (ingress and egress) along existing county roads, subdivision design shall be discouraged from forming lineal residential patterns adjacent to said roads.

1.04.3 When practical, structures should be designed to minimize disruption of views, maximize solar heating opportunities and conserve existing vegetative cover.

1.04.4 When a subdivision is situated adjacent to less intensive land use designations such as FORESTRY or RURAL, the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto other less intensively utilized areas.

1.05 The existing neighborhood commercial uses in the Agate Bay area shall be conditionally permitted within the Residential Rural zone district.

1.06 The cluster method of subdivision is defined as an alternative method of creating building parcels that involves:

(a) concentrating spatially efficient and marketable building lots while complying with the intent of the land use district; and

(b) retaining options for future uses and densities by treating the land as both a commodity and a resource.

The density of the use district defines the number of allowable dwelling units per land area and establishes a minimum lot size. Minimum lot size is intended to be consistent with Whatcom County Health Board Rules and Regulations concerning soil percolation rates for septic systems. Land area not used for building purposes is designated as a "reserve tract" and should be used for agriculture,
forestry, open space or future subdivision at such time the Comprehensive Plan is amended to allow an increase in density. The Official Whatcom County Zoning Ordinance describes the density for various land use districts where the cluster method can be utilized, the criteria to be used in designing building lots, and the provisions of the reserve tract.
C. RURAL

Intent Statement

The primary intent of the RURAL policy is to provide areas of multiple use suitability such as agriculture, forestry, mining, low density residential and home occupations. The multiple use potential of RURAL areas may be contrasted with those of other areas within which past commitments such as residential subdivisions and attendant services or resource availability, i.e. agricultural soils or timber stands, have dictated single land use suitability.

An additional intent of the policy is to move toward attainment of the Regional Design Goal with respect to future rural development in which residential density should be low, not result in a demand for urban services (publicly provided sewer and water, storm drainage, fire and sheriff protection, and transportation improvements), conserve agricultural and forest lands, and complement the existing "rural" character. The "rural" character may be defined as an area where there is a mixture of pastureland, cropland, woodlots and dispersed settlement land forms.

The RURAL policy is also intended to acknowledge physical and cultural factors which currently are and during the planning period will continue to be limitations to higher densities. Physical factors relate to soil percolation rates, depth to groundwater level, steep topography, and the presence of aquifers; whereas, cultural factors pertain to the absence of public services and circulation networks. Moreover, this policy intends to conserve environmentally fragile areas and retain future access options with respect to nonrenewable natural resources (sand, gravel, coal and minerals, and soils which contribute to agricultural and forest productivity).

To encourage the multiple land use potential, retain the "rural" character of the area, acknowledge factors which may preclude higher densities, and retain future options with respect to land use decisions and natural resource utilization, it is the intent of the RURAL policy to provide the option of "clustering" in the design of new rural subdivisions.

Policy Statement.

1.01 It is herein the policy of Whatcom County to designate portions of the Lake Whatcom Subarea, which are consistent with the Rural Locational Criteria, as RURAL and depict them as such on the Comprehensive Plan Map. Applicable areas include the following:

1.01.1 The "Y" - Squalicum area which is generally bounded by the subarea boundary on the north, the topographic break between 0-15 and 15-30% slope on the east and west, and the Bonneville powerline right-of-way on the south.

1.01.2 The Toad Lake area which is generally bounded by Toad Lake Road and the subarea boundary on the west, the Bonneville powerline right-of-way on the south, and timber lands on the north and east.

1.01.3 The North Shore-Sunnyside area which is generally bounded by the Bonneville powerline right-of-way on the northeast, the Whatcom County Park Department property on the southeast, the shoreline on
the west, and Water District No. 10's ULID boundary on the northwest.

1.01.4 The Park Road valley area which is generally bounded by timber lands on the north, east and south, and South Bay Drive on the west.

1.01.5 The South Bay area which is generally bounded by the shoreline, South Bay Drive, the intersection of Cain Lake Road and South Bay Drive on the north, timber lands on the east and west, and the subarea boundary on the south.

1.01.6 The South Lake Whatcom Boulevard area which is generally bounded by Lake Whatcom Boulevard on the west, the Firs property on the north, the shoreline on the east, and the intersection of Cain Lake Road and South Bay Drive on the south.

1.01.7 The upper Geneva area which is generally bounded by the URBAN RESERVE and RESIDENTIAL RURAL plan designation on the north, FORESTRY plan designation on the south, and the RESIDENTIAL RURAL plan designation on the east and west.

1.01.8 The Blue Canyon area which is generally bounded by Park, the 420 foot contour line and the shoreline.

1.01.9 The Academy Road area bounded by the city limits on the west, the Bonneville Powerline right-of-way on the north and east, and the northern boundary of the RR-2 zone line on the south.

1.02 The RURAL land use designation shall be implemented through the use of the Rural zone district which allows a maximum land use density of one (1) dwelling unit per two (2) acres and one (1) dwelling unit per five (5) acres. Consistent with the Locational Criteria for the RURAL land use designation, the density of one (1) dwelling unit per two (2) acres shall be applied to the South Lake Whatcom Boulevard area, South Bay area, the upper Geneva area, the Blue Canyon area, the Academy Road south of Academy Road and the North Shore-Sunnyside area. The density of one (1) dwelling unit per five (5) acres shall be applied to the Toad Lake, "Y" - Squalicum, Park Road valley, and the Academy Road area north of Academy Road and upper Geneva areas.

1.03 The existing neighborhood commercial use and in the South Bay area shall be conditionally permitted within the Rural zone district.

The existing resort uses in the South Bay area shall be considered as legal nonconforming uses and thus will be administered under the applicable provisions of the zoning ordinance.

1.04 The option of clustering in the design of new subdivisions is provided as a means of maintaining the low density rural character, conserving natural and environmentally fragile areas, and encouraging site design to reflect both physical and economic conditions while retaining future options with respect to land use decisions. When applying the "clustering option," the appropriate zone classification shall be utilized to establish the overall density of development pertinent to the parcel of record. For example, a forty acre parcel situated within a Rural Five Acre (R5A) zone
classification could have a maximum of eight building lots with the minimum lot size established consistent with the Whatcom County Health Department’s regulations for on-site septic disposal systems. In addition, new land subdivisions for residential purposes shall comply with the following policies:

1.04.1 To minimize encroachments (ingress and egress) along existing county roads, subdivision design shall be discouraged from forming lineal residential patterns adjacent to said roads.

1.04.2 When practical, structures on open landscapes should be sited and designed to minimize disruptions of views from adjacent properties and public roadways. In addition, it is preferred that residential structures be sited within the periphery of wooded areas to complement and further the rural character of the area.

1.04.3 When a "cluster" subdivision is situated adjacent to less intensive uses (agriculture, forestry or large parcel residential), the subdivision shall be buffered at the site periphery to prevent the encroachment of vehicles, pedestrians, animals and nuisances onto less intensively utilized parcels.

1.05 The cluster method of subdivision is defined as an alternative method of creating building parcels that involves:

(a) concentrating spatially efficient and marketable building lots while maintaining the intent of the land use district; and

(b) retaining options for future uses and densities by treating the land as both a commodity and a resource.

The density of the use district defines the number of allowable dwelling units per land area and establishes a minimum lot size. Minimum lot size is determined consistent with Whatcom County Health Board Rules and Regulations concerning soil percolation rates for on-site septic systems. Land area not used for building purposes is designated as a "reserve tract" and should be used for agriculture, forestry, open space or future subdivision at such time as the Comprehensive Plan is amended. The Official Whatcom County Zoning Ordinance describes the density for various use districts where the cluster method can be utilized, the criteria to be used in designing building lots and the provisions of the reserve tract.

1.06 It is the policy of Whatcom County to encourage property owners to conserve Prime Farmlands, Farmlands of Statewide Importance and forested areas by utilizing the provisions of RCW 84.34.
D. FORESTRY

Intent Statement

The FORESTRY designation intends to move toward attainment of the Whatcom County Goal Statements which address the conservation of forest lands and provide for the continued economic vitality of forest industries. To accomplish such, the FORESTRY designation intends to identify areas which are suitable for the long-term productivity and sustained use of forest resources. To minimize conflict with and encroachment by nonforest uses, and to guard against forest land conversion, the policies intend to discourage residential and recreation/residential uses. Moreover, the FORESTRY designation intends to accommodate other compatible and related uses such as nonrenewable resource extraction, wildlife management, watershed management and dispersed recreation. Finally, the FORESTRY designation intends that uses are conducted in accordance with applicable local, state and federal regulations.

Policy Statement

1.01 It is the policy of Whatcom County to designate those portions of the Lake Whatcom Subarea which conform to the Locational Criteria established in the previous section as FORESTRY on the Comprehensive Plan Land Use Map. To implement this policy, the existing Rural, Rural Farm, Potential Suburban and Forestry designations shall be repealed and amended to FORESTRY, consistent with the policies stated herein.

1.02 The principal use of FORESTRY areas shall be sustained yield forest management which is conducted in accordance with the Washington State Forest Practice Act (RCW 76.09) and the rules and regulations promulgated thereunder (WAC 222), as administered by the Department of Natural Resources. Forest management includes practices such as timber production, harvesting and reforestation; forest chemical use; logging road construction and maintenance; fire prevention and suppression; the protection of public resources including water quality, fish and wildlife, and seed orchards; and small, private timber production such as woodlot operations.

1.03 Secondary uses of FORESTRY areas shall include forest industries which are a necessary adjunct to forest management; utilities such as electrical transmission line corridors, microwave relay stations, and micro and small scale hydro-electric generation facilities; dispersed and low intensity recreational activities; mineral and nonmineral extraction; and fish, wildlife and watershed management.

1.04 It is the policy of Whatcom County to require local public review of secondary uses in FORESTRY areas with the intent of determining the following:

1.04.1 The use will not cause a permanent and irrevocable commitment of the forest resource to other uses.

1.04.2 The use will not prohibit or impact the intensive operation of adjoining forest practices.

1.04.3 The use will have fire prevention and suppression plans, and will not create a fire hazard for adjoining forestry operations.
1.04.4 The use is in compliance with all applicable local, state and federal regulations.

1.04.5 When proposed to be situated within the Lake Whatcom Watershed, the use will not significantly impact or degrade surface and subsurface water quality and quantity characteristics.

1.05 It is the policy of Whatcom County to establish twenty (20) acres as the minimum parcel size for sustained yield forest management, as well as to safeguard forest lands from potential impacts generated by secondary uses.

1.06 It is the policy of Whatcom County to foster compatibility between forest practices and residential uses by establishing a minimum parcel size of twenty (20) acres for each residence, requiring all residential and related structures to be situated a minimum of two hundred (200) feet from parcel boundaries, and assuring that all potential residents are clearly informed of the principal use of FORESTRY areas and the intensive forest practices which may reasonably and lawfully occur in the normal course of forest management.

1.07 It is the policy of Whatcom County to implement the FORESTRY designation and policies with the Forestry zone district which shall also include provisions for the above stated Policies 1.02, 1.03, 1.04, 1.05 and 1.06.

1.08 It is the policy of Whatcom County to encourage the Department of Natural Resources to continue county notification of all classes of forest practice applications. In addition, the county shall encourage the DNR to conduct public information programs, when jointly determined to be necessary, concerning forest practices which are proposed to occur within the Lake Whatcom Watershed.

1.09 It is the policy of Whatcom County to encourage private forest and woodlot owners to conserve the county forest resource base by utilizing the current use tax assessment provisions of RCW 84.28, RCW 84.33 and RCW 84.34.

1.10 Pursuant to the provisions of RCW 79.68 (Multiple-Use Concept in Management and Administration of State-owned Lands), it is the policy of Whatcom County to encourage continued multiple-use management of state-owned forest lands.
E. PUBLIC

Intent Statement

With reference to parcels which currently are owned or planned for ownership by public agencies, the intent of the following policies is to implement the County Goal Statements relating to public facilities and services, and to assure the continued public provision of a variety of services in a manner that is commensurate with population levels and requirements. Furthermore, the policies are intended to optimize public investments and promote compatibility between public functions and surrounding land uses.

Policy Statement

1.01 It is the policy of Whatcom County to designate areas as PUBLIC on the Comprehensive Plan Land Use Map when such areas are consistent with the Locational Criteria of the previous section. Typical uses in PUBLIC planned areas include facilities and services related to the provision of recreation, education, utilities, communications, solid waste disposal, health care and water diversion works.

1.02 Within the Lake Whatcom Subarea, the following uses shall be designated PUBLIC: state and county-owned parks, wildlife reserves and fish hatcheries; schools; fire stations; health care facilities; district owned water treatment plants and storage facilities; district owned sewer transmission facilities; federally owned electrical transmission line corridors; and municipally owned water diversion corridors.

1.03 Implementation of the PUBLIC designation shall be accomplished by:

1.03.1 application of the Recreation and Open Space zone to public recreation areas; and

1.03.2 by designating all other public functions to be used by right or condition within Whatcom County zoning districts.

1.04 Pursuant to the Inter-Local Cooperation Act (RCW 39.34), it is the policy of Whatcom County to encourage public agencies to prepare and adopt long-range plans which address future land, facility and service requirements; the objective of which is to coordinate public and private activities, as well as to minimize potential future conflict between various public agencies and the private sector regarding plan implementation.

1.05 It is the policy of Whatcom County to cooperate and coordinate with the Whatcom County Parks Department in the integration of existing park plans into a Recreation and Open Space Element which will augment the County Comprehensive Plan. In addition, the County Parks Department shall be encouraged to participate in neighborhood park planning within the areas designated as URBAN RESERVE and RESIDENTIAL RURAL on the Comprehensive Plan Land Use Map.

1.06 It is the policy of Whatcom County to encourage public agencies to attain those parcels which benefit the continued operation of their function. Whenever practical, joint agreements between agencies shall be encouraged to expedite efficient public expenditure.
1.07 Whenever practical, it is the policy of Whatcom County to encourage multi-
purpose use of public land facilities and services.

1.08 It is the policy of Whatcom County to minimize visual and functional impacts
of PUBLIC land uses through utilization of aesthetic site design which is
compatible with the character of the surrounding area.
F. QUASI-PUBLIC

Intent Statement

QUASI-PUBLIC land uses are defined as institutional uses operated for the public but under private control. The Quasi-Public uses that exist in the subarea include religions, educational, recreational and institutional facilities. These uses warrant a separate land use designation due to their distinctive character and variable impacts with surrounding uses.

Thus, the following policies serve to identify the type of use, location, and zoning of the quasi-public uses and properties within the Subarea.

Policy Statement

1.01 Whatcom County shall designate the following institutional uses and properties on the Comprehensive Land Use Plan Map as Quasi-Public: the Blue Canyon Foundation, north of Agate Bay; the Firs Bible and Missionary Conference Center property in Geneva and south of Sudden Valley; the Western Washington University Lakewood facility north of Sudden Valley; and the Bellingham School District conservation and educational site in South Bay.

1.02 Because of the relatively small size of the designated Quasi-Public areas, implementation shall be accomplished by application of the adjacent zoning district which is the most consistent with the character of each respective Quasi-Public area. In addition, because of the various impacts associated with Quasi-Public uses, such uses shall be permitted as conditional uses within the respective zoning district.
G. COMMUNITY FACILITIES AND UTILITIES

Intent Statement

One of the most important factors in comprehensive planning is the relationship between land use and the provision of public services. Proportionate with the increase in land use density and attendant population levels is the increase in demand for services such as efficient sewer and water systems, efficient and safe transportation networks, adequate school and park systems, stormwater drainage systems, and capable fire and police protective services. In areas that are currently undeveloped yet planned for future urban development, the residents of Whatcom County shall be apprised of the necessary increase not only in utility services, but also in adequately staffed and equipped sheriff and fire protective services. As growth occurs in "urban fringe" and rural areas, local governments have been typically confronted with service issues that can be summarized as follows:

What governmental jurisdiction should provide the demanded services?

What is the difference between urban and nonurban services, and where do urban services stop and nonurban begin?

Under what conditions should urban and nonurban services be provided?

What services can be economically provided to both city and county jurisdictions or by a single-service purveyor?

It is the intent of the following policies to define Whatcom County's role and responsibility concerning the above issues, and to further ensure that a beneficial balance exists between the supply and demand for services, as well as encourage the cooperation among municipalities, special districts and water associations in the planning and provision of public services.

Policy Statement

1.01 It is herein the policy of Whatcom County to cooperate and coordinate with the City of Bellingham, Whatcom County Water Districts Nos. 7 and 10, Whatcom County Fire Protection Districts Nos. 2, 4 and 18, Bellingham and Mt. Baker School Districts, "Y" - Squalicum Water Association and the State of Washington in planning subarea service systems.

1.02 As described in the URBAN RESERVE policies, land areas inside the URBAN RESERVE designation are intended for urban type densities and shall be provided with a full range of urban services including publicly provided sewer and water, fire and sheriff protection, transportation and stormwater drainage systems. Therefore, Whatcom County recognizes specific service purveyors for the delivery of urban services in each of the designated URBAN RESERVE areas as follows:

1.02.1 SUDDEN VALLEY:

Sewer and Water: Whatcom County Water District No. 10

Stormwater Management: Sudden Valley Community Association and Whatcom County
Law Enforcement: Whatcom County Sheriff’s Department and S.V.C.A.

Fire Protection: Whatcom County Fire Protection District No. 2

Transportation: Whatcom County and S.V.C.A.

1.02.2 GENEVA:

Sewer and Water: Whatcom County Water District No. 10

Stormwater Management: Whatcom County

Law Enforcement: Whatcom County Sheriff’s Department

Transportation: Whatcom County (roadways) and City of Bellingham (public transit)

Fire Protection: Whatcom County Fire Protection District No. 2

1.03 It is the policy of Whatcom County to encourage the placement and extension of sewer and water lines in a manner that is contiguous to existing development(s). Such phased line placement is intended to discourage the occurrence of "leapfrog" development.

1.04 Lands situated outside the URBAN RESERVE areas are planned for nonurban land use densities, and thus services are intended to be commensurate with planned uses and densities for the following land use designations:

1.04.1 RESIDENTIAL RURAL: On-site domestic waste water disposal systems and individual wells, or one public utility, i.e. sewer or water provided by District No. 10; on-site or off-site stormwater detention via the regional stormwater drainage system; volunteer fire protection from a Whatcom County Fire Protection District; public service oriented law enforcement from the Whatcom County Sheriff’s Department; and transportation provided by a collector arterial, maintained by Whatcom County.

Service Improvements Moratorium: Extension of existing or construction of new public facilities and private service systems to facilitate urban development in the North Shore Residential Rural designation within the watershed shall be delayed until an assessment of potential impacts to the watershed caused by the implementation of said designation is completed. Said assessment shall be one of the tasks of Phase I of the Department of Ecology funded water supply study and shall be completed no later than December 31, 1983.

As referenced above, new public facilities shall include public sewer, water, storm drainage and transportation improvements and extensions while private service systems include water associations. This policy does not apply to contracts for water service that have been executed between the City of Bellingham and Water and Sewer District No. 10 prior to the adoption of the Lake Whatcom Subarea plan, individual wells or connections to the North Shore sewer line to serve existing platted lots of record, or the
areas within two or more ULID's existing at the time of the adoption of the Lake Whatcom Subarea Comprehensive Plan.

This policy does also not apply to preliminary plat applications that have been filed prior to the adoption of this policy and the time limits that the County Council must act on the preliminary plat as described by statute have expired.

1.04.2 **RURAL and FORESTRY:** On-site domestic waste water disposal systems and individual well or water associations volunteer fire protection from a Whatcom County Fire Protection District and the Department of Natural Resources; public service oriented law enforcement from the Whatcom County Sheriff's Department; and transportation provided by a collector arterial maintained by Whatcom County.

1.04.3 **QUASI-PUBLIC:** Public sewer and water from District No. 10 or on-site domestic wells, storm drainage, volunteer fire protection from a Whatcom County Fire Protection District; public service oriented law enforcement from the Whatcom County Sheriff's Department; and transportation provided by a collector arterial maintained by Whatcom County.

1.05 It is the policy of Whatcom County to request the City of Bellingham and Water District No. 10 to amend their Comprehensive Sewer and Water plans consistent with the level of service and geographic service area as described in Policies 1.02 and 1.04 of this section, and pursuant to RCW 57.16.40 and RCW 36.70.520.

1.06 It is herein the policy of Whatcom County to require stormwater drainage facilities inside URBAN RESERVE areas and RURAL RESIDENTIAL areas where the maximum density is two (2) dwelling units per acre. To implement this policy, Whatcom County shall seek a grant from the State Department of Ecology to develop a regional stormwater management plan for the Lake Whatcom Subarea. Moreover, it is the intent of Whatcom County to facilitate a cooperative effort in development of such a plan among affected service entities. To acknowledge this policy in each of the URBAN RESERVE and appropriate RURAL RESIDENTIAL areas, the following policies are provided:

1.06.1 **Geneva:** On-site stormwater collection and retention shall be required for all new property development and land use modification until the county adopts and implements a regional stormwater management plan.

1.06.2 **Sudden Valley:** On-site stormwater collection and retention shall be required for all new property development and land use modification until the Sudden Valley Community Association implements a stormwater drainage plan.

1.06.3 **North Shore:** On-site stormwater collection and retention shall be required for all new property development and land use modification until the county adopts and implements a regional stormwater management plan.
1.06.4 The North Shoreline and Southwest Shore: On-site stormwater collection and retention shall be required for all new property development and land use modification until the county adopts and implements a regional stormwater management plan.

1.07 Whatcom County shall continue to recognize Puget Power and Light as the primary energy purveyor in the subarea; however, the county encourages the use of alternative energy systems for residential, commercial, quasi-public and public land uses.

1.08 It is the policy of Whatcom County to assure that the necessary staff and equipment are available in the Whatcom County Sheriff's Department to provide adequate protective services commensurate with projected population levels in the Lake Whatcom Subarea.
H. **TRANSPORTATION/CIRCULATION**

**Intent Statement**

Transportation/Circulation is one of the key elements in comprehensive land use planning since the changes in land use density and corresponding population levels often result in the need to build new roads or to improve the operational efficiency of existing roads.

Therefore, in the Lake Whatcom Subarea it is the intent of Whatcom County to plan new road construction projects in the North Shore URBAN RESERVE area while maintaining improvement projects currently designated in the county's Transportation Improvement Program (TIP), such as operational improvements to Lake Louise, Lakeway and Austin streets as well as construction of the Whatcom Connector.

Furthermore, Whatcom County intends to provide the policy framework with which the private and public sectors can make appropriate transportation decisions with respect to fiscal responsibility and the coordination of construction projects. In addition, Whatcom County intends to adopt new road design standards and specifications which will provide an appropriate road classification system which can be implemented in the Lake Whatcom Subarea.

It is also the intent of Whatcom County to cooperate with the City of Bellingham in both land use and transportation planning in order to avoid disruption of downstream traffic patterns.

The programmed sequence and coordination of road construction projects and the implementation of design standards and specifications is also intended to provide in a more efficient transportation system resulting in more efficient use of energy and enhanced environmental conditions.

In summary, it is the intent of the following policies to ensure that land use and transportation planning mutually support the safe and efficient movement of people and goods, while optimizing public investments in the existing circulation system. Furthermore, it is the intent of Whatcom County to move toward the attainment of the Whatcom County Goal Statements with respect to transportation planning.

**Policy Statement**

1.01 It shall be the policy of Whatcom County to coordinate and cooperate with the City of Bellingham in the planning of new arterial routes in the Lake Whatcom Subarea.

1.02 It is the policy of Whatcom County to acknowledge the currently programmed Whatcom Connector as the most important road construction project in the Subarea.

1.03 It is the policy of Whatcom County to encourage the construction of new roads in a manner that is contiguous to existing development. Such phased road construction is intended to discourage the occurrence of "leap frog" development within the areas designated as URBAN RESERVE.
1.04 It shall be county policy to implement the road classification plan as designated on the Lake Whatcom Subarea Roadway Classification Map through conformance with the following policies:

1.04.1 It shall be the policy of Whatcom County to develop Street Standards and Specifications that define the precise urban level transportation standards to be applied within the subarea. Such standards shall also include a variety of design standards for residential streets; design options for reducing imperviousness of road or pedestrian surfaces; access control plans for each functional road classification; drainage consistent with a regional stormwater management plan; standards for roadside features and pedestrian facilities; and roadway geometrics.

1.04.2 It shall be the policy of Whatcom County to reduce the amount of impervious surfaces including streets, driveways, sidewalks, etc., whenever possible, by using "natural" engineering design methods such as the use of open, shallow, grassed street swales instead of curbs and gutters. In addition, Whatcom County shall encourage the use of alternative surfacing options such as porous asphalt pavement, precast interlocking blocks, and rolled brick or cinder chips to reduce imperviousness of driveways. Natural design methods and surfacing options can aid in reducing total surface runoff, slowing of concentration and capturing particulates.

1.04.3 Whatcom County shall use the development approval process (subdivision, zoning and building permit) to establish community circulation patterns and to secure right-of-way and construction of all functional road classifications.

1.04.4 Through the development approval process (subdivision, zoning and building permit), Whatcom County shall identify the short and long-range transportation (traffic) impacts to subarea roads by computing the estimated number of vehicle trips generated by a project and comparing those computations against the planned level of service for each road segment (according to the Whatcom County Engineering Department design standards and specifications) impacted by the project including intersections. If it is determined that a proposed development will cause transportation (traffic) impacts which will result in a level of service below that planned for all affected road classifications, Whatcom County shall request the developer to make the necessary improvements to maintain the pre-planned level of service or to make an equivalent cash contribution.

1.04.5 It is herein the policy of Whatcom County to change the street name Terrace Avenue to Cable Street, which is that portion of roadway from Lakeway Drive to Cable Street.

1.05 It is herein the policy of Whatcom County to approve new road construction projects or improvements to existing roads consistent with a regional stormwater management plan for the URBAN RESERVE areas designated on the Lake Whatcom Subarea Comprehensive Land Use Plan Map. Should the private or public sector begin such projects before the plan is complete, the county shall implement appropriate measures to assure total containment of excess stormwater runoff for each development proposal. Upon completion of a
stormwater management plan, land area currently used for retention may be converted to permitted uses and densities consistent with the applicable zone district.

1.06 Where appropriate it shall be county policy to allow developers of small projects (15 lots or less) to build a half width road which will be classified below a collector arterial provided that all affected property owners agree to participate in completing the road.

1.07 It is herein the policy of Whatcom County to promote and encourage the availability of public transit as demand increases in the Lake Whatcom Subarea. The public transit system shall be designed to encourage the use of said system by providing frequent and convenient access points, and by integrating transit services with other transportation modes, such as bus systems, park and ride lots for automobiles and bicycles, and bus, railroad and airline terminal facilities.

Any major program change in the Transportation Improvement Program with respect to the circulation system shall provide accommodations for transit when warranted by the level and location of ridership.

1.08 It shall be the policy of Whatcom County to make every effort to preserve mature trees and unique wildlife habitats and other elements of the natural environment during the design and construction of road improvement projects. Where disruption of the natural environment is unavoidable, special techniques, including rounded slopes, erosion control, reseeding and revegetation shall be employed to return roadsides to their natural state.

1.09 It shall be county policy to include bikeways and pedestrian walkways as an integral part of the transportation system. Bikeways and pedestrian ways shall be provided in new developments where warranted. Bikeways shall be provided to link residential areas, shopping areas, recreational areas and educational facilities. Whenever practical, bikeways proposed in new developments shall connect with the planned bikeways in the Whatcom County Trails Plan.

1.10 It shall be the policy of Whatcom County to encourage the use of noise buffers and visual screens between high volume transportation routes and residential areas.
I. ENVIRONMENTAL POLICIES

Intent Statement

The intent of the following policies is to move toward attainment of the County Goal Statements which address the identification and management of environmentally fragile areas with the purpose of minimizing potential losses to human life and property, and the identification and conservation of natural resource areas in recognition of their irreplaceable character. In addition, the policies intend to maintain and enhance environmental quality with reference to water, air and noise.

Policy Statement

1.01 Whatcom County, in partnership with the City of Bellingham and Whatcom County Water District No. 10, shall seek a grant from the Department of Ecology to obtain the necessary funding to conduct a diagnostic and feasibility study of the Lake Whatcom Watershed. At a minimum, the purpose of said study shall be to investigate the human health aspects of continuing to use Lake Whatcom as a potable water source, to assess the potential impacts to the watershed resulting from the implementation of the Lake Whatcom Subarea Comprehensive Plan, and to recommend the appropriate restoration methods and watershed management ordinances, i.e. stormwater drainage control plan, clearing and grading regulations, amendments to the comprehensive plan and zoning ordinance, and public facilities construction specifications, deemed necessary to enhance the present and future water quality/quantity of Lake Whatcom.

Upon completion of the Lake Whatcom Restoration Study, Whatcom County shall reconsider the permitted densities and levels of projected growth in the Lake Whatcom Subarea.

1.02 It is the policy of Whatcom County to promote groundwater quality which is suitable for domestic consumption by encouraging low density and intensity uses in locations overlaying and directly adjacent to aquifers or recharge areas.

1.03 It is the policy of Whatcom County to recognize wetlands such as swamps, bogs, marshes and ponds as natural catchment basins for stormwater run-off.

1.04 It is the policy of Whatcom County to encourage utilization of steep slopes (greater than 15%) or unstable slopes as open space, very low density development or forestry. If used for development purposes, structures shall comply with the provisions of the Uniform Building Code, and their sites shall be subject to a safety confirmation by a qualified geologic engineer or a qualified geologist.

1.05 It is the policy of Whatcom County to promote the use of 100-year floodplains associated with stream corridors as open space. Furthermore, residential development which is proposed to be situated downstream from areas designated FORESTRY shall be encouraged to be sited at distances from all streams which are sufficient to minimize potential loss or damage to property that may occur as the result of debris dam failure or increased duration and volume of stream flow.
1.06 Whatcom County shall encourage very low densities in areas of known mineral resource occurrence with the intent of retaining future access and utilization options. Surface extraction shall be dependent upon compatibility with surrounding land uses and shall be accompanied by a reclamation plan which is consistent with state regulations (RCW 78.44). Subsurface mining operations shall conform with applicable federal regulations.

1.07 It is the policy of Whatcom County to foster continued fish and wildlife habitat integrity in the Lake Whatcom Subarea. Applicable habitats include the Squalicum Lake Wildlife and Bird Sanctuary, the eagle nests situated at the southeast end of Lake Whatcom, and Lake Whatcom Subarea salmon, Kokanee and cutthroat trout spawning streams. In addition, this policy intends to maintain the habitat integrity of the beaver pond which is situated on state land in Section 36, T38N, R3E preferably through the multiple-use management provisions of RCW 79.68 or through employment of sensitive logging systems, if timber is to be harvested.

1.08 It is the policy of Whatcom County to encourage property owners to use the current use tax assessment provisions of RCW 84.34 to retain the following areas in open space: steep or unstable slopes, stream corridors, wetlands and wildlife habitats.

1.09 It is the policy of Whatcom County to encourage air pollution abatement with the intent of maintaining and/or enhancing air quality, consistent with the Federal Clean Air Act, and accomplished through the coordination of local land use proposal review with the Northwest Air Pollution Authority and other environmental agencies.

1.10 It is the policy of Whatcom County to implement the necessary rules, regulations and ordinances which are required by state law to minimize noise impacts.

1.11 It is the policy of Whatcom County, pursuant to the provisions of the State Environmental Policy Act (WAC 197-10-177) and the Whatcom County SEPA Ordinance (Section 14), to identify and designate environmentally sensitive areas where certain uses should no longer be considered as categorically exempt from the SEPA checklist requirement. The Whatcom County Environmental Review Committee is herein directed to prepare a map indicating the location of ESA's and a text describing the basis for selection and intent of areas and uses which should be subject to SEPA checklist requirements. The map and text shall subsequently be recommended for adoption as part of the Whatcom County SEPA Ordinance.

1.12 It is the policy of Whatcom County to create a watershed advisory committee which is charged with determining issues and recommending public policies concerning water quality and quantity effecting the Lake Whatcom watershed. The committee shall address issues that include, but are not limited to, the effectiveness of current and future stormwater drainage techniques, the water-related impacts of chemical use within the watershed, coordination of capital improvement programs, the assessment of potential alternative water supply sources, and such other issues deemed appropriate for the management of the watershed. The committee shall be advisory to the County Council and other agencies of the county charged with policy making. Membership of the committee should consist of a mix of representatives of local government and the citizenry of the watershed.
Government members should include one appointee each by the Bellingham-Whatcom County Public Health District, Whatcom County Water District No. 10, the City of Bellingham, the Washington State Department of Natural Resources, and one representative of Whatcom County appointed by the County Executive.

Citizen members should include one representative each from the North Shore, Geneva, Sudden Valley, South Bay and Fourth Ward neighborhoods, a representative from the private forest products industry, and a representative from the Middle Fork-Nooksack River drainage basin, all appointed by the County Council.

The Planning Department shall submit to the Council, within ninety (90) days of adoption of the subarea plan, a proposed ordinance carrying forth the provisions of this section (1.12).

1.13 It is the policy of Whatcom County to discourage the discharge of unlawful concentrations of known toxicants directly into surface and groundwaters of the Lake Whatcom Watershed in such a way that public health, soils, wildlife and aquatic habitat will be endangered.

(Amended WCC Ordinance 84-105, 12/06/84)
J. ECONOMIC POLICIES

Intent Statement

The intent of the following policy is to assure that economic values are given appropriate consideration along with other goals so that Whatcom County attempts to fulfill the economic requirements of present and future generations of Whatcom County citizens. The Goal Statements of this comprehensive plan clearly indicate that future land use should recognize economic concerns in addition to environmental and social concerns to provide a balanced and diversified economy. It is therefore the policy of Whatcom County to establish a balance in its consideration of environmental and economic matters.

Policy Statement

1.01 It is the policy of Whatcom County to consider the positive and negative economic impacts in land use decisions on the general welfare of the citizens of the county.

1.02 It is the policy of Whatcom County to strengthen and stabilize the tax base through economic development.

1.03 It is the policy of Whatcom County to consider economic impacts, along with other considerations, of measures which implement this comprehensive land use plan.

1.04 It is the policy of Whatcom County to promote the wise use of both natural and man-made resources over the long run as well as in the immediate future.

1.05 It is the policy of Whatcom County to ensure that all county land use plans and zoning ordinances are considered in terms of their enhancement of the economy of the area and region and are calculated to:

(a) Foster and promote the general welfare;

(b) Create and maintain conditions under which man and nature can exist in productive harmony; and

(c) Fulfill the social, economic, and other requirements of present and future generations of Whatcom County citizens.
VII. COMPREHENSIVE PLAN AMENDMENTS

The Lake Whatcom Subarea Plan is a policy document that is used to guide the land use decisions affecting both the private and public sectors of the subarea. For the plan to function as an effective decision-making document, it must be flexible enough to weather changes in public attitudes, developmental technologies, economic forces and legislative policy.

The plan envisions two general types of plan amendments. The first type is a review conducted every five years. This review should re-examine the entire plan, including a re-evaluation of goals, updates of land-related elements, and the reaffirmation of land use policies and proposals. This review is the responsibility of the Whatcom County Planning Commission, the Planning Department staff and the people of the subarea.

The second type of amendment is that proposed and initiated by the private sector. The land uses illustrated on the Land Use Plan Map are the result of the application of the plan’s goals and policies. However, it is reasonable to assume that the private sector may introduce land use proposals that conflict with the plan map or policies of the plan itself. In such instances, the private sector may entertain an amendment to the plan. Private petitions for amendment of the Comprehensive Plan addressed to either the Planning Commission or the County Council shall be processed in accordance with statutory procedure for adoption or amendment of comprehensive plans. In applying for a particular amendment to the plan or plan map, the private sector shall conform to the following criteria:

1. The amendment request shall conform with the goals of the subarea plan;

2. The amendment request shall be compatible with the existing and planned surrounding land uses;

3. The amendment request shall not result in unmitigated detrimental impacts to existing transportation systems;

4. The amendment request shall not place uncompensated burdens upon existing or planned service capabilities; and

5. The amendment request shall demonstrate a land usage need which is consistent with the environmental and economic policies of the plan.
WHATCOM COUNTY
PLANNING COMMISSION

Repeal the 1982 Lake Whatcom Subarea Plan and
Amend Provisions in the Whatcom County Comprehensive Plan
relating to Subarea Plans

FINDINGS OF FACT AND REASONS FOR ACTION

1. The subject proposal includes:
   a. Amending Whatcom County Comprehensive Plan provisions relating to
      subarea plans.
   b. Repealing the Lake Whatcom Subarea Plan (1982).

2. A determination of non-significance (DNS) was issued under the State
   Environmental Policy Act (SEPA) on March 25, 2014.

3. Notice of the Planning Commission hearing was posted on the County website
   on April 8, 2014.

4. Notice of the Planning Commission hearing and that the proposal had been
   posted on the County website was sent to the City of Bellingham and citizen,
   media and other groups on the County’s e-mail list on April 8, 2014.

5. Notice of the subject amendments was submitted to the Washington State
   Department of Commerce on April 8, 2014.

6. Notice of the Planning Commission hearing for the subject amendments was

7. The Planning Commission held a public hearing on the subject amendments
   on April 24, 2014.

8. Pursuant to WCC 2.160.080, in order to approve the proposed comprehensive
   plan amendments 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

9. The Growth Management Act (GMA) allows, but does not require, a county to adopt subarea plans under RCW 36.70A.080 ("Comprehensive plans – Optional elements").

10. However, the GMA requires that subarea plans must be consistent with a county’s comprehensive plan. Specifically, RCW 36.70A.080(2) states: "A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan."

11. The Lake Whatcom Subarea Plan was adopted in 1982, prior to enactment of the GMA in 1990. The Whatcom County Comprehensive Plan was adopted in 1997 and subsequently amended from time to time. The Subarea Plan is inconsistent with the Whatcom County Comprehensive Plan. Specifically, the Subarea Plan does not address urban growth areas (UGAs), contains different land use designations, is inconsistent with the Comprehensive Plan’s rural element, and has a different planning period.
County-Wide Planning Policies

12. The County-Wide Planning Policies do not require the County to retain old subarea plans.

Interlocal Agreements

13. A portion of the Bellingham UGA is included in the Lake Whatcom Subarea.

14. An Interlocal Agreement between the City of Bellingham and Whatcom County concerning Planning, Annexation and Development within the Bellingham UGA was signed in April 2012. This interlocal agreement does not require the County to retain this subarea plan.

Further Studies/Changed Conditions

15. The Lake Whatcom Subarea Plan was adopted in 1982.

16. The GMA, adopted in 1990, included a requirement to designate UGAs. The 1982 Lake Whatcom Subarea Plan does not address UGAs.

17. The GMA was amended in 1997 to include criteria for limited areas of more intensive rural development (LAMIRDs). The 1982 Lake Whatcom Subarea Plan does not address LAMIRDs.

18. The Whatcom County Comprehensive Plan was originally adopted in 1997, and subsequently amended. The 1982 Lake Whatcom Subarea Plan is not consistent with the County Comprehensive Plan.


20. The Urban Fringe Plan was adopted in 1997 and subsequently amended.

21. Changed conditions including enactment of the GMA, adoption of newer plans and the passage of time warrant repealing the 1982 Lake Whatcom Subarea Plan.

Public Interest

22. Repealing the 1982 Lake Whatcom Subarea Plan will serve the public interest by removing a plan that is inconsistent with the Whatcom County Comprehensive Plan.
Spot Zoning

23. The subject proposal does not involve rezoning property.

CONCLUSION

The subject proposal is consistent with the approval criteria of WCC 2.160.080.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit A, amendments to Whatcom County Comprehensive Plan Chapter 2 (Land Use); and

2. Repealing Exhibit B, the Lake Whatcom Subarea Plan (1982).

WHATCOM COUNTY PLANNING COMMISSION

David Onkels, Chair

Sam Ryan, Secretary

May 1, 2014

Date

5 1 14

Date

Commissioners present at the April 24, 2014 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Walter Haugen, Gary Honcoop, David Hunter, Natalie McClendon, David Onkels, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendments.
NOTE:

In order to avoid redundancy, Exhibits A and B are only attached to the proposed Ordinance that will be considered by the County Council.
Commissioner Teigrob moved to approve the minutes as written. Commissioner Hunter seconded. The motion carried.

Public Hearing

File # PLN2014-00002: Repealing the Lake Whatcom Subarea Plan, which was adopted in 1982, and amending related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot presented the staff report.

The first Whatcom County Comprehensive Plan was adopted in 1970. The first zoning was in 1972. The zoning at that time was intended to be temporary. The county was divided into subareas. Subarea plans were adopted beginning in the 1980’s. Several of these subarea plans are two to three decades old. Last year the county repealed the Chuckanut/Lake Samish, Lynden/Nooksack Valley and Birch Bay/Blaine plans. The GMA says “A comprehensive plan may include, where appropriate, subarea plans each of which is consistent with the comprehensive plan.” There are two elements here. Subarea plans are optional and if the county chooses to have them they must be consistent with the comprehensive plan. There is a policy in the comprehensive plan which states “If there is an inconsistency the county comprehensive plan takes precedence.”

The Lake Whatcom Subarea Plan was adopted in 1982. At that time the new Title 20 zoning replaced the interim zoning. It generally had more restrictions on land use than the previous zoning. (A map of the subarea was shown with the boundaries). The boundaries generally follow the watershed. The 1982 plan had population projections through the year 2000. The current comprehensive plan goes through 2029. The 1982 plan had a 15 year planning horizon. The plan had a variety of land use designations (shown on the map). Many of the areas have been rezoned or have different comprehensive plan designations since 1982. The plan had a forestry policy which addressed residential uses. At that time there was only forestry zone, which had a 20 acre minimum lot size. That policy is now outdated and creates a conflict. Staff recommends repeal of the plan.

The hearing was opened to the public.

Greg Brown, Whatcom County: Was discontinuing updating the subarea plans because of the GMA?

Mr. Aamot stated that in the 1990’s the county put most of its efforts into the developing and adopting the countywide Comprehensive Plan. They updated some of the subarea plans. There wasn’t the staff to update all of the plans on a continual basis. The Comprehensive Plan addresses most of the issues in the subareas.

The hearing was closed to the public.

Commissioner Teigrob moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; and repeal of Exhibit B-the Lake Whatcom Subarea Plan. Commissioner Honcoop seconded.
Commissioner McClendon asked under what circumstances are subarea plans needed?

Mr. Aamot stated staff has thought about that. They think it may be good to retain the plans for active communities and those that stand alone from other areas.

Commissioner McClendon asked how the subarea plans relate to the Comprehensive Plan.

Mr. Aamot stated they add detail to the countywide plan.

Commissioner Bell asked if more resources were applied to the subarea plans would there be more activity? For example, Lake Whatcom is a large area which makes it difficult for people to come together as they do in a smaller area such as Birch Bay.

**Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.**

File # PLN2014-00003: Repealing the South Fork Valley Subarea Plan, which was adopted in 1991, and amending related provisions in the Whatcom County Comprehensive Plan.

Matt Aamot presented the staff report. *(A map and aerial photo of the subarea was shown with the boundaries)* The South Fork Plan was adopted in 1991; right after the GMA was adopted in 1990. The population projection for the subarea was through 2000. It had a more flexible planning period, however, that planning period has ended so it is not consistent with the current comprehensive plan period of 2029. There were five land use designations in the plan. There were two forestry zoning districts but the subarea plan only had one forestry land use designation. Some of the areas have been rezoned or now have different comprehensive plan designations. One of the policies in the plan reaffirms the 1970 comprehensive plan, which is outdated. That policy is now outdated and creates a conflict. Staff recommends repeal of the plan.

The hearing was opened to the public.

There was no public testimony.

The hearing was closed to the public.

**Commissioner Honcoop moved to recommend approval of Exhibit A-Amendments to the Whatcom County Comprehensive Plan, chapter 2; and repeal of Exhibit B-the South Fork Valley Subarea Plan. Commissioner Teigrob seconded.**

**Roll Call Vote: Ayes – Bell, Elenbaas, Haugen, Honcoop, Hunter, McClendon, Onkels, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent -0. The motion carried.**

File # PLN2014-00004: Repealing the Eliza Island Plan, which was adopted in 1994, and amending related provisions in the Whatcom County Comprehensive Plan and Zoning Code.
**Title of the Document:** Zoning amendment to allow Packinghouses and Slaughterhouses in the Agriculture (AG), High Impact Industrial (HII), and Rural and Industrial Manufacturing (RIM) zoning districts.

**Attachments:**
1. Memo to Council
2. Proposed Ordinance
3. Exhibit A – Proposed Code Amendments
4. Attachment A – SEPA DNS Reaffirmation

**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 would require all packinghouse and slaughterhouse applications in the Agriculture Zoning District to be processed as administrative approval uses. It would also allow packinghouses and slaughterhouses in High Impact Industrial (HII) zones as permitted uses and packinghouses in the Rural Industrial Manufacturing (RIM) zone as an administrative approval use.

**Committee Action:**

**Council Action:**

---

**Related County Contract #:**

2012-300

**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).
TITLE OF DOCUMENT: Zoning amendment to allow Packinghouses and Slaughterhouses in the Agriculture (AG), High Impact Industrial (HII), and Rural and Industrial Manufacturing (RIM) zoning districts.

ATTACHMENTS:
1) Memo to Council
2) Proposed Ordinance
3) Exhibit A – Proposed Code Amendments
4) Attachment A – SEPA DNS Reaffirmation

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

This ordinance would require all packinghouse and slaughterhouse applications in the Agriculture Zoning District to be processed as administrative approval uses. It would also allow packinghouses and slaughterhouses in High Impact Industrial (HII) zones as permitted uses and packinghouses in the Rural Industrial Manufacturing (RIM) zone as an administrative approval use.

COMMITTEE ACTION: 

COUNCIL ACTION: 

Related County Contract #: 2012-300
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: Whatcom County Council
FROM: Joshua Fleischmann, Planner
THROUGH: Mark Personius, Long Range Planning Manager
DATE: May 21, 2014
SUBJECT: PLN2014-00018 - Packinghouses

Based on comments received by petitioners and the public, and review by staff and legal counsel, minor changes to the previous agenda bill, ordinance, and Exhibit A were made for consistency, as well as the following changes:

- Packinghouses and Slaughterhouses are no longer proposed to be conditional uses within the Light Impact Industrial (LII) zone. References to the LII have been removed from the agenda bill summary statement, ordinance title and body, and Exhibit A.

- Included the Accessory Use language (with strike outs) from the original ordinance approved in September 2013. This clarifies that the accessory use language that was approved will be permanently removed from the zoning code. It was not clear that the interim language removing packinghouses as accessory uses was to be removed with the adoption of a final ordinance.

- Permit expiration language was added so that if a packinghouse or slaughterhouse is approved through the Administrative Approval Use (ADM) process, but is not constructed (or progress made) in a timely manner, the ADM permit shall expire and no longer be counted towards the limit of packinghouses or slaughterhouses approved through this ordinance. Further, if a facility is approved and constructed, but ceases to be operational for more than 1 year, the permit shall be null and void.

- Language identical to the proposed Agriculture zone criteria regarding holding pens and waste handling standards and permits has been included as criteria for packinghouses and slaughterhouses within the Heavy Impact Industrial (HII) and Rural and Industrial Manufacturing (RIM) zones.
• Amended the findings to include the High Impact Industrial (HII) and Rural and Industrial Manufacturing (RIM) zones as zones where packinghouses and slaughterhouses would be allowed uses.

• Included language in the ordinance stating that upon the effective date of this ordinance, the interim ordinance shall no longer be effective.
ORDINANCE NO. 2014-
AMENDING WHATCOM COUNTY CODE TITLE 20 TO ALLOW
PACKINGHOUSES AND SLAUGHTERHOUSES IN THE AGRICULTURE (AG),
HIGH IMPACT INDUSTRIAL (HII), AND RURAL AND INDUSTRIAL
MANUFACTURING (RIM) ZONING DISTRICTS.

WHEREAS, on September 10, 2013, the Whatcom County Council adopted
Ordinance No. 2013-051, entitled “Zoning Amendment to Allow Agricultural
Packinghouses in the Agriculture Zoning District”; and

WHEREAS, Whatcom County Planning and Development Services staff
originally proposed that all applications for packinghouses in the Agriculture Zoning
District be processed as conditional uses and a public hearing was held on staff’s
proposed amendments before the Planning Commission; and

WHEREAS, the ensuing process before the Planning Commission and the
County Council leading up to the adoption of the final ordinance was lengthy,
involving numerous work sessions and public hearings, and was fraught with
controversy; and

WHEREAS, the Planning Commission recommended to the County Council
the adoption of an ordinance allowing applications for packinghouses with no more
than 20 employees, regardless of size, to be processed as permitted uses and
applications for packinghouses with more than 20 employees, regardless of size,
were to be processed as conditional uses; and

WHEREAS, the County Council ultimately adopted an ordinance allowing
applications for packinghouses no larger than 7,000 square feet to be processed as
permitted accessory uses and applications for packinghouses larger than 7,000
square feet to be processed as conditional uses; and

WHEREAS, the County received many public comments during the adoption
process expressing concerns about packinghouses and their potential threat to
water quality and water quantity, as well as various other potential impacts they
could have on neighboring uses. In addition, concerns were expressed about the
potential loss of prime agricultural land and the impact of allowing such uses in
critical areas and hazardous areas; and

WHEREAS, on November 13, 2013, Nicole Brown, Wendy Harris, and Tip
Johnson filed a Petition for Review with the Growth Management Hearings Board
challenging Ordinance No. 2013-051 on several grounds; and

WHEREAS, the adoption of a new ordinance could potentially resolve the
appeal before the Growth Management Hearings Board, thereby saving the public
resources necessary to maintain such litigation; 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
interim zoning amendment; 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 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 3 work sessions in the
Planning and Development Committee; and

WHEREAS, the Whatcom County Council held 2 public hearings on the
proposed amendment and considered all testimony; 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) and High Impact Industrial
(HII) zoning district portions of the Zoning Code (WCC 20.40), to allow for
packinghouses and slaughterhouses, and the Rural and Industrial
Manufacturing (RIM) zoning district 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 January 16, 2014.
4. Notice of the Planning Commission work session for the subject amendment was posted on the County’s website in February 2014.

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 and slaughterhouses within the agriculture and high impact industrial zoning districts, as well as packinghouses within the rural and industrial manufacturing district. Presently Prior to the adoption of Ordinance No. 2013-051, new packinghouses and slaughterhouses are were 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 and slaughterhouses within the agriculture and high impact industrial zoning districts, as well as packinghouses within the rural and industrial manufacturing 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 and slaughterhouses 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 and slaughterhouses within the agriculture and high impact industrial zoning districts, as well as packinghouses within the rural and industrial manufacturing district. Presently, Keizer Meats of Lynden, which operates the only USDA approved facility north of King County 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, high impact industrial, and rural and industrial manufacturing zoning districts to provide slaughtering and value added 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, high impact industrial, and rural and industrial manufacturing zoning districts. 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 and slaughterhouses within the agriculture and high impact industrial zoning districts, as well as packinghouses within the rural and industrial manufacturing 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.

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, high impact industrial, and rural and industrial manufacturing zoning districts to provide slaughtering and value added 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, high impact industrial, and rural and industrial manufacturing zoning districts to provide slaughtering and value added 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 and slaughterhouses within the Agriculture, high impact industrial, and rural and industrial manufacturing zones allow for a local, sustainable, humanely raised food supply for the citizens of Whatcom County.
15. **Within the agriculture zoning district** limiting holding pens to that necessary to accommodate animals intended for processing within 24 hours would prevent packinghouse and slaughterhouse 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). However, review by the SEPA official and documentation of proposed and existing Whatcom County Code provisions indicates that this non-project level proposal is not likely to generate significant adverse environmental impacts, therefore, 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 specifically provides a permitting pathway to allow for slaughtering facilities. Applicability of land within the RIM zone to a new agricultural slaughterhouse facility is presently 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 Research Service. 2012).


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 Research Service. 2012).

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. Nationwide 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. Nationwide 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:


**CONCLUSIONS**

1. The proposed amendments are consistent with the Whatcom County
Comprehensive Plan.

2. The proposed subject amendments 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 upon the effective date of this ordinance, the interim ordinance as adopted by ORD2014-008 shall no longer be effective.

**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 __________, 2014.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Karen N. Frakes
Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved   ( ) Denied

Date Signed: ________________________
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
e. 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.

Chapter 20.40 AGRICULTURE (AG) DISTRICT

20.40.130 Administrative Approval Uses

Packaginghouses, as identified in WCC 20.97.282.1, and slaughterhouses, as identified in WCC 20.97.423.1, 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) "Administrative approval use" approval criteria located in WCC 20.84.235(3) shall be satisfied.

(2) The facility is an accessory use, as identified in WCC 20.97.005 "Accessory Use"

(3) The total allowable building area is no larger than 7,000 square feet.

(4) There shall cumulatively be no more than three (3) packinghouses or and no more than three (3) slaughterhouses approved under WCC 20.40.139 within the Agricultural (AG) District.

a. The applicant shall complete construction within 24 (twenty-four) months of the date of administrative approval. Failure to complete construction or demonstrate compliance shall result in the expiration of the approval. Substantial progress toward completion may satisfy the terms of this condition if approved by the Director of Whatcom County Planning and Development Services, or his/her designee. The applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion or compliance. An extension shall be granted if the Director of Whatcom County Planning and Development Services, or his/her designee, finds that the applicant or permit holder will suffer a substantial hardship if the extension is denied. The Director of Planning and Development Services, or his/her designee, may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more than one year.

b. If a packinghouse or slaughterhouse approved and constructed in compliance with this section ceases to be operational for more than 1 year, then the approval shall be null and void.
(5) Holding pens associated with packinghouses and slaughterhouses shall be limited to that necessary to accommodate animals intended for processing within 24 hours.

(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) If required by the Washington State Department of Ecology, the following permits shall be obtained:
   a. State waste discharge permit (WAC 173-216)
   b. Industrial stormwater permit – general permit (WAC 173-226)
   c. An NPDES Permit (RCW 90.48 and WAC 173-220)

(8) 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.

(9) The packinghouse or slaughterhouse 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.

(10) Packinghouses and slaughterhouses, approved under WCC 20.40.139 within the Agricultural (AG) District shall not be located in Critical Aquifer Recharge Areas of a High Susceptibility, as identified by the Critical Areas Ordinance map, or Frequently Flooded Areas, as identified and regulated by Whatcom County Public Works River and Flood Division through WCC Title 17.

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.

(6) 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.

(7) 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.

(8) 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.

(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 20.68 Heavy Impact Industrial (HII)

20.68.050 Permitted Uses

.051 The manufacture and processing of food including meat (including packinghouses and slaughterhouses), dairy, fruits, vegetables, seafood, grain mill, large scale bakery, sugar and beverage products, provided the following criteria are met:

(1) Holding pens associated with packinghouses and slaughterhouses shall be limited to that necessary to accommodate animals intended for processing within 24 hours.

(2) The facility shall comply with the 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.

(3) If required by the Washington State Department of Ecology, the following permits shall be obtained:
   a. State waste discharge permit (WAC 173-216);
b. Industrial stormwater permit – general permit (WAC 173-226);
c. An NPDES permit (RCW 90.48 and WAC 173-220).

Chapter 20.69 Rural Industrial Manufacturing (RIM)

20.69.130 Administrative approval uses

20.69.131 Packinghouses and Slaughterhouses, provided the following criteria are met:

(1) Holding pens associated with packinghouses and slaughterhouses shall be limited to that necessary to accommodate animals intended for processing within 24 hours.

(2) The facility shall comply with the 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.

(3) If required by the Washington State Department of Ecology, the following permits shall be obtained:
   a. State waste discharge permit (WAC 173-216);
   b. Industrial stormwater permit – general permit (WAC 173-226);
   c. An NPDES permit (RCW 90.48 and WAC 173-220).

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 and slaughterhouses, 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/slaughterhouses and schools shall be 500 feet.

(4) The minimum separation between packinghouses/slaughterhouses 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 fresh, 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. Rendering and importation of animal by-products is strictly prohibited in slaughterhouses. Slaughterhouses shall not slaughter poultry. Slaughterhouses 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.

20.97.424 Slaughtering
"Slaughtering" means the killing and processing of animals for human consumption.
Attachment A
Memorandum

TO: Joshua Fleischmann
FROM: Tyler Schroeder
DATE: May 22, 2014
SUBJECT: PLN2014-00018 – Packinghouses SEPA Review

A SEPA threshold determination of Determination of Nonsignificance was originally issued for PLN2012-00008 Small Scale Slaughterhouses based on the following project description:

Proposal to amend the agriculture zoning district to allow small scale slaughterhouses as a conditional use.

The revisions made as part of the proposed ordinance (PLN2014-00018) have been reviewed with the scope of original determination in mind. However, this has not been documented in the record. Thus, SEPA documentation for PLN2014-00018 has been reviewed to ensure that the proposed changes to the HII, and RIM have been taken into account.

Under the proposed ordinance, project specific SEPA review will be subsequently conducted in the following manner:

- **High Impact Industrial (HII)** – Packinghouses and Slaughterhouses will be processed as Permitted Uses. Project specific SEPA review will be required if the proposed building exceeds the threshold exemption size of 12,000 sf for industrial uses as identified in WCC 16.08.070.3.

- **Agriculture (AG)** – Packinghouses and Slaughterhouses will be processed as Administrative Approval Uses. Projects specific SEPA review will not be required, as the threshold exemption size of 12,000 sf for industrial uses as identified in WAC 197-11-800(1)(b)(4) will not be exceeded (Note: WAC 197-11-800(1)(b)(3) indicates that the agriculture building exemption is “to be used only by the property owner or his or her agent in the conduct of farming the property”). Within the AG zone, packinghouses and slaughterhouses are limited to 7,000 sf, with conditions in proposed WCC 20.40.139, to specifically mitigate potential environmental impacts.
• **Rural Industrial Manufacturing (RIM)** – Packinghouses and Slaughterhouses will be processed as Administrative Approval Uses. Project specific SEPA review will not be required, as the threshold exemption size of 12,000 sf for industrial uses as identified in WAC197-11-800(1)(b)(4) will not be exceeded. Within the Rural Business designated RIM zones, new nonresidential uses are subject to a maximum buildings size of 7,000 sf, per WCC 20.69.302. However, all other county development regulations including the performance standards in WCC 20.69 specifically designed to mitigate potential environmental impacts must be met.

Additionally, Packinghouses and Slaughterhouses in any zone would be required to meet State and Federal requirements such as water availability, wastewater, air pollution, and labor laws, among others. Further, approval criteria for Administrative Approval Uses, as well as specific criteria within the AG, RIM, and HII zones, would be required, as applicable.

Thus, the changes to this non-project action, coupled with the zoning limitations and conditions and/or Project Specific SEPA requirements (where applicable), are not substantive enough to require a revised SEPA threshold determination. However, it should be noted that the present proposal moving through the legislative process has been modified from the proposal at the time of SEPA review.

Please place this memo in the official file to be included as part of the record.
WHATCOM COUNTY COUNCIL
Regular County Council

May 6, 2014

CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(7:02:13 PM)

Present: Barbara Brenner, Ken Mann, Sam Crawford, Carl Weimer, Pete Kremen, Rud Browne and Barry Buchanan.

Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

The Council observed a moment of silence in memory of Nisqually Tribe member, environmentalist, and treaty rights activist Billy Frank Jr.

Weimer announced there was discussion with Senior Deputy Prosecutor Karen Frakes regarding appeal of Growth Management Hearings Board Case No. 12-2-0013 (AB2014-018) in executive session during the Committee of the Whole meeting.

SPECIAL PRESENTATION

1. EXECUTIVE LOUWS TO READ PROCLAMATION REGARDING WSU EXTENSION 100TH ANNIVERSARY (AB2014-017)

Jack Louws, County Executive, read the proclamation and introduced Washington State University (WSU) Extension Director Drew Betz.

Drew Betz, WSU Extension Director, introduced staff members Chris Benedict and Beth Chisolm and members of two 4H clubs, the Bellingham Flying Chickens and the Pales and Trails Club. They presented gifts to councilmembers and the Executive. They will have birthday cake at the Farmer’s Market on June 14 and also during the Northwest Washington Fair.

(Clerk’s Note: Discussion continued later in the meeting.)
MINUTES CONSENT

Mann moved to approve the Minutes Consent items.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

Nays: None (0)

1. REGULAR COUNTY COUNCIL FOR MARCH 25, 2014

2. SPECIAL COMMITTEE OF THE WHOLE FOR APRIL 8, 2014

3. REGULAR COUNTY COUNCIL FOR APRIL 8, 2014

4. BOARD OF HEALTH FOR APRIL 15, 2014

5. COMMITTEE OF THE WHOLE FOR APRIL 22, 2014

6. REGULAR COUNTY COUNCIL FOR APRIL 22, 2014

SPECIAL PRESENTATION

1. EXECUTIVE LOUWS TO READ PROCLAMATION REGARDING WSU EXTENSION 100TH ANNIVERSARY (AB2014-017)

(Clerk’s Note: Discussion continued from earlier in the meeting.)

Kremen stated the WSU Extension has played a big role in the agricultural community in Whatcom County. Of all counties in the United States, Whatcom County had the third highest production of milk per cow, mostly due to all the farmers educated at WSU and the active and helpful Cooperative Extension staff. Whatcom County is also number one in the country in seed potato production and number one in the world for red raspberry production. Much of this success is due to the help and cooperation from WSU. He thanked WSU for what it has meant to Whatcom County.

Brenner stated she’s taken many classes at WSU Extension over the years. They’ve inspired her to do things on her own instead of waiting for others to do for her. She’s impressed with all the young people here. They are the future.

PUBLIC HEARINGS

1. ORDINANCE AMENDING THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES AND SLAUGHTERHOUSES IN THE AGRICULTURE ZONING DISTRICT AS ADMINISTRATIVE APPROVAL USES (AB2014-060B) (7:15:14 PM)

Weimer opened the public hearing, and the following people spoke:
Cynthia Sue Ripke-Kutsagoitz stated she supports the meat processing industry. They need several choices for processing plants, including Kosher and Halas. It could be a place that provides good paying jobs.

Greg Brown submitted and read from a certificate of disapproval of the County Council (on file) regarding this proposed legislation.

Virginia Naef stated she supports reasonable regulations for packinghouses. The commercial meat comes from huge slaughterhouses in the Midwest, where workers are paid poorly and working conditions are unsafe. A local source of meat is important.

Gaythia Weis stated she commends the Council for the work it does on many complex issues. Some of these things take time and consideration to get right. Some progress has been made to work through complicated issues. Some things in the current proposal need correcting. The State Environmental Policy Act (SEPA) proposal is weak. Slaughterhouses need careful environmental consideration. She’s concerned about allowing slaughterhouses in light industrial zones, because that zone is meant for light impact businesses. It’s not appropriate for this use.

Terry Wechsler, attorney, stated the petitioner’s arguments aren’t about whether there is a need for slaughter facilities in the county. The issue is about process. They are rezoning four districts, not just the agricultural zone. This is all based on prior SEPA review, but there was no SEPA review. It’s not appropriate for the light impact industrial zone. There are no buffers or boundaries in either district. To resolve the appeal, the Council should have started with an environmental impact statement (EIS) two years ago. Direct the Planning Department to do an EIS for whatever zones they want to rezone. The alternative is to allow for it to be properly handled and with enough land in rural industrial manufacturing (RIM) and heavy impact industrial (HII) zones. Make sure small farmers can and must use the agricultural district. Make sure proper environmental protections are in place for waste management.

Larry Helm stated potential investors in packinghouses are now gone. There is an economic need for two or three to have competition. They aren’t protecting the farmers, they are protecting the farmland. To protect the farmer, allow the ability to make a profit. Adopt the ordinance to save farms.

Wendy Harris stated this ordinance will create bio-hazardous waste on the same land they grow food. This is not a good idea. Fundamental to helping farmers is protecting farmland, but they stopped doing this. This ordinance doesn’t protect the agricultural zone and the industry because it doesn’t protect prime agricultural soil or against fragmentation. This started out as a proposal for a small-scale slaughterhouse for the agricultural zone, but has grown to a meat packing plant for several zones. The Council is exceeding the scope of what this was intended to do without environmental review. The Council is undermining the intent to help small farmers. Small slaughterhouses will not be able to compete. There’s no restriction on number, size, or location of large-scale slaughterhouses.

Max Perry stated he’s been following this issue for three years. The dairy industry and cattlemen need the ability to have slaughterhouse facilities.
Diane Foster stated she has a friend who owns a farm and is concerned about huge companies coming to Whatcom County because of the lack of regulations. Her friend doesn’t want them fouling her water. Those businesses hire undocumented workers. They process antibiotically grown beef and chicken that create resistant organisms.

Carole Perry stated farmers have lost confidence. The issue has been thoroughly vetted. All the people concerned have weighed in on the issue, but many don’t participate anymore.

Hearing no one else, Weimer closed the public hearing.

Mann asked if this ordinance prohibits mobile slaughter units.

Mark Personius, Planning and Development Services Department, stated it does not.

Mann stated folks were concerned they were excluding poultry. He understands that packinghouses and slaughterhouses don’t apply to poultry. They are regulated separately. Personius stated that is correct.

Mann asked if the slaughterhouse definition should have an exclusion for poultry that is in the packinghouse definition. Personius stated the exclusion should be in both definitions.

Mann asked if that change would require another public hearing.

Weimer stated the administration has asked the Council to hold this item to consider comments regarding SEPA. The Council can make amendments tonight, because they have to hold the item anyway.

Karen Frakes, Prosecutor’s Office, stated she doesn’t think adding to the definition would require another public hearing.

Mann stated he wants to vote tonight. He asked why staff realize now there is a SEPA requirement. Personius stated the proposal has evolved. Staff has been reviewing each change from the Council to make sure they still comply with SEPA, but they haven’t always documented that in the record. Staff wants to make sure they document the latest change. It is a process item.

Crawford stated it’s a legal technicality they have to live with. He’s not excited about the ordinance, but will vote for it. There is a need that isn’t being met. The lone slaughterhouse in the county that is U.S. Department of Agriculture (USDA)-approved announced today it will no longer handle pork products. He hopes they can bring this back in two weeks to vote. It’s urgent they get something going soon.

Mann moved to adopt the ordinance with a change to include the poultry exclusion language in the slaughterhouse definition.

Weimer stated he’s against the motion because staff asked to hold this item.
Crawford asked if the SEPA review will be done in two weeks. Personius stated he hopes they will be done in two weeks.

**Crawford moved** to hold in Council.

Brenner asked if this is just to put the additional information of what the Council has already done into the record. Personius stated it is. They will review the record and document findings and conditions to make sure SEPA is covered.

Kremen stated he appreciates the work on this issue by Mr. Personius and his staff. He’s disappointed they are putting things on hold again after they’ve come this far. He asked Mr. Personius to explain in layman’s terms why they are putting this off. Personius stated there has been a great emphasis on the potential environmental impacts of slaughterhouses. The staff worked through several iterations of the proposal in the last two years. He and staff are satisfied they have complied with environmental requirements of SEPA, a process they have to go through with every regulation the County adopts. This is a non-project review under SEPA. It is broad, and not site-specific. Some folks would like an EIS done at that level. Staff doesn’t see the need for an EIS for the non-project, and there is no requirement to do so. As the regulation has evolved, they must make sure that any change made is documented in SEPA. That’s the step staff missed for tonight. There were specific comments about this issue, which is already appealed.

Kremen asked if staff wants to be extra-careful and deliberate in developing the final ordinance that the Council can vote on, which will have a solid legal basis. Personius stated that is correct, because this is an appeal issue. Staff have to address comments that often come in before a public hearing. They want to make sure everything is documented for the record and for legal counsel.

Jack Louws, County Executive, stated he forwarded the comments from Wendy Harris today to legal counsel. They all agreed things could be done better, which is why they are asking for a delay with the understanding that getting it right is the correct thing to do. Tighten it up, and vote on it in a couple of weeks. He appreciates comments from citizens and reads them all. In this instance, this is the right action to take. Staff throughout Whatcom County are committed to doing the best job the first time through. This is a complicated issue. He would like to complete this in two weeks.

Brenner stated she will support holding it, but believes they must have another hearing if there is more substantive information. Frakes stated they won’t need another public hearing. If there were motions tonight making substantive changes, another hearing would be required. Receiving information doesn’t require a hearing.

Weimer stated the version that comes forward in two weeks will include the amended definition, which Council amended previously but wasn’t included.

The motion to hold in Council carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

**Nays:** None (0)

**OPEN SESSION**
The following people spoke:

- Larry Helm spoke on the issue of the **proposed resolution regarding the formation of watershed improvement districts regarding water issues (AB2014-153)** and the Public Utility District attempting to get access to all County rights-of-way.
- Randy Honcoop spoke on the issue of the **proposed resolution regarding the formation of watershed improvement districts regarding water issues (AB2014-153)**.

Mann stated he would like to know if it is possible to set aside certain elected positions for small parcel owners. Honcoop stated that to include as much agricultural land as possible, many small parcels are in the middle of intensively-farmed large fields. They want to include those fields and that amount of acreage in this process. That’s why they have included parcels approximately five acres and larger. They are open to feedback or response on that issue. There is no attempt by big farmers to roll over the small farmers. He and others involved are small farmers, and they don’t see an impact, but they can look into it.

- Gaythia Weis spoke on the issue of the **proposed resolution regarding the formation of watershed improvement districts regarding water issues (AB2014-153)**.
- Henry Bierlink, Farm Friends, spoke on the issue of the **proposed resolution regarding the formation of watershed improvement districts regarding water issues (AB2014-153)**, how the Planning Unit relates to this effort, and voting requirements of watershed improvement districts (WIDs).
- Wendy Harris spoke on the Parks Department planning effort for the new reconveyed land.
- Karen Brown spoke on the issue of the **proposed resolution regarding the formation of watershed improvement districts regarding water issues (AB2014-153)**.
- Greg Brown spoke on the issue of the **proposed resolution regarding the formation of watershed improvement districts regarding water issues (AB2014-153)** and the Parks Department planning effort for the new reconveyed land.
- Carole Perry spoke on the issue of the **proposed resolution regarding the formation of watershed improvement districts regarding water issues (AB2014-153)**.

**CONSENT AGENDA**

(8:13:01 PM)

Crawford reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through four.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
1. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND GEOTEST SERVICES, INC. TO PROVIDE MATERIALS TESTING, INSPECTION AND GEOTECHNICAL DESIGN SERVICES ASSOCIATED WITH THE PUBLIC WORKS DEPARTMENT’S ANNUAL CONSTRUCTION PROGRAM, IN THE AMOUNT OF $330,000 (AB2014-173)

2. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND HKP ARCHITECTS, LLP FOR THE WHATCOM COUNTY COURTHOUSE BUILDING CONDITION SURVEY, IN THE AMOUNT OF $507,856.67 (AB2014-174)

3. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND THE NOOKSACK SCHOOL DISTRICT FOR BEHAVIORAL HEALTH SERVICES TO THE YOUTH, IN THE AMENDED AMOUNT OF $114,000, FOR A TOTAL CONTRACT AMOUNT OF $242,000 (AB2014-175)

4. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND THE MT BAKER SCHOOL DISTRICT FOR BEHAVIORAL HEALTH SERVICES TO THE YOUTH, IN THE AMENDED AMOUNT OF $115,000, FOR A TOTAL CONTRACT AMOUNT OF $245,000 (AB2014-176)

OTHER ITEMS


Buchanan reported for the Natural Resources Committee and stated the committee made no recommendation to the Council. He moved to hold this item in committee or Council until there is more information available.

Crawford stated he earlier indicated he doesn’t want this back in committee, but he has reconsidered.

Buchanan amended his motion and moved to hold in Natural Resources Committee.

Browne stated he supports the motion and the concept of a watershed improvement district (WID). He suggests not requiring non-agriculture properties to be taxed if there aren’t clear benefits.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
Nays: None (0)

BOARD, COMMISSION, AND COMMITTEE APPOINTMENTS

1. NOMINATION AND APPOINTMENT TO FILL ONE VACANCY ON THE
LYNDEN/EVerson FLOOD CONTROL SUB-ZONE ADVISORY COMMITTEE –
APPLICANT: HANK ROORDA (AB2014-170) (8:15:39 PM)

(Council acting as the Whatcom County Flood Control Zone District Board of
Supervisors.)

Browne moved to nominate and appoint Hank Roorda.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

Nays: None (0)

INTRODUCTION ITEMS

Crawford moved to accept Introduction Items one through three, five, and six.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)

Nays: None (0)

1. RECEIPT OF AN APPEAL OF THE HEARING EXAMINER’S DECISION ON FILE
NO. APL2013-010, FILED BY DANNON TRAXLER, ATTORNEY FOR ROBERT
WILSON REGARDING APPLICANT’S REQUEST FOR A HARDSHIP EXTENSION
REGARDING THE EXPIRATION OF THE SHORT PLAT (AB2014-137)

2. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, TENTH
REQUEST, IN THE AMOUNT OF $1,911,591 (AB2014-178)

3. RESOLUTION AMENDING THE 2014 FLOOD CONTROL ZONE DISTRICT
BUDGET, FOURTH REQUEST, IN THE AMOUNT OF $4,725 (AB2014-179)

(Council acting as the Whatcom County Flood Control Zone District Board of
Supervisors.)

4. ORDINANCE GRANTING PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM
COUNTY, A WASHINGTON MUNICIPAL CORPORATION, A FRANCHISE AND
THE RIGHT, PRIVILEGE, AND AUTHORITY THEREUNDER TO LOCATE, SET,
ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT,
MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN,
UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA
TO ALLOW FOR THE PROVISION OF WATER SERVICES (AB2014-180)

This item was withdrawn from the agenda.

Whatcom County Council, 5/6/2014, Page 8
5. ORDINANCE ESTABLISHING CHARGES/FEES FOR PROVIDING ADVANCED LIFE SUPPORT (ALS) AMBULANCE TRANSPORT SERVICES IN WHATCOM COUNTY (AB2014-121A)

6. ORDINANCE AMENDING WHATCOM COUNTY CODE SECTION 3.08, PURCHASING SYSTEM, TO MODIFY THE REQUIREMENTS FOR BID SPECIFICATIONS, DEPOSITS, AND AWARDS (AB2014-183)

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

(8:16:39 PM)

PRESENTATION BY PLANNING AND DEVELOPMENT SERVICES STAFF ON ISSUES EFFECTING COUNTY CODE COMPLIANCE AND ENFORCEMENT (AB2014-177)

Mann reported for the Planning and Development Committee and moved to request that the administration have the Planning Department review the code for their existing enforcement difficulties and challenges, and bring to the Council an ordinance that updates, streamlines, and clarifies the code to address those challenges.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Weimer, Kremen, Browne and Buchanan (7)
Nays: None (0)

Brenner reported that she has information for the Council that they discussed at last week’s Surface Water work session regarding requirements for the Council to approve Joint Board expenditures.

Browne reported that he attended a conference in New York about agricultural prospects in the future and also visited the 9/11 memorial and museum.

Brenner reported that she attended a fundraiser recently for three local people who are battling cancer. She acknowledged former Councilmember Bill Knutzen, who organized the event, which was impressive.

Crawford referenced a letter regarding snowmobiling on Mt. Baker and asked if the Council is interested in putting forward a resolution. He also reported on the recent purchase of development rights (PDR) tour. He learned that it is not just a matter of the Council paying someone to not develop. In Mr. Ebe’s situation, the PDR program money was supplemented by his funds, so his project became economically viable, which alters his feelings about the program. There are now more acres available. It was profound to realize the money could be used in that way.

Brenner stated the recent Farm Friends newsletter included information that shows the amount of acreage in Whatcom County that is in productive farming, which is much more than 100,000 acres.
Weimer stated he will miss the Council meeting on May 20 because he will be in Washington D.C.

Crawford stated the Department of Agriculture said the farm gate value in Whatcom County is more than $350 million annually.

**ADJOURN**

The meeting adjourned at 8:26 p.m.

The Council approved these minutes on _____________, 2014.

**ATTEST:**

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Carl Weimer, Council Chair

Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Vice-Chair Ken Mann called the meeting to order at 9:30 a.m. in the Civic Center Garden Level Conference Room, 322 Commercial Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Rud Browne, Barry Buchanan, Ken Mann, and Pete Kremen

Absent: Carl Weimer

2015-2016 BUDGET PLANNING SESSION

Jack Louws, County Executive, described the day’s agenda. They’ve followed budget guidelines closely and will end 2014 with a reasonable cash balance. They have accomplished their goals over the last two years. He hopes the Council and administration will continue to collaborate successfully in the next two years.

Dewey Desler, Special Projects Manager, referenced handouts (on file). The administration would like the Council to officially accept the guidelines.

Brenner asked if they will see exactly where the County has saved the hundreds of thousands of dollars, as referenced in the memo. Desler stated they were adjustments made over the past few years.

Brenner asked if savings are from what they’ve spent in the past. Desler stated that’s correct. He will provide that information.

Buchanan asked if the only reserve requirement is $1 million or a percentage of accounts across the board. Desler stated it is set in the Code. The actual reference to $1 million is in County Code.

Brad Bennett, Administrative Services, stated the County tries to keep a fund balance of ten percent.

Mann stated The $1 million is a separate rainy day amount.

Crawford stated the target reserves have dropped from $10 million in the past few years. He’s wondering if they should begin to increase the reserves again now that the budget is growing again. He asked if there are bond ratings or other future anticipated challenges. Louws stated a ten percent reserve for cash flow is reasonable for the general fund, which is nearly $80 million. Because of budget lapses, they can be a bit more
aggressive in terms of spending with a reserve at $8 million. A $10 million reserve gives them less flexibility in terms of spending.

Crawford stated he wants to be fiscally conservative. Tax dollars should be put to good use, but prepare for whatever can come in the future. Louws stated they anticipated about $13.2 million at the end of 2014, including the budget lapse. If the Council is intent on raising it, do it incrementally, or else it will impact operations and budget development.

Desler stated a reserve of $8 million is the bottom amount, but they’ve discussed whether something more than that is appropriate. Future fund balances are carefully looked at by bond underwriters as the County approaches borrowing money for the new jail. The County must show it is realistic and conservative and that the County can pay back whatever comes up. County revenues will remain very stable and static over the next few years. It isn’t a period of growth.

Kremen stated the industry standard for reserves is 8.66 percent with bond rating agencies. Anything above that is better, but the County is better-served by looking at percentages rather than actual dollars. It’s more reflective. Things aren’t static. He prefers to exceed the industry standard. It serves the taxpayers well. The County will have to go out for funding. There are some improvements in the construction industry, but the retail industry has leveled off. The Canadian dollar has waned. The economy is not increasing to the pace it was, so it’s slowing. For now, the Executive’s proposal is reasonable and prudent. Don’t go below that 8.66 percent threshold.

Louws stated they are looking at about $9.8 million right now. A percent of 8.66 on 80 million is approximately $6.8 million. The County is in reasonable shape now.

Kremen asked if the trend is declining. Louws stated they will end up at about $13.2 million end balance with the lapse. The cost of the fourth courtroom comes from that amount. They budget aggressively, and the lapse keeps that amount up.

Browne stated the County population is aging, and the County is the last resort for many health and welfare related issues. He asked if the model has factored in those changes. Desler stated social service programs are provided through the Parks Department. The cost of emergency medical service (EMS) is also involved. Those costs are rising dramatically as revenue sources are dropping. Local government must pay for those services. Older people don’t normally have an impact on court systems, but other governments do provide services, such as the Whatcom Transportation Authority (WTA). Costs are not dramatic beyond that. Older people are a key part of the population. Many other governments provide support. It’s a policy decision if the Council wants to engage more services around a growing older population. Whatcom County has a slightly older population.

Kremen stated Whatcom County is a popular place to retire. The notion is that the aging population is a drain on the economy. However, those new residents are bringing accumulated wealth into Whatcom County with a lower than average demand for services. They don’t have children, aren’t involved in the criminal justice system, and improve the overall economy. EMS is one of the areas where it does add cost. The overall demand for services is less than a family with kids. An aging population isn’t the drain on services that they think.
Browne stated it’s not a drain on services, but it’s a changing demographic, and the County will have to adjust the services it provides. Desler stated the County provides key services through the nonprofit sector and through EMS.

Desler referenced section two of the budget guidelines regarding revenue. Language reflects past County policy direction and assumptions.

Mann asked if the County has a standard protocol for charging overhead fees for nonprofit, pass-through grants. Bennett stated federal grants can only be charged overhead if there is an Office of Management and Budget (OMB) A-87 approved cost plan. They do one for support enforcement and the Health Department. That’s the only place the County charges its actual indirect costs. Many other grants require a local contribution, so they aren’t losing money. They can recover costs if there is enough money to pay for them and the County puts forward the effort to put together an indirect cost plan, which is technical. The County spends $14,000 to do the cost plan it does now.

Louws stated the administration does what it can to be cost-efficient. Use grant money first before any general fund money, so they get the full benefit of funding.

Kremen stated he attended a conference with the Legislative Steering Committee of the Washington State Association of Counties (WSAC). A priority issue they are bringing to the State legislature is real estate excise tax (REET) flexibility. They will work with the Realtors Association. They’re not asking for an increase in REET taxes. They are guardedly optimistic that realtors will agree. The State and federal government are shifting taxing authority to counties and have been unable to reign in their spending. The courts have found the State is not providing basic education, and must come up with an additional $1.5 billion to $2 billion per year to fund basic education.

Crawford stated add language that the administration intends to not raise property taxes. The County will have to be in a position to look at revenue from sales tax, depending on projects and issues. The County has a 20-year track record of not raising property taxes beyond the added increase from new construction. Louws stated he’s developing a budget using existing revenues made available by the legislative body. There are many ways to raise funds. This budget doesn’t include a property tax raise. He is developing a tax neutral document. It’s up to the Council to decide whether or not to increase the property tax.

Kremen stated there are two tiers of items on the agenda for approaching the State legislature. Tier one is raising the property tax limit from one percent to three percent, which was a high priority for WSAC to work on in the State legislature. He argued against it. If the WSAC gives that taxing authority to the County and the County doesn’t use it, the State will tell counties not to ask them for any money. They are working with the Washington Association of County Officials (WACO) before moving forward on a specific agenda.

Mann asked for information on what projects are on the horizon for each fund, including the REET fund. Louws stated he will provide that information as he develops the budget.
Browne stated there isn’t a clear mandate on how the Flood Control Zone District money is to be spent. He asked for information for citizens and advisory committee members to understand the current parameters for spending these funds. Desler stated the administration will develop policies and direction for each major fund consistent with these guidelines.

Buchanan asked to have information on how the revenue stream for each fund is trending. Desler stated that information will come forward.

Desler referenced section three on efficiencies. It’s a policy statement and application of guidelines as the administration builds the budget.

Louws stated one item in this section is regarding technology at a cost of $25 million to $30 million. Projects to consider include Tidemark upgrades, equipment revolve and rent (ER&R) fleet management, geographic information system (GIS) land records, auditor recording system, firewall and record recording, case management for the prosecuting attorney and adult probation. It’s labor intensive to install a software program, but the tools replace the need for additional staffing as they move forward with increased work. Continual improvement throughout the organization is a policy direction.

Brenner stated she would like to see from previous budget cycles what these efficiencies have actually realized in terms of dollars and cents. Desler stated they can provide that information. There have been investments in the past that have had positive impacts.

Crawford stated they’re also trying to provide public services. That’s not going to save County money, but they are also trying to balance public service components. Some of those things aren’t going to be labor savings, but will provide access to the public. They can’t always justify every technology improvement with labor savings.

Louws stated those savings are incremental.

Browne stated technology improvement isn’t about savings as much as it is about keeping up with other counties in terms of levels of service. The website is due for an upgrade. He asked if there is a return on investment analysis for additional requests from department heads. Desler stated many questions and requests will come forward. The administration asks the question of what kinds of efficiencies and savings can occur. Technology investments can be endless. At this point, the County can’t afford to provide endless technology services. When there are mandated issues they have to address, they must make investments that are as efficient and effective as possible. If there are proposals to expand technology, they ought to understand what the savings will be. Otherwise they are spending money to do the same thing they’re doing now.

Browne asked if there is a standard format for analyzing requests for equipment, such as a new dump truck. Louws stated the ER&R fund has guidelines for a determining whether equipment needs to be replaced. It’s a revolving fund.

Browne stated the County is a monopoly. It must get better by evaluating its performance against others and against best practices. In a business environment, the competitive environment provides that performance standard. He doesn’t know how to
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.

build that into government. Desler stated elected officials strive to do a better job because
they have to run for office every four years. That’s true for the judicial branch, also. Also,
the County will make contact with other governments of similar size to compare what
they’re doing. Last, the State Auditor’s Office conducts performance audits on particular
topics. Many times, Whatcom County does very well in those audits.

Kremen stated all 39 counties are different with different constituencies. Most other
counties don’t have the same activist constituencies that are as involved or concerned about
the environment and other issues. Other counties have less stringent rules and
requirements for planning, building, and land use decisions, and they’re in compliance.
Whatcom County is more strict and protective of the environment, but is out of compliance.
It’s hard to compare counties because they aren’t the same. Also, Whatcom County’s
department heads are at or near the top of almost every category. The County must strive
to be better and be vigilant about trying to achieve improvements. Whatcom County has a
discerning, educated, and involved constituency compared to other counties in the state.

Browne stated he’s impressed by County government and employees, but the best
way to get better is to be constantly reminded that there is a better way to do things.
Louws stated the County does that in the context of what it can. The opportunities for staff
to attend statewide conventions provides an opportunity. WSAC provides a tremendous
amount of information on staffing levels. When problems come up, it is an indication of
whether the service is provided. He’s pleased with the department staff’s ability to solve a
problem and avoid future problems.

Desler stated they don’t have the clarity of market forces to push them in the right
direction. They have to do it themselves. He referenced item four regarding service levels.

Mann asked for a list of mandated and non-mandated services. Put a ballpark figure
on what each of those services cost, if possible. Desler stated at what level they accomplish
mandates is fundamentally a judgment call.

Desler referenced guideline five regarding staffing.

Crawford referenced the first bullet point of guideline five. He asked if they are
talking about replacing other positions with more code enforcement, flood staff, and
planning staff. In the past they’ve said they won’t increase staff during budget guideline
meetings, but they suddenly hear in November that departments are woefully understaffed.
He asked if the elected officials have buyoff on maintaining current staff levels. Louws
stated there isn’t a lot of extra revenue. Keep staff levels where they’re at. He’s committed
to get three Sheriff deputies hired. Code enforcement needs one more officer. He will talk
to the Planning Department Director to see how that happens. The Planning Department is
experiencing increased revenue. If they decide the County needs new people, the only
place that can come from is a modest and balanced increase in compensation and benefits
for employees. They need to make that decision. Revenue for 2015 and 2016 will be flat.
He hopes to keep staffing levels close to the current number. He hopes they will be able to
put a little money aside for the existing employee base.

Crawford stated he’s not opposed to staff increases, but it’s a matter of timing. It
would be good if they made sure all the department heads and elected officials make it clear
what their expectations are in the next month or two. Knowing earlier is better than later.
Know it now, not in October or November. Louws stated they are just starting to work with
the departments. He won’t say no to everything, but staffing increases will have to be
justified. The County has reduced staffing from 960 to about 800 employees. Seventy-five
percent of those positions were taken from the Planning Department, Assessor, Auditor, and
Treasurer. The must keep a balance.

Crawford stated be careful about the word ‘justified.’ Department heads and elected
officials always have excellent justifications for asking for new staff. Build a budget that
includes information on what was asked for and what was approved. Louws stated the
decision on the overall allocation of funds is his before it’s presented to the Council. He
can’t guarantee that he won’t deny a request or that there won’t be a push from an elected
official to the Council. However, the group of elected officials work well together.

Crawford stated there have been budget cycles in which elected officials come
forward as a group to adjust their salaries. Louws stated the Salary Commission takes care
of those requests.

Mann stated the administration has provided information in the past on requests
denied. Desler stated the Council sees requests that aren’t accepted. Requests that are
accepted are built into the budget.

Brenner stated there aren’t enough Sheriff deputies, mostly due to how it’s set up.
They have to take care of deputies if they are sick or injured.

Buchanan asked how many collective bargaining agreements they’ll see in the next
two years and what is the general budgetary strategy. Louws stated there are six
agreements. It’s too early to promise anything. Things are fluid at this time. The plan is
for a modest and balanced increase in compensation and benefits. A certain amount goes
into the budget line item for contract settlements. If a contract settles for more than
budgeted, the department will have to make budget adjustments within the department to
absorb those costs.

Mann asked if the bargaining units seem to express more concern about workload,
being understaffed, and feeling overwhelmed. He asked if they want more help to get the
workload done. Louws stated he can’t speculate what the bargaining units will look for.

Brenner stated look at consolidating departments. Most senior services belong in the
Health Department, not the Parks Department.

Buchanan referenced guideline item six and asked if there is a target for budget
reduction. Louws stated there will be a reduction only if revenues don’t come in as
expected during the 2015-2016 cycle.

Browne stated recording fees are a function of real estate transactions. Louws
stated there aren’t a lot of refinancing transactions.

Desler stated the number of recordings are lower than anticipated. They are
watching things carefully. The general fund has 600 revenue sources. Some are up, and
some are down. They only have three months of data for 2014. They’ll have a better
projection as they get closer to presenting the budget.
Browne stated a material shift in the number of documents being recorded indicates a shift in the real estate market. Produce a quarterly update on key metrics and trends and what that means. Louws stated the first quarter financial report will have that information.

Debbie Adelstein, Auditor, stated a recent newspaper article indicated real estate transactions are up, but her office is close to a 40 percent reduction of recorded documents in the first quarter. Real estate transactions are a small section of recorded documents. There’s no explanation for the reason why they are at a 20-year low for recorded documents.

Browne stated work out what metrics they need to track and make it visible. Desler stated that information is provided in the quarterly financial report.

Brenner stated someone from the Auditor’s Office should follow up on why the number of recorded documents is down.

Mann stated there might not be an answer.

Louws referenced and gave an update on the projects listed on the white board, which include:

- Projects in progress: Fourth courtroom and staffing, telephone system, website, mental health court, courthouse exterior, State Street building purchase, and jail financing/conditional use permit (CUP)
- Projects to consider: water planning, code enforcement, sheriff deputies, technology, council audio/video/television/website, and economic development strategy

His priorities are mental health court, water planning, code enforcement, and sheriff deputies. Also add that the Council must make sure to account for big public hearings by the Hearing Examiner.

Kremen stated he is concerned that the County Council is without staff support on legislative policy. In the past, the deputy administrator and Executive’s Office spent a lot of time interfacing with the Council about what the administration is doing. That has not happened since he’s been on the Council. They’ve had occasional meetings, one to three per year, but there is a glaring void in the legislative branch’s ability to perform its duties in a knowledgeable and informed way. Before considering a new Council audio/visual system, get legislative assistance. Louws stated councilmembers are invited to call him anytime they have a question. He’s been available for every phone call. He’s happy to meet with councilmembers whenever they ask.

Brenner stated the Council needs a policy analyst to protect policy. She doesn’t like being given information selectively. They need a staff person to help them understand more about policy issues. The Council is becoming more and more nonessential and uninformed. It’s not about making it more complicated. It’s about making the Council more informed with an objective policy analyst. Louws stated everyone in this room works on behalf of the people of Whatcom County.
Mann stated he agrees that the Council needs a policy analyst, which has nothing to do with the quality of staff.

Browne stated the Council must decide to put a budget item in place for a policy analyst. It doesn’t affect the Executive.

Crawford stated the last time the Council did this, the policy analyst left the Council to lobby.

Kremen stated that was because of who the Council hired.

Crawford stated they need to approach this topic carefully.

Mann asked the appropriate time for the Council to have this discussion and decide on adding a full-time equivalent (FTE). Louws stated the Council should work through its Council Chair and staff on the Council budget and present it to the Executive through the normal process. He’s available at all the committee meetings and by phone.

Browne stated every interaction he’s had with the Executive’s Office has been prompt and responsive. He would like a resource to help him look at what other jurisdictions do for certain legislative topics. He would use a policy analyst resource to help do research.

Crawford stated schedule this discussion in the Finance Committee in the next month to decide whether the Council needs a policy analyst.

Mann stated he would like to talk about the Hearing Examiner situation and the potential burden on Council staff to deal with the Gateway Pacific Terminal (GPT) situation. The overall perspective is that they will need a second, dedicated hearing examiner to deal with the GPT public hearings and document handling. Have that discussion in Finance Committee.

Crawford stated delegate the Council choice of a hearing examiner to the courts.

Tyler Schroeder, Administrative Services Department, stated they can look at the contract and amend the contract and unified fee schedule to make sure all costs for staff time, including the Hearing Examiner, can be reimbursed.

**Crawford moved** to add a budget guideline that says there will be no property tax increase other than from new construction. “No increase in taxes and tax levy planned and or anticipated unless presented to and approved by County voters.”

The motion failed by the following vote:

**Ayes:** Brenner, Crawford, and Kremen (3)

**Nays:** Mann and Buchanan (2)

**Abstains:** Browne (1)

**Absent:** Weimer (1)
Kremen stated the point of this meeting is to move forward with Executive and Council consensus, and there isn’t. The purpose of today’s meeting is negated if the administration and Council don’t move forward on a budget together.

Crawford stated his motion was not a directive statement to the Executive. His intent was for the Council to keep its arguments within the sideboards of current revenue.

Kremen stated they must set parameters and budget guidelines. This isn’t productive if the Council ideas and priorities don’t mesh with the Executive’s.

**Crawford moved** to adopt the budget guidelines as presented by the Executive.

Louws stated the items listed on the board are items he can work into the budget using the budget guidelines as a filter. The majority of the items have been brought up by councilmembers over the last year. These items are a separate item of business.

Mann asked when to get together to decide the priority order of the board items. Louws stated allow the administrative staff to work through these items. He’s more interested in hearing Council ideas and priorities that aren’t included.

Browne stated the Council can have a meeting on its ideas and ask the Executive to incorporate them into the budget process.

Brenner stated make sure a majority of councilmembers approve anything the Executive spends time on. They must prioritize the list.

Mann stated schedule it in committee.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Crawford, Kremen, Browne and Buchanan (6)
- **Nays:** None (0)
- **Absent:** Weimer (1)

Crawford asked if any of the elected officials have comments.

Bill Elfo, County Sheriff, stated they have had 12 deputies out on injuries. He has cut overtime to absorb budget reduction and bargaining increases. He needs three deputies. Also, the ER&R schedule for replacing vehicles needs to be reviewed. More vehicles become completely non-functioning, and resale value is less. Also, radio communications is an issue. He will talk to the Public Works Department and Parks Department to find a better way of handling radio communications. Maintaining radio communications is essential to public safety. He described the nature of recent deputy injuries. They rely heavily on the Stonegarden funding to keep deputies on the street. That was in jeopardy until the County installed the Spillman system, which is an example of federal funding that could have been lost without modern technology needed to report to the Uniform Crime Report.

Brenner asked the length of time a deputy is out on injury before the deputy goes out on disability. Elfo stated deputies can buy long-term disability. He didn’t want to lose the deputy who was injured a year because he was a very good deputy.
Browne asked about efforts to reduce injury rates. Elfo stated reduced staff have to make arrests on their own, which causes more injuries.

Karen Goens, Administrative Services Department, stated the access carrier for workers compensation has good tools, and she’d like to work with the Sheriff on techniques and what other public entities are doing statewide to reduce injuries. They do see some injuries related to defensive tactics and training. They will work on anything over which the County has control. When they’re out on leave, the County pays time to give them a period of recovery. Using the Spillman System, some folks have been able to come in and help with data entry to get people back to work as soon as possible.

Browne asked if injured deputies can be put on secondary duties such as cyber-crime issues. Elfo stated they are training deputies on the Spillman system. They have one person trained on cyber-crime, but will use external resources for that kind of thing. His office deals mostly with assaults, theft, and burglaries on the road.

Kremen stated there is still a deficiency in deputies on the road. He asked if the people filling those positions are paid with overtime. Elfo stated they may not fill the positions. They pulled the neighborhood deputy program. They pull from overtime accounts. They backfill when staffing levels get too low. Having Stonegarden deputies has helped.

Brenner asked if there are neighborhood deputies in the Foothills and Birch Bay. Elfo stated neighborhood deputies are in Birch Bay, Maple Falls and east county, and the south county areas. When staffing is short, they use those deputies for general patrol. They have two resident deputies in Pt. Roberts and one in Newhalem.

Browne asked if there is opportunity to fill in with officers from other agencies. Elfo stated they don’t, but there is a good relationship among all city departments. If there is a serious situation and they need help immediately, they dispatch from all areas.

Buchanan stated the cities have their own deficiencies.

Debbie Adelstein, County Auditor, stated the Executive has been responsive to everything she has put forward. They are in good shape. She will do an analysis on document recording changes to get an idea of what types of document recordings have lessened.

Kremen stated the State is talking about doing everything online, so the counties wouldn’t get State licensing revenue. Adelstein stated she hasn’t heard that. The State now requires the Auditor’s Office to charge the same fees as the subagent, so Auditor fees are going up. The funds from the Auditor’s pool will go into a ferry replacement fund.

Keith Willnauer, County Assessor, stated he is available to talk to councilmembers about impacts and considerations regarding property tax. He participated in the conference on county fiscal sustainability. The WACO had a discussion about the issue of the property taxes. Pay attention to that issue.
In terms of this budget, demographics affect the Assessor’s Office and the senior citizen program. Given the economy in recent years, there has been a dynamic increase in administrating the senior citizen program. Because of the economy, they’ve seen a large increase in the number of citizens who are contorting their financial situations to meet the program, which requires more in-depth review. Those are big impacts for his office. The recorded documents regarding real estate transactions are increasing. Don’t forget about impacts to the Assessor’s Office when there are changes to planning staff and code enforcement.

The issue about bargaining, wages, and salary increases has been vexing. If an amount is budgeted for wages and salary increases, and a contract is settled above that budget amount, he doesn’t have discretionary ability to absorb the increased amount. There is no discretionary budget amount to deal with it. That isn’t the same as most other department budgets in the county. The policy seems to be efficient and effective, but take a look at his peculiar situation.

Regarding GIS and land use records online, parcel maps are the responsibility of the Assessor’s Office, so the deficiencies in that area are a big concern.

Browne asked the difference in trends of recorded documents between the Assessor’s Office and Auditor’s Office. Willnauer stated he deals with only a subset of all recorded documents, which deal with the conveyance of property.

Adelstein stated they will do a document account to find out what types of recorded documents are causing the reduced number of recorded document transactions.

Willnauer stated real estate activity, building permit activity, and the real estate market in general are significantly improving.

Crawford asked if the 2060 fund is applied to all recorded documents or only a certain type of document. Adelstein stated it will apply to everything recorded.

Browne asked about the property value appeal of the largest property owner in the county. Willnauer stated costs of litigation of the appeal is something to consider. Those costs are extraordinary. He doesn’t build those costs into his budget. The County Prosecutor will assist him, and he expects to also hire professional assistance. This is not an insignificant appeal. They won’t see help from the State Attorney General.

Also, the County just escaped issues with the federal payment in lieu of taxes (PILT) funding in the amount of $1.6 million. It was only extended for one year. Recognize that the future of that funding stream is questionable.

Crawford stated PILT is never included in the first budget for Congress. There is always an argument for it.

Kremen stated it’s become more fragile.

Louws stated he will budget the status quo on PILT and other items. If there is a change in revenue mid-biennial, they’ll have to adjust.
Kathy Walker, Prosecutor’s Office, stated Prosecutor McEachran couldn’t attend today due to a homicide trial in progress. Their major priority is a case management system. They will request funds from the capital improvement budget.

**ADJOURN**

The meeting adjourned at 12:07 p.m.

The Council approved these minutes on ________________, 2014.

**ATTEST:**

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Ken Mann, Council Vice-Chair

Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Vice-Chair Ken Mann called the meeting to order at 6:30 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Rud Browne, Barry Buchanan, Ken Mann, and Pete Kremen
Absent: Carl Weimer

COMMITTEE DISCUSSION

1. DISCUSSION WITH CHIEF CIVIL DEPUTY PROSECUTOR DANIEL GIBSON REGARDING POTENTIAL FLOOD CONTROL ZONE DISTRICT PROPERTY PURCHASE (AB2014-018)

Attorney Present: None (Daniel Gibson was absent)

Mann stated that discussion of agenda item one may take place in executive session pursuant to RCW42.30.110 (1)(b). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Kremen moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair.

The motion carried by the following vote:
Ayes: Crawford, Brenner, Browne, Buchanan, Mann and Kremen (6)
Nays: None (0)
Absent: Weimer (1)

OTHER BUSINESS

ADJOURN

The meeting adjourned at 6:42 p.m.

The Council approved these minutes on ______ 2014.
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.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk
Ken Mann, Council Vice-Chair

Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</th>
<th>County Cou</th>
<th>5/21/2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TITLE OF DOCUMENT:

ATTACHMENTS:
Application

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) 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.)
There are two vacancies on the Portage Bay Shellfish Protection District Advisory Committee. Four year term. This appointment would expire 1/31/2018. Members must have a direct interest in the Shellfish Protection District. Duties are to advise the County Council on the proposed actions and operations relating to the restoration of water quality in the Portage Bay watershed.

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: Andy Ross Date: May 20, 2014
Street Address: 1840 High Noon Road
City: Bellingham (I do not live within city limits) Zip Code: 98226
Mailing Address (if different from street address): 
Day Telephone: see cell phone Evening Telephone: see cell phone Cell Phone: (360) 398-6998
E-mail address: salixenv@gmail.com

1. Name of board or committee—please see reverse:
   Portage Bay Shellfish Protection District Advisory Committee
2. You must specify which position you are applying for.
   Please refer to vacancy list.
   No. 4 or 6
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 Attachment A
10. Please describe why you’re interested in serving on this board or commission: See Attachment A

References (please include daytime telephone number): See Attachment A

Signature of applicant:

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.
ATTACHMENT A
Application for appointment to the Portage Bay Shellfish Protection District Advisory Committee by Andy Ross

May 20, 2014

Answer to Question Number 9: (Please describe your occupation [or former occupation if retired], qualifications, professional and/or community activities, and education).

Qualifications:

I am a Washington licensed Geologist and Hydrogeologist (No.1454) with extensive water quality experience as described in the next three sections.

Occupation/Professional Activities:

My current occupation (2011 to present) is a part-time caregiver for an elderly person with dementia. From 2005 to 2011, I was an independent (sole-proprietor) consulting geologist and hydrogeologist. Projects included being the lead for upgrading the Lummi Indian Business Council (LIBC) Water Resources Division's Quality Assurance and Quality Control Plan for surface water monitoring into a significantly more detailed and extensive Quality Assurance Project Plan, and being an expert witness in a federal lawsuit (which was settled) regarding the flow of water onto the plaintiff's property after a clearcut forest harvest occurred uphill of the plaintiff's property on Sumas Mountain.

From 1993 to 2005 I worked for the LIBC's Natural Resources Department in the Water Resources Division. Among other things, I was the lead for developing Section 303(c) of the Clean Water Act Water Quality Standards for the LIBC, managed the surface and ground water monitoring programs on-Reservation, and participated extensively in the development of the Lower Nooksack River Basin Bacteria Total Maximum Daily Load (TMDL). I participated in the design of the TMDL study, sampling in the Nooksack Watershed as well as on-Reservation, analysis of the results, and subsequent report writing. I also participated in the implementation of the TMDL, though not directly. I did attend numerous Portage Bay Shellfish Protection District Advisory Committee meetings while an employee of the LIBC, but I was not a member of that Committee. In addition, I designed and implemented a detailed study of storm water fecal coliform and E. coli contributions from the Lummi Peninsula to Portage Bay. Further, I participated in the study that evaluated the effluent flow from the Gooseberry Point Wastewater Treatment Plant with the Washington Department of Health (WADOH) as well as participated with WADOH staff for much of their water quality sampling in and around Portage Bay.

Community Activities:

I have actively volunteered in the community for over 20 years. My focus has been community involvement around environmental issues. The activities have included
addressing small-scale hydroelectric projects in the Nooksack and Skagit river basins, forestry in the Kenney and Canyon Lake creek areas, potential contamination of water-supply wells from a landfill in upper Tenmile Creek, and organizing neighbors to work with the project proponent regarding a nearby development.

In the last year or so, I have become more active regarding water issues in Water Resources Inventory Area No. 1 (WRIA 1) as a citizen not representing anybody but myself. Most simply, I have been advocating for getting the various interests to work with each other. In addition, I am the Vice-Chair of the Tenmile Creek Clean Water Project Committee (http://www.re-sources.org/tenmile-creek) whose mission is to reduce fecal coliform contamination in the Tenmile Watershed through community involvement and education.

**Education:**
I hold a Bachelor of Science in Geology (Beloit College, Beloit, Wisconsin) and a Master of Science in Environmental Science/Watershed Studies from Huxley College at Western Washington University (Bellingham, Washington).

**Answer to Question Number 10:** *(Please describe why you're interested in serving on this board or commission).*

I am interested in serving on the Portage Bay Shellfish Protection District Advisory Committee because I believe I can make a positive contribution, particularly in light of the decline in water quality and potential closure of the shellfish beds in Portage Bay.

I live in the Nooksack River Watershed (Tenmile Creek). I have a strong commitment to community involvement and am currently involved with water issues in WRIA 1. My professional experience is well-suited to the goals of the Portage Bay Shellfish Protection District Advisory Committee. I want to help address water quality issues in the Nooksack River Watershed and protect the Portage Bay shellfish beds.

**References:**

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Daytime Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Henry Bierlink</td>
<td>Executive Director, Whatcom Farm Friends</td>
<td>(360) 354-1337</td>
</tr>
<tr>
<td>George Boggs</td>
<td>Executive Director, Whatcom Conservation District</td>
<td>(360) 354-2035 x115</td>
</tr>
<tr>
<td>Jeremy Freimund</td>
<td>Water Resources Manager, Natural Resources Department, Lummi Indian Business Council</td>
<td>(360) 312-2314</td>
</tr>
<tr>
<td>Steve Hood</td>
<td>Water Quality Engineer, Bellingham Field Office, Washington Department of Ecology</td>
<td>(360) 715-5211</td>
</tr>
</tbody>
</table>
## WHATCOM COUNTY COUNCIL AGENDA BILL

**Title:** Ordinance granting Astound Broadband, LLC, a non-exclusive franchise for the provision of telecommunications services and other services.

**Attachments:**
1. Cover Memo
2. Ordinance

**Summary Statement or Legal Notice Language:**

RCW 36.55.040, Whatcom County Charter Section 9.30, and Whatcom County Code 12.24 provides for the granting of franchises to public and private utility companies for use of County Rights-of-Way. This is a new franchise allowing for use and presence in County Rights-of-Way in order to provide telecommunications services and other services.

**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).
MEMORANDUM

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

THROUGH: Frank M. Abart, Public Works Director

FROM: Andrew Hester, Public Works Real Estate Coordinator

RE: Franchise for Astound Broadband, LLC

DATE: May 12, 2014

Requested Action
Adopt an ordinance that grants a franchise to Astound Broadband, LLC allowing it to use and be present in County Rights of Way in order to provide telecommunication services per the terms of the franchise Agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

Background and Purpose
Astound Broadband, LLC purchased Black Rock Cable which has an existing franchise that was approved under Ordinance 99-046. That franchise will expire on 9-17-2014. Astound Broadband wishes to provide telecommunications services under a different agreement and is not going to renew that franchise and is instead applying for a new franchise for the purposes of providing telecommunication services within County rights of way.

Please contact Dan Gibson at extension 50703 if you have any questions or concerns regarding the terms of this agreement.

Encl.
ORDINANCE NO. ______________

GRANTING ASTOUND BROADBAND, LLC, A NON-EXCLUSIVE FRANCHISE FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES AND OTHER SERVICES.

WHEREAS, Astound Broadband, LLC ("Grantee") has applied to Whatcom County ("County") for a non-exclusive franchise for the right of entry, use, and occupation of the public Rights-of-Way within the County, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its Facilities in, on, upon, along and/or across those Rights-of-Way for purposes of offering and providing Telecommunications Services and other services utilizing said Facilities ("Grantee Services"); and

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, said application has come on regularly to be heard by the County Council on the ___ day of ______, 2014, and notice of this hearing having been duly published on the ___ day of ______, 2014, and the ___ day of ______, 2014, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the County Council now deems it appropriate and in the best interest of the County and its inhabitants that a franchise be granted to Grantee.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a non-exclusive franchise set forth in the language hereinbelow, Sections 1 through 24, is hereby granted to Astound Broadband, LLC, for a period of fifteen (15) years in order that it may install, construct, erect, operate, maintain, repair, relocate and remove its Facilities in, on, upon, along and/or across those Rights-of-Way for purposes of offering and providing Telecommunications Services and other services utilizing said Facilities

Section 1. Grant of Franchise Right to Use Franchise Area.

A. Subject to the terms and conditions stated herein, County hereby grants Grantee a franchise as set forth in this Ordinance (this "Franchise"), including permission to enter, use and occupy the Rights-of-Way within the County as now or hereafter constituted (the "Franchise Area").
B. Grantee is authorized to install, remove, construct, erect, operate, maintain, relocate and repair the Facilities necessary or convenient for Grantee Services and all appurtenances thereto (collectively, “Grantee Facilities”) in, along, under and across the Franchise Area.

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services as provided herein, and it extends no rights or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on private property within County. This Franchise does not authorize the Grantee to provide “cable services” (as such term is defined in federal law), and if Grantee or anyone using Grantee’s Facilities desires to offer “cable services” in the future, a further agreement with the County will be required prior to providing such service.

D. This Franchise is non-exclusive and does not prohibit County from entering into other agreements, including other franchises, impacting the Franchise Area, unless County determines that entering into such agreements interferes with Grantee’s rights set forth herein.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that County has or may hereafter acquire with respect to the Franchise Area or any other County roads, Rights-of-Way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, Grantee acknowledges its use of the Franchise Area shall have no value.

F. County reserves the right to change, regrade, relocate, abandon, or vacate any Right-of-Way within the Franchise Area. If, at any time during the term of this Franchise, County vacates any portion of the Franchise Area containing Grantee Facilities, County shall reserve an easement for public utilities within that vacated portion within which Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. Grantee agrees that its use of Franchise Area shall at all times be subordinated to and subject to County and the public’s need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.
Section 2. Notices.

A. Written notices to the parties shall be sent by certified mail to the following addresses, unless a different address shall be designated in writing and delivered to the other party.

County:
County Executive
Whatcom County Courthouse
311 Grand Ave., Suite 108
Bellingham, WA 98225

Grantee:
Astound Broadband, LLC
401 Kirkland Parkplace
Suite 500
Kirkland, WA 98033
Attention: Steve Weed, CEO, and Jim Penney, EVP

B. Any changes to the Grantee’s information shall be sent to County’s Public Works Director referencing the title of this agreement.

C. The Grantee’s voice numbers shall be staffed at least during normal business hours of 8am to 5pm, Pacific Time zone.

Section 3. Term of Franchise.

A. This Franchise shall run for a period of fifteen (15) years, from the date of execution specified in Section 5.

B. If the parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the obligations and privileges of this Franchise shall nonetheless continue in full force and effect until renewed or otherwise terminated by either party through written notice to that effect.

Section 4. Definitions.

For the purpose of this Franchise:

“Affiliate” means, with respect to any Person, any other Person controlling, controlled by or under common control with such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.
"Emergency" means a condition of imminent danger to the health, safety and welfare of persons or property located within County including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

"Facilities" means such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the telecommunications system.

"Maintenance" or “Maintain” means examining, testing, inspecting, repairing, maintaining and replacing the existing Grantee Facilities or any part thereof as required and necessary for safe operation.

"Person" means any individual, sole proprietorship, partnership, association, corporation or other form of organization authorized to do business in the State of Washington, and includes any natural person.

"Relocation" means permanent movement of Grantee Facilities required by County, and not temporary or incidental movement of such facilities, or other revisions Grantee would accomplish and charge to third parties without regard to municipal request.

"Right-of-Way" (pluralized as “Rights-of-Way”) means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-way and similar public properties and areas.

"State" means the State of Washington.

"Telecommunications Service" has the same meaning as “Telecommunications service” as defined under 47 U.S.C. § 153 (2012).

Section 5. Acceptance of Franchise.

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the Whatcom County Council the Statement of Acceptance, attached hereto as Exhibit A (the “Franchise Acceptance”). The date that the Franchise Acceptance is filed with the County Council shall be the effective date of this Franchise.

B. Should Grantee fail to file the Franchise Acceptance with the County Council within 30 days after the effective date of this ordinance, the Franchise will automatically terminate and shall be null and void.
Section 6. Construction and Maintenance.

A. Grantee shall apply for, obtain, and comply with the terms of all permits required under Whatcom County Code 12.24, 12.27, 12.28, 12.30, and any other pertinent provisions of law as may hereafter apply, for any work done on Grantee Facilities. Grantee shall comply with all applicable County, State, and federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner consistent with the standards of the telecommunications industry.

B. Grantee agrees to use commercially reasonable efforts to coordinate its activities with County and all other utilities located within the Franchise Area.

C. County expressly reserves the right to prescribe how and where Grantee Facilities shall be installed within the Franchise Area and may from time to time, pursuant to the applicable sections of this Franchise, require the removal, Relocation and/or replacement thereof in the public interest and safety at the expense of Grantee.

D. Before commencing any work within the Franchise Area, Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

E. Upon prior written approval of County and in accordance with County ordinances, Grantee shall have the authority (but not the obligation) to reasonably trim trees upon and overhanging streets, Rights-of-Way and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, County may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not, in any instance, grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

F. Consistent with Section 12.24, 12.27, 12.28, and 12.30 of the Whatcom County Code, in case of any disturbance of any road, pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the County, replace and restore all paving, sidewalk, driveway, landscaping or surface, promptly and in as good condition as before said work was commenced and in accordance with standards for such work set by the County and the County Code. If Grantee fails, neglects or refuses to make restorations as required under this Section, then the County may do such work or cause it to be done, and the cost thereof to the County shall be paid by Grantee.

G. Grantee shall maintain all aboveground improvements that it places on County Rights-of-Way pursuant to this franchise. In order to avoid interference with the County’s ability to maintain its roads and associated Rights-of-Way, Grantee shall provide a clear zone of five feet on all sides of such improvements. For these purposes, “clear zone” means an area
that is mowed or otherwise maintained so that the Facilities are readily visible to County
maintenance operations. If Grantee fails to comply with this provision, and by its failure,
property is damaged, then Grantee shall be responsible for all damages caused thereby.

Section 7. Repair and Emergency Work.

In the event of an Emergency, Grantee may commence such repair and Emergency
response work as required under the circumstances, provided that Grantee shall notify the
County Public Works Director in writing as promptly as possible, before such repair or
Emergency work commences, or as soon thereafter as possible, if advance notice is not
practical. County may act, at any time, without prior written notice in the case of Emergency,
but shall notify Grantee in writing as promptly as possible under the circumstances.

Section 8. Damages to County and Third-Party Property.

Grantee agrees that should any of its actions under this Franchise materially impair or
damage any County property, survey monument, or property owned by a third-party, Grantee
will restore, at its own cost and expense, said property to a safe condition. Such repair work
shall be performed and completed to the reasonable satisfaction of the County Engineer.

Section 9. Location Preference.

A. Any structure, equipment, appurtenance or tangible property of a utility, other
than Grantee’s, which was installed, constructed, completed or in place prior in time to
Grantee’s application for a permit to construct Grantee Facilities under this Franchise shall have
preference as to positioning and location with respect to Grantee Facilities. However, to the
extent that Grantee Facilities are completed and installed prior to another utility’s submittal of
a permit for new or additional structures, equipment, appurtenances or tangible property, then
Grantee Facilities shall have priority. These rules governing preference shall continue in the
event of the necessity of relocating or changing the grade of any County road or Right-of-Way.
A relocating utility shall not necessitate the relocation of another utility that otherwise would
not require Relocation. This Section shall not apply to any County facilities or utilities that may
in the future require the Relocation of Grantee Facilities. Such Relocations shall be governed by
Section 11.

B. Grantee shall maintain a minimum underground horizontal separation of five (5)
feet from County water facilities and ten (10) feet from above-ground County water facilities;
provided, that for development of new areas, County, together with Grantee and other utility
purveyors or authorized users of Rights-of-Way, will develop and follow the Public Works
Director’s determination of a consensus for guidelines and procedures for determining specific
utility locations, subject additionally to this Franchise.
Section 10. Grantee Information.

A. Grantee agrees to supply, at no cost to County, any information reasonably requested of the Director of Public Works to coordinate municipal functions with Grantee’s activities and fulfill any municipal obligations under State law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within County. Said information may be requested either in hard copy and/or electronic format, if reasonably possible in a format compatible with County’s database system, as now or hereinafter existing, including County’s geographic information Service (GIS) data base. Grantee shall use its commercially reasonable efforts to keep the Public Works Director informed of its long-range plans for coordination with County’s long-range plans.

B. The parties understand that Washington law limits the ability of County to shield from public disclosure any information given to County. Accordingly, the County will endeavor in good faith to provide Grantee reasonable notice of any request for public disclosure of information of Grantee to allow Grantee to take such actions as Grantee may determine and at Grantee’s sole cost and expense to prevent or limit such disclosure. Grantee shall indemnify and hold harmless County for any loss or liability for costs and for attorneys’ fees because of non-disclosures requested by Grantee under Washington’s open public records law, provided reasonable notice and opportunity to defend was given to Grantee or Grantee is made aware of a pending request or claim.

Section 11. Relocation of Grantee Facilities.

A. Except as otherwise so required by law, Grantee agrees to Relocate, remove, or reroute its facilities as ordered by the County Engineer at no expense or liability to County and within the time frame established by the County Engineer, which time frame shall be reasonably determined and which shall in no event be less than sixty (60) days following the date of written notice of such order. Any determination to require the Relocation of Grantee Facilities shall be made in a reasonable, uniform and non-discriminatory manner. Any County funds used to reimburse costs incurred by any Person in connection with any relocation shall be allocated in a reasonable, uniform and non-discriminatory manner. Pursuant to the provisions of Section 14, Grantee agrees to protect and save harmless County from any customer or third-party claims for service interruption or other losses in connection with any such change, Relocation, abandonment, or vacation of public property.

B. If a readjustment or Relocation of Grantee Facilities is necessitated by a request to Grantee from a Person other than County, that party shall pay Grantee the actual costs thereof.

C. Design locate marks will be placed in the same three (3) day time frame as construction locate marks.
Section 12. Abandonment and or Removal of Grantee Facilities.

A. Within one hundred and eighty (180) days of Grantee’s permanent cessation of use of Grantee Facilities, or any portion thereof, Grantee shall, at County’s discretion, either abandon in place or remove the affected facilities.

B. The parties expressly agree that this Section shall survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding.

A. The parties agree that this Franchise does not limit County’s authority under federal law, State law, or local ordinance, to require the undergrounding of utilities.

B. Whenever County requires the undergrounding of aerial utilities in the Franchise Area, Grantee shall underground Grantee Facilities in the manner specified by the County Engineer at no expense or liability to County. Where other utilities are present and involved in the undergrounding project, Grantee shall be required to pay only its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Grantee Facilities. Common costs shall include necessary costs for common trenching and utility vaults. Fair share shall be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Indemnification and Hold Harmless.

A. Grantee shall defend, indemnify and hold the County and its officers, officials, agents, employees, and volunteers harmless from any and all claims, demands, suits, actions, costs and expenses, including but not limited to attorney’s fees, made against it by any third party on account of injury or damage to the person or property of another, but only to the extent such injury or damage is caused by the actions or failure to act of Grantee, its agents, servants or employees in exercising the rights granted to Grantee in this Franchise; provided, however, that in the event any such claim or demand be presented to or filed with the County, the County shall promptly notify Grantee thereof, and Grantee shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action is begun against the County based upon any such claim or demand, the County shall likewise promptly notify Grantee thereof, and Grantee shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. Notwithstanding the foregoing, if damages to another or others result from concurrent negligence of Grantee and the County, Grantee and the County shall each be responsible for, and this indemnification provision shall be operative so that each party bears, the proportionate share attributable to its own negligence. In case judgment which is not appealed shall be rendered against the County in such suit or action, Grantee shall fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined.
Upon Grantee’s failure to satisfy said judgment within ninety (90) days, the County may elect to terminate this Franchise pursuant to the terms of Section 19 herein. The provision for reimbursement of the County shall survive the termination of this Franchise.

B. County shall defend, indemnify and hold Grantee harmless from any liability arising out of or in connection with any damage or loss to Grantee Facilities caused by the willful misconduct or gross negligence of County, except to the extent any such damage or loss is directly caused by the negligence of Grantee, or its agents.

C. Grantee acknowledges that neither County nor any other public agency with responsibility for firefighting, Emergency rescue, public safety or similar duties within County has the capability to provide trench, close trench or confined space rescue. Grantee, and its agents, assigns, successors, or contractors, shall make such arrangements as Grantee deems fit for the provision of such services. Grantee shall hold County harmless from any liability arising out of or in connection with any damage or loss to Grantee for County’s failure or inability to provide such services, and, pursuant to the terms of Section 14(A), Grantee shall indemnify County against any and all third-party costs, claims, injuries, damages, losses, suits, or liabilities based on County’s failure or inability to provide such services.

D. Acceptance by County of any work performed by Grantee shall not be grounds for avoidance of this section.

Section 15. Insurance.

A. Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident.

2. Commercial General Liability insurance with limits no less than $1,000,000 each occurrence, $2,000,000 general aggregate and a $2,000,000 products-completed operations aggregate limit. Coverage shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. County shall be named as an additional insured under Grantee’s Commercial General Liability insurance policy with respect to the work performed under this Franchise.

3. Workers’ Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
B. Grantee’s insurance coverage shall be primary and non-contributory insurance as respects County. Any insurance, self-insurance, or insurance pool coverage maintained by County shall be in excess of Grantee’s insurance and shall not contribute to or with it to satisfying any claim or judgment covered hereunder. Grantee’s insurance shall also waive any rights of subrogation against the County and its agents as it pertains to the scope of this agreement.

C. Grantee shall furnish County with certificates of the foregoing insurance coverage with a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement.

D. Grantee shall have the right to self-insure any or all of the above-required insurance. Any such self-insurance is subject to approval by County, and in the event such approval is not obtained, Grantee shall carry such coverage as is herein provided.

E. Grantee’s maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit County’s recourse to any remedy to which County is otherwise entitled at law or in equity.


Grantee shall provide County with a surety bond in the amount of Fifty Thousand Dollars ($50,000) running or renewable for the term of this Franchise, in a form and substance reasonably acceptable to County. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise following notice and a reasonable opportunity to cure, then there shall be recovered jointly and severally from the principal and any surety of such surety bond any damages suffered by County as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 19 shall constitute damage to County in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit Grantee’s liability to the guarantee amount, or otherwise limit County’s recourse to any remedy to which County is otherwise entitled at law or in equity.

Section 17. Successors and Assignees.

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assignees of, and independent contractors of Grantee, and all rights and privileges, as well as all obligations and liabilities of Grantee shall inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever Grantee is mentioned.
B. This Franchise shall not be leased, assigned or otherwise alienated, except to an Affiliate of Grantee, without the express consent of County by ordinance, which approval shall not be unreasonably withheld.

C. Grantee and any proposed assignee or transferee shall provide and certify the following to County not less than sixty (60) days prior to the proposed date of transfer: (a) complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) all information required by County of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) an application fee which shall be set by County, plus any other costs actually and reasonably incurred by County in processing and investigating the proposed assignment or transfer.

D. Prior to County’s consideration of a request by Grantee to consent to a Franchise assignment or transfer, the proposed assignee or transferee shall file with County a written promise to unconditionally accept all terms of this Franchise, effective upon such transfer or assignment of this Franchise. County is under no obligation to undertake any investigation of the transferor’s state of compliance and failure of County to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

Section 18. Dispute Resolution.

A. In the event of a dispute between County and Grantee arising by reason of this Franchise, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Franchise. The officers or representatives shall meet within thirty (30) calendar days of either party’s request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Franchise, the parties specifically understand and agree that venue shall be exclusively in Whatcom County, Washington.

Section 19. Enforcement and Remedies.

A. If Grantee shall violate, or fail to comply with any of the provisions of this Franchise, or should it fail to heed or comply with any notice given to Grantee under the provisions of this Franchise, County shall provide Grantee with written notice specifying with reasonable particularity of the nature of any such breach and Grantee shall undertake all commercially reasonable efforts to cure such breach within thirty (30) days of receipt of notification. If County reasonably determines the breach cannot be cured within (30) thirty days, County may specify a longer cure period, and condition the extension of time on
Grantee’s submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty (30) day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or Grantee does not comply with the specified conditions, County may, at its discretion, either (1) revoke this Franchise with no further notification, or (2) claim damages of One Thousand Dollars ($1,000.00), or actual damages if demonstrably greater, against the financial guarantee set forth in Section 16.

B. Should County determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, County reserves the right to cancel this Franchise and require Grantee to apply for, obtain, and comply with all applicable County permits, franchises, or other County permissions for such actions, and if Grantee’s actions are not allowed under applicable federal and state or County laws, to compel Grantee to cease such actions.

Section 20. Compliance with Laws and Regulations.

A. This Franchise is subject to, and Grantee shall comply with all applicable Federal and State or County laws, regulations and policies (including all applicable elements of County’s comprehensive plan), in conformance with federal laws and regulations, affecting performance under this Franchise. Furthermore, notwithstanding any other terms hereof to the contrary, Grantee shall be subject to the police power of County to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

B. County reserves the right at any time to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a County Ordinance enacted pursuant to such federal or state statute or regulation upon providing Grantee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, Grantee makes a written call for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations, County may enact the proposed amendment, by incorporating Grantee’s concerns to the maximum extent County deems possible.

Section 21. Consideration.

As consideration for this Franchise, Grantee commits to pay a County franchise fee of six percent (6%) on revenues, determined in accordance with Generally Accepted Accounting Principles, derived from Grantee’s provision of Telecommunications Service and other services utilizing the Grantee Facilities in the County, net of bad debt or other uncollectable amounts.
Section 22.  Consequential Damages Limitation.

Notwithstanding any other provision of this Franchise, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 23.  Severability.

If any portion of this Franchise is deemed invalid, the remainder portions shall remain in effect.

Section 24.  Titles.

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

ADOPTED this _____ day of ____________ 2014.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________
Dana Brown Davis, Clerk of the Council

______________________________
Carl Weimer, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

______________________________
Daniel Gibson
Chief Civil Deputy Prosecutor

( )Approved   ( )Denied

Date Signed: ________________
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</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>Div Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept Head:</td>
<td></td>
<td>4/23/14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosec:</td>
<td></td>
<td>04/24/14</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

EXECUTIVE: 4/29/14

ATTACHMENTS: 1. Cover Memo
2. Ordinance

SEPA review required? Yes 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.)

RCW 36.55.040, Whatcom County Charter Section 9.30, and Whatcom County Code 12.24 provides for the granting of franchises to public and private utility companies for use of County Rights-of-Way. This is a new franchise allowing for use and presence in County Rights-of-Way to allow for the provision of water services.

COMMITTEE ACTION:

COUNCIL ACTION:

5/1/14: This ordinance was withdrawn from introduction on 5/6 at the request of the attorney for the PUD. To be rescheduled at a later date.

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

THROUGH: Frank M. Abart, Public Works Director

FROM: Andrew Hester, Public Works Real Estate Coordinator

RE: Franchise for Public Utility District No. 1 of Whatcom County

DATE: April 22, 2014

Requested Action
Adopt an ordinance that grants a franchise to Public Utility District No. 1 of Whatcom County allowing it to use and be present in County Rights of Way in order to provide water services, per the terms of the franchise Agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

Background and Purpose
Public Utility District No. 1 of Whatcom County has existing franchises for its water lines and facilities within County Rights-of-Way. Those franchises are nearing the end of their terms. This proposed franchise will terminate and replace those existing agreements.

Please contact Dan Gibson at extension 50703 if you have any questions or concerns regarding the terms of this agreement.

Encl.
May 19, 2014

Carl Weimer, Chair
Whatcom County Council
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225

RE: Public Utility District No. 1 of Whatcom County Requesting Approval of Franchise Agreement for District’s Water Utility

Dear Chairperson Weimer:

Public Utility District No. 1 of Whatcom County (District) formally requests that the Whatcom County Council approve the Franchise Agreement with the District that would provide the authority for the District to locate, construct, operate, and maintain District water facilities as presented in the franchise application. The Commission for the District approved this Franchise Agreement in open session at its regular meeting on May 13, 2014 following over a month notice of the pending action.

In September of 2010, the District filed a combined application for a water franchise and an electrical franchise. During subsequent discussions between District staff and legal counsel, and Whatcom County staff and legal counsel, it was decided to split the request into one franchise for the electric utility and one franchise for the water utility. The electric franchise was approved by Whatcom County Council in June 2011. The electric utility franchise provided the authority for the District to locate, construct, operate, and maintain District electric facilities throughout Whatcom County as designated in the franchise. The District is now requesting consideration of its water utility franchise. Please accept this letter and accompanying material and filing fee as the District’s franchise application.

Approval of this Franchise does NOT authorize any extension of any water service. The Franchise will only establish the terms, rules and requirements related to the use of the County’s right of way, and is not an approval of any extension of water service or facilities. This Franchise, similar to recently approved Franchise agreements for other utilities, provides the terms and conditions related to the District’s use of the County right of way when locating District owned facilities in a County Right of Way throughout Whatcom County, but no more.

Other utilities that have had a similar franchise approved by Whatcom County include Puget Sound Energy, Trans Mountain Pipeline, the District’s recently approved electrical Franchise, Comcast, among other utilities.
By way of background, the voters of Whatcom County authorized and empowered the District to provide water service throughout Whatcom County in 1937. While the approval of this Franchise does not expand or limit this authority, pursuant to the Coordinated Water System Act, the District is not able to extend retail water service anywhere in Whatcom County unilaterally.

Whatcom County’s Coordinated Water System Plan (“Coordinated Plan”) limits the District’s retail service area to the Grandview and Cherry Point Service Areas. The District cannot extend retail water service into another service area without the consent of the designated retail water provider, unless the designated provider is unable or unwilling to serve the property seeking service. The Coordinated Plan does designate the entire County as the District’s wholesale service area and the District may provide water on a wholesale basis throughout Whatcom County.

Moreover, the County’s zoning code further regulates the extension of water mains in Whatcom County requiring a zoning conditional use permit for any extension of a water line in 8” or greater in diameter, with few exceptions. See WCC 20.82.030(3).

Presently the District has three water utility franchises with Whatcom County.

- The first water franchise, granted in 1965, allowed the District’s water utility to construct the District’s Douglas Road water pipeline to serve Cherry Point industrial customers. It has a 50 year term expiring in 2015 and delineates specific county roads as the franchise area.
- The second franchise, granted in 1970, allowed the District’s water utility to construct its second water pipeline on Aldergrove Road to serve Cherry Point industrial customers. It has a 50 year term expiring in 2020 and delineates specific county roads as the franchise area.
- The third franchise was originally granted to General Petroleum Corporation in 1953 allowing General Petroleum to build a water pipeline from the Nooksack River near Ferndale to its property at Cherry Point. In 1995, at the request of the then current owner, Tosco (now Phillip 66), the District assumed the franchise, became Tosco’s water purveyor and took ownership of the water pipeline. The franchise had a 50 year term expiring in 2003 and delineated specific county roads as the franchise area.

The District owns and operates the water system serving the Grandview-Northgate Industrial Park, I-5 Industrial Park, and Grandview Business Center. Portions of the water system infrastructure are located in County right of ways and are not specifically included in the current franchise agreements.

Additionally the District currently serves approximately 50 irrigation customers, including Elder Road Water Association, off of the District’s Douglas Road and Aldergrove water pipelines. In some cases the District may have or may need waterline extensions in the County right of ways to serve current and future irrigation customers. If separate franchises are required for each project the costs could be prohibitive for the customers seeking service.
As stated in the application, the District believes that it is appropriate to consolidate all of the franchises into one franchise document for the water utility. We believe the consolidation is practical for the administration of the franchise for both the County and the District. A single franchise will ensure that the County and the District have consistent terms, regulations and requirements related to the District’s use of the County Right of Way consistent with the County Comprehensive Plan and the County’s Coordinated Water System Plan.

If any of the Council members have questions regarding the application, I and District Staff would be available to meet at your convenience. Thank you for your consideration.

Sincerely,

[Signature]
Stephan Jilk
General Manager

C: District Commission
   Whatcom County Council
   Jon Sitkin, District Legal Counsel
   Dan Gibson, Chief Civil Deputy Prosecuting Attorney

411
APPLICATION FOR FRANCHISE

TO THE WHATCOM COUNTY COUNCIL

COMES NOW, Public Utility District No. 1 of Whatcom County and respectfully petitions the Whatcom County Council for a twenty-five (25) year franchise to lay, construct, maintain, and repair one or more waterlines for the conveyance and distribution of water and all necessary appurtenances along, over, and across the following roads situated in Whatcom County, Washington: every and all of the roads, right of ways, streets, easements, avenues, alleys, highways, grounds and public places of the County as now laid out, platted, dedicated, or improved; and any, every and all of the road, right of ways, streets, avenues, easements, alleys, highways, ground and public places that may hereafter be laid out, platted, dedicated or improved within the present limits of the County west of the Mt. Baker Snoqualmie National Forest boundary, north of the Whatcom/Skagit County boundary and south of the United States/Canadian Border.

The petitioner further requests that the Whatcom County Council fix a time and place for a public hearing on the granting of this non-exclusive franchise, and that public notice be given, at the expense of the petitioner, as provided by law; and that, at said hearing, petitioner be granted the franchise as herein requested.

DATED: 5/9/2014

Public Utility District No. 1 of Whatcom County Company Name

1705 Trigg Road Mailing Address

Ferndale Washington 98248 City State Zip

(360) 384-4288 Phone Number

Signature of authorized agent/owner

Stephan Jilk Print or type name
SPONSORED BY: __________
PROPOSED BY: ___ Executive ___
INTRODUCTION DATE: ________

ORDINANCE NO. ______

GRANTING PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY, A WASHINGTON MUNICIPAL CORPORATION, A FRANCHISE AND THE RIGHT, PRIVILEGE, AND AUTHORITY THEREUNDER TO LOCATE, SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO ALLOW FOR THE PROVISION OF WATER SERVICES.

WHEREAS, Public Utility District No. 1 of Whatcom County (hereinafter referred to as "Whatcom PUD"), a Washington municipal corporation, has applied for a twenty-five (25) year franchise; and

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, Whatcom PUD desires a non-exclusive franchise to construct, erect, alter, lay, support, connect, improve, renew, replace, repair, operate and maintain water transmission and distribution facilities upon, under, over, across and along certain roads and other areas in Whatcom County, Washington; and

WHEREAS, said application has come on regularly to be heard by the County Council on the ___ day of __________, 2014, and notice of this hearing having been duly published on the _____ day of __________, 2014, and the ___ day of __________, 2014, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, it appears to the Council that notice of said application and hearing thereon has been given as required by law in RCW 36.55.040; and

WHEREAS, this Council finds, after having considered said application and being otherwise fully advised in the premises, that it is in the public interest for this Council to grant the franchise; and

WHEREAS, Whatcom County and PUD #1 intend that the previous franchises granted to Whatcom PUD that pertain to water lines for the provision of water services shall be terminated and be replaced by this Franchise;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the language set forth hereinbelow, Sections 1 through 20, shall constitute the franchise agreement between Whatcom County and Whatcom PUD, which shall be and become effective as set forth in Section 13 thereof:
Section 1. Definitions.

1.1 Where used in this franchise agreement ("Franchise"), the following terms shall mean:

1.1.1 "County" means the County of Whatcom, a political subdivision of the State of Washington, and its successors and assigns.

1.1.2 "Whatcom PUD" means Public Utility District No. 1 of Whatcom County, a Washington municipal corporation, and its successors and assigns.

1.1.3 "Franchise Area" means any, every and all of the public roads, streets, avenues, alleys, highways, grounds, and other public places of the County as now laid out, platted, dedicated, or improved; and any, every and all of the public roads, streets, avenues, alleys, highways, grounds and other public places that may hereafter be laid out, platted, dedicated or improved within the present limits of the County and as such limits may be hereafter extended.

1.1.4 "Facilities" means, collectively, any and all water transmission and distribution systems, including but not limited to tanks, meters, pipes, mains, services, valves, manholes, pressure reducing valves ("PRVs"), pump stations, meter stations and any and all other equipment, appliances, attachments, appurtenances and other items necessary, convenient, or in any way appertaining to any and all of the foregoing, whether the same be located over or under ground.

1.1.5 "Ordinance" means Ordinance No. ______, which sets forth the terms and conditions of this Franchise.

Section 2. Facilities Within Franchise Area.

2.1 The County does hereby grant to Whatcom PUD the Franchise, and the right, privilege, and authority thereunder, to locate, set, erect, lay, construct, extend, support, attach, connect, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along, across and through the Franchise Area to provide for the transmission, distribution and sale of water for agricultural, municipal, domestic, commercial, industrial and any other lawful purpose for which water may be used.

Section 3. County Authority.

3.1 The County, in granting this Franchise, does not waive any rights which it now has or may hereafter acquire with respect to the Franchise Area, and this Franchise shall not be construed to deprive the County of any powers, rights, or privileges which it now has, or may hereafter acquire, to regulate the use of and to control the Franchise Area.

Section 4. Noninterference of Facilities.

4.1 As to new Facilities, Whatcom PUD's Facilities shall be placed and maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Prior to the installation of new
Facilities within the Franchise Area, Whatcom PUD may request that the County determine whether the proposed placement of the Facilities will unreasonably interfere with the free and safe passage of traffic, and the County shall make such determination in writing within a reasonable period of time. If the proposed location is not approved by the County Engineer, the County Engineer shall advise in writing what reasonable modifications to the proposed location of the Facilities are necessary for the County Engineer to issue a determination that the proposed location of the Facilities will not unreasonably interfere with the free and safe passage of traffic.

If Whatcom PUD proceeds to install new Facilities without first obtaining the County Engineer's determination that the proposed location of the Facilities will then unreasonably interfere with the free and safe passage of traffic then, upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Whatcom PUD which shall, at its own expense, act promptly to rectify the problem in consultation with the County. Whatcom PUD shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Whatcom PUD by such County codes and ordinances.

4.2 Except as provided in Section 6 below, Whatcom PUD's existing Facilities shall be maintained within the Franchise Area so as not to unreasonably interfere with the free passage of traffic and in accordance with all applicable laws, rules, and regulations. Except as provided in Section 6 below, upon determination by the County that current placement of particular Facilities unreasonably interferes with free or safe passage of traffic, the County shall notify Whatcom PUD which shall, at its own expense, act promptly to rectify the problem in consultation with the County. Whatcom PUD shall exercise its rights under this Franchise and within the Franchise Area in accordance with all County codes and ordinances governing use and occupancy of the Franchise Area; provided, however, in the event of any conflict or inconsistency of such codes and ordinances with the terms and conditions of this Franchise, the terms and conditions of this Franchise shall govern and control to the extent authorized by law; provided, further, nothing herein shall be deemed to waive, prejudice or otherwise limit any right of appeal afforded Whatcom PUD by such County codes and ordinances.

4.3 All construction or installation of such Facilities, service, repair, or relocation of the same, performed over, above, along or under the Franchise Area shall be done in such a manner as not to interfere unreasonably with the construction and maintenance of other existing utilities, lines, public or private, drains, drainage ditches and structures, irrigation ditches and structures, located therein, nor with the grading or improvement of the Franchise Area. The owners of all utilities, public or private, installed in the Franchise Area prior in time to the Facilities of Whatcom PUD shall have preference as to the positioning and location of such utilities so installed with respect to Whatcom PUD. Such preference shall continue in the event of the necessity of relocating or changing the grade of the Franchise Area. Whatcom PUD shall have such preference as to owners of all utilities, public or private, initially installed in the Franchise Area subsequent in time to Whatcom PUD's Facilities.
4.4 The locating, laying, construction, operation and maintenance of Whatcom PUD’s Facilities authorized by this Franchise shall not preclude the County, its agents or its contractors from blasting, grading, excavating, or doing other necessary road work contiguous to Whatcom PUD’s Facilities, provided that Whatcom PUD and the County shall first check with the locator service to determine whether or not any of Whatcom PUD’s lines are located in the proposed work area. Upon finding from the locator service that Whatcom PUD does have lines located within the proposed work area, the County shall provide Whatcom PUD with seventy-two (72) hours notice of proposed work, except if a lesser time for notice is warranted by emergency, in order that the Whatcom PUD may protect its Facilities. Failure of Whatcom PUD to properly notify the locator service of the location of its lines and Facilities shall relieve County of its duty to provide Whatcom PUD the otherwise-required advance notice of proposed work. The County acknowledges that the Facilities may include high pressure water lines. As such, the County acknowledges that any work in, around or near such Facilities require the exercise of reasonable standard professional engineering and construction caution and practices in, around or near such Facilities. Accordingly, the County acknowledges that upon receipt of notice of the location of such Facilities the County shall undertake all reasonable standard professional engineering and construction caution practices and/or requirements when conducting or permitting any work in, around or near such Facilities.

4.5 Whatcom PUD shall maintain all above-ground Facilities that it places in the Franchise Area. In order to avoid interference with the County’s ability to maintain the Franchise Area, Whatcom PUD shall provide a clear zone of five (5) feet on all sides of such above-ground Facilities. If Whatcom PUD fails to comply with this provision, and by its failure, property is damaged, then Whatcom PUD shall be deemed responsible for all damages caused thereby and the County shall be released from any responsibility therefore. For these purposes, “clear zone” means an area that is mowed or otherwise maintained so that the Facilities are readily visible to County maintenance operations.

Section 5. Construction Within the Franchise Area.

5.1 All construction and installation work within the Franchise Area shall be subject to the approval and pass the inspection of the County Engineer, and shall conform to all applicable local, state and federal standards, codes or regulations, and the County expressly reserves the right to prescribe standards as to how and where Facilities shall be installed. The standards shall be consistent with reasonable standards and standard engineering practices in the applicable industries.

5.2 Prior to commencement of construction of any new Facilities, Whatcom PUD shall first file with the County Engineer its application for permits to do such work, together with plans and specifications in duplicate showing the position and location of all such Facilities sought to be constructed, laid, installed or erected at that time showing their position relative to existing County roads, rights-of-way, or other County property within the Franchise Area upon plans drawn to scale. The Facilities shall be laid in conformity with said plans and specifications of definite location, except in instances in which deviation may be allowed thereafter in writing by the County Engineer. The plans and specifications shall specify the class and type of material and equipment to be used, manner of excavation, construction, installation, backfill, erection of temporary structures, erection of permanent structures, traffic control, traffic turnouts and road obstructions, etc. No such construction shall be commenced without Whatcom PUD first
securing a written permit from the County Engineer, including approval endorsed on one set of plans and specifications returned to Whatcom PUD. All such work shall be subject to the approval of and shall pass the inspection of the County Engineer. Whatcom PUD shall pay all costs of and expenses incurred in the examination, inspection and approval of such work on account of granting the said permits.

5.3 In any work which requires breaking of soil within the Franchise Area for the purpose of laying, relaying, connecting, disconnecting, constructing, maintaining and repairing Whatcom PUD’s Facilities, and making connections between the same to structures and buildings of consumers or making connections to other Facilities now in existence or hereafter constructed, Whatcom PUD shall be governed by and conform to the general rules adopted by the County Engineer; and Whatcom PUD at its own expense and with due diligence shall complete the work for which the soil has been broken and forthwith replace the work and make good the Franchise Area and leave the same in as good condition as before the work was commenced; provided, however, that no such breaking of the soil within the Franchise Area shall be done prior to the obtaining of a permit issued by the County Engineer. Applications for such a permit shall be accompanied by specifications for the restoration of the Franchise Area to the same condition as it was in prior to such breaking, and such specifications must be approved by the County Engineer before such breaking of the soil is commenced; provided further, that the County Engineer may require a performance bond in a reasonable sum sufficient to guarantee that such Franchise Area shall be restored to the same condition as it was in prior to such breaking of the soil, the amount of said bond to be fixed by the County Engineer. Whatcom PUD shall pay all costs of and expenses incurred in the examination, inspection and approval of such restoration. The County Engineer may at any time do, order, or have done, any and all work that the County Engineer considers necessary to restore to a safe condition any Franchise Area left by Whatcom PUD or its agents in a condition dangerous to life or property, and Whatcom PUD upon demand shall pay to the County all costs of such work, the County having first provided notice of such condition to Whatcom PUD and a reasonable time to cure such unsafe condition, provided however, in the event of damage to the Franchise Area caused by Whatcom PUD that necessitates immediate repair by the County or its agents on an emergency basis where notice to Whatcom PUD or providing an opportunity to cure is not feasible considering nature of the emergency and necessary repair, as determined by the County Engineer using professional engineering standards, no such notice and reasonable time to cure shall be required as a condition of repayment by the PUD.

5.4 In preparing plans and specifications for the installation of Facilities within the Franchise Area, Whatcom PUD shall reasonably conform to the standards and specifications established by the County Engineer. Whatcom PUD shall consult with the County Engineer in case it plans to deviate from the established standards and specifications in the course of installing Facilities within the Franchise Area and must demonstrate to the satisfaction of the County Engineer that its plans will achieve a legal and functionally equivalent result.

5.5 All work done by and for Whatcom PUD under this Franchise shall be done in a thorough and workmanlike manner. In the construction of Facilities and the opening of trenches within and the tunneling under the Franchise Area, Whatcom PUD shall leave such trenches and tunnels in such a way as to interfere as little as possible with public travel, and shall take all due and necessary precautions to guard the same, so that damage or injury shall not occur or arise by reason of such work. Where any of such trenches, ditches, or tunnels are left open at
night, the Whatcom PUD shall place warning lights and barricades at such a position as to give adequate warning of such work, per the MUTCD (Manual on Uniform Traffic Control Devices). Whatcom PUD shall be liable for any injury to person or persons or damage to property to the extent proximately caused by its carelessness or neglect, or to the extent proximately caused by any failure or neglect to properly guard or give warning of any trenches, ditches or tunnels dug or maintained by Whatcom PUD.

5.6 Before any work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, Whatcom PUD shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during Whatcom PUD's operations under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed, or disturbed, and the expense of replacement by approved monuments shall be borne by Whatcom PUD. A complete set of reference notes for monuments and other ties shall be filed with the County Engineer's Office.

Section 6. Relocation of Facilities.

6.1 Whatcom PUD shall, at its sole expense and with due diligence, relocate or adjust the elevation of any of its Facilities upon receipt of written request from the County Engineer when determined reasonably necessary based upon sound engineering principles by the County Engineer for improvement to the County facilities in the Franchise Area, provided that the elevations required by the County are not in violation of local, state or federal law and are reasonable necessary for safety purposes. Whatcom PUD shall coordinate such relocation or adjustment of its Facilities with the County and shall perform the same in a timely fashion so that, absent conditions beyond the control of Whatcom PUD, such relocation or adjustment of Whatcom PUD's Facilities will not impede or delay pending changes to the Franchise Area.

6.1.1 Notwithstanding the foregoing, except where no other reasonable engineering alternative exists, the County shall not require Whatcom PUD to relocate or adjust the elevations of any water lines measuring twelve inches (12") or larger in diameter located in the following areas with pressure of at least 100 psi (referred to herein as the “High Pressure Water Lines”) (copies of the as-built drawings were provided by Whatcom PUD to the County on May 29, 2013 and August 22, 2013 with said copies to be retained in the Whatcom County Public Works Engineering Services Records Vault):

A. Along, under or within the Douglas Road right of way
B. Along, under or within the Aldergrove Road Right of Way
C. Along, under or within the Rainbow Road Right of Way.
D. Along, under, or within the Lake Terrell Road Right of Way
E. Along, under, or within the Trigg Road Right of Way

6.1.2 In the event the County constructs or extends any roadway over any High Pressure Water Lines, the County does so at its own risk and expense. Pursuant to the terms and conditions set forth in Section 7, below and to the extent permitted by law, and to the extent consistent with all reasonable standard professional engineering and construction practices
and/or requirements when conducting or permitting any work in, around or near such Facilities the County shall defend, indemnify and hold Whatcom PUD harmless from any and all claims arising out of or resulting from the County’s or its employees, agents and/or contractor’s negligent acts or omissions that proximately cause damage to or interruption to the operation of the High Pressure Water Lines..

6.1.3 The County may, at its sole cost and risk, and with Whatcom PUD’s prior written consent, which consent shall not be unreasonably conditioned nor withheld, relocate or adjust the elevations of the High Pressure Water Lines, provided that service to Whatcom PUD’s customers is not interrupted.

6.2 Whatcom PUD may propose to the County alternatives to reduce or eliminate the need for relocation of its Facilities pursuant to Section 6.1. Upon the County’s receipt from Whatcom PUD of such alternatives in writing, the County shall evaluate such alternatives and shall advise Whatcom PUD in writing if one or more of such alternatives are suitable to accommodate the work that would otherwise necessitate relocation of Whatcom PUD’s Facilities. In evaluating such alternatives, the County shall give each alternative proposed by Whatcom PUD full and fair consideration with due regard to all the facts and circumstances which bear upon the practicality of relocation and alternatives to relocation. In the event the County reasonably determines that such alternatives are not appropriate, Whatcom PUD shall relocate its Facilities as otherwise provided in Section 6.1. Any acceptance by the County of such alternatives shall not excuse (nor shall be construed to excuse) Whatcom PUD from future relocation or adjustment of Whatcom PUD’s Facilities pursuant to this Section 6.

6.3 As qualified in Sections 6.1 and 6.2 above, and in Section 6.4 below, whenever any person or entity, other than the County, requires the relocation of Whatcom PUD’s Facilities to accommodate the work of such person or entity within the Franchise Area, or whenever the County requires the relocation of Whatcom PUD’s Facilities within the Franchise Area for the benefit of any person or entity other than the County, then Whatcom PUD shall have the right as a condition of such relocation to require such person or entity to:

6.3.1 Make payment to Whatcom PUD, at a time and upon terms acceptable to Whatcom PUD, which acceptance shall not be unreasonably withheld, for any and all costs and expenses incurred by Whatcom PUD in the relocation of Whatcom PUD’s Facilities; and

6.3.2 Indemnify and save Whatcom PUD harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the relocation of Whatcom PUD’s Facilities, to the extent such injury or damage is caused by the negligence of the person or entity requesting the relocation of Whatcom PUD’s Facilities or the negligence of the agents, servants or employees of the person or entity requesting the relocation of Whatcom PUD’s Facilities.

6.4 Any condition or requirement imposed by the County upon any person or entity, other than Whatcom PUD or the County (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals or permits for zoning, land use, construction or development) which requires the relocation of Whatcom PUD’s Facilities shall be a required relocation for purposes of Section 6.3; provided, however:

6.4.1 If the County notifies Whatcom PUD in writing that the primary purpose of
imposing such condition or requirement upon such person or entity is to cause the grading or widening of the Franchise Area on the County’s behalf consistent with the County’s Six-Year Road Construction Program, then Whatcom PUD shall relocate its Facilities within the Franchise Area in accordance with Section 6.1 unless such Facility is otherwise exempt from relocation pursuant to Section 6.1.1 through 6.1.3.

6.4.2 Unless the relevant Facility is exempt from relocation pursuant to Section 6.1.1 through 6.1.3, if the County notifies Whatcom PUD in writing that the County will bear a portion of the costs of, or will provide funding towards, a project that includes grading or widening of the Franchise Area resulting from the imposition of such condition or requirement upon such person or entity, then Whatcom PUD agrees to bear a portion of its costs and expenses to relocate its Facilities to accommodate such grading or widening, such portion borne by Whatcom PUD being a percentage equal to that percentage of such project’s costs borne or funded by the County (the “County Contribution”); provided, however, in no event shall such portion borne by Whatcom PUD exceed the dollar amount of such County Contribution. “Project” shall mean that work directly bearing on the area that necessitates relocation by Whatcom PUD, and shall not include other off-site improvements that may be performed at the same time. In all other respects such relocation shall be a required relocation for the purposes of Section 6.3 and without limiting the foregoing, Whatcom PUD shall have the right as a condition of such relocation to require such person or entity to pay to Whatcom PUD all relocation costs and expenses in excess of the portion borne by Whatcom PUD under this Section 6.4.2.

6.4.3 If the Facilities to be relocated pursuant to this subsection 6.4 have been located at or relocated within the preceding five (5) years to a location upon which the County had agreed at the time without reservation, then Whatcom PUD shall be entitled to recovery of all its costs and expenses incurred in the relocation of its Facilities from the party on whom the condition for road improvements was placed. Documentation of any such agreement between the County and Whatcom PUD shall be kept in conjunction with the encroachment permit issued by the County for the work of relocation.

6.5 Nothing in this Section 6 shall require Whatcom PUD to bear any cost or expense in connection with the location or relocation of any Facilities then existing pursuant to easement or such other rights not derived from or addressed by this Franchise.

Section 7. Indemnification.

7.1 To the extent permitted by law, Whatcom PUD shall defend, indemnify and hold the County harmless from any and all claims, demands, suits, actions, costs and expenses, including but not limited to attorney’s fees, made against it on account of injury or damage to the person or property of another, but only to the extent such injury or damage is caused by the actions or failure to act of Whatcom PUD, its agents, servants or employees in exercising the rights granted to Whatcom PUD in this Franchise; provided, however, that in the event any such claim or demand be presented to or filed with the County, the County shall promptly notify Whatcom PUD thereof, and Whatcom PUD shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action is begun against the County based upon any such claim or demand, the County shall likewise promptly notify Whatcom PUD thereof, and Whatcom PUD shall have the
right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. Notwithstanding the foregoing, if damages to another or others result from concurrent negligence of Whatcom PUD and the County, Whatcom PUD and the County shall each be responsible for, and this indemnification provision shall be operative so that each party bears, the proportionate share attributable to its own negligence. In case judgment which is not appealed shall be rendered against the County in such suit or action, Whatcom PUD shall fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined. Upon Whatcom PUD’s failure to satisfy said judgment within ninety (90) days, the County may elect to terminate this Franchise pursuant to the terms of Section 19 herein. The provision for reimbursement of the County shall survive the termination of this Franchise.

7. 2. Acceptance by the County of any work performed by Whatcom PUD at the time of completion shall not be grounds for avoidance of the covenant in Section 7.1 above.

Section 8. Acquisition of Right-of-Way.

8.1 In the event that Whatcom PUD proposes to acquire easements for the location or relocation of its Facilities outside of, and adjacent to the Franchise Area, Whatcom PUD shall notify the County of the same and the County shall have the option, with the concurrence of Whatcom PUD, to acquire in place of such Whatcom PUD proposed easements, additional public rights-of-way or equivalent public utility easements for use by Whatcom PUD. Any such public rights-of-way acquired by the County shall become Franchise Area. Any such public utility easements so acquired by the County shall not be Franchise Area (and shall not be subject to the terms and conditions of this Franchise) and Whatcom PUD’s use of such public utility easements shall be subject to the terms and conditions of such public utility easements.

Section 9. Vacation of the Franchise Area.

9.1 If at any time the County shall seek to vacate any portion of the Franchise Area and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the Franchise Area for the use of the County, in either its proprietary or governmental capacity, and there are no Facilities located in the Franchise Area, then the County Engineer may at his option and by giving thirty (30) days written notice to Whatcom PUD, terminate this franchise with reference to such portion of the Franchise Area so vacated, and the County shall not be liable for any damages or loss to Whatcom PUD allegedly incurred by reason of such termination. Nothing herein shall limit or prevent Whatcom PUD from exercising its powers of eminent domain. Should Whatcom PUD notify the County of its intent to consider exercising its power of eminent domain to obtain an easement for the Facilities located within the area of the Franchise to be terminated, the termination of the Franchise shall be tolled for a period of no less than one hundred and twenty (120) days from the date of notice.

---

1 A distinction is drawn here between public rights-of-way which are or shall become Franchise Area and thus governed by the terms of the franchise ordinance, and public utility easements which shall not become Franchise Area, the use of which shall be governed by the terms and conditions of the easements themselves and not by the franchise ordinance.
9.2 If at any time the County shall vacate any portion of the Franchise Area in which Facilities are installed at the time of said vacation, and said vacation shall be for the purpose of acquiring the fee or other property interest in said portion of the Franchise Area by other than the County, then the County shall, in its vacation procedure, unless otherwise waived in writing by Whatcom PUD, reserve an easement to Whatcom PUD for Whatcom PUD’s Facilities as reasonably necessary for the continued use, operation, maintenance and repair of the Facilities as located in the portion of the Franchise Area to be vacated.

Section 10. Moving Buildings within the Franchise Area.

10.1 If any person or entity obtains permission from the County to use the Franchise Area for the moving or removal of any building or other object, the County shall, prior to granting such permission, direct such person or entity to arrange with Whatcom PUD for the temporary adjustment of Whatcom PUD’s Facilities necessary to accommodate the moving or removal of such building or other object. Such person or entity shall make such arrangements, upon terms and conditions acceptable to Whatcom PUD, not less than fourteen (14) days prior to the moving or removal of such building or other object. In such event, Whatcom PUD shall, at the sole cost and expense of the person or entity desiring to move or remove such building or other object, adjust any of its Facilities which may obstruct the moving or removal of such building or object.

Section 11. Locating Facilities.

11.1 Whatcom PUD and the County acknowledge and commit to fully comply with their respective obligations, as the same may arise from time to time, under Chapter 19.122 RCW (Underground Utilities Locator Statute) or any other law applicable to determining the location of utility facilities.

Section 12. Nonexclusive Franchise.

12.1 This Franchise is not and shall not be deemed to be an exclusive franchise. It shall not in any manner prohibit the County from granting other franchises of a like nature or franchises for other public or private utilities under, along, across, over, and upon any part of the Franchise Area, and shall in no way prevent or prohibit the County from constructing, altering, maintaining, using, or vacating any part thereof, or affect its jurisdiction over any part thereof with full power to make all necessary changes, relocations, repairs, maintenance, etc., the same as the County may deem fit.

Section 13. Franchise Term; Effect on Existing Franchises for Same Purpose.

13.1 This Franchise is and shall remain in full force and effect for a period of twenty-five (25) years from and after the effective date of the Ordinance; provided, however, Whatcom PUD shall have no rights under this Franchise nor shall Whatcom PUD be bound by the terms and conditions of this Franchise unless Whatcom PUD shall, within thirty (30) days after the effective date of the Ordinance, file with the County its written acceptance of the franchise agreement contained within the Ordinance.

13.1.1 No franchise hereunder shall become effective for any purpose unless and
until written acceptance therefore shall have been filed with the Whatcom County Council and County Director of Public Works and such written acceptance shall be in the form and substance as shall be prescribed and approved by the County Prosecuting Attorney and operate as an acceptance of each and every term and condition and limitation contained in this ordinance, and in such franchise; and

13.1.2 Such written acceptance shall be filed by Whatcom PUD not later than the thirtieth (30th) day following the effective date of the Ordinance granting such franchise; and in default of the filing of such written acceptance as herein required, Whatcom PUD shall be deemed to have rejected the same. In case of Whatcom PUD’s tardy acceptance of franchise, the County’s recognition thereof shall be strictly at its discretion.

13.2 The existing franchises between the Parties pertaining to the same subject matter, i.e., PUD #1’s water lines, which were granted by the County and accepted by PUD #1 on June 17, 1965, and January 29, 1970, shall be superseded and replaced by this franchise upon the effective date of this franchise as provided above.

Section 14. Assignment.

14.1 Neither this Franchise nor any interest herein shall be sold, transferred, or assigned without the prior consent in writing of the County Council, which consent shall not be unreasonably withheld, except that the Whatcom PUD may mortgage this Franchise to the trustee for its bond holders. Any approved assignee shall, within thirty (30) days of the date of any assignment, file written notice of the assignment with the County, together with its written acceptance of all terms and conditions of this Franchise.

14.2 All the provisions, conditions, and requirements herein contained shall be binding upon the successors and assigns of Whatcom PUD, and all privileges, as well as all obligations and liabilities of the grantee shall inure to its successors and assigns equally as if they were specifically mentioned wherever Whatcom PUD is mentioned.

Section 15. Amendment.

15.1 Except as addressed in and through Section 15.3 below, this Franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment to this Franchise and is approved and executed in accordance with the laws of the State of Washington. Without limiting the generality of the foregoing, this Franchise (including, without limitation, Section 5 above) shall govern and supersede and shall not be changed, modified, deleted, added to, supplemented or otherwise amended by any permit, approval, license, agreement or other document required by or obtained from the County in conjunction with the exercise (or failure to exercise) by Whatcom PUD any and all rights, benefits, privileges, obligations or duties in and under this Franchise, unless such permit, approval, license, agreement or other document specifically:

15.1.1 References this Franchise; and

15.1.2 States that it supersedes this Franchise to the extent it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and
conditions of this Franchise. In the event of any conflict or inconsistency between the provisions of this Franchise and the provisions of any such permit, approval, license, agreement or other document, the provisions of this Franchise shall control.

15.2 If, during the term of this Franchise, there becomes effective any change in federal or state law (including changes approved by the Washington Utilities and Transportation Commission) which:

15.2.1 Affords either party the opportunity to negotiate in good faith a term or condition of this Franchise which term or condition would not have, prior to such change, been consistent with federal or state law; or

15.2.2 Pre-empts or otherwise renders null and void any term or condition of this Franchise which has there-to-fore been negotiated in good faith;

then, in such event, either party may notify the other party in writing that such party desires to commence negotiations to amend this Franchise. Such negotiations shall encompass only the specific term or condition affected by such change in federal or state law and neither party shall be obligated to re-open negotiation on any other term or condition of this Franchise. Within thirty (30) days from and after the other party’s receipt of such written notice, the parties shall, at a mutually agreeable time and place, commence such negotiations. Pending completion of such negotiations resulting in mutually agreeable amendment of this Franchise, adoption of such amendment by Ordinance by the County and acceptance of such Ordinance by Whatcom PUD, and except as to any portion thereof which has been pre-empted or otherwise rendered null and void by such change in federal or state law, this Franchise shall remain in full force and effect.

15.3 Notwithstanding any language to the contrary contained herein, this Franchise is subject to the provisions of the Whatcom County Charter, Section 9.30, and all rights belonging to the County and its people as set forth therein are hereby reserved thereto.

Section 16. Miscellaneous

16.1 If any term, provision, condition, or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise, which shall continue in full force and effect. The headings of sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

16.2 This Franchise is subject to the requirements of any and all applicable laws, rules, and regulations, including the Whatcom County Code, as currently enacted or hereafter modified. In the event of any actual conflict between the provisions of this Franchise and the requirements of the Whatcom County Code or County-enacted rules or regulations, the provisions of this Franchise shall control, to the extent authorized by law.

16.3 All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by
registered or certified mail, return receipt requested, postage prepaid to:

**For County:**
County Executive
Whatcom County Courthouse
311 Grand Ave.
Bellingham, WA 98225

**For Whatcom PUD:**
General Manager
PUD # 1 of Whatcom County
1705 Trigg Rd.
Ferndale, WA 98248

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

16.4 No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Franchise or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Franchise, and each and every covenant, agreement, term and condition of this franchise shall continue in full force and effect with respect to other then existing or subsequent breach thereof.

Section 17. Incorporation and Annexation.

17.1 Whenever any part of the Franchise Area, by reason of the subsequent incorporation of any town or city, or extension of the limits of any town or city, shall fall within the city or town limits, this Franchise shall continue in force and effect as to all of the Franchise Area not so included in city or town limits.

Section 18. Insurance.

18.1 During the term of this Franchise Whatcom PUD shall keep in effect, a liability insurance policy covering all liability of Whatcom PUD to the County, including any assumed by contract between Whatcom PUD and any other party, with limits at least in the amount of $1,000,000. In lieu of the insurance requirement of this Section, Whatcom PUD may self-insure against such risks. At the time of Whatcom PUD's acceptance of this Franchise and otherwise upon the County's request, Whatcom PUD shall provide the County with certificate(s) of insurance or evidence of self-insurance reflecting the requirements of this section.

Section 19. Forfeiture and Termination of Franchise.

19.1 If Whatcom PUD shall willfully violate or fail, through willful or unreasonable neglect, to comply with any of the provisions of this Franchise for sixty (60) days after receipt of
Whatcom PUD's forfeiture of all rights hereunder and to declare this Franchise terminated and of no further force or effect thereafter; provided, however, if any failure to comply with this Franchise by Whatcom PUD cannot be corrected with due diligence within said sixty (60) day period (Whatcom PUD's obligation to comply and to proceed with due diligence being subject to unavoidable delays and events beyond its control), then the time within which Whatcom PUD may so comply shall be extended for such time as may be reasonably necessary and so long as Whatcom PUD commences promptly and diligently to effect such compliance.

Section 20. Effective Date.

20.1 This Ordinance shall be effective ten (10) days after being signed by the County Executive, with the Franchise granted hereunder finally effective pursuant to the terms of Section 13.1, 13.1.1, and 13.1.2, having been: (i) introduced to the County Council not less than thirteen (13) days before its passage; (ii) brought to public notice by such notice having been posted in three (3) public places in Bellingham at least fifteen (15) days before the day fixed for the public hearing; (iii) published at least twice in the official newspaper for the County and no later than five (5) days prior to the day fixed for the hearing and as otherwise required by law; and (iv) passed at a regular meeting of the legislative body of the County of Whatcom by a vote of at least _________ members of the County Council on ______________________, 2014.

ADOPTED this ____ day of ________, 2014.

ATTEST: 

WHATCOM COUNTY COUNCIL 
WHATCOM COUNTY, WASHINGTON

____________________________________
Dana Brown-Davis, Clerk of the Council

____________________________________
Carl Weimer, Council Chair

APPROVED AS TO FORM:

( ) Approved  ( ) Denied

____________________________________
Chief Civil Deputy Prosecutor

____________________________________
Jack Louws, County Executive
Ordinance to amend the Birch Bay Drive and Pedestrian Facility project fund (CRP #907001) by adding budget authority in the amount of $1,127,676 for design services for a total project budget expenditure amount of $2,200,000.

SEPA review completed? ( ) Yes ( X ) NO
Should Clerk schedule a hearing? ( ) Yes ( C ) 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.)

Requesting Council approval for the additional budget authority in the Birch Bay Drive and Pedestrian Facility project fund for a total budget expenditure amount of $2,200,000 to allow for design services.

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

THROUGH: Frank M. Abart, Director

FROM: Joe Rutan, P.E., Assistant Director/County Engineer

DATE: May 22, 2014

RE: Ordinance Amending the Birch Bay Drive and Pedestrian Facility Project Fund Budget, Cost Center 339100, CRP #907001

Enclosed for your review and signature is one original of the ordinance amending the Birch Bay Drive and Pedestrian Facility project fund budget.

Background and Purpose
The Birch Bay Drive and Pedestrian Facility project fund was established by Ordinance 2012-050 for an amount of $1,072,324 on November 27, 2012 for a time frame of 2013 & 2014. This request is to amend the initial project fund in the amount of $1,127,676 for design services, bringing the total project budget to $2,200,000, and extend the time frame to include 2015.

Funding Amount and Source
This work will be funded from Federal STP funds that have been awarded, but not yet obligated. The obligation of the funds will occur shortly.

Please contact Jim Karcher at extension 50633 if you have any questions or concerns regarding this proposal.
ORDINANCE NO. ________

AMENDMENT No. 1 TO ORDINANCE No. 2012-050 ESTABLISHING THE BIRCH BAY DRIVE AND PEDESTRIAN FACILITY PROJECT FUND AND ESTABLISHING A PROJECT BASED BUDGET FOR THE BIRCH DRIVE AND PEDESTRIAN FACILITY PROJECT

WHEREAS, the preliminary engineering phase of the Birch Bay Drive and Pedestrian Facility budget was initially adopted on November 27, 2012, with an expenditure amount of $1,072,324 and a revenue amount of $1,072,324 from REET funds and Road fund balance, and

WHEREAS, the project is moving into the design phase, and

WHEREAS, it is necessary to complete the design in the amount of $1,127,676, and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council, that Ordinance No. 2012-050 establishing the project based budget for the Birch Bay Drive and Pedestrian Facility Project, is hereby amended by adding an additional amount of $1,127,676 of expenditure authority to the project budget for a total project budget expenditure amount of $2,200,000 as described in Exhibit A.

ADOPTED this ____ day of ____________________, 2014.

ATTEST:

Dana Brown-Davis, Council Clerk

APPROVED AS TO FORM:

Daniel L. Gibson
Chief Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Carl Weimer, Chair of the Council

( ) Approved         ( ) Denied

Jack Louws, County Executive
Date: ____________________________
## Project Based Budget - Budget Request Tracking Sheet

**Project Title:** Birch Bay Drive and Pedestrian Facility  
**CRP #907001**  
**Project Based Budget Request: No. 2**  
**Duration Requested: 3 yrs (2013, 2014, 2015)**

<table>
<thead>
<tr>
<th>Object Account</th>
<th>Activity</th>
<th>Estimated Project Cost</th>
<th>Approved Project Budget</th>
<th>Amended Project Budget Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Services</td>
<td>$1,900,000</td>
<td>$1,072,324</td>
<td>$827,676</td>
<td></td>
</tr>
<tr>
<td>Right-of-Way</td>
<td>300,000</td>
<td>-</td>
<td>300,000</td>
<td></td>
</tr>
<tr>
<td>Construction</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,200,000</strong></td>
<td><strong>$1,072,324</strong></td>
<td><strong>$1,127,676</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Object Account</th>
<th>Activity</th>
<th>Estimated Project Revenues</th>
<th>Approved Project Budget</th>
<th>Amended Project Budget Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>REET II Transfer</td>
<td>$745,000</td>
<td>$745,000</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Federal STP (E)</td>
<td>327,324</td>
<td>327,324</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Federal STP (US)</td>
<td>1,127,676</td>
<td>-</td>
<td>1,127,676</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,200,000</strong></td>
<td><strong>$1,072,324</strong></td>
<td><strong>$1,127,676</strong></td>
<td></td>
</tr>
</tbody>
</table>
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 Annual Construction 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 2014, 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>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$1,562,129</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$9,887,871</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): N/A
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>Originator: Debbie Bailey</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: Gary Stoyka</td>
<td>Initial</td>
<td>Date</td>
<td></td>
<td>5/13/14</td>
<td></td>
</tr>
<tr>
<td>Dept. Head: Frank Abart</td>
<td>Initial</td>
<td>Date</td>
<td></td>
<td>5/13/14</td>
<td></td>
</tr>
<tr>
<td>Prosecutor: Dan Gibson</td>
<td>Initial</td>
<td>Date</td>
<td></td>
<td>5/13/14</td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget: Brad Bennett</td>
<td>Initial</td>
<td>Date</td>
<td></td>
<td>5/13/14</td>
<td></td>
</tr>
<tr>
<td>Executive: Jack Lounx</td>
<td>Initial</td>
<td>Date</td>
<td></td>
<td>05/20/14</td>
<td></td>
</tr>
</tbody>
</table>

RECEIVED

MAY 27 2014

WHATCOM COUNTY COUNCIL

TITLE OF DOCUMENT:

Ordinance amending Whatcom County Code 8.10 Solid Waste and Residential Recycling Collection

ATTACHMENTS:

Cover Memorandum
Ordinance

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

Should Clerk schedule a hearing? ( X ) 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.)

Following review by the Solid Waste Advisory Committee, Solid Waste Executive Committee and consultation with the UTC, several updates to the Service Level Ordinance, WCC 8.10, were recommended.

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

THROUGH: Frank Abart, Director

FROM: Gary Stoyka, Manager, Natural Resources

RE: Proposed Ordinance Changes Whatcom County Code 8.10

DATE: May 15, 2014

Enclosed is one original of proposed Ordinance Changes to WCC. 8.10

Requested Action
Public Works respectfully requests that the County Executive and Whatcom County Council approve the proposed changes to Whatcom County Code 8.10

Background
At the January 23rd, 2014 meeting of the Solid Waste Advisory Committee (SWAC), several proposed changes to County Code 8.10, Solid Waste and Residential Recycling Collection, were reviewed and discussed. SWAC voted unanimously to forward the indicated changes to the Solid Waste Executive Committee (SWEC) for approval prior to sending it to the County Council with a recommendation for adoption. The SWEC subsequently approved the proposed changes unanimously.

Names of two of the Solid Waste Collection Companies were in need of changing and there were some minor changes recommended by the Utilities and Transportation Commission regarding Health Department reporting requirements. None of the changes are substantive with the exception of the deletion of one section. A listing of the changes is attached along with the full version of the code with the proposed deletions indicated by strikeout and additions indicated by underlined red type.

Any questions may be directed to Gary Stoyka (50618) or Debbie Bailey (50292).
PROPOSED CHANGES TO WHATCOM COUNTY CODE 8.10

Throughout the document, WUTC (Washington Utilities and Transportation Commission) is changed to UTC (Utilities and Transportation Commission), per the UTC.

8.10.010 Purpose
Update the name and date of the current Comprehensive Solid and Hazardous Waste Management Plan.

8.10.030 Definitions
Delete “Certificated Hauler” as a definition and add a definition for “Solid Waste Collection Company.” Changes made throughout the document to reflect the new definition.

8.10.040 Single-family residential garbage collection
Subsection B – Clarification of “service area”

8.10.050 Residential recycling collection
Move the phrase beginning with “All single-family residences located in Point Roberts.....” from sub-section K to sub-section A.
Subsection B- Second sentence: Define county approval as “administrative.”
Subsection B – Per the UTC, delete the third and fourth sentences and insert the sentence beginning with “The Utilities and Transportation Commission, by law, will establish fair, just, reasonable, and sufficient rates.....”
Subsection C.2.e – Delete this item and insert new item e, beginning "Nothing in this section shall prohibit the solid waste collection company..."
Sub-section F – per the UTC, delete this section and add new sub-section F, "A solid waste collection company subject to regulation by the UTC....."

8.10.070 Submittal of documents and notices
Sub-section B – Delete this section in its entirety as recommended by the SWAC with the consent of the Whatcom County Health Department.
May 13, 2014

SPONSORED BY: ____________

PROPOSED BY: Public Works

INTRODUCTION DATE: __________

ORDINANCE NO. __________

AMENDING WHATCOM COUNTY CODE 8.10
SOLID WASTE AND RESIDENTIAL RECYCLING COLLECTION

WHEREAS, the Whatcom County Council adopted Ordinance No. 90-95, the Service Level Ordinance, on October 9, 1990 and amended said ordinance on January 11, 1991; again on July 23, 1991; again on September 19, 1995, again on December 9, 1997; September 25, 2001; and again on February 25, 2003; and

WHEREAS, the Solid Waste Advisory Committee (SWAC) and the Utilities and Transportation Commission (UTC) have recently reviewed and recommended further amendments to the Service Level Ordinance; and

WHEREAS, the Solid Waste Executive Committee (SWEC) has also reviewed and approved the proposed amendments;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Section 8.10 of the Whatcom County Code is hereby amended in accordance with the attached Exhibit “A” to this ordinance.

ADOPTED this ______ day of ____________, 2014

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOMCOUNTY, WASHINGTON

APPROVED AS TO FORM:

Daniel Gibson

Civil Deputy Prosecutor

( ) Approved  ( ) Denied

Date Signed: ________________
Chapter 8.10
SOLID WASTE AND RESIDENTIAL RECYCLING COLLECTION

Sections:

8.10.010 Purpose.
8.10.020 Findings.
8.10.030 Definitions.
8.10.040 Single-family residential garbage collection.
8.10.050 Residential recycling collection.
8.10.060 Nonresidential and multifamily garbage collection.
8.10.070 Submittal of documents and notices.
8.10.080 Notice to Utilities and Transportation Commission.
8.10.090 Modification of collection schedules.
8.10.100 Severability.

8.10.010 Purpose.
A. Policies expressed in Whatcom County's Comprehensive Solid and Hazardous Waste Management Plan Update ("plan") make waste reduction and recycling the preferred methods of handling solid waste. The purpose of this chapter is to specify service levels and rate structures for recycling and solid waste collection that encourage recycling and waste reduction, that protect the public health and safety, and to ensure that, to the maximum extent practicable, only the remainder after separation should be incinerated or landfilled.

B. Certain service levels and rate structures for solid waste and recycling collection are hereby established in Whatcom County to further the objectives of the plan, including a high level of waste reduction and recycling; to ensure the provision of such solid waste collection and disposal systems and services as are in the public interest; and to secure a healthful environment for all citizens of Whatcom County. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.020 Findings.
The county council, in establishing service levels and rate structure principles, determines and finds:

A. Waste reduction and recycling measures contemplated by the plan promote the health, safety, and welfare of residents by encouraging the reuse of products and reducing the use of incineration and landfill facilities.

B. State and federal laws and regulations have increased the responsibility of local governments to manage solid waste systems in a manner that protects public health and safety.

C. The state and the county have set waste reduction and recycling as the highest priorities in managing solid waste. In order to make programs for waste reduction, curbside recycling and other source separation feasible, rate structures must make it cost-effective for residents and businesses who
generate small amounts of waste to participate in such programs, and all nonresidential accounts must be offered the option of subscribing to recycling service.

D. It is the policy of the county that collected recyclable materials be processed locally whenever practicable and that they be utilized according to the following priorities: (1) reuse intact materials in their original form for their original purposes; (2) recycle materials back into their original form for their original purpose; (3) recycle materials for other uses and preserve the future ease of recyclability; and (4) reuse materials for single end uses that do not allow or that inhibit further recycling.

E. Adoption of the ordinance codified in this chapter is necessary for the protection of natural resources and the environment, the immediate preservation of the public health and welfare and the support of governmental activities. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.030 Definitions.
As used in this chapter:

A. "Carrier" means a common, contract or private carrier as defined by RCW 81.80.010.

B. "Certificated hauler" means a solid waste collection company as defined by Chapter 81.77 RCW and certificated to operate in Whatcom County. Certificated haulers are Sanitary Services Company (WUTC No. G-14); Nooksack Valley Disposal, Inc. (WUTC No. G-166); Blaine Bay Refuse, Inc. (WUTC No. G-145); Waste Management of Washington, Inc. (WUTC No. G-237); and Point Recycling and Refuse, L.L.C. (WUTC No. G-155).

BG. "Executive committee" means the group of seven mayors and the county executive as established and governed by interlocal agreements between the county and cities in July 1989.

CD. "Multifamily dwelling" means a residential dwelling containing five or more units on one lot or parcel.

DE. "Nonresidential account" means a building or facility that is not occupied as a permanent residence including, but not limited to, commercial and industrial businesses, schools, hospitals, government buildings, recreation facilities, and transportation facilities.

EF. "On-call service" means garbage pickup service and drop-off recycling on other than regularly scheduled days, from a dwelling unit that is a seasonal vacation or weekend home. On-call garbage service does not include roadside recycling service and tends to be on a variable infrequent basis.

FG. "Recyclables" and "recyclable materials" mean those solid wastes that are separated for recycling or reuse as identified in this chapter.

GH. "Seasonal vacation or weekend home" is defined as a secondary residence used only for weekend or vacation use and not as a full-time or primary residence.
HI. "Single-family residence" means a residential dwelling containing four or fewer dwelling units on one lot or parcel. Where two, three, or four units are on one lot or parcel, each unit shall be considered as an individual single-family residence.

IJ. "Solid waste" shall have the meaning given to it by RCW 70.95.030. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

J. "Solid waste collection companies" means those entities defined by Chapter 81.77 and certified by the UTC to operate in Whatcom County. Solid waste collection companies are Sanitary Services Company (UTC No. G-14); Nooksack Valley Disposal, Inc. (UTC No. G-166); Waste Management of Washington, Inc. (No. G-237); and Freedom 2000 LLC, dba Cando Recycling and Disposal (UTC G063819).

8.10.040 Single-family residential garbage collection.
A. Certificated haulersSolid waste collection companies shall perform collection and hauling of garbage from single-family residences that request collection service in unincorporated portions of Whatcom County. Service to single-family residences shall be provided on a schedule of either weekly, every-other-week or monthly collection. In Point Roberts only, seasonal vacation or weekend residents will be encouraged to participate in recycling and have the option of on-call service.

B. Garbage containers provided by and for single-family residences shall be 30 to 32 gallons and 15 to 20 gallons. HaulersSolid waste collection companies may also offer 60- or 90-gallon containers. A specific size within the 15- to 20-gallon "mini-can" range shall be approved by each company and shall be consistent within its certified service area. Ninety-gallon can service shall be available only on a weekly or every-other-week basis. The design of all containers within each service area shall be subject to approval by the haulerssolid waste collection company certified for that area.

C. Collection rate structures shall be designed to encourage waste reduction and recycling and to comply with the plan. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.050 Residential recycling collection.
A. Certificated haulersSolid waste collection companies shall collect source-separated recyclables from all residences in unincorporated portions of Whatcom County that receive regularly scheduled garbage collection, except as provided in subsection K of this section. All single-family residences shall be provided with recycling collection at least every other week and on the same day of the week as garbage collection. Service to multifamily residences shall be provided at least every other week. The haulersolid waste collection company shall provide residents who have completed the garbage exemption process the opportunity to subscribe to recycling-only collection service without subscribing to garbage collection. Recycling-only customers will be charged the full cost of recycling collection service plus an appropriate administrative/billing fee. In Point Roberts only, single-family residences are defined as permanently year-round occupied buildings and every-other-week recycling collection does not have to be on the same day as garbage pickup. All single-family residences located in Point Roberts meeting the definition of
seasonal vacation or weekend homes, as defined under WCC 8.10.030(G), are exempt from curbside recycling collection.

B. The haulersolid waste collection company shall provide recycling containers to each residence at the customer’s request. Container design and use shall be subject to the prior administrative approval of the county. The cost to the hauler of the initial container set for each dwelling unit, of damaged containers, and of containers for new customers as necessary, shall be a cost incorporated into the collection rate. The cost of lost or stolen containers shall be borne by the customer. The Utilities and Transportation Commission, by law, will establish fair, just, reasonable, and sufficient rates for solid waste collection companies under RCW 81.77. The haulercompany shall deliver all containers to the dwelling unit unless otherwise directed by the county.

C. 1. HaulersSolid waste collection companies shall collect, and recycling containers shall be designed to hold, the following materials:

a. Newspaper;

b. Mixed waste paper;

c. Aluminum containers;

d. Tin-plated steel containers;

e. Glass containers;

f. All plastic bottles; all remaining plastic containers are eligible as approved by the county and the hauler;

g. Yard Waste. Collection of this material is deferred pending further amendments to this chapter.

2. The following materials shall also be collected when placed adjacent to set-out containers:

a. Corrugated cardboard;

b. Scrap metal no longer than 24 inches in any dimension or heavier than 35 pounds per piece;

c. Lead-acid batteries that show no signs of leakage;

d. Used motor oil in sealed containers;

e. Other source separated materials designated by the county and the hauler and approved by the county council.
e. Nothing in this section shall prohibit the solid waste collection company from picking up additional items at the company's discretion.

D. Materials shall be collected on the improved public road nearest to the residence (or mutually agreed upon location) when properly set out on the designated collection day. The haulers solid waste collection company is not required to collect materials at any particular hour. The collector is not required to enter private property to collect material while an animal considered or feared to be vicious is loose. The resident shall confine such an animal on collection day.

E. In case of missed collection, the haulers solid waste collection company shall investigate and, if the missed collection is verified, shall arrange for the collection of the uncollected recyclable material within one business day after the complaint is received, unless otherwise agreed by the hauler company and customer. All haulers solid waste collection companies shall add staff as needed to answer questions and respond to complaints from 8:00 a.m. to 5:00 p.m. on collection days.

F. Each hauler shall charge the same recycling collection rates to each residential dwelling unit that receives garbage collection service from that hauler. A solid waste collection company subject to regulation by the UTC as to rates and service shall not charge, demand, collect, or receive a different compensation from its customers than the applicable UTC-established rates (RCW 81.28).

G. Haulers solid waste collection companies and recycling companies shall take reasonable actions in marketing recyclable materials to implement the county's policies regarding local processing and priorities of use. All materials collected shall be processed and marketed such that no recyclable material is landfilled, incinerated, or disposed of in any way other than recycling. Haulers The companies shall adopt collection procedures and technologies to minimize the cross-contamination or non-recyclability of collected materials.

H. The county, in consultation with certified haulers solid waste collection companies and purchasers of recyclable materials, shall establish promotional strategies by which the haulers companies shall inform the public about recycling collection service. The county may adopt, and pay for, additional promotional strategies if they wish. Any hauler that wishes to adopt additional promotional strategies shall obtain the prior approval from the county. Requirements imposed by the WUTCUTC are not promotional strategies for purposes of this section.

I. It is unlawful for any person, other than the collectors solid waste collection companies as authorized by this chapter, to collect, remove, haul, or dispose of recyclable materials set out for collection pursuant to this section without first obtaining the consent of the occupant or owner of the premises. Any violation of this subsection shall constitute a misdemeanor and, upon conviction, violators shall be punished by a fine of not less than $500.00. Each day of such violation, and violation at each dwelling unit, shall be deemed a separate and independent offense. (RCW 70.95.235)
J. The business name and telephone number of the collector shall be clearly visible on each side of each vehicle used to provide residential recycling service. The collector shall contain, tie, or enclose all collected materials to prevent leaking, spilling, or littering.

K. If the county executive determines that a certified haulerssolid waste collection company has materially failed to comply with the requirements or policies of this chapter, the county executive shall provide the haulercompany with a written notice specifying the noncompliance and affording the haulercompany 60 days to cure the noncompliance; provided, however, that the haulerssolid waste collection company shall not be required to cure any noncompliance that is caused by an event or condition, including a threat to the public health or safety, that is beyond the hauler’s company’s control. At the discretion of the county executive, the period for cure may be extended. If the haulerssolid waste collection company fails to cure, the county may contract for the provision of residential recycling service pursuant to RCW 36.58.040 in the area served by the haulercompany. [All single-family residences located in Point Roberts, meeting the definition of seasonal vacation or weekend homes as defined under WCC 8.10.030(H), are exempt from curbside recycling collection.]

L. Should the county or the haulerssolid waste collection company determine that there is no reasonable market for a material and/or the cost of recycling that material is unreasonable, they can petition the executive to eliminate the requirement for that material to be collected as recyclable. The executive has full discretion whether to accept or deny the request. The executive must state the period of time the exemption will be allowed. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.060 Nonresidential and multifamily garbage collection.
A. Certified haulersSolid waste collection companies shall perform collection and hauling of garbage from nonresidential and multifamily accounts in Whatcom County.

B. Container sizes for nonresidential and multifamily accounts shall be approved by the haulersolid waste collection company.

C. Rate structures for nonresidential and multifamily garbage collection shall be designed to encourage waste reduction and recycling and to comply with the plan.

D. Certified haulersSolid waste collection companies shall bill each customer at least once every three months. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.070 Submittal of documents and notices.
Whenever a certified haulerssolid waste collection company files a proposed tariff revision with the WUTCUTC, the haulercompany shall simultaneously provide the county with copies of the proposed tariff and all nonproprietary supporting materials submitted to the WUTCUTC any time prior to approval of the tariff. Such materials include but are not limited to any correspondence or other information concerning rate calculation parameters and details, tariff sheet application and adjustments, and annual reports.
B. 1. All certificated haulers, recycling collectors and processors, transfer facilities, and disposal facilities shall provide the county with the following quarterly information on April 20th, July 20th, October 20th, and January 20th for each of the previous three months and, where appropriate and practical, separately listed for each city and unincorporated area of the county:

   a. Daily disposal tonnages to and from municipal disposal facilities for each primary disposal or processing method, transfer stations, and convenience centers;

   b. Monthly disposal tonnages from industrial and other private landfills;

   c. Monthly recycling tonnages per material from all recycling collectors and processors;

   d. Solid waste collection, disposal, and recycling collection and processing service contracts and amendments within incorporated and unincorporated areas of the county; and

   e. A log of all customer complaints about recycling, specifying the date, nature of complaint and resolution for each complaint.

2. In addition, all certificated haulers shall provide the county with the following information regarding residential recycling and, where appropriate and practical, separately listed for single-family and multifamily residences broken out by city/county:

   a. Monthly tonnages and, if available, volumes of materials collected by type of material collected, and revenues/costs by type of material;

   b. Number of eligible customers and number of set-outs per month. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.080 Notice to Utilities and Transportation Commission.
The Whatcom County council, pursuant to RCW 36.58.040, hereby notifies and requests the Washington Utilities and Transportation Commission to carry out and implement the policies and programs specified in this chapter and in the plan in coordination with certificated haulers solid waste collection companies and common carriers through the Commission's rate setting and oversight authority. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.090 Modification of collection schedules.
The provisions of this chapter concerning (1) the frequency of collection of recyclable materials and garbage; (2) service levels in rural areas in the event that mandatory collection is not adopted; and (3) rate structures in the event that the WUTC issues an inconsistent order may be modified by agreement of the county executive and all certificated haulers solid waste collection companies, subject to approval by the county council. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.100 Severability.
If any portion or section of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the section to other persons or circumstances is not affected. (Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES  Initial  Date  Date Received in Council Office  Agenda Date  Assigned to:
Originator:  ND  5/22/14  06/03/14  Intro
Division Head:
Dept. Head:
Prosecutor:  5/23/14  06/17/14  Finance Committee; Council
Purchasing/Budget:  6/22/14
Executive:  5/27/14


ATTACHMENTS: Ordinance Amendment, Memo to County Executive, Budget Projections, and Supplemental Budget Request

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.)

Amendment No 1 to the Telecommunications System Replacement Project Budget requests additional appropriation authority of $2,123,809 for a new Project Based Budget total of $2,223,809.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #:  
Related File Numbers:

Ordinance or Resolution Number:

444
ORDINANCE NO. ____________

AMENDMENT No. 1 TO ORDINANCE No. 2014-013 ESTABLISHING THE TELECOMMUNICATIONS SYSTEM REPLACEMENT FUND AND RELATED CAPITAL BUDGET APPROPRIATION

WHEREAS, the first phase of the telecommunications project, which included an organization wide needs assessment and the development of specifications for a request for proposals, has been completed, and

WHEREAS, the project is now ready for Phase II, Network Redesign and Upgrade, and Phase III, Replacement Telecommunications System, and

WHEREAS, additional funding is necessary to complete the project,

NOW THEREFORE BE IT ORDAINED by the Whatcom County Council that Ordinance No. 2014-013 is hereby amended adding $2,123,809 of expenditure authority to the original project budget of $100,000, for a total amended project budget of $2,223,809.

ADOPTED this ___ day of ____, 2014.

ATTEST: 

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Carl Weimer, Chair of the Council

APPROVED AS TO FORM: 

( ) Approved ( ) Denied

__________________________
Jack Louws, Executive

Date: ______________________

Chief Civil Deputy Prosecutor
To: Jack Louws, County Executive  
From: Perry L. Rice, IT Manager  
        Denise Toth Banyan, Associate IT Manager  
        Deanna Reynolds, Special Projects Manager  
Date: May 19, 2014  
Re: Supplemental Budget Request – Replacement Telecommunications System  

• Background and Purpose

Whatcom County’s current Ericsson MD110 telecommunications system has been in place for approximately 22-years. The county has been notified that support for this system will end on or before March 31, 2015. This system is used by all Whatcom County departments and is critical to ongoing government operations and public service.

The purpose of this request is to fund the already established Telecommunications System Replacement Project Fund (351100) with a capital budget appropriation of $2,123,809. This funding will cover:

- Data Network Redesign & Upgrade
- Wiring Closet HVAC Evaluation
- Short Term Phone System Coexistence
- Replacement of Current Telephone System with a Unified Communications Platform including basic Business Continuity

• Funding Amount and Source

<table>
<thead>
<tr>
<th>Phase</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase I</td>
<td>Consultant for RFP</td>
<td>$72,430</td>
</tr>
<tr>
<td>Phase II</td>
<td>Network Redesign &amp; Upgrade</td>
<td>$432,095</td>
</tr>
<tr>
<td>Phase III</td>
<td>Replacement Telecommunications System</td>
<td>$1,719,284</td>
</tr>
<tr>
<td>Project Total</td>
<td></td>
<td>$2,223,809</td>
</tr>
</tbody>
</table>

Approved Budget Ordinance (2014-013) for Phase I ($100,000)

Additional Project Budget Authority Needed

$2,123,809

Please contact Deanna Reynolds at extension 51026 if you have any questions or concerns regarding this request.
### Phase 1: Project Consulting
- Consultant for RFP
  - $72,430

### Phase 2: Network Redesign & Upgrade
- Data Network Switches
  - $277,778
- Data Network Switch Uninterruptable Power Supply (UPS) Units
  - $77,162
- Data Network Drops for New Phones
  - $17,805
- Wiring Closet HVAC Evaluation
  - $59,350

  **Total**
- $432,095

### Phase 3: Replacement Telecommunications System
- New Telecommunications System (Core)
  - $1,038,358
- Automatic Call Distribution (ACD) & Interactive Voice Response (IVR)
  - $387,239
- Software Applications
  - $82,686
- Data Migration Support
  - $71,790
- Consultant for Implementation
  - $139,211

  **Total**
- $1,719,284

**Total**
- $2,223,809

*Figures include Sales Tax and 10% Contingency*
Supplemental Budget Request

Administrative Services
Suppl ID # 1862  
Fund 351  Cost Center 351100  Originator: Perry Rice

Expenditure Type: One-Time  Year 2 2014  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Replacement Telecommunications System

[Signature]

5/19/2014

Department Head Signature (Required on Hard Copy Submission)  Date

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>7420</td>
<td>Computer-Capital Outlays</td>
<td>$2,123,809</td>
</tr>
<tr>
<td>8301</td>
<td>Operating Transfer In</td>
<td>($2,123,809)</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
Purchase or lease a replacement telecommunications (phone) system to replace 22 year old system to include a related network redesign and upgrade. This is the core phone system for all county offices and supports over 1000 handsets.

1b. Primary customers:
Citizens, business partners and all Whatcom County Departments.

2. Problem to be solved:
The current phone system was purchased 22 years ago and will no longer be supported by the manufacturer as of 3/31/2015. If we do not replace this system and it fails after 3/31/2015 it will be difficult to get it serviced. This is our county wide phone system that supports the majority of departments throughout the county. Not replacing this system would pose a major risk to county communications.

The current network design will not support a VoIP telecommunications system. The network must be redesigned to support the installation of a VoIP phone system. The current network design is also difficult to manage because of the flat design, management tools cannot be applied to capture network information.

3a. Options / Advantages:
Continue using the current system with no support after Q1 2015.

The new network design which will segment the current flat network will provide better network service and security to the end users, plus enable the use of network management tools.

3b. Cost savings:
We do not anticipate that this will result in hard cost savings; however, we do expect a new phone system to improve overall department efficiencies creating lean workflows. This request is necessary to prevent a major disruption of county service.

4a. Outcomes:
Planning, selection, and contracting for the replacement of the system would take place in 2014. The replacement phone system would be replaced at all locations in 2015.

The new network design is scheduled to be in place by end of Summer 2014. The new network design will provide increased reliability of the network, increased security of the network as a whole, and more controlled management of network services.

4b. Measures:

Tuesday, May 20, 2014
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Administrative Services</th>
<th>Information Technology</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Supp1 ID #</strong> 1882</td>
<td><strong>Fund</strong> 351 <strong>Cost Center</strong> 351100 <strong>Originator:</strong> Perry Rice</td>
</tr>
</tbody>
</table>

A new phone system would be installed.

A new network design will be in place with management tools that will provide network usage statistics that will provide real time information for better support and maintainability.

5a. **Other Departments/Agencies:**

All Whatcom County departments and offices would be affected by this change. There will be a scheduled minimal disruption to phone services county wide while the new system is being installed. Depending on which system is selected, training on how to use the phone handsets, features, and phone trees (menu systems) may be required county wide.

5b. **Name the person in charge of implementation and what they are responsible for:**

The telecommunications vendor we obtain the system from would be responsible for installation and training of core Division of Information Technology staff as well as training for all county staff.

6. **Funding Source:**

Administrative Services Fund & Cost Allocation
# 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></td>
<td></td>
<td>5/23/14</td>
<td>06/03/14</td>
<td>Intro</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>KMF</td>
<td>5/23/14</td>
<td></td>
<td>06/17/14</td>
<td>Finance Committee; Council</td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>6/8</td>
<td>5/23/14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>05/27/14</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:** Amendment No.5 to Ordinance No. 2008-025 Project Budget No. 2 (which established the initial East Whatcom Regional Resource Center Project Budget)

**ATTACHMENTS:** Ordinance Amendment, Memo to County Executive, and Supplemental Budget Request

- 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.)

Amendment No 5 to the East Whatcom Regional Resource Center Project Budget requests additional appropriation authority of $46,478 for a total Project Based Budget of $4,938,093.

**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>
ORDINANCE NO._________ 

AMENDMENT NO. 5 TO ORDINANCE NO. 2008-025 PROJECT BUDGET NO. 2 
(WHICH ESTABLISHED THE INITIAL EAST WHATCOM REGIONAL RESOURCE CENTER PROJECT BUDGET)

WHEREAS, the East Whatcom Regional Resource Center was substantially completed in 2011, and

WHEREAS, the project subsequently needed additional work to upgrade the HVAC system and achieve LEED's certification, and

WHEREAS, additional funding is necessary to complete these items,

NOW THEREFORE BE IT ORDAINED by the Whatcom County Council that Ordinance No. 2008-025 is hereby amended adding $46,478 of expenditure authority to the original project budget and subsequent amendments, for a total amended project budget of $4,938,093.

ADOPTED this ___ day of _____, 2014.

ATTEST: WHATCOM COUNTY COUNCIL WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk Carl Weimer, Chair of the Council

APPROVED AS TO FORM: ( ) Approved ( ) Denied

Chief Civil Deputy Prosecutor Jack Louws, Executive

Date: ____________________
MEMO TO: Jack Louws, County Executive

FROM: Michael Russell, Facilities Manager

DATE: May 19, 2014

RE: Supplemental Budget Request

Background and Purpose

AS-Facilities Management is requesting a supplemental budget of $46,478 to correct HVAC issues at the East Whatcom Regional Resource Center. It was discovered that additional work needs to be done to achieve the LEED certification. We are experiencing some issues with the boiler system and stratification within the buildings. This additional funding amount will address these issues and make the necessary corrections. With these corrections in place we anticipate a 25% reduction of the energy consumption.

Funding and Source

The Funding request is for $46,478.00 from the EDI Fund. The account is #334100 East Whatcom Regional Resource Center.

If you have any questions, please contact me at extension 50575.

Thank you,

Enclosures (1)
### Supplemental Budget Request

**Status:** Pending

<table>
<thead>
<tr>
<th>Administrative Services</th>
<th>Facilities Management</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Supp'ID #</strong> 1865</td>
<td><strong>Fund</strong> 334</td>
</tr>
<tr>
<td><strong>Cost Center</strong> 334100</td>
<td><strong>Originator:</strong> Michael Russell</td>
</tr>
</tbody>
</table>

**Expenditure Type:** One-Time  
**Year 1 2013**  
**Add'l FTE**  
**Add'l Space**  
**Priority** 1

**Name of Request:** EWRRC HVAC Repairs

**Department Head Signature (Required on Hard Copy Submission):**

X  
**Date:** 5/19/2014

<table>
<thead>
<tr>
<th>Costs</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>7060</td>
<td>Repairs &amp; Maintenance</td>
<td>$46,468</td>
</tr>
<tr>
<td>8301</td>
<td>Operating Transfer In</td>
<td>($46,468)</td>
</tr>
</tbody>
</table>

**Request Total:** $0

**1a. Description of request:**

This request is for additional funding to complete the HVAC repairs at the EWRRC.

- **Project Budget:** $80,000
- **Engineering Cost Phase I:** ($9,970)
- **Engineering Cost Phase II & III Construction Doc & CA:** ($17,090)
- **Construction Estimate:** ($63,000)
- **Construction Contingency:** ($6,300)
- **Additional Funds Required for Construction:** $16,360
- **Additional Funds Required for the LEED Certification:** $30,118

**Total Funds Required to Complete the HVAC Upgrade Project:** $46,478

**1b. Primary customers:**

EWRRC, Opportunity Council and the Citizen's that utilize this facility everyday.

**2. Problem to be solved:**

This project needed additional work to upgrade the HVAC system and complete the LEED's Certification. This work is estimated to reduce the energy cost for this building by 25%.

**3a. Options / Advantages:**

There are no options at this time. The advantages are better operational HVAC system with functionality and energy conservation.

**3b. Cost savings:**

The cost savings will be achieved by reducing the energy cost for this building by 25% while at the same time increasing the comfort levels of the occupants.

**4a. Outcomes:**

The HVAC upgrades are required to achieve the LEED's Certification and improve the comfort levels of the occupants.

**4b. Measures:**

When completed the EWRRC achieve the LEED's Certification and reduce the energy cost by 25% and improve the comfort levels of the occupants

**5a. Other Departments/Agencies:**

This project will be managed by Whatcom County Facilities Management

**5b. Name the person in charge of implementation and what they are responsible for:**
<table>
<thead>
<tr>
<th><strong>Supplemental Budget Request</strong></th>
<th><strong>Status:</strong> Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Administrative Services</strong></td>
<td><strong>Facilities Management</strong></td>
</tr>
<tr>
<td>Supp1 ID #: 1865</td>
<td><strong>Fund:</strong> 334</td>
</tr>
<tr>
<td></td>
<td><strong>Cost Center:</strong> 334100</td>
</tr>
<tr>
<td></td>
<td><strong>Originator:</strong> Michael Russell</td>
</tr>
</tbody>
</table>

Michael Russell

6. **Funding Source:**
EDI funding
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<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></td>
<td>5/23/14</td>
<td></td>
<td>06/3/14</td>
<td>Intro</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td>06/17/14</td>
<td>Finance</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Committee;</td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td>5/23/14</td>
<td></td>
<td>Council</td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>5/23/14</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TITLE OF DOCUMENT: 2014 Supplemental Budget Request #12

ATTACHMENTS: Ordinance, Memoranda & Budget Modification Requests

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.)

Supplemental #12 requests funding from the General Fund:

1. To appropriate $122,118 in Non Departmental to fund Opportunity Council public services project from grant proceeds.
2. To appropriate $323,809 in Non Departmental to fund transfer for phone system replacement.
3. To appropriate $2,658 in the Sheriff’s Office to fund traffic unit equipment from sale of motorcycle.
4. To appropriate $13,000 in Sheriff’s Office to fund overtime patrols from grant proceeds.
5. To appropriate $4,000 to fund Bobcat repair from Forest Service contract revenue.
6. To appropriate $46,468 to fund transfer to complete East Whatcom Regional Resource Center project.
7. To appropriate $1,800,000 to fund transfer for phone system project.

COMMITTEE ACTION:  

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
SPONSORED BY: Finance
PROPOSED BY: Executive
INTRODUCTION DATE: 06/03/14

ORDINANCE NO.
AMENDMENT NO. 12 OF THE 2014 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 2014 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non Departmental</td>
<td>445,927</td>
<td>(122,118)</td>
<td>323,809</td>
</tr>
<tr>
<td>Sheriff</td>
<td>15,658</td>
<td>(15,658)</td>
<td>-</td>
</tr>
<tr>
<td>Total Non-Departmental</td>
<td>461,585</td>
<td>(137,776)</td>
<td>323,809</td>
</tr>
<tr>
<td>Jail Fund</td>
<td>4,000</td>
<td>(4,000)</td>
<td>-</td>
</tr>
<tr>
<td>Public Utilities Improvement Fund</td>
<td>46,468</td>
<td>-</td>
<td>46,468</td>
</tr>
<tr>
<td>Administrative Services Fund</td>
<td>1,800,000</td>
<td>-</td>
<td>1,800,000</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>2,312,053</td>
<td>(141,776)</td>
<td>2,170,277</td>
</tr>
</tbody>
</table>

ADOPTED this ___ day of ______________, 2014.

ATTEST:

Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Carl Weimer, Chair of the Council

APPROVED AS TO FORM:

Civil Deputy Prosecutor

( ) Approved   ( ) Denied

Jack Louws, County Executive

Date: ______________
## WHATCOM COUNTY

### Summary of the 2014 Supplemental Budget Ordinance No. 12

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non Departmental</td>
<td>To fund Opportunity Council public services project from grant proceeds.</td>
<td>122,118</td>
<td>(122,118)</td>
<td>-</td>
</tr>
<tr>
<td>Non Departmental</td>
<td>To fund transfer to fund phone system replacement.</td>
<td>323,809</td>
<td>-</td>
<td>323,809</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund traffic unit equipment from sale of motorcycle.</td>
<td>2,658</td>
<td>(2,658)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund overtime patrols from grant proceeds.</td>
<td>13,000</td>
<td>(13,000)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Non-Departmental</strong></td>
<td></td>
<td><strong>461,585</strong></td>
<td><strong>(137,776)</strong></td>
<td><strong>323,809</strong></td>
</tr>
<tr>
<td>Jail Fund</td>
<td>To fund bobcat repair from Forest Service Contract.</td>
<td>4,000</td>
<td>(4,000)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Public Utilities Improvement Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To fund transfer to complete East Whatcom Regional Resource Center project.</td>
<td>46,468</td>
<td>-</td>
<td>46,468</td>
<td></td>
</tr>
<tr>
<td><strong>Administrative Services Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To fund transfer for phone system project.</td>
<td>1,800,000</td>
<td>-</td>
<td>1,800,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td></td>
<td><strong>2,312,053</strong></td>
<td><strong>(141,776)</strong></td>
<td><strong>2,170,277</strong></td>
</tr>
</tbody>
</table>
Supplemental Budget Request

Executive

Supp ID # 1866  Fund 1  Cost Center 4274  Originator: Suzanne Mildner

Expenditure Type: One-Time  Year 2  2014  Add'l FTE  Add'l Space  Priority 1

Name of Request: OppCo Public Services Grant 2014-15

X  5/21/14

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Costs</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>4333.1422</td>
<td>HUD-CDBG</td>
<td>$(122,118)</td>
<td></td>
</tr>
<tr>
<td>6610</td>
<td>Contractual Services</td>
<td>$122,118</td>
<td></td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

1a. Description of request:
This request is for grant revenue from the Washington State Department of Commerce, for pass through to the Opportunity Council as subrecipient. This is a CDBG Public Services (formula) grant, issued annually for delivery of direct services to low- and moderate-income residents in Whatcom, Island and San Juan Counties. The services provided include community outreach, resource referral, client housing education, energy conservation education and other housing services.

1b. Primary customers:
Low- and moderate-income residents of Whatcom, Island and San Juan Counties

2. Problem to be solved:
Whatcom County must act as grantee in order for Opportunity Council to access this formula grant. Following Council's approval of the application submission in March 2014, the grant contract has been awarded. The County will now enter into a subrecipient agreement with Opportunity Council, who will complete the project scope of work and adhere to the requirements of the grant contract.

3a. Options / Advantages:
None

3b. Cost savings:
N/A

4a. Outcomes:
Accomplish HUD's object of increasing the availability and accessibility of housing public services. This is an annual formula grant and the contract period is July 1, 2014 to June 30, 2015.

4b. Measures:
Opportunity Council will submit ongoing reports, both fiscal and narrative, regarding service delivery. The grant closeout and final report will occur only after evidence of all grant requirements have been met.

5a. Other Departments/Agencies:
Opportunity Council, and 3 community resource centers in San Juan County.

5b. Name the person in charge of implementation and what they are responsible for:
Dave Finet, Director of Opportunity Council, is responsible for overseeing the services associated with this grant funding.

6. Funding Source:
Federal grant from Housing and Urban Development (HUD) through the State Department of Commerce's CDBG Program.

Tuesday, May 20, 2014

Rpt: Rpt Supp! Regular
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws
Subject: Budget Supplemental, Opportunity Council Grant
Date: May 20, 2014

The attached supplemental request for $122,118 is for the purposes of establishing budget authority in order to pass-through an available grant from the Washington State Department of Commerce to the Opportunity Council. This grant was applied for and authorized by the County Council in March, and has been granted for the delivery of direct services by the Opportunity Council as the local community action agency.

This grant is a HUD formula grant, issued annually, and passed through Dept. of Commerce for Community Development Block Grant Programs, for which Opportunity Council qualifies for this financial assistance. Whatcom County has been designated by the Dept. of Commerce as the grantee for the purpose of contracting with the Opportunity Council as a subrecipient for this grant award of $122,118.00.

This funding is intended to support new or increased levels of service to low- and moderate-income level homeowners and residents in Whatcom, Island and San Juan Counties for a one year period.

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 the Opportunity Council to implement the designated services noted herein.
Supplemental Budget Request

Non-Departmental

Supp ID # 1870  Fund 1  Cost Center 4530  Originator: M Caldwell

Expenditure Type: One-Time  Year 2  2014  Add'l FTE  □  Add'l Space  □  Priority 1

Name of Request: Transfer to fund Phone System Replacement

X

Department Head Signature (Required on Hard Copy Submission)  Date

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>2910.1000</td>
<td>Fund Balance</td>
<td>($323,809)</td>
</tr>
<tr>
<td>8351</td>
<td>Operating Transfer Out</td>
<td>$323,809</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
Transfer to fund the remaining amount needed for the phone system replacement project.

1b. Primary customers:
Employees and citizens

2. Problem to be solved:
The phone system replacement project cost is budgeted to be $2,223,809. $300,000 was available from increased Admin Cost Allocation revenues collected in 2013-2014, $300,000 was available from the AS Admin, HR, IT & Finance reserves in the AS fund, and $1.3 million was available from Unemployment Insurance reserves in the Administrative Services Fund. The remaining gap to be filled is $323,809 which is being requested from the General Fund fund balance.

3a. Options / Advantages:
We considered financing the project through interfund loans. However, the best option is to pay for the project sooner rather than later and make use of available fund balances reserves in the Admin Services Fund and fill the remaining gap from the General Fund.

3b. Cost savings:
none

4a. Outcomes:
The new phone system will be put in place and paid for immediately rather than drawing out repayment over a number of years and entering into complicated financing arrangements.

4b. Measures:
Funds will be transferred and used to pay for the new system as costs are incurred.

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
General Fund fund balance
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: May 19, 2014
SUBJECT: Supplemental Budget ID# 1861
Traffic Safety & Enforcement

The attached Supplemental Budget requests budget authority to use proceeds from sale of motorcycle to purchase tools and equipment in support of the Sheriff’s Office Traffic Safety & Enforcement Unit.

Background and Purpose
The Sheriff’s Office owned and sold a Traffic Unit (non-fleet) motorcycle at auction in May 2014. Proceeds of $2,657.61 from the sale were deposited on Treasurer’s Receipt #279417 May 9, 2014. The Sheriff’s Office requests authority to use these proceeds to purchase small tools and equipment for the Traffic Unit.

Funding Amount and Source
Proceeds of $2,658 from the sale of Traffic Unit motorcycle.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff
Expenditure Type: One-Time

Administration
Year 2 2014

Supp ID # 1851
Fund 1 Cost Center 2930
Originator: Dawn Pierce

Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Traffic Safety & Enforcement

Department Head Signature (Required on Hard Copy Submission) Date

X

5/19/14

<table>
<thead>
<tr>
<th>Costs</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6510</td>
<td>Tools &amp; Equip</td>
<td>$2,658</td>
</tr>
<tr>
<td></td>
<td>8120</td>
<td>Other Fixed Assets</td>
<td>($2,658)</td>
</tr>
</tbody>
</table>

Request Total $0

1a. Description of request:
Proceeds from sale of Sheriff's Office Traffic Unit (non-fleet) motorcycle to be used for purchase of tools and equipment in support of the Traffic Safety & Enforcement Unit.

1b. Primary customers:
Sheriff's Office.

2. Problem to be solved:
Sheriff's Office requests budget authority to use revenue received from the sale of motorcycle for purchase of tools and equipment.

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
Proceeds of $2,658.00 from the sale of motorcycle owned by the Sheriff's Office.

Monday, May 19, 2014
Rpt: Rpt Suppl Regular
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: May 21, 2014
SUBJECT: Supplemental Budget ID# 1867
2014 Operation Stonegarden FFY2012


Background and Purpose
The Department of Homeland Security (DHS) awarded Operation Stonegarden Program (OPSG) FFY2012 funds of $725,000 to Whatcom County to enhance law enforcement’s preparedness and operational readiness along the international borders of the United States. Of this amount, the Sheriff’s Office allocation was $159,900. The Sheriff’s Office spent the original allocation in 2013 and has been given an additional allocation of $13,000 for 2014. The Sheriff’s Office anticipates using $11,300 for overtime wages & benefits and $1,700 for mileage.

Funding Amount and Source
The funding source for this request is an Operating Transfer In from Whatcom County Sheriff’s Office Division of Emergency Management in the amount of $13,000. Funds originate from Department of Homeland Security Operation Stonegarden Program FFY2012, Federal Grant Agreement #E13-232.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff

Operations

Supp ID # 1887 | Fund 1 | Cost Center 1003513003 | Originator: Dawn Pierce

Expenditure Type: One-Time Year 2 2014 Add'l FTE □ Add'l Space □ Priority 1

Name of Request: 2014 Operation Stonegarden FFY2012

Department Head Signature (Required on Hard Copy Submission) Date

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>6140</td>
<td>Overtime</td>
<td>$9,816</td>
</tr>
<tr>
<td>6210</td>
<td>Retirement</td>
<td>$513</td>
</tr>
<tr>
<td>6230</td>
<td>Social Security</td>
<td>$751</td>
</tr>
<tr>
<td>6259</td>
<td>Worker's Comp-Interfund</td>
<td>$220</td>
</tr>
<tr>
<td>6790</td>
<td>Travel-Other</td>
<td>$1,700</td>
</tr>
<tr>
<td>8301</td>
<td>Operating Transfer In</td>
<td>($13,000)</td>
</tr>
</tbody>
</table>

Request Total: $0

1a. Description of request:
The Department of Homeland Security (DHS) awarded Operation Stonegarden Program (OPSG) FFY2012 funds of $725,000 to Whatcom County to enhance law enforcement's preparedness and operational readiness along the international borders of the United States. Of this amount, the Sheriff's Office allocation was $159,900. The Sheriff's Office spent the original allocation in 2013 and has been given an additional allocation of $13,000 for 2014.

1b. Primary customers:
Law enforcement agencies and citizens of Whatcom County through increased capability of law enforcement to secure the international border.

2. Problem to be solved:
Expenditure authority is required for the additional allocation of OPSG funds.

3a. Options / Advantages:
OPSG funds are awarded specifically for projects that improve border security, projects that would otherwise have to be funded with local monies or eliminated.

3b. Cost savings:
Cost savings of $13,000 to the Whatcom County Sheriff's Office.

4a. Outcomes:
Enhanced patrols will increase law enforcement presence in the border area helping to reduce criminal activity and improving border security.

4b. Measures:
Whatcom County Sheriff's Office will schedule patrols per contract specifications and timelines and will monitor outcomes using Daily Activity Logs.

5a. Other Departments/Agencies:
Whatcom County Sheriff's Office Division of Emergency Management administers the federal grant.

5b. Name the person in charge of implementation and what they are responsible for:
Undersheriff Jeff Parks will coordinate the project for the Sheriff's Office.

6. Funding Source:

Wednesday, May 21, 2014
**Supplemental Budget Request**

<table>
<thead>
<tr>
<th>Sheriff</th>
<th>Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Status:</strong> Pending</td>
</tr>
<tr>
<td>ID # 1367</td>
<td><strong>Fund:</strong> 1</td>
</tr>
</tbody>
</table>


*Wednesday, May 21, 2014*
WHATCOM COUNTY SHERIFF’S OFFICE
MEMORANDUM

DATE: 4/21/14

TO: Jack Louws, Whatcom County Executive
   Council Members, Whatcom County Council

FROM: Wendy Jones, Chief Corrections Deputy, for Sheriff Bill Elfo

RE: Supplemental Budget Request #1858 Bobcat repair

Please allow this memo to serve as a request for approval of the accompanying budget supplemental. This request will provide spending authority to utilize grant funds to repair an essential piece of equipment used to complete contracted work projects for the National Forest Service.

Our Forest Service Work Crew does a variety of projects for the National Forest Service as part of a grant contract. We have a Bobcat which is used frequently for some of the larger projects. It is need of repairs that can be done by our Work Crew Supervisors; however, we have insufficient spending authority to purchase the parts. All expenditures that support this grant are reimbursed; therefor the net cost to the County will be zero. There is a more than sufficient fund balance in this grant line item to cover the costs.

Chief Wendy Jones is overseeing this process and will be happy to answer any question you may have. Thank you.
Supplemental Budget Request

Jail

Suppl/ID # 1859  Fund 118  Cost Center 118143  Originator: Wendy Jones

Expenditure Type: One-Time  Year 1 2013  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Equipment repair, Bobcat

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>4332.1069</td>
<td>Federal Forest-Title II</td>
<td>($4,000)</td>
<td></td>
</tr>
<tr>
<td>6320</td>
<td>Office &amp; Op Supplies</td>
<td>$4,000</td>
<td></td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

1a. Description of request:
This supplemental budget request is for additional spending authority for the funds to repair the Forest Service Work Crew Bobcat.

1b. Primary customers:
Citizens who use the Mt. Baker National Forest

2. Problem to be solved:
The Bobcat used as part of the Forest Service Work Crew projects needs repair. We have Crew Supervisors who are qualified and able to repair the Bobcat, but funding needs to be authorized to purchase the supplies. This amount will be reimbursed via the grant under which the crew operates.

3a. Options / Advantages:
1) Take the Bobcat to a dealer to have the work done. The cost would be roughly double what it will be if we simply purchase the supplies and do it ourselves.
2) Not repair the Bobcat: this would leave us unable to fulfill the terms of the grant contract.
3) Utilized the expertise of our civilian Crew Supervisors to repair the Bobcat. This is the most effective and efficient option.

3b. Cost savings:
Rough estimate of the savings is $3,500-$4,000.

4a. Outcomes:
The Bobcat will be repaired.

4b. Measures:
Lt. Erickson, who is the manager of the Jail Alternative Programs, will notify me when the work has been completed.

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 initial funding will be the Jail Sales Tax fund. The expenditures will be reimbursed as part of our contract with the National Forest Service. Net cost to the County will be zero.
Supplemental Budget Request

Non-Departmental

Supp'l ID # 1868  Fund 332  Cost Center 332255  Originator: M Caldwell

Expenditure Type: One-Time  Year 2 2014  Add'l FTE  Add'l Space  Priority 1

Name of Request: Trf to fund completion of EWRRC

X

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>2910.1000</td>
<td>Fund Balance</td>
<td></td>
<td>($46,468)</td>
</tr>
<tr>
<td>8351.334</td>
<td>Operating Transfer Out</td>
<td></td>
<td>$46,468</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:

Transfer to fund East Whatcom Regional Resource Center (EWRRC) HVAC system repairs needed to achieve LEEDS certification and complete the EWRRC construction project. See related Supplemental ID #1865 EWRRC HVAC Repairs.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Rural Sales Tax Fund fund balance

Wednesday, May 21, 2014
Supplemental Budget Request

Administrative Services

Expenditure Type: One-Time
Year: 2014

Name of Request: Transfer to fund Phone System Project

Department Head Signature (Required on Hard Copy Submission)

<table>
<thead>
<tr>
<th>Costs</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2880.1000</td>
<td>Retained Earnings</td>
<td>($1,800,000)</td>
</tr>
<tr>
<td></td>
<td>8351.351</td>
<td>Operating Transfer Out</td>
<td>$1,800,000</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
Transfer funding to Telecommunications Systems Replacement Project Fund to fund phone system replacement project.

1b. Primary customers:
County employees and citizens

2. Problem to be solved:
This request will provide most of the funding needed to replace the current 22 year old phone system. The Administration has been collecting $150,000 per year in 2013 and 2014 through the Admin Cost Allocation to help support this project. $100,000 was previously transferred to establish the initial project fund budget and pay for the RFP consultant. The remaining $200,000 from the Admin Allocation plus $1,600,000 from the AS fund balance will be transferred. The sources for the Admin Services fund balance transfer are $1.3 million from accumulated Unemployment Insurance reserves and $300,000 from Admin, IT, HR & Finance division reserves.

3a. Options / Advantages:
Interfund loans from other funds was an option that was considered. The Administrative Services fund had excess reserves for Unemployment Compensation and in the portion of the fund balance accumulated from the Admin Cost Allocation. Phone System costs are usually charged out through the Admin Cost Allocation. Administrative Services fund is the appropriate source as the phone system is part of AS- Information Technology responsibilities.

3b. Cost savings:
None

4a. Outcomes:
The transfer of funds will be made upon adoption of the budget, the phone system project will start immediately.

4b. Measures:
The transfer will be completed and the phone system will be replaced.

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
Administrative Services fund balance.

Thursday, May 22, 2014