**TITLE OF DOCUMENT:** Presentation to Whatcom County Council providing informational update on status of fish passage barrier culverts with the Whatcom County road system.

**ATTACHMENTS:** Memorandum

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
</tr>
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<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) NO</td>
<td>Requested Date:</td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

---

**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, 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: July 23, 2014

Re: Presentation to County Council on Status of Fish Passage Barrier Culverts within the Whatcom County Road System

At the request of the County Council, Public Works would like to present an informational update on the status of the fish passage barrier culverts associated with the Whatcom County road system.

Requested Action
No action is requested, this is an informational update to the County Council.

Background and Purpose
Whatcom County Public Works has made considerable progress over recent years in addressing culverts that present barriers to fish passage. This work has included completing a comprehensive inventory of fish passage barrier culverts associated with the Whatcom County road system, prioritizing these culverts for replacement and starting work on replacing some of the highest priority fish passage barrier culverts.

The purpose of this presentation is to provide an informational update to the County Council on the work completed to date and plans for future work by Public Works in addressing fish passage barrier culverts.

Please contact Steve Fox at extension 50603 if you have any questions.
### Clearances

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### Title of Document:

Drayton Harbor Recreational Shellfish Area

### Attachments:

- Memo to Whatcom County Executive and Council
- Draft Letter to Washington State Department of Health

### 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 Drayton Harbor Shellfish Protection District Advisory Committee and Whatcom County Marine Resources Committee are recommending the County Council submit a letter to the Washington State Department of Health requesting consideration of reopening the recreational shellfish area in western Drayton Harbor to be consistent with the conditional approval for commercial and tribal harvest in the area.

### Committee Action:

<table>
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<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
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: Memo Regarding Recreational Shellfish Harvest in Drayton Harbor

DATE: July 22, 2014

- Requested Action
The Drayton Harbor Shellfish Protection District Advisory Committee (DHSPDAC) and Whatcom County Marine Resources Committee (MRC) recommend the Whatcom County Council submit a letter to the Washington State Department of Health requesting consideration of seasonally reopening recreational shellfish harvest in Drayton Harbor.

- Background and Purpose
The DHSPDAC and MRC have provided a memo and draft letter providing justification for seasonal recreational harvest of shellfish consistent with commercial and tribal harvest in this area.

Please contact Erika Douglas at extension 50692 or Gary Stoyka at 50618 if you have any questions.
MEMORANDUM

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

From: Drayton Harbor Shellfish Protection District Advisory Committee
Whatcom County Marine Resources Committee

Date: July 21, 2014

Re: Recreational Shellfish Harvest in Drayton Harbor

This memo is a request to the County Executive and County Council to submit a letter to the Washington State Department of Health requesting consideration of reopening recreational shellfish harvest along the western shoreline of Drayton Harbor during the open period for commercial harvest. Since 2004, there has been a conditional approval for commercial shellfish harvest along the western shoreline of Drayton Harbor. In 2010, this conditional approval area was expanded to cover a larger portion of this shoreline. The current conditional approval management plan allows for commercial harvest except during the months of November, December, and January. These areas are public tidelands, owned by the City of Blaine.

Marine water quality at monitoring sites adjacent to the western shorelines meets standards throughout the year. When data from the wet season is removed from the dataset, water quality is well within the standards at each of these sites. In 2004 and 2008, the Whatcom County Marine Resources Committee conducted shellfish surveys along this shoreline. In both surveys, shellfish species that are of interest to recreational harvest were found. Both commercial and tribal harvests are occurring in Drayton Harbor following the guidelines of the seasonal closure. However, recreational shellfish harvest remains closed. This discrepancy results in a number of community concerns including:

• How is water quality good enough for commercial and tribal harvest, but not good enough for recreational harvest?
• If recreational harvest is not reopened when water quality improves, then will it ever reopen?
• If we are unable to harvest shellfish in Drayton Harbor, then it must not be safe for wading and swimming.
• Why should I invest in activities to improve and protect water quality if I don’t see any benefits from it?

Residents in the Drayton Harbor watershed have been asked to participate in activities to improve and protect water quality in the creeks and harbor. Significant community investments have been made in the Blaine municipal sewer system, on-site sewage systems, farm operations, pet waste controls, and community outreach programs. However, these efforts need to continue to reopen shellfish harvest year-round and the community needs to see the results of their efforts to stay engaged.

The Drayton Harbor Shellfish Protection District Advisory Committee and Whatcom County Marine Resources Committee both recognize the value of this recreational area. We respectfully request that the County Executive and County Council submit letters to the Washington State Department of Health asking for the reopening of recreational harvest so the community can once again enjoy this local resource. We have attached a draft letter for your consideration.
August____, 2014

Scott Berbells  
Washington State Department of Health  
Office of Shellfish and Water Quality  
PO Box 47824  
Olympia, WA 98504-7824

Re: Drayton Harbor Recreational Shellfish Area Classifications

Dear Mr. Berbells:

Whatcom County established the Drayton Harbor Shellfish Protection District almost 20 years ago due to declining water quality. A shellfish recovery plan and advisory committee were formed at about the same time. The harbor was upgraded to a Conditional Approval status in 2004 through the hard work of the advisory committee, community volunteers, non-profit organizations, tribes, and partnering state and local agencies. We are pleased to see continued improvements in water quality in the harbor and the expansion of commercial and tribal shellfish harvest. However, recreational shellfish harvest along the western shoreline of Drayton Harbor remains closed year-round. As water quality continues to improve in the harbor, we would like you to consider a seasonal reopening of recreational shellfish harvest in Drayton Harbor. Both the Drayton Harbor Shellfish Protection District Advisory Committee and the Whatcom County Marine Resources Committee have conveyed their support for this request to the County Council and County Executive.

There is an opportunity for recreational harvest of shellfish along the western shorelines of Drayton Harbor. The Whatcom County Marine Resources Committee surveyed shellfish populations in this area in 2004 and 2008. Those surveys identified clam species that are sought by recreational shellfish harvesters. The western shoreline has had a conditional approval for commercial harvest since 2004 and the southwestern shoreline was upgraded to a conditional approval for commercial harvest in 2010. The five DOH water quality stations in this area (11, 12, 313, 314, and 315) have been meeting shellfish water quality standards for an extended period even when the seasonal closure data is included. When the seasonal closure data are excluded from the dataset, all of these stations are well within the standards. Community members have expressed an interest in reopening this area to recreational harvest. We strongly encourage DOH to consider this request. Without this action, the community sees only discouraging results, conflicting messages about water quality and shellfish harvest, and may question their ability to affect change.

In summary, the County plans to continue our investments in the Drayton Harbor watershed and water quality improvement. A reopening of the recreational harvest would help bring greater optimism to the community in terms of our ability to improve water quality and regain access to these resources. These successes need to be recognized in order for the community to continue to invest in the area. We appreciate the efforts of your staff and look forward to continuing to work with you to evaluate priorities in the Drayton Harbor watershed and enact changes that will result in water quality and ecosystem improvements.

Sincerely,
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Professional services contract with RH2 Engineering, Inc. to update the Whatcom County Coordinated Water System Plan – Regional Supplement.

**ATTACHMENTS:**
- Memorandum
- Contract

**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.)

Professional services contract with RH2 Engineering, Inc. to update the 2000 Whatcom County Coordinated Water System Plan – Regional Supplement and facilitate meetings of the Water Utility Coordinating Committee.

**COMMITTEE ACTION:**
- 7/22/2014: Held in Committee for two weeks

**COUNCIL ACTION:**
- 7/22/2014: Held in Committee

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
TO: The Honorable Jack Louws, County Executive  
The Honorable Flood Control Zone District Board of Supervisors

THROUGH: Frank M. Abart, Director

FROM: Gary S. Stoyka, Natural Resources Program Manager

RE: Contract to update the Whatcom County Coordinated Water System Plan

DATE: July 1, 2014

Requested Action
Enclosed are two (2) originals of the contract between Whatcom County and RH2 Engineering, Inc. for your review and signature.

Background and Purpose
The work in this contract consists of updating the Whatcom County Coordinated Water System Plan (CWSP) in accordance with RCW 70.116 and WAC 246-293. The current CWSP was adopted in 2000. Much has changed with regard to water system issues in the past 14 years, particularly with respect to population growth. The objectives of this update are: (1) to coordinate acquisition, treatment, and delivery of water among the various public water purveyors consistent with local, state and federal laws and regulations, and in the best interest of the served public; (2) integrate public water system needs into a regional water supply plan addressing other beneficial uses in Whatcom County; and, (3) inform the preparation of the Whatcom County Comprehensive Plan update relative to water supply. As part of the update process, the County will, pursuant to RCW 70.116, convene the Water Utility Coordinating Committee (WUCC). The contractor will facilitate the WUCC meetings. Once the CWSP is approved by the WUCC, the contractor will conduct the required SEPA analysis before assisting in the submittal of the CWSP to the County Council and state Department of Health for approval. Because the full scope of the update has yet to be determined, it was decided to do the work in two stages: (1) preliminary data collection and analysis and scoping, and (2) the main update. This contract is for the main update based on the scoping that was done in the first stage.

Funding Amount and Source
The estimated budget for this contract is $174,176.00. This work will be conducted between 2014 and 2015. The 2014 Natural Resources budget, approved by the Flood Control Zone District Board of Supervisors on November 26, 2013, includes $150,000 for this contract (less $18,991 that was appropriated for the Phase I contract). The remaining $43,167 will not be expended until 2015 and will be included in the 2015 Flood Control Zone District budget (Fund 169). There are sufficient funds in the Flood Control Zone District Fund (Fund 169) to fund the work to be conducted in 2014 under this contract.

Please contact Gary Stoyka at extension 50618, if you have any questions or concerns regarding the terms of this agreement.

Encl.
WHATCOM COUNTY CONTRACT
INFORMATION SHEET

Originating Department: Public Works
Contract or Grant Administrator: Gary Stoyka
Contractor's / Agency Name: RH2 Engineering, Inc.

Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes _ No ___
Yes _ No ___ If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #

Does contract require Council Approval? Yes _ No ___ If No, include WCC ________
(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

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

Is this contract the result of a RFP or Bid process? Yes _ No ___
Yes _ No ___ If yes, RFP and Bid number(s) RFQ 14-04 Cost Center: 169121

Is this agreement excluded from E-Verify? No _ Yes _
No _ Yes _ If no, include Attachment D Contractor Declaration

If yes, indicate exclusion(s) below:
X 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's) ☐ Public Works - Local Agency/Federally Funded FHWA

Contract Amount:(sum of original contract amount and any prior amendments)
$ 174,776.00
This Amendment Amount:
$ __________
Total Amended Amount:
$ __________

Contracts that require Council Approval (incl. agenda bill & memo)
• Professional Services Agreement above $20,000.
• Bid is more than $50,000.
• 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: RH2 Engineering, Inc. will update the Whatcom County Coordinated Water System Plan in accordance with RCW 70.116 and WAC 246-293 and will facilitate meetings of the Water Utility Coordinating Committee.

Term of Contract: 17 months Expiration Date: December 30, 2015

Contract Routing Steps & Signoff: [sign or initial][indicate date transmitted]
1. Prepared by: Gary S. Stoyka Date 07/01/14 [electronic]
2. Attorney reviewed: Daniel L. Gibson Date 07/01/14 [electronic]
3. AS Finance reviewed: Brad Bennett Date 07/03/14 [electronic]
4. IT reviewed if IT related __________
5. Corrections made: __________ [electronic] hard copy printed
6. Attorney signoff: Daniel L. Gibson Date 07/01/14
7. Contractor signed: __________ Date 7-3-14
8. Submitted to Exec Office __________ Date 7-10-14 [summary via electronic; hardcopies]
9. Council approved (if necessary) __________ Date __________
10. Executive signed: __________ Date __________
11. Contractor Original Returned to dept: __________ Date __________
12. County Original to Council __________ Date __________
CONTRACT FOR SERVICES
Update of the Whatcom County Coordinated Water System Plan

RH2 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. 1 to 8.
Exhibit A (Scope of Work), pp. 9 to 14.
Exhibit B (Compensation), pp. 15 to 19.
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 1st day of August, 2014, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of December, 2015.

The general purpose or objective of this Agreement is to: update the Whatcom County Coordinated Water System 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 $174,776.00. 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 3rd day of July, 2014.

CONTRACTOR:
RH2 ENGINEERING, INC.

Richard L. Ballard, Director

(state in name & title of signatory)

STATE OF WASHINGTON
} ss.
COUNTY OF Snohomish

On this 3rd day of July, 2014 before me personally appeared Richard L. Ballard, to me known to be the Director (title) of RH2 Engineering, Inc. (Company) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Angela T. Ely

Notary Public
State of Washington
ANGELA T. ELY
MY COMMISSION EXPIRES
November 20, 2017

My commission expires 11/20/2017.
WHATCOM COUNTY:
Recommended for Approval:

[Signature]
Department Director Date

Approved as to form:

[Signature] 7-10-14
Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: ____________________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss

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:

RH2 Engineering, Inc.
(Type in Name of Contractor/Firm)

Richard L. Ballard, Director
(Type in Name & Title of Signatory Authorized by Firm Bylaws, if applicable)

Address:
22722 - 29th Drive SE, Suite 210
Bothell, WA 98021

Mailing Address:
same

Contact Name: Jim Bucknell

Contact Phone: 425-951-5424

Contact FAX: ____________________________

Contact Email: jbacknell@rh2.com
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: Not Applicable

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: 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 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 directly resulting 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 the 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: Not Applicable

### 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:
All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County.
31.2 Patent/Copyright Infringement:
Contractor will defend and indemnify the County from loss or expense directly resulting from claims made against the County, to the extent such loss or expense results from information supplied by the Contractor that infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:
   A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.
   B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

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 insurance with the following minimums:
   Commercial General Liability, for bodily injury - $1,000,000.00 per occurrence, and for property damage - $500,000.00 per occurrence.
   A Certificate of insurance that also identifies the County as an additional insured, together with appropriate endorsements, is attached hereto as Exhibit "C". This insurance shall be primary and noncontributory, and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.
   a. Professional Liability - $1,000,000 per occurrence:
      If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

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

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

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

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

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

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

35.2 Non-Discrimination in Client Services: 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:

Gary S. Stoyka, Whatcom County Public Works Department, 322 N. Commercial St., Ste.110, Bellingham, WA 98225

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:
The E-Verify contractor program for Whatcom County applies to contracts of $100,000 or more and sub contracts for $25,000 or more if the primary contract is for $100,000 or more. Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit. Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

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

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

40.2 Contractor Commitments, Warranties and Representations: Not Applicable

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

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

42.1 Disputes:

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

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

d. Arbitration: Not Applicable

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

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

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

The update of the CWSP was split into two phases, Phase 1 and Phase 2. Phase 1 was designed for RH2 to assist the County in preparing for and facilitating the pre-scoping meeting. This phase also included tasks to allow RH2 to continue to work on the project while the pre-scoping meeting was being organized and as the overall project scope (Phase 2) is being developed. The Preliminary Data Collection and Analysis tasks included in Phase 1 will continue in Phase 2. To reduce hours needed to update the CWSP, RH2 will rely on the accuracy and completeness of any data, information, or materials provided by the County or others in relation to the project.

Task 1 – Update Glossary of Acronyms and Terms

Objective: Update the glossary of acronyms and terms used in the CWSP to account for new terms and revised definitions.

Approach:

1.1 Add and update acronyms, terms and definitions to the list.
1.2 Perform quality assurance/quality control (QA/QC) review.

Assumptions: Definitions for terms will be from resolution, statute, or rule when available.

RH2 Deliverables:
- Updated list of acronyms, terms, and definitions.

Task 2 – CWSP Process

Objective: Update Section 2 of the CWSP.

Approach:

2.1 Review whether changes have been made to either the Public Water System Coordination Act (Chapter 70.116 of the Revised Code of Washington (RCW)) or the Water System Coordination Act (Chapter 146-293 of the Washington Administrative Code (WAC)) since the last update and document the results.
2.2 Update subsection 2.1 (CWSP History in Whatcom County), including sub-subsections, and results of the appeal to the Court of Appeals.
2.3 Include discussion on the current round of Growth Management Hearings Board (GMHB) appeals.
2.4 Update Table 2-1 describing timeline of CWSP actions in Whatcom County.
2.5 Update subsection 2.2 (CWSP Update Preparation), including sub-subsections, based on the current effort.
2.6 Update Table 2-2 containing subcommittee and members.
2.7 Expand on the water system service areas discussion by describing the difference between future, retail, and wholesale service areas.
2.8 Update subsection 2.3 (Regional Supplement) based on the current effort.
2.9 Update Water Utility Coordinating Committee (WUCC) membership water systems Table 2-3 depending on current number of connections, status of mapping, and declarations.
2.10 Remove existing Exhibit 2-2, which discussed legislative changes to the Public Water System Coordination Act.
2.11 Perform QA/QC review.

Assumptions: County staff will provide the language for Task 2.2 and 2.3. County staff will assist with Task 2.4.

RH2 Deliverables:
- Section 2 - The CWSP Process for WUCC review and comment.

Task 3 – Population, Water Demand, and Expanding Systems

Objective: Update Section 3 of the CWSP. Subsections will be updated based on current population and updated demand forecasts.

Approach:

3.1 Obtain historical and existing water demand data from water systems.
3.2 Obtain updated population forecasts from work being done for the County Comprehensive Plan update.
3.3 Update the population forecast tables and discussion based on the data received.
3.4 Review water system plans and metering data to update the current and forecasted per capita water consumption.

3.5 Update the water demand projections based on the updated population and per capita water consumption values or from supplemental data provided by the water systems. Estimate projections based on data from similar systems where appropriate.

3.6 Update the inventory of existing water systems and operating permit colors, based on current information.

3.7 Generally discuss water use trends and possible future scenarios and how water demand may be affected in the 20 to 50 year horizon.

3.8 Perform QA/QC review.

**Assumptions:** County staff will provide the population forecasts identified in Subtask 3.2. Preliminary water use/demand data will be available from existing individual water system comprehensive plans or metering data from Ecology. Predictions beyond the 20-year planning horizon of the County Comprehensive Plan will not be prepared, and the discussion in Subtask 3.7 will focus on trends and possible future scenarios that may affect water demand, but will not quantify those future demands.

**RH2 Deliverables:**
- Section 3 – Population, Water Demand, and Expanding Systems for WUCC review and comment.

### Task 4 – Water Utility Service Areas

**Objective:** Update Section 4 of the CWSP.

**Approach:**

4.1 Identify which Group A water systems have provided service area boundary declarations to the County. Water systems will confirm that their service area declarations and mapped boundaries are still accurate. If not, they may pursue correction through the existing Service Area Boundary Amendment Procedure (Exhibit 4-3 CWSP), so that the updated service area can be included in this CWSP update.

4.2 Contact Group A water systems that have not provided service area boundary declarations and request they provide a Declaration of Water Utility Service Area, including a map. Create a geographic information system (GIS) shapefile of the water system service area provided.

4.3 Identify service area overlaps, contact the systems involved and determine if the overlap is either contested or not contested, and determine the long-term plan for the overlapping area.

4.4 Document the long-term plans for overlapping area, such as status quo, eventual absorption by surrounding system, schedule, and actions that need to be taken.

4.5 Request the retail, future, and wholesale service areas of expanding Group A systems from those systems and create a new map displaying those boundaries.

4.6 Perform QA/QC review.

**Assumptions:** The County will provide RH2 with the most recent GIS files of designated service areas. RH2 will work with the County’s GIS data during the CWSP update process to update existing figures and create new figures. At the end of the CWSP update process, RH2 will provide the GIS files to the County, which will be the final repository for the official GIS-based service area boundaries. It is assumed that not all systems complied with the 2000 CWSP requirement to submit their service area boundary maps to the County. It is assumed that 20 of the 209 water systems identified on the Preliminary CWSP Designated Water Service Areas Map from May 2014 will need to amend their service area (Task 4.1). It is assumed that all Group A systems contacted under Task 4.2 will be willing to provide a declaration and hard-copy map that will be digitized by RH2. Water systems with overlapping boundaries will be willing to discuss the situation and long-term plans. The County is currently mapping existing Group B water systems and will provide the GIS layers to RH2 as the work progresses and incorporate the boundaries in the updated Designated Water Service Areas map.

**RH2 Deliverables:**
- Section 4 – Water Utility Service Areas, for WUCC review and comment.

### Task 5 – Minimum Design Standards

**Objective:** Update Section 5 of the CWSP.

**Approach:**

5.1 Convene a WUCC subcommittee to review the existing design standards and develop and justify recommended changes. Review design standards for both rural and urban service areas and include in the updated plan.

5.2 Meet with WUCC subcommittee, WCHD, PDS, and Whatcom County Fire Marshal to determine if updates to the minimum fire flow requirements are needed and develop new minimum requirements for review by the WUCC. Update the fire protection standards discussion as necessary.
5.3 Add new discussion of the Water Use Efficiency Standards, including how various sizes of Group A and Group B public water systems are affected.

5.4 Summarize the issues related to the provision of fire hydrants in Lane vs. Seattle and other similar cases with an emphasis on the legislation passed by the Washington State Legislature in the 2014 session and how it affects public water systems in Whatcom County.

5.5 Perform QA/QC review.

Assumptions: RH2 will participate in up to four (4) meetings with the subcommittee.

RH2 Deliverables:
- Attendance at four (4) meetings with the WUCC subcommittee.
- Chapter 5 – Minimum Design Standards for WUCC review and comment.

**Task 6 – Utility Service Review Procedures**

Objective: Update Section 6 of the CWSP.

Approach:

6.1 Review the existing utility service procedures and determine which portions have been effectively implemented. Identify procedures that are insufficient. Recommend areas where improvements to the procedures could be considered by the County.

6.2 Coordinate with the County to obtain updated utility service review procedures. Review and comment on proposed changes to the procedures.

6.3 Update Exhibit 6-1 based on the results of Subtask 6.1.

6.4 Perform QA/QC review.

Assumptions: PDS and WCHD staff will coordinate internally to update the utility service review procedures for incorporation into the CWSP by RH2.

RH2 Deliverables:
- Draft Utility Service Review Procedures and diagram for WUCC review and comment.
- Chapter 6 – Utility Service Review Procedures for WUCC review and comment.

**Task 7 – Satellite Management Agency and Receivership**

Objective: Update Section 7 of the CWSP.

Approach:

7.1 Update subsection 7.1 (WDOH Satellite Management Agency (SMA) Requirements) language and remove bill language from discussion. Replace with citations for RCW and WAC.

7.2 Update subsection 7.2 (Current SMA Status) to add approved SMAs in the County and clarify their management and ownership.

7.3 Discuss the pros and cons of SMAs with management and operations authority only versus those with the added option of ownership.

7.4 Update subsection 7.3 (Receivership of Failing Systems) to add language clarifying what receivership means to customers of public water systems, including the financial and legal obligations that may remain.

7.5 Discuss options to provide technical and financial assistance to failing public water systems with the intent of reducing the number of systems that will ultimately pursue this course of action.

7.6 Perform QA/QC review.

Assumptions: Information from Subtask 7.3 will be obtained via interview with other counties and WDOH. The receivership discussion in Subtask 7.4 will be reviewed by staff from the Whatcom County Prosecutor’s Office for accuracy.

RH2 Deliverables:
- Section 7 – Satellite Management Agency and Receivership for WUCC review and comment.

**Task 8 – Regional Resource Issues**

Objective: Update Section 8 of the CWSP.

Approach:
8.1 Update subsection 8.0 (Introduction) to include a discussion of WDOH Sentry and Ecology Water Resource Explorer databases.
8.2 Update subsection 8.1 (Lummi Indian Nation) to include the Lummi Peninsula Settlement and identify which public water systems on the Lummi Reservation are affected by the settlement and/or the CWSP update.
8.3 Update subsection 8.2 (Water Rights) to discuss the Municipal Water Law and how it affects public water systems in the County.
8.4 Discuss options for water rights processing, including change applications, Hillis priority processing, cost reimbursement, coordinated cost reimbursement, and Chapter 173-501 WAC.
8.5 Compare and contrast existing and forecasted water demands for public water systems (from Task 3) with their existing water rights and develop a GIS map displaying the suitability of water rights to serve existing and future (20-year) demand. A water rights summary table will be included in Appendix B.
8.6 Update subsection 8.4.2 (Surface Water and GWI Sources) to include a GIS map of groundwater sources currently known to be under the influence of surface water and discuss the implications for public water systems.
8.7 Update subsection 8.4.3 (Nitrate) to expand discussion of nitrate contamination in the north county and provide a GIS map outlining this area and discuss potential solutions. Explore short and long-term alternatives to dealing with these problems, including individual treatment, single source treatment and delivery to multiple systems, importing water from Birch Bay/Blaine, importing water from Sumas, importing water from the Nooksack River, and others that may arise.
8.8 Discuss other water quality issues and associated regulatory rules such as the U.S. Environmental Protection Agency’s Lead and Copper Rule and Arsenic Rule.
8.9 Update subsection 8.4.5 (Seawater Intrusion) to expand the discussion of seawater intrusion in Whatcom County to consider the extent and significance of the problem and provide a GIS map showing known areas where it has been encountered.
8.10 Update subsection 8.4.6 (Relic Saltwater) to expand the discussion of the occurrence of relic seawater in Everson Glaciomarine geologic unit.
8.11 Update subsection 8.4.7 (Volatile Organic Chemicals and Pesticides) on ethylene dibromide (EDB) and dichloropropane (DCP) and 1,2-DCP contamination and provide a GIS map showing where it is generally encountered and the pipeline route which serves lands generally west of the City of Lynden. Also discuss the specific criteria to qualify to receive this water from the pipeline and monitoring requirements.
8.12 Update subsection 8.4.8 (Iron/Manganese) to expand the discussion of iron/manganese in county groundwater, and discuss the implications for existing and future public water supplies.
8.13 Update subsection 8.5.2 (Quantity) to include a review the history of the drilling of deep wells in the county and identify where such efforts have been successful and where they have not. Provide a GIS map showing deep well locations.
8.14 Discuss the history of bedrock wells.
8.15 Address other water concerns raised by WUCC members.
8.16 Discuss instream flow restrictions and stream closures.
8.17 Update subsection 8.6 (Lack of Joint Facilities and System Interties). Prepare a GIS map showing existing and potential future interties. Identify which interties are normal supply and which are emergency interties.
8.18 Update subsection 8.7 (Water Conservation), including sub subsections, to include water use efficiency requirements.
8.19 Perform QA/QC review.

Assumptions: Inclusion of Lummi Nation and Nooksack Tribe reservations will be non-controversial and will not result in protracted discussions or multiple iterations. Water right information will be obtained from water system plan water right self-assessment forms and water right documents. Subtask 8.7 will focus on a discussion of the problem and options and will not provide a recommended course of action or preferred alternative. It is assumed that WDOH has an updated list of groundwater sources determined to be potentially under the influence of surface water. Information on the Lynden-EDB pipeline will be obtained from Ecology.

RH2 Deliverables:

- Section 8 – Regional Resource Issues for WUCC review and comment.

Task 9 – Plan Implementation

Objective: Update Section 9 of the CWSP.
Approach:
9.1 Update Section 9 with changes regarding CWSP implementation that result from previous tasks.
9.2 Perform QA/QC review.

RH2 Deliverables:
- Section 9 – Plan Implementation for WUCC review and comment.

Task 10 – Executive Summary
Objective: Prepare an executive summary to describe the key elements of the CWSP.

Approach:
10.1 Identify the purpose of the CWSP and summarize the key elements in the CWSP.
10.2 Perform QA/QC review.

RH2 Deliverables:
- Executive Summary chapter for WUCC review and comment.

Task 11 – Draft CWSP Completion and County Review
Objective: Prepare a draft of the CWSP for final review and discussion with the WUCC.

Approach:
11.1 Develop a cover format that includes the CWSP name and revision date, certificate of engineer, and acknowledgement letter.
11.2 Obtain a completed State Environmental Policy Act (SEPA) Checklist from the County for inclusion in the CWSP.
11.3 Assemble full draft CWSP, proofread and perform QA/QC review, then provide electronic copies of the draft CWSP document to the WUCC.
11.4 Meet with the WUCC to discuss the draft CWSP.
11.5 Prepare responses to comments and make revisions to the CWSP per WUCC comments.

RH2 Deliverables:
- Draft CWSP in electronic format.

Task 12 – Final CWSP Binding and Submittal to WDOH
Objective: Prepare a final draft of the CWSP and submit it to the Whatcom County Council and WDOH for review.

Approach:
12.1 Prepare final report for adoption by the Whatcom County Council and WDOH.
12.2 Bind ten (10) copies of the CWSP in three-ring binders.
12.3 Create an electronic version of the CWSP.
12.4 Submit the final draft CWSP to WDOH for review and comment.

RH2 Deliverables:
- Ten (10) copies of the CWSP in three-ring binders.
- One (1) camera-ready electronic version of the CWSP in Microsoft Word and one (1) in PDF.

Task 13 – Meeting Facilitation and Public Involvement
Objective: Organize, moderate, and document meetings of the WUCC and other public involvement activities associated with the CWSP update.
**Approach:**

13.1 Prepare for, facilitate, and follow-up on WUCC meetings including agenda preparation, meeting facilitation, recording of votes, and preparation of minutes and conduct up to two (2) additional WUCC subcommittee meetings if needed.

13.2 Prepare for, attend, and present at meetings of other planning groups, including the Joint Board and the Planning Unit.

13.3 Support WUCC in preparing for, conducting, and follow up to one (1) public informational meeting on the CWSP update.

13.4 Support County staff and Council in preparing for, conducting, and follow up to public hearing on the proposed CWSP document.

13.5 Prepare graphs, charts, maps, and other materials to communicate with various interest groups.

13.6 Respond to comments received from WUCC members, general public, and other stakeholders as a result of public meetings, review drafts, and public hearing.

**Assumptions:** RH2 will convene a maximum of fourteen (14) WUCC meetings and six (6) subcommittee meetings. RH2 will participate in two (2) briefings at meetings with the Joint Board and Planning Unit (one (1) early to introduce the project, one (1) later to brief them on the proposed updated document for each group). RH2 will also provide support for one (1) public hearing by the Whatcom County Council. Meetings will be held in venues that are free of cost. RH2 will send out agendas electronically prior to the WUCC meetings and will prepare meeting minutes for those meetings. RH2 will only provide electronic copies of documents for review.

**RH2 Deliverables:**

- Meeting agendas and supporting documents.
- Recording of votes.
- Meeting minutes.
- Process documentation.
- Written responses to comments received.

**Project Schedule**

The goal of the CWSP update is to present the final draft CWSP to WDOH in approximately one (1) year (September 2015). However, if allowance of additional time is needed for additional cooperation and/or to produce a more defined product, up to a year and a half may be needed (early 2016).

Note: At the completion of Tasks 1 through 13, the CWSP will be in a final format, ready for review by WDOH. The number of comments, number of meetings and amount of required CWSP modifications from the review by WDOH is difficult to predict. Therefore, RH2 will prepare a separate scope of work and fee estimate to address review comments, review meetings, and final CWSP modifications upon receipt of review comments, if needed.
EXHIBIT "B"
(COMPENSATION)

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, lodging and per diem at a rate not to exceed the GSA rate for location services are provided. Reimbursement for air travel will be at coach rates. Other expenditures not specified in the rate sheet below shall be reimbursed at actual cost. All sub-consultant services shall be billed at cost plus 15%.

Contractor will invoice monthly. Invoices will include hours worked by employee by day together 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 $174,776. 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.

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<th>Task</th>
<th>Description</th>
<th>Total Hours</th>
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<td>3.1</td>
<td>Obtain demand data</td>
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<td>Obtain updated population forecasts with new County Comprehensive Plan data</td>
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<td>Update population forecast tables</td>
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<td>Update existing system section</td>
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<td>Discuss water use trends</td>
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### Task 4: Water Utility Service Areas

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<td>4.1</td>
<td>Identify Group A systems with declared service area boundaries</td>
<td>14</td>
<td>$1,866</td>
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<td>4.2</td>
<td>Contact Group A systems with no declared service area</td>
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<td>Identify service area overlaps</td>
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<td>4.4</td>
<td>Document long-term plan for the overlapping areas</td>
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**Subtotal:** 130 | $16,658 | $2,679 | $19,337

### Task 5: Minimum Design Standards

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<tr>
<td>5.1</td>
<td>Convene WUCC subcommittee to evaluate design standards</td>
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<td>5.2</td>
<td>Meet with WUCC subcommittee, WCHD, PDS, and Fire Marshal</td>
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<td>Add new discussion of the Water Use Efficiency Standards</td>
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**Subtotal:** 58 | $10,130 | $318 | $10,448

### Task 6: Utility Service Review Procedures

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<td>Obtain updated procedures from County</td>
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<td>Update Exhibit 6-1</td>
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**Subtotal:** 26 | $4,246 | $225 | $4,471

### Task 7: Satellite Management Agency and Receivership

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<td>7.1</td>
<td>Update subsection 7.1 (SMA Requirements)</td>
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<td>Update subsection 7.2 (Current SMA Status) to add approved SMAs</td>
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<td>Discuss the pros and cons of SMAs</td>
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<td>Update subsection 7.3 (Receivership of Failing Systems)</td>
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<td>Discuss options to provide assistance to failing public water systems</td>
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**Subtotal:** 26 | $4,565 | $119 | $4,684
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<td>Update subsection 8.1 (Lummi Indian Nation)</td>
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<td>Discuss options for water right processing</td>
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<td>Compare and contrast existing and forecasted water demands</td>
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<td>Update subsection 8.4.2 (Surface Water and GWI Sources)</td>
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<td>Discus other water quality issues</td>
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<td>Update subsection 8.4.5 (Seawater Intrusion)</td>
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<td>Discuss instream flow restrictions and stream closures</td>
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<td>Assemble full draft CWSP and provide electronically to WUCC</td>
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<td>Bind 10 copies of the final CWSP</td>
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<td>Create electronic version of the final CWSP</td>
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**Subtotal CWSP Tasks**

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<td>13.1</td>
<td>Prepare for, facilitate, and follow-up on WUCC meetings</td>
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<td>Prepare for, attend, and present at meetings of other planning groups</td>
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<td>Support County staff and Council for public hearing</td>
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<td>Prepare graphs, charts, maps, and other materials</td>
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**Subtotal Meeting Facilitation and Public Involvement Tasks**

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**PHASE 2 TOTAL**

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# RH2 ENGINEERING, INC.
## SCHEDULE OF RATES AND CHARGES
### HOURLY RATES

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<tr>
<td>Professional</td>
<td>I</td>
<td>$135.00</td>
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### IN-HOUSE SERVICES

<table>
<thead>
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<th>Size</th>
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</thead>
<tbody>
<tr>
<td>In-house copies (each)</td>
<td>8.5&quot; X 11&quot;</td>
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<td>$0.14</td>
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<tr>
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<td>In-house copies (color) (each)</td>
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<td>In-house copies (color) (each)</td>
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<td>In-house copies (color) (each)</td>
<td>11 X 17&quot;</td>
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<tr>
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<tr>
<td>CAD System</td>
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<tr>
<td>Technology Charge Mileage</td>
<td></td>
<td>2.5% of Direct Labor</td>
</tr>
</tbody>
</table>

### OUTSIDE SERVICES

Outside direct costs for permit fees, reports, maps, data, reprographics, couriers, postage, and non-mileage related travel expenses that are necessary for the execution of the project and are not specifically identified elsewhere in the contract will be invoiced at cost.

All Subconsultant services are billed at cost plus 15%.
**CERTIFICATE OF LIABILITY INSURANCE**

** issuers:**

**PRODUCER:** Sammamish Insurance, Inc.
704 228th Ave NE, PMB 373
Sammamish, WA 98074

**AUTHORIZED REPRESENTATIVE:** Allen Fugitt
E-MAI: Allen.Fugitt@msn.com

**INSURER A:** Hartford Casualty Ins. Co.

**INSURER B:** Sentinel Insurance Co., Ltd

**INSURER C:** Continental Casualty Company

**CERTIFICATE NUMBER:** CL1452002405

**DESCRIPTION OF OPERATIONS**

**1. Commercial General Liability**
- **CLAIMS MADE**
- **OCCUR**
- **POLICY NUMBER:** 52SBANM5475
- **LIMITS:**
  - EACH OCCURRENCE: $2,000,000
  - DAMAGE TO RENTED PREMISES: $300,000
  - GENERAL AGGREGATE: $4,000,000
- **LOCATIONS:**
  - X POLICY
  - LOCATION

**2. Umbrella Liability**
- **OCCUR**
- **CLAIMS MADE**
- **POLICY NUMBER:** 52SBANM5475
- **LIMITS:**
  - EACH OCCURRENCE: $2,000,000
  - GENERAL AGGREGATE: $4,000,000

**3. Professional Liability**
- **CLAIMS MADE**
- **POLICY NUMBER:** AEH004312321
- **LIMITS:**
  - EACH OCCURRENCE: $3,000,000
  - MEDICAL PAYMENTS: $150,000

**EXCLUSIONS:**

- Claims made, professional liability, and excess liability coverage.

**IMPORTANT:** The certificate holder is an additional insured, subject to the terms and conditions of the policy. Certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**CERTIFICATE HOLDER:**

Whatcom County
322 North Commercial Street
Suite 110
Bellingham, WA 98225

**CANCELLATION:**

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

**AUTHORIZED REPRESENTATIVE:** Allen Fugitt

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<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
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<td>07/22/14</td>
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<tr>
<td>Division Head:</td>
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<td></td>
<td></td>
<td>08/05/14</td>
<td>Finance Committee; Council</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Prosecutor:</td>
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<td></td>
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</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>MKS</td>
<td>7/11/14</td>
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<tr>
<td>Executive:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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**TITLE OF DOCUMENT:** 2014 Supplemental Budget Request #14

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

<table>
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<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
<th>NO</th>
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<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>NO</td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Supplemental #14 requests funding from the General Fund:

1. To appropriate $28,813 in Planning and Development Services to fund one code enforcement staff position.
2. To appropriate $32,000 in Parks to fund Hovander driveway relocation.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

7/22/2014: Introduced 7-0

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**
ORDINANCE NO.
AMENDMENT NO. 14 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>
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</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Planning and Development Services</td>
<td>28,813</td>
<td>-</td>
<td>28,813</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>28,813</td>
<td>-</td>
<td>28,813</td>
</tr>
<tr>
<td>Parks Special Revenue Fund</td>
<td>32,000</td>
<td>-</td>
<td>32,000</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>60,813</td>
<td>-</td>
<td>60,813</td>
</tr>
</tbody>
</table>

In addition, Exhibit B to the 2013-2014 Budget Ordinance entitled “Authorized Positions” should be amended to provide for the following FTE changes:
- Add 1 FTE Planner position in Planning & Development Services.
- Close 1 FTE Clerk II position in Auditor – Recording.

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:

Jack Louws, County Executive
Date: _______________________

( ) Approved  ( ) Denied
<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>
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</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>To fund the addition of one code enforcement staff person.</td>
<td>28,813</td>
<td></td>
<td>28,813</td>
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<tr>
<td>Total General Fund</td>
<td></td>
<td>28,813</td>
<td></td>
<td>28,813</td>
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<tr>
<td>Parks Special Revenue Fund</td>
<td>To fund Hovander driveway relocation.</td>
<td>32,000</td>
<td></td>
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<td>Total Supplemental</td>
<td></td>
<td>60,813</td>
<td></td>
<td>60,813</td>
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Memorandum

TO: Jack Louws, Executive
Tyler Schroeder, Special Projects Manager

FROM: J.E. “Sam” Ryan, Director

DATE: June 09, 2014

SUBJECT: Code Enforcement Staff Supplemental Budget Request

Attached is a Supplemental Budget Request for the current 2014 budget for an additional staff person for our Code Enforcement area. There is a pressing need for additional staff for processing and responding to code violations. The requests for enforcement investigations have exceeded our department’s capacity to do adequate compliance follow up and processing of new violations.

Normally this request would come as an ASR for the 2015-2016 budget process, but the need for additional Code Enforcement staff is immediate. I have council members and the public calling and emailing to ask about status of ongoing cases. We have a back log of cases and staff is not able to work through them in a timely manner.

With this new staff person we would propose a short term proactive change to enforcement cases with an emphasis on voluntary compliance. If we can’t get compliance then we already have a penalty assessment process that can be used. In the long term, PDS will seek to get regulations approved to place a lien on properties that have failed to get into compliance.

This request is separate from the ½ FTE PIC Enforcement position and the NPDES FTE position proposed by Public Works.

Thank you for taking the time to review this request. Please let me know if you need any further information.
Supplemental Budget Request

Planning & Development Services
Supp'l ID # 1884
Expenditure Type: Ongoing
Year: 2014
Add'l FTE: Yes
Add'l Space: No
Priority: 1

Name of Request: Code Enforcement Additional Staff

X

Department Head Signature (Required on Hard Copy Submission)

Date: 7-9-14

<table>
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<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<td>6110</td>
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<td>Regular Salaries &amp; Wages</td>
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<tr>
<td>6210</td>
<td></td>
<td>Retirement</td>
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<tr>
<td>6230</td>
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<td>Social Security</td>
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<td>6245</td>
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<td>Medical Insurance</td>
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<td>6255</td>
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<td>Other H&amp;W Benefits</td>
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<tr>
<td>6259</td>
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<td>Worker's Comp-Interfund</td>
<td>$303</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$28,813</td>
</tr>
</tbody>
</table>

1a. Description of request:
This will add one FTE to work as a full time Code Enforcement staff person.

1b. Primary customers:
Whatcom County residents

2. Problem to be solved:
The requests for Code Enforcement investigations have exceeded the department's capacity to do adequate compliance follow up and processing. PDS has council members and community members calling, emailing and asking about the status of ongoing cases. The goal would be to use this new person and develop a short term proactive change to enforcement case management with an emphasis on voluntary compliance. If we can't get compliance then we already have a penalty assessment process that can be used.

3a. Options / Advantages:
We are utilizing staff in other departments for the initial intake and review of cases and are using the department clerk/receptionist to assist with clerical tasks. However, PDS is running at minimum staff in all departments and all areas are already working hard to manage their own workloads and do not have the time to assist with Code Enforcement beyond what they are already providing.

3b. Cost savings:

4a. Outcomes:
The new staff person would focus on current and incoming Code Enforcement cases working to resolve ongoing issues and work through the backlog so new enforcement cases can be prioritized and handled in a timely manner.

4b. Measures:
When the backlog of cases is diminished and Code Enforcement cases are current in responding to compliance request.

5a. Other Departments/Agencies:
No
Supplemental Budget Request

Status: Pending

Planning & Development Services          Administration

Supp'l ID # 1884  Fund 1  Cost Center 842  Originator: Denise Smith

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

6. Funding Source:
    General Fund
Attached please find a request for a budget supplemental to facilitate the relocation and construction of a portion of the drive to the group picnic area at Hovander Homestead Park. This project parallels the newly constructed multi use trail and will provide separation of pedestrians and motor vehicles for safety purposes. Adequate funding exists in the Parks Special Revenue Fund and the department would like to complete this project before the autumn rains. All permits and quotes have been obtained.

Thank you
Supplemental Budget Request

Parks & Recreation

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

Name of Request: Hovander Driveway Relocation

Department Head Signature (Required on Hard Copy Submission)

$32,000

1a. Description of request:
A portion of the drive to the group picnic area and shelter at Hovander Homestead Park will be relocated to accommodate the recently constructed multi use trail. Accessible parking spaces will also be constructed to facilitate shelter and picnic users and better serve special events. This project will improve accessibility, separate different users to avoid safety issues and accommodate individuals with disabilities.

1b. Primary customers:
Park visitors and volunteers who attend special events and use the picnic areas, shelters and gardens at the park.

2. Problem to be solved:
In 2013 a new multi use trail was constructed on portions of the existing drive. Trail use and motorized vehicles should be separated for safety purposes particularly during peak use periods and special events. A portion of this drive is on turf which at times of the year can present challenges due to moisture conditions. This relocated drive will improve vehicle access and address pedestrian, bicycle and vehicle safety concerns.

3a. Options / Advantages:
No action will result in the degradation of the trail surface and potential safety issues with pedestrians and motorized vehicles. This option maintains a separation and accommodates all users regardless of conditions.

3b. Cost savings:
N/A

4a. Outcomes:
Separation of use and improved access upon completion.

4b. Measures:
N/A

5a. Other Departments/Agencies:
Permits have already been acquired from WC Planning and Development Services.

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

6. Funding Source:
This project is proposed to be funded from the Parks Special Revenue Fund.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
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<th>Assigned to:</th>
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<td>7/22/2014</td>
<td>Introduction</td>
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<td>Prosecutor:</td>
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<td>7/25/14</td>
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<td>Purchasing/Budget:</td>
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</table>

**TITLE OF DOCUMENT:**

Ord. amend WCC 3.06, grant applications, to clarify requirements & exceptions

**ATTACHMENTS:**

Ordinance

**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.)

This ordinance amends WCC 3.06 to amend the grant application process and to clarify exemption provisions.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

7/22/2014: 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 3.06, GRANT APPLICATIONS, TO CLARIFY REQUIREMENTS FOR GRANT APPROVAL AND APPROVAL EXEMPTIONS

WHEREAS, Whatcom County Code Section 3.06 sets forth requirement for grant application approval and approval exemptions; and

WHEREAS, it has been brought to the Council’s attention that the Code should be amended to streamline the grant application process and clarify exemption provisions.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code 3.06 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:

Jack Louws, Executive

Date: ________________________________
EXHIBIT A
(WCC 3.06 Amendment)

Chapter 3.06
GRANTS APPLICATIONS

Sections:

3.06.010 Approval by council – Exemptions.

3.06.010 Approval by council – Exemptions.

A. Copies of all federal and/or state grant applications that propose county direct or indirect cost sharing in an amount exceeding $20,000 or provide for additional personnel, must be sent to council at the time it is submitted to the funding agency and must be approved by the council before the grant may be accepted.

B. Any direct pass through grants that ultimately fund contractual service vendors are exempt from this section, provided that the county's administrative costs are funded.

C. The requirements of this section shall not apply to emergencies declared by the county executive.
(Ord. 84-109).
**TITLE OF DOCUMENT:**
Acceptance of petition to form Drayton Watershed Improvement District

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

Council has received a petition to form the Drayton Watershed Improvement District (an irrigation district). Per RCW 87.03.020 (6), the petition was submitted with a "good and sufficient bond" double the amount of the probable cost of organizing the district. Council will hold a public hearing at a later date to name the proposed district, set the district boundaries, and establish the election process.
PETITION
FOR FORMATION OF THE
DRAYTON WATERSHED IMPROVEMENT DISTRICT

TO: Whatcom County Council, Whatcom County, Washington.

THE UNDERSIGNED HOLDERS OF TITLE TO, OR EVIDENCE OF TITLE TO LAND SUSCEPTIBLE OF IRRIGATION, who constitute fifty or a majority of said title to land within the boundaries of the hereinafter described lands, hereby petition the Whatcom County Council of Whatcom County, Washington for the formation of an irrigation district pursuant to Chapter 87.03 RCW and upon the showing of the following:

Description of Real Property

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which lands are situated is as follows: SEE ATTACHMENT "A"

Statement of Sources of Water Supply
And Plan of Improvements

The Drayton Watershed Improvement District ("District") is being proposed to address both water supply, water quality, and other environmental issues affecting agricultural landowners consistent with the authority of such districts under Chapter 87.03. RCW

Landowners who currently hold water rights from ground or surface water sources will continue to own and use those water rights to self-supply their water, and the creation of the proposed District will create no authority by the District over water rights held by landowners. The District will be developing and implementing new water supply options for those landowners who lack adequate water rights. Such water supplies developed by the District could include water supplies developed through water right permitting, transfers, banking, and mitigation programs.

The development of these new water supply options will be subject to Washington’s water resources code, Chapters 90.03 and 90.44 RCW, including all necessary reviews and approval by the Washington Department of Ecology, which includes the protection of other water rights from impairment.

The proposed District will prepare plans for watershed improvements including projects that address drainage and flooding, help to improve instream flows, promote efficient irrigation water management practices and enhance water quality and fish habitat.
Number of Directors and Name of District

The number of directors desired for the administration of the affairs of the District shall be 5. The District shall be known and designated as Drayton Watershed Improvement District.

Purpose of the District

The purposes of the District shall be for developing water supply options for agricultural landowners; implementing water quality protection measures; improving drainage and other conditions that limit or impair the uses of land for agricultural purposes. The District shall also act on behalf of landowners to provide cooperative watershed management functions as authorized by RCW 87.03.019 and RCW 39.34.210, which establish the authority for the District to participate in actions and agreements for the purposes of water supply, water quality, and water resource and habitat protection and management.

The District is proposed for the performance of all things necessary to enable the district to exercise the powers granted in Chapter 87.03 RCW.

WHEREFORE, THE UNDERSIGNED respectfully pray that the Clerk of the Whatcom County Council, Washington, fix a time and place for hearing on this Petition and take all steps necessary to organize said district.

Dated this 23 day of July, 2014.

Nominations for Initial Board Members

Drayton
Greg Ebe
Marty Maberry
Scott James
Jeff Bedlington
Rod Tjoelker
ATTACHMENT A

Legal Description

Drayton Watershed Improvement District

T.40N., R1E. Willamette Meridian (WM)

Section 11 - SE¼
Section 12 - N½NW¼NE¼, S½NE¼NE¼, SE¼NE¼
Section 13 - excepting W½SW¼ and N½NW¼ and N½NW¼NE¼
Section 14 - N½NE¼, E½NE¼NW¼
Section 24 - excepting W½W½ and SE¼SW¼ and S½SE¼
Section 25 - excepting W½NW¼ and N½NE¼NW¼ and NW¼NE¼ and W½NE¼NE¼
Section 34 - N½
Section 35 - S½N½, E½SE¼
Section 36 - NW¼NW¼, W½SW¼NW¼, N½NW¼NE¼, E½NE¼

T. 40N., R 2E. WM

Section 7 - S½NW¼, S½NE¼, SW¼, SE¼
Section 8 - excepting W½NW¼
Section 9 - excepting E½NE¼
Section 16 - excepting E½NE¼NE¼
Sections 17 - 20
Section 21 - excepting E½SE¼
Section 28 - N½ excepting E½NE¼
Section 29 - N½
Section 30 - excepting SE¼SE¼
Section 31 - W½, SW¼SE¼

T. 39N., R.2E. WM

Section 4 - W½NW¼, SW¼, NW½NW¼SE¼
Section 5 - SW½NW¼, S½NE¼NE¼, SE¼NE¼, N½SE¼, SE¼SE¼,
NW¼SW¼SE¼, N½SE¼SW¼, W½SW¼SW¼,
NE¼SW¼SW¼, NW¼NW¼SW¼
Section 6 - all parcels east of I-5 excepting NE¼NE¼ and E½NW¼NE¼

Excepting from all of the above described parcels the following:
- All lands within the City of Ferndale;
- All parcels less than four and one-half acres in size;
- All tax-exempt parcels;
- All parcels outside of Ag Open Space tax classification.
DRAYTON WATERSHED IMPROVEMENT DISTRICT PETITION

The undersigned certify that they are at least eighteen years of age and own title to land in area proposed as the Drayton Watershed Improvement District.

<table>
<thead>
<tr>
<th>SIGNATURE</th>
<th>NAME (PRINT)</th>
<th>ADDRESS</th>
<th>PARCEL #</th>
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<td>BEDLINGTON FARMS LLC</td>
<td>8497 GUIDE MERIDIAN,</td>
<td>390232085068</td>
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<td></td>
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<td>LYNDEN, WA</td>
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<tr>
<td>x Diana</td>
<td>DALE L BEDLINGTON FAMILY LLC</td>
<td>7051 BIRCH BAY DR, BLAINE, WA</td>
<td>400216468344</td>
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<td>Maberry</td>
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DRAYTON WATERSHED IMPROVEMENT DISTRICT PETITION
The undersigned certify that they are at least eighteen years of age and own title to land in area proposed as the Drayton Watershed Improvement District.

<table>
<thead>
<tr>
<th>SIGNATURE</th>
<th>NAME (PRINT)</th>
<th>ADDRESS</th>
<th>PARCEL #</th>
<th>TOTAL ACRES</th>
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DRAYTON WATERSHED IMPROVEMENT DISTRICT PETITION

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The undersigned certify that they are at least eighteen years of age and own title to land in area proposed as the Drayton Watershed Improvement District.

<table>
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<td>MARGARET A D RUDY &amp; CAROL D SALISBURY &amp; LINDA D PETERSEN &amp; EDWARD DEWILDE</td>
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PROGRESS TO DATE 5,937.4 ACRES

ACRES IN WID 27,498

% COMPLETE 21.59%

SIGNERS 62
PETITION
FOR FORMATION OF THE
DRAYTON WATERSHED IMPROVEMENT DISTRICT

TO: Whatcom County Council, Whatcom County, Washington.

THE UNDERSIGNED HOLDERS OF TITLE TO, OR EVIDENCE OF TITLE TO LAND SUSCEPTIBLE OF IRRIGATION, who constitute fifty or a majority of said title to land within the boundaries of the hereinafter described lands, hereby petition the Whatcom County Council of Whatcom County, Washington for the formation of an irrigation district pursuant to Chapter 87.03 RCW and upon the showing of the following:

Description of Real Property

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which lands are situated is as follows: SEE ATTACHMENT "A"

Statement of Sources of Water Supply
And Plan of Improvements

The Drayton Watershed Improvement District ("District") is being proposed to address both water supply, water quality, and other environmental issues affecting agricultural landowners consistent with the authority of such districts under Chapter 87.03. RCW

Landowners who currently hold water rights from ground or surface water sources will continue to own and use those water rights to self-supply their water, and the creation of the proposed District will create no authority by the District over water rights held by landowners. The District will be developing and implementing new water supply options for those landowners who lack adequate water rights. Such water supplies developed by the District could include water supplies developed through water right permitting, transfers, banking, and mitigation programs.
### 2014 Proposed Watershed Improvement District Bond Estimates

<table>
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<th>Laurel</th>
<th>Drayton</th>
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<th>South Lynden</th>
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<td>26,060</td>
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<td>572</td>
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<td>Staff Time:</td>
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<td>$2,500 - $3,000</td>
<td>$3,000 - $3,500</td>
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<tr>
<td>Mailings:</td>
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<td>$1,418</td>
<td>$3,033</td>
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<td>Legal Notice:</td>
<td>$2,500 - $3,000</td>
<td>$2,500 - $3,000</td>
<td>$4,000 - $5,000</td>
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<td>Total:</td>
<td>$11,350 - $11,850</td>
<td>$6,418 - $7,418</td>
<td>$10,033 - $11,533</td>
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<td>Bond Estimate:</td>
<td>$23,000</td>
<td>$13,000</td>
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**Mailing Supplies, Copies, Postage Estimates (Mailings) Figured As Follows:**

Postage figured on two mailings to each parcel at $.49 each for postage. The first mailing will include an informational packet of approximately 10 pages, at a cost of $1.50 per packet plus postage, for a total of $1.99 each. The second mailing will be the ballot, at a cost of $.49 each. Total cost for mailings to each parcel is $2.49.

All dollar amounts listed in the chart above are estimates.
### TITLE OF DOCUMENT:
Acceptance of petition to form Laurel Watershed Improvement District

### ATTACHMENTS:

<table>
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<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
<th>NO</th>
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<td>SEPA review completed?</td>
<td>Yes</td>
<td>NO</td>
<td>Requested Date:</td>
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### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Council has received a petition to form the Laurel Watershed Improvement District (an irrigation district). Per RCW 87.03.020 (6), the petition was submitted with a "good and sufficient bond" double the amount of the probable cost of organizing the district. Council will hold a public hearing at a later date to name the proposed district, set the district boundaries, and establish the election process.

### COMMITTEE ACTION:

### COUNCIL ACTION:

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

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council.](http://www.co.whatcom.wa.us/council)
PETITION
FOR FORMATION OF THE
LAUREL WATERSHED IMPROVEMENT DISTRICT

TO: Whatcom County Council, Whatcom County, Washington.

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to Chapter 87.03 RCW and upon the showing of the following:

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own and use those water rights to self-supply their water, and the creation of the proposed District
will create no authority by the District over water rights held by landowners. The District will be
developing and implementing new water supply options for those landowners who lack adequate
water rights. Such water supplies developed by the District could include water supplies developed
through water right permitting, transfers, banking, and mitigation programs.

The development of these new water supply options will be subject to Washington’s water
resources code, Chapters 90.03 and 90.44 RCW, including all necessary reviews and approval by
the Washington Department of Ecology, which includes the protection of other water rights from
impermanence.

The proposed District will prepare plans for watershed improvements including projects that
address drainage and flooding, help to improve instream flows, promote efficient irrigation
water management practices and enhance water quality and fish habitat.
Number of Directors and Name of District

The number of directors desired for the administration of the affairs of the District shall be 5. The District shall be known and designated as Laurel Watershed Improvement District.

Purpose of the District

The purposes of the District shall be for developing water supply options for agricultural landowners; implementing water quality protection measures; improving drainage and other conditions that limit or impair the uses of land for agricultural purposes. The District shall also act on behalf of landowners to provide cooperative watershed management functions as authorized by RCW 87.03.019 and RCW 39.34.210, which establish the authority for the District to participate in actions and agreements for the purposes of water supply, water quality, and water resource and habitat protection and management.

The District is proposed for the performance of all things necessary to enable the district to exercise the powers granted in Chapter 87.03 RCW.

WHEREFORE, THE UNDERSIGNED respectfully pray that the Clerk of the Whatcom County Council, Washington, fix a time and place for hearing on this Petition and take all steps necessary to organize said district.

Dated this 23rd day of July, 2014.

Nominations for Initial Board Members

Laurel
Leroy Plagerman
Mike Boxx
Jon Maberry
Rich Appel
Roger Blok
ATTACHMENT A

Legal Description

Laurel Watershed Improvement District

T. 39N., R2E. Willamette Meridian (WM)

Section 9 - all parcels east of Nooksack River
Section 10 - excepting S½SE¼ and S½NE¼SE¼
Section 11 - excepting W½SE¼
Section 13
Section 14 - E½, SE¼NW¼
Section 15 - W½, S½SE¼, N½SE¼
Section 16 - all parcels east of Nooksack River
Section 20 - all parcels east and south of Nooksack River in N½SE¼
Section 21 - excepting SE¼
Section 22 - N½N½
Section 23 - excepting SW¼NW¼ and SW¼SW¼
Section 24 - excepting NE¼
Section 25 - N½, W½NW¼SW¼
Section 26 - excepting S½S½

T. 39N., R 3E. WM

Section 2 - S½SW¼
Section 3 - S½SE¼, SE¼SW¼, S½NW¼SE¼
Section 7 - excepting N½NE¼
Section 8 - excepting N½N½
Section 9 - excepting NW¼NW¼
Section 10 - N½, SE¼, N½NE¼SE¼
Section 11 - W½SW¼
Section 14 - W½W½
Section 15 - NE¼, NE¼SE¼, N½NW¼SE¼, S½NW¼ excepting W½SW¼
Section 16 - excepting N½NE¼
Sections 17 – 18
Section 19 - NE¼NW¼, NW¼NE¼
Section 21 - N½

Excepting from all of the above described parcels the following:

- All lands within the City of Ferndale and Everson;
- All parcels less than four and one-half acres in size;
- All tax-exempt parcels;
- All parcels outside of Ag Open Space tax classification.
The undersigned certify that they are at least eighteen years of age and own title to land in area proposed as the Laurel Watershed Improvement District.

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# LAUREL WATERSHED IMPROVEMENT DISTRICT PETITION

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## LAUREL WATERSHED IMPROVEMENT DISTRICT PETITION

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PROGRESS TO DATE

4,982.5 ACRES

ACRES IN WID

27,498

% COMPLETE

18.12%

SIGNERS

81
TO: Whatcom County Council, Whatcom County, Washington.

THE UNDERSIGNED HOLDERS OF TITLE TO, OR EVIDENCE OF TITLE TO LAND SUSCEPTIBLE OF IRRIGATION, who constitute fifty or a majority of said title to land within the boundaries of the hereinafter described lands, hereby petition the Whatcom County Council of Whatcom County, Washington for the formation of an irrigation district pursuant to Chapter 87.03 RCW and upon the showing of the following:

Description of Real Property

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which lands are situated is as follows: SEE ATTACHMENT "A"

Statement of Sources of Water Supply And Plan of Improvements

The Laurel Watershed Improvement District ("District") is being proposed to address both water supply, water quality, and other environmental issues affecting agricultural landowners consistent with the authority of such districts under Chapter 87.03. RCW

Landowners who currently hold water rights from ground or surface water sources will continue to own and use those water rights to self-supply their water, and the creation of the proposed District will create no authority by the District over water rights held by landowners. The District will be developing and implementing new water supply options for those landowners who lack adequate water rights. Such water supplies developed by the District could include water supplies developed through water right permitting, transfers, banking, and mitigation programs.
## 2014 Proposed Watershed Improvement District Bond Estimates

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<td>Total:</td>
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| Bond Estimate: | $23,000            | $13,000                       | $22,000                        | $14,000                       |

**Mailing Supplies, Copies, Postage Estimates (Mailings) Figured As Follows:**

Postage figured on two mailings to each parcel at $.49 each for postage. The first mailing will include an informational packet of approximately 10 pages, at a cost of $1.50 per packet plus postage, for a total of $1.99 each. The second mailing will be the ballot, at a cost of $.49 each. Total cost for mailings to each parcel is $2.49.

All dollar amounts listed in the chart above are estimates.
## WHATCOM COUNTY COUNCIL AGENDA BILL

### NO. 2014 - 226 A

<table>
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<th>CLEARANCES</th>
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<th>Date Received in Council Office</th>
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<td>Executive:</td>
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### TITLE OF DOCUMENT:

Acceptance of petition to form South Lynden W.I.D.

### 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.)

Council has received a petition to form the South Lynden Watershed Improvement District (an irrigation district). Per RCW 87.03.020 (6), the petition was submitted with a "good and sufficient bond" double the amount of the probable cost of organizing the district. Council will hold a public hearing at a later date to name the proposed district, set the district boundaries, and establish the election process.

### COMMITTEE ACTION:

<table>
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<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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### 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).
PETITION
FOR FORMATION OF THE
SOUTH LYNDEN WATERSHED IMPROVEMENT DISTRICT

TO: Whatcom County Council, Whatcom County, Washington.

THE UNDERSIGNED HOLDERS OF TITLE TO, OR EVIDENCE OF TITLE TO LAND SUSCEPTIBLE OF IRRIGATION, who constitute fifty or a majority of said title to land within the boundaries of the hereinafter described lands, hereby petition the Whatcom County Council of Whatcom County, Washington for the formation of an irrigation district pursuant to Chapter 87.03 RCW and upon the showing of the following:

Description of Real Property

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which lands are situated is as follows: SEE ATTACHMENT "A"

Statement of Sources of Water Supply
And Plan of Improvements

The South Lynden Watershed Improvement District ("District") is being proposed to address both water supply, water quality, and other environmental issues affecting agricultural landowners consistent with the authority of such districts under Chapter 87.03. RCW

Landowners who currently hold water rights from ground or surface water sources will continue to own and use those water rights to self-supply their water, and the creation of the proposed District will create no authority by the District over water rights held by landowners. The District will be developing and implementing new water supply options for those landowners who lack adequate water rights. Such water supplies developed by the District could include water supplies developed through water right permitting, transfers, banking, and mitigation programs.

The development of these new water supply options will be subject to Washington’s water resources code, Chapters 90.03 and 90.44 RCW, including all necessary reviews and approval by the Washington Department of Ecology, which includes the protection of other water rights from impairment.

The proposed District will prepare plans for watershed improvements including projects that address drainage and flooding, help to improve instream flows, promote efficient irrigation water management practices and enhance water quality and fish habitat.
Number of Directors and Name of District

The number of directors desired for the administration of the affairs of the District shall be 5. The District shall be known and designated as South Lynden Watershed Improvement District.

Purpose of the District

The purposes of the District shall be for developing water supply options for agricultural landowners; implementing water quality protection measures; improving drainage and other conditions that limit or impair the uses of land for agricultural purposes. The District shall also act on behalf of landowners to provide cooperative watershed management functions as authorized by RCW 87.03.019 and RCW 39.34.210, which establish the authority for the District to participate in actions and agreements for the purposes of water supply, water quality, and water resource and habitat protection and management.

The District is proposed for the performance of all things necessary to enable the district to exercise the powers granted in Chapter 87.03 RCW.

WHEREFORE, THE UNDERSIGNED respectfully pray that the Clerk of the Whatcom County Council, Washington, fix a time and place for hearing on this Petition and take all steps necessary to organize said district.

Dated this 23 day of July 2014.

Nominations for Initial Board Members

South Lynden
Ed Blok
Jeff De Jong
Landon Van Dyk
Scott Bedlington
Rolf Haugen
ATTACHMENT A

Legal Description

South Lynden Watershed Improvement District

T.40N., R2E. Willamette Meridian (WM)

Section 34 - all parcels south and east of Nooksack River
Section 35 - all parcels south and east of Nooksack River
Section 36 - all parcels south and east of Nooksack River

T. 40N., R 3E. WM

Section 3 - SE¼SE¼, SE¼NE¼SE¼
Section 10 - SE ¼, SE¼NW¼, NE¼
Section 11 - NW¼, SW¼, W½SE¼
Section 14 - W½
Section 15 - excepting NW¼
Section 20 - all parcels south of Nooksack River and east of Hannegan Road
Sections 21 – 22
Section 23 - excepting E½NE¼
Sections 25-28
Section 29 - all parcels south and east of Nooksack River
Section 30 - all parcels south of Nooksack River
Sections 31-35
Section 36 – N½ excepting SE¼NE¼

T. 39N., R.2E. WM

Sections 1-2
Section 3 - all parcels east of Nooksack River

T. 39N., R 3E. WM

Section 2 - NW¼, N½NE¼
Section 3 - excepting S¼SE¼, S¼NW¾SE¼, SE¼SW¼
Sections 4 - 6
Section 7 - N½NE¼
Section 8 - N½NW¼

Excepting from all of the above described parcels the following:
• All lands within the City of Lynden and Everson;
• All parcels less than four and one-half acres in size;
• All tax-exempt parcels;
• All parcels outside of Ag Open Space tax classification.
### SOUTH LYNDEN WATERSHED IMPROVEMENT DISTRICT PETITION

The undersigned certify that they are at least eighteen years of age and own title to land in area proposed as the South Lynden Watershed Improvement District.

<table>
<thead>
<tr>
<th>SIGNATURE</th>
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<th>PARCEL #</th>
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## SOUTH LYNDEN WATERSHED IMPROVEMENT DISTRICT PETITION

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SOUTH LYNDEN WATERSHED IMPROVEMENT DISTRICT PETITION

The undersigned certify that they are at least eighteen years of age and own title to land in area proposed as the South Lynden Watershed Improvement District.

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<td>Derek &amp; Debra Gavette &amp; Lewis &amp;</td>
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<td>Carol Stemler</td>
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**SOUTH LYNDEN WATERSHED IMPROVEMENT DISTRICT PETITION**

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SOUTH LYNDEN WATERSHED IMPROVEMENT DISTRICT PETITION

The undersigned certify that they are at least eighteen years of age and own title to land in area proposed as the South Lynden Watershed Improvement District.

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TO: Whatcom County Council, Whatcom County, Washington.

THE UNDERSIGNED HOLDERS OF TITLE TO, OR EVIDENCE OF TITLE TO LAND SUSCEPTIBLE OF IRRIGATION, who constitute fifty or a majority of said title to land within the boundaries of the hereinafter described lands, hereby petition the Whatcom County Council of Whatcom County, Washington for the formation of an irrigation district pursuant to Chapter 87.03 RCW and upon the showing of the following:

Description of Real Property

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which lands are situated is as follows: SEE ATTACHMENT "A"

Statement of Sources of Water Supply And Plan of Improvements

The South Lynden Watershed Improvement District ("District") is being proposed to address both water supply, water quality, and other environmental issues affecting agricultural landowners consistent with the authority of such districts under Chapter 87.03. RCW

Landowners who currently hold water rights from ground or surface water sources will continue to own and use those water rights to self-supply their water, and the creation of the proposed District will create no authority by the District over water rights held by landowners. The District will be developing and implementing new water supply options for those landowners who lack adequate water rights. Such water supplies developed by the District could include water supplies developed through water right permitting, transfers, banking, and mitigation programs.
# 2014 Proposed Watershed Improvement District Bond Estimates

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Mailings Supplies, Copies, Postage Estimates (Mailings) Figured as Follows:

Postage figured on two mailings to each parcel at $.49 each for postage. The first mailing will include an informational packet of approximately 10 pages, at a cost of $1.50 per packet plus postage, for a total of $1.99 each. The second mailing will be the ballot, at a cost of $.49 each. Total cost for mailings to each parcel is $2.49.

All dollar amounts listed in the chart above are estimates.
Council has received a petition to form the Sumas Watershed Improvement District (an irrigation district). Per RCW 87.03.020 (6), the petition was submitted with a "good and sufficient bond" double the amount of the probable cost of organizing the district. Council will hold a public hearing at a later date to name the proposed district, set the district boundaries, and establish the election process.
PETITION
FOR FORMATION OF THE
SUMAS WATERSHED IMPROVEMENT DISTRICT

TO: Whatcom County Council, Whatcom County, Washington.

THE UNDERSIGNED HOLDERS OF TITLE TO, OR EVIDENCE OF TITLE TO LAND SUSCEPTIBLE OF IRRIGATION, who constitute fifty or a majority of said title to land within the boundaries of the hereinafter described lands, hereby petition the Whatcom County Council of Whatcom County, Washington for the formation of an irrigation district pursuant to Chapter 87.03 RCW and upon the showing of the following:

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And Plan of Improvements

The Sumas Watershed Improvement District ("District") is being proposed to address both water supply, water quality, and other environmental issues affecting agricultural landowners consistent with the authority of such districts under Chapter 87.03. RCW

Landowners who currently hold water rights from ground or surface water sources will continue to own and use those water rights to self-supply their water, and the creation of the proposed District will create no authority by the District over water rights held by landowners. The District will be developing and implementing new water supply options for those landowners who lack adequate water rights. Such water supplies developed by the District could include water supplies developed through water right permitting, transfers, banking, and mitigation programs.

The development of these new water supply options will be subject to Washington’s water resources code, Chapters 90.03 and 90.44 RCW, including all necessary reviews and approval by the Washington Department of Ecology, which includes the protection of other water rights from impairment.

The proposed District will prepare plans for watershed improvements including projects that address drainage and flooding, help to improve instream flows, promote efficient irrigation water management practices and enhance water quality and fish habitat.
Number of Directors and Name of District

The number of directors desired for the administration of the affairs of the District shall be 5. The District shall be known and designated as Sumas Watershed Improvement District.

Purpose of the District

The purposes of the District shall be for developing water supply options for agricultural landowners; implementing water quality protection measures; improving drainage and other conditions that limit or impair the uses of land for agricultural purposes. The District shall also act on behalf of landowners to provide cooperative watershed management functions as authorized by RCW 87.03.019 and RCW 39.34.210, which establish the authority for the District to participate in actions and agreements for the purposes of water supply, water quality, and water resource and habitat protection and management.

The District is proposed for the performance of all things necessary to enable the district to exercise the powers granted in Chapter 87.03 RCW.

WHEREFORE, THE UNDERSIGNED respectfully pray that the Clerk of the Whatcom County Council, Washington, fix a time and place for hearing on this Petition and take all steps necessary to organize said district.

Dated this 23 day of July 2014.

Nominations for Initial Board Members

Sumas
Andy Enfield
Tom Thornton
Brad Rader
Rod VandeHoef
Terry Lenssen
ATTACHMENT A

Legal Description

Sumas Watershed Improvement District

T.41N., R3E. Willamette Meridian (WM)

Section 35 – E½SE¼ excepting W½NE¼
Section 36 – excepting S½NW¼

T. 41N., R 4E. WM

Sections 31-36

T. 41N., R 5E. WM

Sections 31-32
Section 33 – N½, NW¼SW¼, N½NE¼SW¼, NW¼SW¼SW¼, N½NW¼SE¼

T. 40N., R 3E. WM

Section 1
Section 2 – excepting W½NW¼
Section 11 - NE¼, E½SE¼
Section 12

T. 40N., R 4E. WM

Sections 1-5
Section 6 – excepting S½S½
Sections 8-10
Section 11 – W½W¼, NE¼NW¼, N½NE¼
Section 12 – N½
Section 14 – W½NW¼, NW¼SW¼
Section 15 – excepting SE¼SE¼
Sections 16-17
Section 18 – SE¼
Sections 19-20
Section 21 – all parcels west and north of Sumas River
Sections 28-30
Section 31 – all parcels east of Nooksack River
Sections 32-33

T. 40N., R 5E. WM
Section 5 – NW¼, NW¼SW¼, NW¼NE¼
Section 6 – excepting S½SE¼SE¼
Section 7 – NW¼NW¼, NE¼NW¼

T. 39N., R. 4E. WM

Section 3 – SW¼SW¼
Section 4 – excepting NE¼
Section 5
Section 6 – all parcels east of Nooksack River
Section 8
Section 9 – N½
Section 16 – excepting E½SE¼ and NE¼ and N½NW¼
Section 17 – all parcels east of Nooksack River
Section 21 – N½NW¾, NE¼, N½NE¼SE¼
Section 22 – W½NW¼, W½SE¼NW¼, W½SE¼NE¼, all parcels East of Mt Baker Hwy. in SW¼, all parcels East of Mt Baker Hwy. in W½SE¼

Excepting from all of the above described parcels the following:

- All lands within the City of Everson, Nooksack, and Sumas;
- All parcels less than four and one-half acres in size;
- All tax-exempt parcels;
- All parcels outside of Ag Open Space tax classification.
# SUMAS WATERSHED IMPROVEMENT DISTRICT PETITION

The undersigned certify that they are at least eighteen years of age and own title to land in the proposed Sumas Watershed Improvement District.

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**SUMAS WATERSHED IMPROVEMENT DISTRICT PETITION**

The undersigned certify that they are at least eighteen years of age and own title to land in the proposed Sumas Watershed Improvement District.

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<td>3721 E BADGER RD, EVERSON, WA</td>
<td>400416355481</td>
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</tr>
</tbody>
</table>
# SUMAS WATERSHED IMPROVEMENT DISTRICT PETITION

The undersigned certify that they are at least eighteen years of age and own title to land in the proposed Sumas Watershed Improvement District.

<table>
<thead>
<tr>
<th>SIGNATURE</th>
<th>NAME (PRINT)</th>
<th>ADDRESS</th>
<th>PARCEL #</th>
<th>TOTAL ACRES</th>
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<tbody>
<tr>
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<td>MICHAEL &amp; ELENA GONSER</td>
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<td>x</td>
<td>ALAN &amp; KIMBERLY SYTSMA</td>
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<tr>
<td>x</td>
<td>EDWARD H &amp; DENA D BOSSCHER</td>
<td>7480 OAT COLES RD, EVERSON, WA</td>
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<td>x</td>
<td>GLENN W &amp; MARILYN J TERPSTRAY</td>
<td>3222 HALVERSTICK RD, SUMAS, WA</td>
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<td>x</td>
<td>DARYL &amp; MARLANE TERPSTRA</td>
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<td>x</td>
<td>EHLERS ESTATE LLC</td>
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<td>x Delores</td>
<td>AUGUST &amp; DELORES BERENDSEN</td>
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<td>JERALD &amp; MICHELLE VAN DELLEN FAMILY LLC</td>
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<td>x Terry Lenssen</td>
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<td>J WAYNE &amp; CANDY JOHNSON</td>
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<td>RANDY L &amp; VICKI L VERMULM</td>
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<tr>
<td>x</td>
<td>LESLIE P &amp; HELEN M POSTMA</td>
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<td>CURTIS L &amp; JOY S HAWLEY</td>
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<td>JOSEPH R &amp; TINA J VANDERPOL</td>
<td>4602 REESE HILL RD, SUMAS, WA</td>
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<td>x</td>
<td>HARMIT &amp; PARMINDER K GILL</td>
<td>4471 CASTLEROCK DR, BLAINE, WA</td>
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<tr>
<td>x</td>
<td>MOHINDER S &amp; SUKHWANT K HAYER &amp; SATNAM SINGH</td>
<td>12298 64A AVE, SURREY, BC</td>
<td>400419391066</td>
<td>53.4</td>
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</table>
**SUMAS WATERSHED IMPROVEMENT DISTRICT PETITION**

The undersigned certify that they are at least eighteen years of age and own title to land in the proposed Sumas Watershed Improvement District.

<table>
<thead>
<tr>
<th>SIGNATURE</th>
<th>NAME (PRINT)</th>
<th>ADDRESS</th>
<th>PARCEL #</th>
<th>TOTAL ACRES</th>
</tr>
</thead>
<tbody>
<tr>
<td>x Gurdev</td>
<td>MOHINDER &amp; GURDEV SINGH GILL</td>
<td>143 MT LEHMAN RD, ABBOTSFORD, BC</td>
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<td>x Marlys</td>
<td>SPUDKIN LLC</td>
<td>6937 HOLEMAN RD, BLAINE, WA</td>
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<tr>
<td>x Dick</td>
<td>DICK BEDLINGTON REAL ESTATE LLC</td>
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<tr>
<td>x Tom Thornton</td>
<td>CLOUD MOUNTAIN FARM CENTER</td>
<td>6909 GOODWIN RD, EVerson, WA</td>
<td>390421338385</td>
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<tr>
<td>x Dennis</td>
<td>DENNIS L &amp; TERI J SCHEFFER</td>
<td>PO BOX 31433, BELLINGHAM, WA</td>
<td>390405171440</td>
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<tr>
<td>x Fred</td>
<td>FRED &amp; TENA ONDECK</td>
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<td>x Baldev Munger</td>
<td>SARBANAND FARMS LLC</td>
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<td>x Norma</td>
<td>NORMA JO BOVENKAMP</td>
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<td>DAVID J &amp; KATHY R BUYS</td>
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<td>x Jan</td>
<td>JAN &amp; TINA M VAN SABBEN</td>
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<tr>
<td>x</td>
<td>INDERJIT &amp; NARINDERJIT SINGH CHEEMA</td>
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<td>x</td>
<td>DALE L &amp; MARLENE TERWISSCHA</td>
<td>2075 E BADGER RD, EVerson, WA</td>
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<tr>
<td>x Ken Stremler</td>
<td>ALPINE MEADOWS TREE FARM</td>
<td>401 S BRITISH COLUMBIA AVE, LYNDEN, WA</td>
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</table>

**PROGRESS TO DATE**

- **6,261.6 ACRES**
- **27,498 ACRES IN WID**
- **22.77% COMPLETE**
- **64 SIGNERS**
TO: Whatcom County Council, Whatcom County, Washington.

THE UNDERSIGNED HOLDERS OF TITLE TO, OR EVIDENCE OF TITLE TO LAND SUSCEPTIBLE OF IRRIGATION, who constitute fifty or a majority of said title to land within the boundaries of the hereinafter described lands, hereby petition the Whatcom County Council of Whatcom County, Washington for the formation of an irrigation district pursuant to Chapter 87.03 RCW and upon the showing of the following:

**Description of Real Property**

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which lands are situated is as follows: SEE ATTACHMENT "A"

**Statement of Sources of Water Supply**

The Sumas Watershed Improvement District ("District") is being proposed to address both water supply, water quality, and other environmental issues affecting agricultural landowners consistent with the authority of such districts under Chapter 87.03. RCW

Landowners who currently hold water rights from ground or surface water sources will continue to own and use those water rights to self-supply their water, and the creation of the proposed District will create no authority by the District over water rights held by landowners. The District will be developing and implementing new water supply options for those landowners who lack adequate water rights. Such water supplies developed by the District could include water supplies developed through water right permitting, transfers, banking, and mitigation programs.

The development of these new water supply options will be funded through

**CASHIERS CHECK**

July 22, 2014

TWO THOUSAND DOLLARS AND NO CENTS

PAY TO THE ORDER OF: WHATCOM COUNTY COUNCIL FOR THE PURPOSE OF WILD SURFACE

RECIPIENT: WHATCOM FARM FRIENDS PRODUCERS

JUL 2 3  2014
WHATCOM COUNTY COUNCIL
### 2014 Proposed Watershed Improvement District Bond Estimates

<table>
<thead>
<tr>
<th></th>
<th>Laurel</th>
<th>Drayton</th>
<th>Sumas</th>
<th>South Lynden</th>
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<td>10,100</td>
<td>26,060</td>
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<td>$13,000</td>
<td>$22,000</td>
<td>$14,000</td>
</tr>
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</table>

**Mailing Supplies, Copies, Postage Estimates (Mailings) Figured As Follows:**

Postage figured on two mailings to each parcel at $.49 each for postage. The first mailing will include an informational packet of approximately 10 pages, at a cost of $1.50 per packet plus postage, for a total of $1.99 each. The second mailing will be the ballot, at a cost of $.49 each. Total cost for mailings to each parcel is $2.49.

All dollar amounts listed in the chart above are estimates.
# Local Agency Participation Agreement between Whatcom County and Washington State Department of Transportation for construction of compact round-a-bouts at three locations on Slater Road.

## ATTACHMENTS:
1. Memo to County Executive and Council
2. Vicinity Map/Plans - WSDOT
3. Resolution with attached
   a. Local Agency Participation Agreement

## 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 will provide funding for construction of compact round-a-bouts along Slater Road at Pacific Highway and the ramp intersections of Interstate 5.

## 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).
Memo

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., Assistant Director/County Road Engineer

Date: July 23, 2014

Re: Interlocal Agreement with Washington State Department of Transportation for Construction of three compact round-a-bouts on Slater Road

Enclosed for your review and signature are two (2) originals of the Local Agency Funding Agreement (LAFA), between Whatcom County (County) and the Washington State Department of Transportation (WSDOT), for your review and signature.

Requested Action
Public Works respectfully requests that the County Executive execute the enclosed originals.

Background and Purpose
Whatcom County, in cooperation with the Washington State Department of Transportation (WSDOT) proposes to construct compact round-a-bouts at the intersections of Slater Road and Pacific Highway, Northbound I-5 Ramps, and Southbound I-5 ramps.

These compact round-a-bouts are similar to full-sized round-a-bouts because they use a raised circle to direct traffic. Compact round-a-bouts have smaller diameters and the entire raised circle will serve as a truck apron, allowing longer trucks to ride up and across it as they make their turns. These compact round-a-bouts will be contained within the existing paved surface at each intersection. This will preclude the need for the acquisition of additional right-of-way, environmental permitting, and drainage construction required by additional impervious surface.

Currently, these intersections operate at a Level of Service (LOS) F during the evening peak period. Construction of these compact round-a-bouts will improve the LOS to C during this evening peak period.

90
Funding Amount and Source
The WSDOT has expended approximately $25,000-$30,000 planning, modeling and designing these compact round-a-bouts as their contribution towards the project. This Local Agency Participating Agreement is for the County to fund the construction of the compact round-a-bouts totaling an estimated $280,174.52.

There are County Road Funds available for this project in the 2014 Annual Construction Program under “Unanticipated Site Improvements”.

Please contact Joe Rutan at extension 50627 if you have any questions or concerns regarding the terms of this agreement.
BEGIN CONSTRUCTION
STA SL 10+00
SLATER RD.

END CONSTRUCTION
STA SL 31+00
SLATER RD.
GENERAL NOTES:
1. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.

LEGEND
- EMBEDDED PRECAST CONCRETE
- SLOPED MOUNTABLE CURB
- EXISTING SURFACE

ROUNDABOUT SECTION NOT TO SCALE

TYPICAL CONNECTING LEG SECTION NOT TO SCALE
Local Agency Participating Agreement between
Whatcom County and the Washington State Department of
Transportation

WHEREAS, this Local Agency Participation Agreement (the "Agreement") is made and entered into between Whatcom County (County) and the Washington State Department of Transportation (WSDOT).

WHEREAS, the County and WSDOT have planned intersection enhancements at I-5 Slater Road Intersections, and this project consists of roadway excavation; concrete curb; HMA paving; striping; permanent signing; erosion and sediment control; traffic control and other work to construct the intersection enhancements, and

WHEREAS, the County has requested that WSDOT perform certain work for the County as described above and as further described in the attachment, and

WHEREAS, it is deemed to be in the public's best interest for WSDOT to contract to have the requested Project constructed, and

WHEREAS, under the provisions of RCW 39.04,155, WSDOT can utilize a small works roster to solicit competitive bids on project estimated to cost less than Three Hundred Thousand Dollars ($300,000) and

WHEREAS, the Local Agency is obligated for the cost of the Project described herein,

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that

1. Whatcom County supports the expenditure of road funds for planned intersection enhancements at I-5 Slater Road Intersections.
2. Whatcom County will enter into a Local Agency Participating Agreement with
WSDOT which will be signed by the County Executive.

APPROVED this ____ day of __________, 20__.

ATTEST:

__________________________
Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM:

__________________________
Dan Gibson, Chief Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________
Carl Weimer, Council Chair
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Joe Rutan, PE</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Washington State Department of Transportation</td>
</tr>
</tbody>
</table>

**Is this a New Contract?** Yes X No

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

**Does contract require Council Approval?** Yes X No

**Is this a grant agreement?** Yes No X

**Is this contract grant funded?** Yes No X

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

**Is this agreement excluded from E-Verify?** Yes X

**If yes, indicate exclusion(s) below:**

- Professional services agreement for certified/licensed professional
- Contract less than $100,000.
- Contract work is for less than 120 days
- Interlocal Agreement (between Govt's)

**Contract Amount:**

- Sum of original contract amount and any prior amendments:
  - $280,174.52

**This Amendment Amount:**

- $ ____________

**Total Amended Amount:**

- $280,174.52

**Summary of Scope:**

Local Participating Agreement with Washington State Department of Transportation to construct “compact” round-a-bouts along Slater Road at the north- and south-bound Interstate 5 ramps and at Pacific Highway.

**Term of Contract:**

**Expiration Date:** On Completion

<table>
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<tr>
<th>Contract Routing:</th>
<th>1. Prepared by: JPR</th>
<th>Date: 7/18/14</th>
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<td>2. Attorney signed: Daniel L. Gibson</td>
<td>Date: 07/22/14</td>
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<td></td>
<td>3. AS Finance reviewed: bbennett</td>
<td>Date: 07/23/14</td>
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<tr>
<td></td>
<td>4. IT reviewed if IT related:</td>
<td>Date:</td>
</tr>
<tr>
<td></td>
<td>5. Contractor signed:</td>
<td>Date:</td>
</tr>
<tr>
<td></td>
<td>6. Submitted to Exec Office:</td>
<td>Date: 7-25-14</td>
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<tr>
<td></td>
<td>7. Council approved (if necessary):</td>
<td>Date:</td>
</tr>
<tr>
<td></td>
<td>8. Executive signed:</td>
<td>Date:</td>
</tr>
<tr>
<td></td>
<td>9. Original to Council:</td>
<td>Date:</td>
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</table>
Local Agency Participating Agreement
Work by State - Actual Cost

Agreement Number
GCB 1880

Section/Location
I-5 Slater Road Intersection MP 260.0 to 260.2

State Route Number
I-5

Control Section Number

Plans, Specifications and Cost Estimates (PS&E) for the Local Agency Work by LOCAL AGENCY?
No

PS&E Due Date: 90 days after execution of agreement

Region
Northwest Region

Description of Work
This project consists of roadway excavation; concrete curb; HMA paving; striping; permanent signing; erosion and sediment control; traffic control and other work to construct the intersection enhancements.

State Agency Representatives
Washington State Department of Transportation

Local Agency Representatives
Whatcom County, Public Works

Name
Todd Harrison, P.E.

Name
Frank M. Abart

Title
Assistant Regional Administrator

Title
Public Works Director

Address
1043 Goldenrod Road, Suite 101
Burlington, WA 98233-3415

Address
322 N. Commercial Street, Suite 210, Bellingham, WA 98225

E-mail Address
HARRIST@wsdot.wa.gov

E-mail Address
PublicWorks@co.whatcom.wa.us

Phone
(360) 757-5999

Phone
(360) 676-6692

This Agreement is made and entered into between the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (STATE) and the above named governmental entity (LOCAL AGENCY).

WHEREAS, the STATE and LOCAL AGENCY have planned intersection enhancements at I-5 Slater Road Intersection. This project consists of roadway excavation; concrete curb; HMA paving; striping; permanent signing; erosion and sediment control; traffic control and other work to construct the intersection enhancements, and

WHEREAS, the LOCAL AGENCY has requested that the STATE perform certain work for the LOCAL AGENCY as described above under Description of Work and as further described in Exhibit B, Scope of Work, (Project), and

WHEREAS, it is deemed to be in the public's best interest for the STATE to contract to have the requested Project constructed, and

WHEREAS, under the provisions of RCW 39.04.155, the Washington State Department of Transportation can utilize a small works roster to solicit competitive bids on projects estimated to cost less than Three Hundred Thousand Dollars ($300,000), and

WHEREAS, the LOCAL AGENCY is obligated for the cost of the Project described herein,

NOW, THEREFORE, pursuant to RCW 47.28.140 and/or chapter 39.34 RCW, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, and performances contained herein, and the attached Exhibits A & B which are incorporated and made a part herewith,
IT IS MUTUALLY AGREED AS FOLLOWS:

PLANS, SPECIFICATIONS, AND COST ESTIMATES

1.1 The STATE, on behalf of the LOCAL AGENCY, agrees to perform the Project, as further provided herein and pursuant to the attached exhibits. Exhibit A is the Cost Estimate and Exhibit B, Scope of Work, further defines the Project to be constructed for the LOCAL AGENCY. The LOCAL AGENCY’s requested work constitutes the Project.

1.2 The STATE will prepare the PS&E for advertisement. The STATE will document STATE-performed engineering design work required for PS&E (Design Documentation). The State shall provide up to one intermediate review set of the PS&E and Design Documentation at a mutually agreeable milestones. The STATE will provide the LOCAL AGENCY with one (1) reproducible copy of the stamped final Design Documentation prior to the proposed Ad date.

1.3 The STATE will provide the LOCAL AGENCY with one (1) reproducible copy of the Ad ready PS&E for the Project a minimum of thirty (30) calendar days prior to the proposed Ad date. The LOCAL AGENCY will have fifteen (15) calendar days to review the Ad ready PS&E for the Project, resolve any concerns, and provide the STATE with written approval, conditional approval, or rejection of the Ad ready PS&E for the Project. In the event the Project Ad ready PS&E is conditionally approved or rejected, the LOCAL AGENCY shall include the reasons for conditional approval or rejection. The LOCAL AGENCY may request an extension of time in writing, provided that the STATE receives the written request not later than fifteen (15) calendar days after the LOCAL AGENCY has received the Ad ready PS&E. The STATE shall provide a written response, indicating the number of working days extended, if any.

1.4 If the STATE does not receive the LOCAL AGENCY’s written approval, conditional approval or rejection of the Project Ad ready PS&E within fifteen (15) calendar days and any approved extension of time pursuant to Section 1.4, or if the STATE cannot accept the LOCAL AGENCY’s condition(s) of approval, or if the LOCAL AGENCY has not acquired all right of way and permits required to construct, maintain, and operate the Project, the STATE may, at its sole discretion, stop the bid process and not move forward with the LOCAL AGENCY requested improvements. The LOCAL AGENCY agrees to reimburse the STATE for engineering costs and actual direct and related indirect costs incurred by the STATE associated with either the STATE or LOCAL AGENCY deleting the Project. This Agreement shall then terminate upon receipt of all reimbursement payments in accordance with Section 6.

2. BID, AWARD, AND COST ADJUSTMENTS

2.1 The STATE will advertise the Project for bids. The STATE will be the LOCAL AGENCY’s representative during the Ad and Project contract award period. When requested by the STATE, the LOCAL AGENCY shall timely assist the STATE in answering bid questions and resolving any design issues that may arise that are associated with the Project. All comments and clarifications must go through the STATE.

2.2 The STATE shall provide the LOCAL AGENCY with written notification of the bid price for the Project. The LOCAL AGENCY shall have five (5) working days from the date of written notification to provide the STATE written approval of the bid price for the Project, or request that the Project be terminated. The LOCAL AGENCY may request an extension of time in writing, provided that the STATE receives the written request not later than five (5) working days after the LOCAL AGENCY has received the written notification. The STATE shall provide a written response indicating the number of working days extended, if any.

2.3 The LOCAL AGENCY acknowledges that if it fails to provide the STATE with written approval of the bid price for the Project within five (5) working days and any approved extension of time pursuant to Section 2.2, the STATE shall terminate the Project. In this event, the LOCAL AGENCY agrees to reimburse the STATE for engineering costs and actual direct and related indirect costs incurred by the STATE associated with terminating the Project. This Agreement shall then terminate upon receipt of all reimbursement and equitable adjustment payments in accordance with Section 6.

2.4 If the LOCAL AGENCY approves the bid price for the Project and the STATE does not award or execute the Project contract and does not re-advertise the Project for bids, this Agreement shall terminate upon receipt of all reimbursement payments in accordance with Section 6. The LOCAL AGENCY agrees that the STATE is not responsible for potential increased costs for the Project, delay to the Project or other impacts to the LOCAL AGENCY resulting from not awarding the Project.

3. CONSTRUCTION

3.1 The STATE will be the LOCAL AGENCY’s representative during construction and will act as owner in the administration of the contract for the Project. The STATE will designate a STATE Project Engineer to provide
all services and tools, including but not limited to construction administration, inspection, materials testing, and representation, necessary to administer and manage the contract to ensure that the Project is constructed in accordance with the contract.

3.2 The LOCAL AGENCY may consult with and inquire of the STATE Project Engineer, attend all meetings, and have access to all documentation concerning the Project. The LOCAL AGENCY shall not provide direction, directly or indirectly, to the STATE's contractor. All formal contacts between the LOCAL AGENCY and the contractor shall be through the STATE's representative.

3.3 When it becomes known that quantities for a unit bid item will exceed plan quantity for the Project by twenty-five (25) percent or result in a cost increase for the Project exceeding the total amount by the percentage listed under Section 6.4, the STATE shall consult with the LOCAL AGENCY on possible courses of action within three (3) working days in accordance with Section 4.

3.4 The LOCAL AGENCY may inspect the Project. Any costs for such inspection shall be borne solely by the LOCAL AGENCY. All contact between said inspector and the contractor shall be only through the STATE's inspector or the STATE's representative.

3.5 The STATE will prepare the final construction documentation in general conformance with the STATE's Construction Manual. The STATE will maintain one set of plans as the official "as-built" set, then make notations in red ink of all plan revisions typically recorded per standard STATE practices, as directed by the STATE's Construction Manual. Once the LOCAL AGENCY has accepted the Project per Section 5, the STATE will provide one reproducible set of as-built plans to the LOCAL AGENCY within thirty (30) working days.

4. CONTRACT CHANGES

4.1 Changes to the Project contract will be documented by change order in accordance with the Standard Specifications. The STATE shall process change orders for all changes affecting the Project in the manner set forth in subsection 1-2.4C (3), Approval of Changes/Checklist, STATE Construction Manual, current edition.

4.2 Required changes involve such changes in quantities or alterations to the Project as are necessary to satisfactorily complete the Project. All other changes affecting the Project shall be considered elective changes.

4.3 The LOCAL AGENCY authorizes the STATE to initiate all required changes affecting the Project and to negotiate, document and execute the associated change orders. The LOCAL AGENCY agrees to pay for the increases in cost, if any, for the required changes affecting the Project in accordance with Section 6.

4.4 The STATE will advise the LOCAL AGENCY of any proposed required changes affecting the Project as soon as possible and provide it with an opportunity, if time permits, to review the change before implementation. The STATE will determine the length of the review time based upon the need to expedite the change to avoid delay to the contractor.

4.5 The LOCAL AGENCY may request additions to the Project through the STATE in writing. The STATE will implement the requested changes as elective changes, provided that a change does not negatively impact the STATE's transportation system and complies with the Standard Specifications, Project permits, state and/or federal law, applicable rules and/or regulations, and/or STATE design policies, and does not unreasonably delay critically scheduled Project contract activities.

4.6 All elective changes to the Project shall be approved in writing by the LOCAL AGENCY before the STATE directs the contractor to implement the changes, even if an executed change order is not required by the Project contract. The LOCAL AGENCY agrees to pay for the increases in cost, if any, for such elective changes in accordance with Section 6.

4.7 The STATE will make available to the LOCAL AGENCY all change order documentation related to the Project.

4.8 In the event it is determined that the LOCAL AGENCY does not have sufficient funds to complete the Project, the STATE and the LOCAL AGENCY shall negotiate to determine the future of the Project. If it is determined that the Project cannot proceed, the Project shall be brought to a level that is safe for public use and the STATE will terminate the remainder of the Project contract. In the event the Project is terminated, Section 5 shall apply for that portion of the Project completed up to the time of termination. The LOCAL AGENCY agrees to pay all costs associated with termination, including contractor claims, in accordance with Section 6.
5. **ACCEPTANCE**

5.1 Prior to Work acceptance, the STATE and LOCAL AGENCY will perform a joint final inspection. The LOCAL AGENCY agrees, upon satisfactory completion of the Project and receipt of a Notice of Physical Completion of the Project, as determined by the STATE, to deliver a letter of acceptance to the STATE which shall include a release of the STATE from all future claims or demands of any nature resulting from the performance of the Project and STATE administration thereof, outside STATE right of way, subject to any contractor claims (Section 8) caused by the negligent acts or omissions of the STATE in administering the Project.

5.2 If a letter of acceptance is not received by the STATE within ninety (90) calendar days following delivery of a Notice of Physical Completion of the Project to the LOCAL AGENCY, the Project and STATE administration thereof shall be considered accepted by the LOCAL AGENCY, and the STATE shall be released from all future claims and demands of any nature resulting from the performance of the Project and the STATE’s administration thereof, outside STATE right of way, subject to any contractor claims (Section 8) caused by the negligent acts or omissions of the STATE in administering the Project.

5.3 The LOCAL AGENCY may withhold its acceptance of the Project by submitting written notification to the STATE within thirty (30) calendar days following delivery of a Notice of Physical Completion of the Project. This notification shall include the reason(s) for withholding acceptance.

6. **PAYMENT**

6.1 The LOCAL AGENCY, in consideration of the faithful performance of the Project performed by the STATE and its contractor, agrees to reimburse the STATE for the actual direct and related indirect costs of the Project, as estimated in Exhibit A.

6.2 The STATE shall provide detailed invoices to the LOCAL AGENCY for the work performed by the STATE and its contractor or for costs incurred as provided in Sections 1.4, 2.3, 2.4, 4.8 or 8.1.4, and the LOCAL AGENCY agrees to make payment within thirty (30) calendar days from receipt of an invoice. A payment will not constitute agreement as to the appropriateness of any item. At the time of the final invoice, the Parties will resolve any discrepancies.

6.3 The LOCAL AGENCY agrees that if it does not make payment within ninety (90) calendar days after receipt of an invoice, the STATE may deduct and expend any monies to which the LOCAL AGENCY is entitled to receive from the Motor Vehicle Fund.

6.4 **Increase in Cost:** In the event unforeseen conditions require an increase in the cost of the Project work above the cost estimate (including sales tax, engineering, and contingencies) by more than Twenty-five (25%) percent, the Parties agree to modify this Agreement by executing a written amendment to address the increase pursuant to Section 10.1, or implement Section 4.8.

7. **RIGHT OF ENTRY**

7.1 The LOCAL AGENCY hereby grants to the STATE and its authorized agents, contractors, subcontractors, and employees, a right of entry upon all land in which the LOCAL AGENCY has an interest for the purpose of constructing the Project.

7.2 The STATE hereby grants to the LOCAL AGENCY and its authorized agents and employees, a right of entry upon all land in which the STATE has an interest for the purpose of inspecting the Project.

8. **CLAIMS**

8.1 Claims for Additional Payment

8.1.1 In the event the contractor makes claims for additional payment associated with the Project, the STATE will immediately notify the LOCAL AGENCY of such claims. Such claims shall be made in the manner and form as provided for in the Standard Specifications.

8.1.2 The LOCAL AGENCY shall not be obligated to pay such claims or their cost of defense to the extent that the claims are caused by the negligent acts or omissions of the STATE in administering the Project.

8.1.3 The LOCAL AGENCY shall have the right to review and comment on any settlement for claims associated with the Project. However, the STATE shall have the ultimate right to settle such claims. In the event the LOCAL AGENCY does not agree with the claim settlement as negotiated by the STATE, the LOCAL AGENCY shall reserve the right to not financially participate in the
negotiated claim settlement. If agreement cannot be reached between the LOCAL AGENCY and the STATE on a claim settlement, the Parties agree to follow the dispute resolution procedure in Section 10.7.

8.1.4 If the STATE agrees, the LOCAL AGENCY may defend contractor claims associated with the Project at its own cost, and in doing so the LOCAL AGENCY agrees to pay any resulting settlement, court judgment or arbitration award. The STATE will cooperate with the LOCAL AGENCY in the LOCAL AGENCY's defense of the claims. The LOCAL AGENCY agrees to reimburse any STATE costs, including attorney's fees, incurred in providing such assistance in accordance with Section 6.

8.2 Claims for Damages: After Project acceptance, in the event of claims for damages or loss attributable to bodily injury, sickness, death, or injury to or destruction of property that occurs within the limits of the Project located on the LOCAL AGENCY's right of way, the LOCAL AGENCY shall defend such claims and hold harmless the STATE therefrom, and the STATE shall not be obligated to pay any claim, judgment or cost of defense. Nothing in this Section, however, shall remove from the STATE any responsibility defined by the current laws of the state of Washington or from any liability for damages caused by the STATE's own negligent acts or omissions independent of the work performed pursuant to this Agreement.

9. OWNERSHIP, OPERATION, AND MAINTENANCE

9.1 Upon acceptance of the Project as provided in Section 5, the LOCAL AGENCY shall be the sole owner of that portion of the Project located within the LOCAL AGENCY's right of way, and the LOCAL AGENCY shall be solely responsible for ownership and all future operation and maintenance of the Project at its sole cost, without expense, cost, or liability to the STATE.

9.2 STATE facilities constructed on STATE right of way shall be the responsibility of the STATE for the operation and maintenance of such facilities at the STATE's sole cost, until removed. The terms of this Section shall survive the termination of this Agreement.

10. GENERAL PROVISIONS

10.1 Amendment: This Agreement may be amended or modified only by the mutual agreement of the Parties. Such amendments or modifications shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

10.2 Termination: Neither the STATE nor the LOCAL AGENCY may terminate this Agreement without the written concurrence of the other Party, except as otherwise provided under Sections 1.4, 2.3, and 2.4.

10.2.1 If this Agreement is terminated prior to the fulfillment of the terms stated herein, the LOCAL AGENCY agrees to reimburse the STATE for the actual direct and related indirect expenses and costs it has incurred for the Project up to the date of termination, as well as the costs of non-cancelable obligations.

10.2.2 Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

10.3 Independent contractor: The STATE shall be deemed an independent contractor for all purposes, and the employees of the STATE or any of its contractors, subcontractors, consultants, and the employees thereof, shall not in any manner be deemed to be employees of the LOCAL AGENCY.

10.4 Acceptance of Liability: The LOCAL AGENCY agrees and accepts full liability for (1) the PS&E provided for the Project to the STATE, if any; and (2) for any work the LOCAL AGENCY has provided direction to the STATE to design and/or construct outside the STATE's right of way and/or STATE's jurisdiction that does not meet STATE standards.

10.5 Survivability: Sections 10.4 and 10.5 shall survive the termination of this Agreement.

10.6 Disputes: In the event that a dispute arises under this Agreement, it shall be resolved as follows: The STATE and the LOCAL AGENCY shall each appoint a member to a disputes board, these two members shall select a third board member not affiliated with either Party. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the third disputes board member; however, each Party shall be responsible for its own costs and fees.
10.7 **Venue:** In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties agree that any such action or proceedings shall be brought in Thurston County Superior Court. Further, the Parties agree that each will be solely responsible for payment of its own attorney’s fees, witness fees, and costs.

10.8 **Audits/Records:** All Project records for the Project in support of all costs incurred shall be maintained by the STATE for a period of six (6) years. The LOCAL AGENCY shall have full access to and right to examine said records, during normal business hours and as often as it deems necessary. Should the LOCAL AGENCY require copies of any records, it agrees to pay the costs thereof. The Parties agree that the work performed herein is subject to audit by either or both Parties and/or their designated representatives, and/or state of Washington and/or the federal government.

10.9 **Term of Agreement:** Unless otherwise provided herein, the term of this Agreement shall commence as of the date this Agreement is fully executed and shall continue until the Project is accepted by the LOCAL AGENCY pursuant to Section 5, or as otherwise provided herein, and all obligations for payment have been met.

10.10 **Working Days:** Working days for this Agreement are defined as Monday through Friday, excluding Washington State holidays per RCW 1.16.050.

10.11 **Indemnification:** The Parties shall protect, defend, indemnify, and hold harmless each other and their employees, authorized agents, and/or contractors, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, each Party’s obligations to be performed pursuant to the provisions of this Agreement. The Parties shall not be required to indemnify, defend, or hold harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the negligence of the other Party; provided that, if such claims, suits, or actions result from the concurrent negligence of (a) the STATE, its employees, authorized agents, or contractors and (b) the LOCAL AGENCY, its employees or authorized agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of each Party, its employees, authorized agents, and/or contractors.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Party’s date signed last below.

**WASHINGTON STATE**

DEPARTMENT OF TRANSPORTATION

BY ____________________________

Todd Harrison, P.E.
Assistant Regional Administrator

Date ____________________________

**WHATCOM COUNTY, WASHINGTON**

BY ____________________________

Jack Louws
Whatcom County Executive

Date ____________________________

**APPROVED AS TO FORM ONLY for WSDOT**

**APPROVED AS TO FORM ONLY for COUNTY:**

**Date** 7-2-14

**Date** 07/25/14

Page 6 of 6 GCB 1880
**PRELIMINARY ESTIMATE - SUMMARY**

**HIGHWAY**
- SR 005

**PROJECT TITLE**
- I-5
- SLATER RD INTERSECTION ENHANCEMENTS

**TYPE OF WORK**
- THIS PROJECT CONSISTS OF ROADWAY EXCAVATION; CONCRETE CURB; HMA PAVING; STRIPING; PERMANENT SIGNING; EROSION AND SEDIMENT CONTROL; TRAFFIC CONTROL AND OTHER WORK TO CONSTRUCT THE INTERSECTION ENHANCEMENTS.

**FEDERAL AID PROJECT NO**

**COUNTY(S)**
- WHATCOM

**PROGRAM ITEM NUMBER(s)**

**CONTROL SECTIONS**
- 370102

**ESTIMATED COST DATA**

**CONTRACT TOTAL**
- $207,863.10
- WA SALES TAX: $18,084.09
- PROJECT SUBTOTAL
- $225,947.19
- ENGINEERING 20.00%
- $45,199.44
THIS PROJECT CONSISTS OF ROADWAY EXCAVATION; CONCRETE CURB; HMA PAVING; STRIPING; PERMANENT SIGNING; EROSION AND SEDIMENT CONTROL; TRAFFIC CONTROL AND OTHER WORK TO CONSTRUCT THE INTERSECTION ENHANCEMENTS.
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BASE TOTAL: 207,863.10
Local Agency Participating Agreement, Work by State for Whatcom County
I-5 Slater Road Intersection MP 260.0 to 260.2 Enhancements

Scope of Work:

In accordance with the draft contract plans (incorporated herein as if attached and made a part of this Agreement), specifications and estimates, the STATE will construct 3 compact rural roundabouts on state limited access right of way at intersections with Slater Road that require roadway excavation; concrete curb; HMA paving; striping; permanent signing; erosion and sediment control; traffic control, and other work to construct the intersection enhancements.

The Project has been designed and will be constructed in accordance with the following STATE mandatory standards:
- Standard Specifications for Road, Bridge, and Municipal Construction
- Amendments to the Standard Specifications
- WSDOT Design Manual (M 22-01)
- WSDOT Plans Preparation Manual (M 22-31)
- WSDOT Highway Runoff Manual (M 31-16)
- WSDOT Standard Plans
- WSDOT Construction Manual (M 41-01)
- WSDOT Qualified Products List (QPL)
- Local Agency Municipal Code, when applicable.

Permits:
The STATE will obtain any necessary permits to construct the Project. At this time the following permits/approvals are anticipated:
- Whatcom County Noise Permit for approximately 7 days of night-work.
INDEX

<table>
<thead>
<tr>
<th>SHEET NO.</th>
<th>PLAN REFERENCE NO.</th>
<th>TITLE</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>VM1</td>
<td>INDEX / VICINITY MAP</td>
</tr>
<tr>
<td>2</td>
<td>SQ1</td>
<td>SUMMARY OF QUANTITIES</td>
</tr>
<tr>
<td>3 - 5</td>
<td>JL1 - JL2</td>
<td>ALIGNMENT / FRONT OF WAY</td>
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<td>6 - 7</td>
<td>GP1 - GP2</td>
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<td>T1 - T10</td>
<td>TRAFFIC CONTROL PLAN</td>
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NOTE:
ALL SHEET REFERENCES, FIRST NOS. OF STRUCTURE CODE DESIGNATIONS AND MATCH LINE SHEET REFERENCES, ETC., THROUGHOUT THE PLANS, REFER TO THE ENTRY IN THE PLAN REFERENCE NUMBER BOX.

BEGIN CONSTRUCTION
STA SL 10+00
SLATER RD.

END CONSTRUCTION
STA SL 31+00
SLATER RD.

Intersection improvements at red dots

SCALE IN FEET

WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

INDEX / VICINITY MAP

111
Stormwater Inventory and Maintenance Tracking Database Project

ATTACHMENTS:
1. Memo
2. Contract information sheet
3. Contract and related exhibits

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 Western Washington Phase II Municipal Stormwater Permit requires inspection and maintenance of the County’s Municipal Separate Storm Sewer System (MS4) within the Permit area. These include publicly-owned and operated stormwater conveyance systems such as catch basins, ditches, culverts, storm drains, etc. The Permit defines inspection and maintenance requirements of these facilities with specific timelines and standards. Northwest Data Support was chosen through a competitive selection process to assist with development of a tracking system that will provide searchable, aggregated information associated with inspection and maintenance of all of these facilities.

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, and Honorable Members of the Whatcom County Council
THROUGH: Frank M. Abart, Public Works Director
FROM: Rob Ney, Special Programs Manager
RE: Contract for Stormwater Inventory and Maintenance Tracking Database Project with Northwest Data Support
DATE: July 16, 2014

Please find attached for your review and signature two (2) originals the Stormwater Inventory and Maintenance Tracking Database Project contract between Whatcom County and Northwest Data Support.

- **Background and Purpose**
  Washington State Department of Ecology requires Whatcom County manage stormwater through the Western Washington Phase II Municipal Stormwater Permit. The Permit specifically covers the urbanized areas of unincorporated Whatcom County and generally includes Bellingham Urban Growth Area, Ferndale Urban Growth Area, Birch Bay Urban Growth Area, Sudden Valley, and Toad Lake.

  The Permit requires the inspection and maintenance of the County's Municipal Separate Storm Sewer System (MS4) within the Permit area. MS4s are generally defined as the publicly-owned and operated stormwater conveyance systems such as catch basins, ditches, culverts, storm drains, etc. Whatcom County currently has approximately 2,700 catch basins, 4,000 culverts, 160 outfalls, 35 bioswales and vaults, and 110 miles of ditches within the MS4. The Permit defines inspection and maintenance requirements of these facilities with specific timelines and standards. Thus, it is important to use a tracking system that will provide searchable, aggregated information associated with inspection and maintenance of all of these facilities. Northwest Data Support was chosen through a competitive selection process to assist with development of such a database for tracking.

- **Funding Amount and Source**
  This agreement in the amount of $27,350.00 will be funded through the existing 2014 budget for NPDES Phase II.

  Please contact Cathy Craver at extension 50694 if you have any questions regarding this agreement.

Attachments
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

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<th>Originating Department:</th>
<th>Public Works-Special Programs</th>
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<tr>
<td>Contract or Grant Administrator:</td>
<td>Cathy Craver, Senior Planner</td>
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<tr>
<td>Contractor's / Agency Name:</td>
<td>Northwest Data Support</td>
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Is this a New Contract? No  
If not, is this an Amendment or Renewal to an Existing Contract? Yes  
If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #

Does contract require Council Approval? Yes  
If No, include WCC  
(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement? Yes  
If yes, grantor agency contract number(s)  
CFDA #  
Is this contract grant funded? Yes  
If yes, associated Whatcom County grant contract number(s)  
Is this the result of a RFP or Bid process?  
Yes  
If yes, RFP and Bid number(s)  
Contract  
Contract Amount: (sum of original contract amount and any prior amendments):  
$27,350.00***  
This Amendment Amount:  
$  
Total Amended Amount:  
$  
Is this agreement excluded from E-Verify? No  
If yes, indicate exclusion(s) below:  
Professional services agreement for certified/licensed professional  
Contract for Commercial off the shelf items (COTS)  
Interlocal Agreement (between Gov'ts)  
Work related subcontract less than $25,000.  
Public Works - Local Agency/Federally Funded FHWA  
Contracts that require Council Approval (incl. agenda bill & memo)  
- Professional Services Agreement above $20,000.  
- Bid is more than $50,000.  
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)  

**Summary of Scope:**  
The Western Washington Phase II Municipal Stormwater Permit requires inspection and maintenance of the County’s Municipal Separate Storm Sewer System (MS4) within the Permit area. These include publicly-owned and operated stormwater conveyance systems such as catch basins, ditches, culverts, storm drains, etc. The Permit defines inspection and maintenance requirements of these facilities with specific timelines and standards. Northwest Data Support was chosen through a competitive selection process to assist with development of a tracking system that will provide searchable, aggregated information associated with inspection and maintenance of all of these facilities.

**Term of Contract:**  
Expiration Date: December 31, 2015  
Prepared by: Remy McConnell  
Date: 7/16/14  
Attorney rev’d/signed: Daniel L. Gibson  
Date: 7/17/14  
AS Finance reviewed:  
Date: 7/17/14  
IT reviewed if IT related:  
Date: 7/17/14  
Contractor signed: Perry Rice  
Date: 7/25/14  
Submitted to Exec Office:  
Date: 7/25/14  
Council approved (if necessary):  
Date: 7/25/14  
Executive signed:  
Date:  
Original to Council:  
Date:  

Last Edited 06/17/14
CONTRACT FOR SERVICES
Stormwater Inventory and Maintenance Tracking Database Project

NORTHWEST DATA SUPPORT, 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), pp. 9 to 10
- Exhibit B (Compensation), pp. 11 to 11
- 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 6TH day of AUGUST, 2014, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31ST day of DECEMBER, 2015.

The general purpose or objective of this Agreement is to: develop a stormwater inventory and maintenance tracking database, 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 TWENTY-SEVEN THOUSAND, THREE HUNDRED FIFTY AND 0/100 DOLLARS ($27,350.00***). 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:

NORTHWEST DATA SUPPORT

Richard Chase, Proprietor

STATE OF WASHINGTON  )
COUNTY OF ) ss.

On this ___ day of J____, 2014, before me personally appeared RICHARD CHASE to me known to be the PROPRIETOR of NORTHWEST DATA SUPPORT 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 _____________. My commission expires ____________.

Contract for Services: Northwest Data Support
Stormwater Inventory and Maintenance Tracking Database Project
WHATCOM COUNTY:
Recommended for Approval:

Frank M. Abart
Public Works Director

Approved as to form:

Daniel L. Gibson
Chief Civil Deputy Prosecutor

Approved:
Accepted for Whatcom County:

By: _______ Jack Louws, Whatcom County Executive

STATE OF WASHINGTON
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:

NORTHWEST DATA SUPPORT
Richard Chase, Proprietor

Address:
336 Shore Drive
Camano Island, WA 98282

Mailing Address:
PO Box 2598
Stanwood, WA 98292

Contact Name: Richard Chase
Contact Phone: (360) 929-0036
Contact Email: richard@nwdatasupport.com

Contract for Services: Northwest Data Support
Stormwater Inventory and Maintenance Tracking Database Project
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: Not Applicable

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

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate
documentiation, 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 and 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:**
All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County.

31.2 **Patent/Copyright Infringement:**
Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:
A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.
B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

31.3 **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 commercial general liability insurance with the following minimums:
- Property Damage - $500,000.00 per occurrence
- Bodily injury - $1,000,000.00 per occurrence

A Certificate of insurance that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and noncontributory and shall waive all rights of subrogation against the County, its agents, and its insurer. The County insurance shall not serve as a source of contribution.

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

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

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

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

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

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

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

36.1 Waiver of Noncompetition:
Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

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:

Frank M. Abart, Director, Whatcom County Public Works, 322 N. Commercial Street, Suite 210, Bellingham, WA 98225

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:
Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

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:
Other than claims for injunctive relief brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinafore, any claim, dispute or controversy between the parties under, arising out of, or related to this Agreement or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Agreement shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge, including expenses, costs and attorney fees to the prevailing party and pre-award interest, but shall not have the power to award punitive damages. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Unless otherwise specified herein, this Agreement shall be governed by the laws of Whatcom County and the State of Washington.

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.
Northwest Data Support

Project Scope for Stormwater Inventory and Maintenance Tracking Database Project

1.0-Background

The Washington State Department of Ecology requires Whatcom County to manage stormwater through the Western Washington Phase II Municipal Stormwater Permit. The Permit specifically covers the urbanized areas of unincorporated Whatcom County and generally includes: Bellingham Urban Growth Area, Ferndale Urban Growth Area, Birch Bay Urban Growth Area, Sudden Valley, and Toad Lake.

The Permit requires the inspection and maintenance of the County's Municipal Separate Storm Sewer System (MS4) within the Permit area. The MS4 can generally be defined as the publicly-owned and operated stormwater conveyance systems such as: catch basins, ditches, culverts, storm drains, etc. Whatcom County currently has approximately 2,700 catch basins, 4,000 culverts, 160 outfalls, 35 bioswales and vaults, and 110 miles of ditches within the MS4. The Permit defines inspection and maintenance requirements of these facilities with specific timelines and standards. Thus, it is important to use a tracking system that will provide searchable, aggregated information associated with inspection and maintenance of all of these facilities.

2.0-Proposed Database for Inventory Data, Inspection Tracking, and Maintenance Tracking

Northwest Data Support proposes to construct a database that will facilitate good practices in record keeping and reporting for the County’s stormwater infrastructure to meet the requirements of the Permit. The database will be the center for storing, organizing, monitoring, querying, and reporting stormwater inventory and activities for Whatcom County Public Works. It will utilize the County’s current inventory and data of the MS4 within the Permit area to develop the inspection and maintenance tracking requirements of the Permit, and will aid the County in preparing work orders for Maintenance and Operations (M&O) activities, as well as in preparing reports for the Department of Ecology required annually by the Permit.

The database’s main function shall be to accurately track asset status, inspections, and maintenance performed. The database’s secondary function shall be to perform an analysis on the inventory data. The analysis functionality will allow future proposed activities to be easily gathered on a select set of criteria for routing to M&O. The analysis functionality will also provide an efficient way to review past activities for reporting to the Department of Ecology.

Specific functionalities for this database include:

- Storing catch basin and other stormwater asset information.
- Tracking/storing inspection data for individual assets.
- Tracking/storing maintenance work data for individual assets.
- Reporting past inspection activities.
- Projecting/reporting inspection activities (work schedule) for future inspections.
- Reporting past maintenance work activities.
- Projecting/reporting maintenance work activities (work schedule) for future maintenance.
The proposed database will be built using Microsoft Access tables, queries, forms and reports. Initial asset data required to populate the database will come from previous inventory and inspection data the County already possesses.

Specific tasks in the project development include:

Task 1: Database upper level design (4 hrs)

Task 2: Table design for asset information, inspection information, and maintenance information (16 hrs)

Task 3: Form design for data entry of new assets, new inspection data, and new maintenance data (40 hrs)

Deliverable: Entry form that may be used as hard copy in the field, as well as electronic.

Task 4: Query design for extracting data for various reports (20 hrs)

Task 5: Report design for past inspection activities, future proposed inspections, past maintenance activities and future proposed maintenance activities (40 hrs)

Task 6: Testing of the database for ease of use with current and future technologies, accuracy of tracking methods, accuracy of reporting methods, and overall usefulness (40 hrs)

Task 7: Documentation of the project including progress reports and a final manual of how to use the database (10 hrs)

Deliverables: (1) Monthly progress reports of the project.
               (2) Final manual for using the database.

Task 8: Ongoing troubleshooting, maintenance, data entry, and/or technical support for database management (60 hrs)

Task 9: Training of staff for data entry, querying reports, and database administration (40 hrs)

Task 10: Ongoing upgrades to technology as needed (40 hrs)

The database will use standard field names common to stormwater inventory inspections and maintenance criteria will additional fields as required or requested by the Stormwater personnel. The database tables will follow a schema similar to the ESRI Local Government Storm Water Data Model. Northwest Data Support will coordinate with Whatcom County Administrative Services Information Technologies Division throughout the development of the database and its associated components to ensure consistency and compatibility to existing and future platforms and systems utilized by Whatcom County Government. The coordination effort will be facilitated by the Project Manager, Cathy Craver.
EXHIBIT "B"
(COMPENSATION)

Stormwater Inventory and Maintenance Tracking Database Project Budget
Northwest Data Support

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<tr>
<th>BUDGET ITEM</th>
<th>RATE</th>
<th>HOURS</th>
<th>STAFF TOTAL</th>
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<td>Task 4 - Query design for extracting data for various reports</td>
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<td>Task 5 - Report design for past inspection activities, future proposed</td>
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<td>inspections, past maintenance activities and future proposed</td>
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<td>Task 6 - Testing of the database for ease of use, accuracy of</td>
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<td>tracking methods, accuracy of reporting methods, and overall usefulness</td>
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<td>final manual of how to use the database.</td>
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<td><strong>PROJECT TOTAL</strong></td>
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<td><strong>$27,350.00</strong></td>
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Budget Narrative
Contract amounts shall not exceed the total budget referenced (above). As consideration for services provided in Exhibit A, Scope of Work, the County agrees to compensate the contractor according to the hourly rates provided in the project budget (Exhibit B). Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed including mileage at the current IRS rate. Lodging and per diem shall not exceed the GSA rate for the location where services are provided. Other expenditures such as printing, postage, and telephone charges shall be reimbursed at actual cost plus 10%. Expense reimbursement requests must be accompanied by copies of paid invoices. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor's expense.
EXHIBIT "C"
(INSURANCE)
ACORD™ CERTIFICATE OF LIABILITY INSURANCE

PRODUCER
Jake Squires State Farm Insurance
820 Alabama St
Bellingham, WA 98225
Phone: 360-733-9190 Fax: 360-733-0342

DATE (MM/DD/YYYY)
07/17/2013

INSURER
Richard Chase
DBA NW Data Support
8210 Cedarhome RD
Stanwood, WA 98292

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

<table>
<thead>
<tr>
<th>INSURER</th>
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<tbody>
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COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate Holder is listed as an Additional Insured.

CERTIFICATE HOLDER
WHATCOM COUNTY
PUBLIC WORKS-NATURAL RESOURCES
322 N COMMERCIAL ST SUITE 301
Bellingham, WA 98225

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL Endeavor to MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

[Signature]

© ACORD CORPORATION 1988
Cathy Craver

From: Jake Squires <jake.squires.jm8i@statefarm.com>
Sent: Wednesday, July 23, 2014 12:09 PM
To: Cathy Craver
Subject: Request for endorsements and language
Attachments: SampleProvisionsLanguage.pdf; Chase Certificate.pdf

Cathy,

After speaking to underwriting, we have been assured that the endorsements you requested will be processed, however because they are personalized for your contract it will take 3 to 4 weeks for them to arrive from the Texas underwriting center. We have attached the sample endorsements and the certificate of insurance. Please feel free to call myself or Anne if you have any other questions.

Best regards,

Jake Squires
360-733-9190

From: Cathy Craver [mailto:ccraver@co.whatcom.wa.us]
Sent: Wednesday, July 23, 2014 8:02 AM
To: Richard Chase (chase.richard@gmail.com)
Cc: anne@jakesquires.com
Subject: FW: Request for endorsements and language

Good morning, Richard.

I found out that as of September of last year our prosecuting attorney is requiring the insurance certificate to be accompanied by the endorsements and provisions. This is standard documentation that your insurance company should have, and should be able to provide immediately. I attached a copy of an example from another contract we have. The additional language that I originally requested should already be in there. We have not encountered any case where an insurance company was not able to provide this immediately.

Please follow up with your insurance company, whether it be the Bellingham office or their Texas office, requesting that the endorsements be emailed to me, and also verifying that the that the “Primary and non-contributory” language is in there. The deadline for me to submit your contract is 4:30 p.m. today. If I don’t have all the paperwork by then, I cannot process your contract and we’ll have to wait to push it forward in September.

Please contact me if you have any questions.

Thanks, Cathy

Cathy Craver
Senior Planner, NPDES Coordinator
Whatcom County Public Works-Special Programs
322. N. Commercial Street, Suite 301
Bellingham, WA 98225
Ccraver@co.whatcom.wa.us
SAMPLE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CMP-4787 WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Policy Number: 98BZN9827

Named Insured: Richard Chase
DBA NW Data Support
8210 Cedarhome Rd
Stanwood, WA 98292

Name And Address Of Person Or Organization:

Whatcom County Public Works- Natural Resources
322 N Commercial St Suite 301
Bellingham WA 98225

The following is added to Paragraph 10.b. of SECTION I AND SECTION II — COMMON POLICY CONDITIONS:

We waive any right of recovery we may have against the person or organization shown in the Schedule because of payments we make for injury or damage arising out of:

a. Your ongoing operations; or

b. "Your work" done under contract with that person or organization and included in the "products-completed operations hazard".

This waiver applies only to the person or organization shown in the Schedule.

All other policy provisions apply.

CMP-4787
© Copyright, State Farm Mutual Automobile Insurance Company, 2008 includes copyrighted material of Insurance Services Office, Inc., with its permission.
SAMPLE

CMP-4786 ADDITIONAL INSURED — OWNERS, LESSEES, OR CONTRACTORS
(Scheduled)

This endorsement modifies insurance provided under the following:
BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Policy Number: 98BZN9827

Named Insured: Richard Chase
DBA NW Data Support
8210 Cedarhome Rd
Stanwood, WA 98292

Name And Address Of Person Or Organization:
Whatcom County Public Works- Natural Resources
322 N Commercial St Suite 301
Bellingham WA 98225

1. SECTION II — WHO IS AN INSURED of
SECTION II — LIABILITY is amended to include, as an additional insured, any person or
organization shown in the Schedule. but only
with respect to liability for “bodily injury”,
“property damage”, or “personal and
advertising injury” caused, in whole or in part,
by:

a. Ongoing Operations
(1) Your acts or omissions; or
(2) The acts or omissions of those acting
on your behalf;
in the performance of your ongoing oper­
ations for that additional insured; or

b. Products-Completed Operations

“Your work” performed for that additional
insured and included in the “products­
completed operations hazard”.

2. Any insurance provided to the additional in­
sured shall only apply with respect to a claim
made or a “suit” brought for damages for
which you are provided coverage.

3. Primary Insurance. The insurance afforded
the additional insured shall be primary insur­
ance. Any insurance carried by the additional
insured shall be noncontributory with respect
to coverage provided by you.

There will be no refund of premium in the event
this endorsement is cancelled.

All other policy provisions apply.

CMP-4786
© Copyright, State Farm Mutual Automobile Insurance Company.
2008 includes copyrighted material of Insurance Services
Office, Inc., with its permission.
Resolution commencing the Coordinated Water System Plan update process.

Public Works staff is planning to update the Whatcom County Coordinated Water System Plan. The plan was last updated in 2000. The attached resolution calls for convening the Water Utility Coordinating Committee, sets the boundaries of the Critical Water Supply Service Area, and establishes a scope for the update.
Dear Public Works, Health & Safety Committee Members:

On behalf of the Planning Unit and in response to your July 22nd request, the WRIA 1 Planning Unit reviewed the draft resolution regarding the Coordinated Water System Plan at their meeting on July 23rd. At that meeting, the Planning Unit approved the following motion:

“The Planning Unit recommends that the County Council commence with the Coordinated Water System Plan update and 1) consider the amendments to the Resolution as recommended by Skip Richards, 2) direct the consultant to attend at least one Planning Unit meeting to explain the plan and seek input from the Planning Unit, and 3) that the Draft Plan be sent to the Planning Unit for comment prior to consideration and approval by the County Council.”

Attached is the most recent version of the resolution from Skip Richards (revision1). Also attached is a further modified version in which I have attempted to incorporate the Planning Unit’s subsequent recommendations (Planning Unit Recommendations 072914). These items are being presented to you for your consideration at the next scheduled committee meeting on August 5th. There are some budget implications regarding these modifications. I am working with the consultant to quantify them and will present those to you at the August 5th committee meeting. Please let me know if you have questions.

Best Regards,

Gary S. Stoyka, LHG
Natural Resources Program Manager
Whatcom County Public Works Department
322 North Commercial Street, Suite 110
Bellingham, WA 98225
(360) 676-6876 x50618
gstoyka@co.whatcom.wa.us
RESOLUTION NO. ______

COMMENCING THE COORDINATED WATER SYSTEM PLAN UPDATE PROCESS

WHEREAS, on November 13, 1990, Whatcom County adopted a resolution Resolution 1990-073 establishing Critical Water Supply Service Area boundaries to meet the requirements for developing a Coordinated Water System Plan (CWSP) under RCW 70.116; and

WHEREAS, the Critical Water Supply Service Area boundaries were reviewed by the Water Utility Coordinating Committee established by Resolution 1990-073; and

WHEREAS, these boundaries were modified by resolution on Resolution 1991-046 dated July 9, 1991 and Resolution 1991-046 dated September 24, 1991 to generally include all lands west of the National Forest Boundary excluding certain portions of the Lummi and Nooksack Indian reservations; and

WHEREAS, the first CWSP was developed in 1993 but was not approved by state Department of Health (DOH) due to concerns raised by Lummi Nation and unresolved litigation over Whatcom County’s compliance with the state Growth Management Act; and

WHEREAS, an update of the 1993 CWSP was prepared and adopted by the Whatcom County Council by resolution on May 2, 2000; and

WHEREAS, in 2005 the Whatcom County Council approved the WRIA 1 Watershed Management Plan, Phase 1 which was developed pursuant to RCW 90.82; and

WHEREAS, in October 2010 the WRIA 1 Joint Administrative Board adopted the 2010 Lower Nooksack Strategy, Objective 3 Task 3 of which called for a CWSP update “to be used as the basis for furthering the completion of a comprehensive water supply plan;” and

WHEREAS, the CWSP recommends an update every five years to stay current notes periodic updates may be initiated by the Whatcom County Council, and recommends that the Water Utility Coordinating Committee establish standing subcommittees to address CWSP issues; and

WHEREAS, it has been over 14 years since the last update of the CWSP and much has changed regarding water systems and water issues in Whatcom County since the last update such that some provisions of the 2000 CWSP are new might be obsolete.

NOW THEREFORE BE IT RESOLVED, that the Whatcom County Council does hereby call for updating of the 2000 Whatcom County Coordinated Water System Plan to address the following issues:
1. Water demand forecasting consistent with the 2016 update of the County’s Comprehensive Plan, including a comparison of actual use with the forecasts of the 2000 CWSP;
2. A review of minimum design standards for water systems including emergency interties and fire flow requirements;
3. A review of service area boundary designations and identification of contested service areas;
4. A review of the utility service review procedure;
5. A review of policies regarding satellite management agencies;
6. A review of water quality issues including, but not necessarily limited to, nitrate contamination issues;
7. Terms of the Lummi Peninsula groundwater settlement agreement;
8. Incorporation of provisions of the state Municipal Water Law of 2003 including water use efficiency measures;
9. A review of pending litigation regarding Whatcom County’s compliance with the state Growth Management Act;
10. A review of the Critical Water Supply Service Area designation and its boundaries;
11. Establishment of provisions to ensure continuity and follow through of any recommendation by the Water Utility Coordinating Committee established by this Resolution that would survive the completion of the CWSP update;
12. Coordination, including identification of and provision for specific linkages, with other water resource management efforts, including but not necessarily limited to the WRIA 1 Watershed Management Project, in order to assure efficient use of time and funding, to avoid overlap and duplication of effort and consistency of use of parameters such as per capita water use rates;
13. A survey of water connection fees, water rate charges, and adequacy of water system plans and capital needs of water purveyors within the Critical Water Service Supply Area;

BE IT FURTHER RESOLVED, that the boundaries of the Critical Water Supply Service Area shall remain unchanged; and

BE IT FURTHER RESOLVED, that the Whatcom County Council hereby convenes the Whatcom County Water Utility Coordinating Committee (WUCC) to assist in developing an update to the CWSP. In accordance with RCW 70.116.040, Whatcom County shall invite representatives of all public water systems serving more than 50 customers to participate on the WUCC as voting members along with representatives of the Health Department, Planning and Development Services Department, and County Council. To get the broadest base of input, Whatcom County shall also invite representatives of all other public water systems in the County and representatives of Lummi Nation and the Nooksack Indian Tribe to participate on the WUCC as non-voting members; and

BE IT FINALLY RESOLVED, that the Whatcom County Council shall select a councilmember to represent the entire County Council on the Water Utility Coordinating Committee.

APPROVED this _____ day of ___________, 2014.

ATTEST: _______________________________________________________________
Dana Brown Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________  ______________________________
Carl Weimer, Council Chair

APPROVED AS TO FORM:
Civil Deputy Prosecutor
RESOLUTION NO. ______

COMMENCING THE COORDINATED WATER SYSTEM PLAN UPDATE PROCESS

WHEREAS, on November 13, 1990, Whatcom County adopted a resolution Resolution 1990-073 establishing Critical Water Supply Service Area boundaries to meet the requirements for developing a Coordinated Water System Plan (CWSP) under RCW 70.116; and

WHEREAS, the Critical Water Supply Service Area boundaries were reviewed by the Water Utility Coordinating Committee established by Resolution 1990-073; and

WHEREAS, these boundaries were modified by resolution on Resolution 1991-046 dated July 9, 1991 and Resolution 1991-046 dated September 24, 1991 to generally include all lands west of the National Forest Boundary excluding certain portions of the Lummi and Nooksack Indian reservations; and

WHEREAS, the first CWSP was developed in 1993 but was not approved by state Department of Health (DOH) due to concerns raised by Lummi Nation and unresolved litigation over Whatcom County’s compliance with the state Growth Management Act; and

WHEREAS, an update of the 1993 CWSP was prepared and adopted by the Whatcom County Council by resolution on May 2, 2000; and

WHEREAS, in 2005 the Whatcom County Council approved the WRIA 1 Watershed Management Plan, Phase 1 which was developed pursuant to RCW 90.82; and

WHEREAS, in October 2010 the WRIA 1 Joint Administrative Board adopted the 2010 Lower Nooksack Strategy, Objective 3 Task 3 of which called for a CWSP update “to be used as the basis for furthering the completion of a comprehensive water supply plan;” and

WHEREAS, the CWSP recommends an update every five years to stay current notes periodic updates may be initiated by the Whatcom County Council, and recommends that the Water Utility Coordinating Committee establish standing subcommittees to address CWSP issues; and

WHEREAS, it has been over 14 years since the last update of the CWSP and much has changed regarding water systems and water issues in Whatcom County since the last update such that some provisions of the 2000 CWSP are obsolete and others may be.

NOW THEREFORE BE IT RESOLVED, that the Whatcom County Council does hereby call for updating of the 2000 Whatcom County Coordinated Water System Plan to address the following issues:
1. Water demand forecasting consistent with the 2016 update of the County’s Comprehensive Plan;
2. A review of minimum design standards for water systems including emergency interties and fire flow requirements;
3. A review of service area boundary designations and identification of contested service areas;
4. A review of the utility service review procedure;
5. A review of policies regarding satellite management agencies;
6. A review of water quality issues including, but not necessarily limited to, nitrate contamination issues;
7. Terms of the Lummi Peninsula groundwater settlement agreement;
8. Incorporation of provisions of the state Municipal Water Law of 2003 including water use efficiency measures;
9. A discussion of the status of pending litigation regarding Whatcom County’s compliance with the state Growth Management Act;
10. A review of the Critical Water Supply Service Area designation and its boundaries;
11. Establishment of provisions to ensure continuity and follow through of any recommendation by the Water Utility Coordinating Committee established by this Resolution that would survive the completion of the CWSP update, and;
12. A review of water connection fees, water rate charges, and adequacy of water system plans and capital needs of water purveyors within available purveyor water system plans.

BE IT FURTHER RESOLVED, that the Whatcom County Council hereby convenes the Whatcom County Water Utility Coordinating Committee (WUCC) to assist in developing an update to the CWSP. In accordance with RCW 70.116.040, Whatcom County shall invite representatives of all public water systems serving more than 50 customers to participate on the WUCC as voting members along with representatives of the Health Department, Planning and Development Services Department, and County Council. To get the broadest base of input, Whatcom County shall also invite representatives of all other public water systems in the County and representatives of Lummi Nation and the Nooksack Indian Tribe to participate on the WUCC as non-voting members; and

BE IT FURTHER RESOLVED, that input from the WRIA 1 Planning Unit will be sought at the outset of the update process and the Planning Unit will be provided an opportunity to comment on the final draft of the updated CWSP prior to submittal to the County Council; and

BE IT FINALLY RESOLVED, that the Whatcom County Council shall select a councilmember to represent the entire County Council on the Water Utility Coordinating Committee.

APPROVED this ______ day of ____________, 2014.

ATTEST: WHATCOM COUNTY COUNCIL
Carl Weimer, Council Chair
WHATCOM COUNTY, WASHINGTON

Dana Brown Davis, Clerk of the Council

APPROVED AS TO FORM:

_________________________
Civil Deputy Prosecutor
A briefing from PDS staff on recent amendments to state law that provide counties with the authority to merge open space timber programs into forest land programs.

**ATTACHMENTS:**
Cover Memo, Staff Analysis: Impacts of Merging Timber and Forest Land
Background documents: Final Bill Report (SB 6180); House Bill Report (SB 6180); Multiple Agency Fiscal Note Summary

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**
Effective June 12, 2014, amendments to state law give counties authority to merge open space timber land [RCW 84.34.020(3)] into the designated forest land program (RCW 84.33).

PDS staff will give a brief overview of the new law, provide an analysis of the implications of a merger, and outline steps necessary to implement a merger of the two programs should the County wish to take such action.

Background information is attached for the purpose of introduction, and an in depth analysis will be provided at a later date, prior to the briefing.

**Distribution Request:** Assessors Office – Keith Willnauer, County Assessor
MEMORANDUM  
JACK LOUWS  
COUNTY EXECUTIVE

TO:  
Honorable Jack Louws, Whatcom County Executive, &  
Honorable Members of the Whatcom County Council

THROUGH:  
J.E. “Sam” Ryan, Planning & Development Services, Director

FROM:  
Erin Osborn, Planner

DATE:  
July 11, 2014

SUBJECT:  
Briefing on New State Law:  Option to Merge Timber Land into  
Forest Land Program

Presented here for your consideration is some background information on recent amendments to state law that provide counties with authority to merge the open space timber land program into the forest land program for ease of administration.

This new law took effect on June 12, 2014 (SB 6180).

Applications to classify land as timber land for purposes of taxation are approved by the County Council, acting as granting authority, or if the land that is subject of application is located in a city, a joint granting authority composed of members from the different jurisdictions must either meet together, or take separate action to approve (or deny) applications.

Applications to classify land as forest land for purposes of taxation are processed and approved solely by the County Assessor’s Office.

The new law also reduces the minimum acreage to qualify for the forest land program from 20 acres to five acres; and this matches the minimum acres needed to qualify for timber land. The new law gives counties an option of adopting an ordinance to merge the two programs, and once adopted, all land now classified as timber land would then become forest land under the sole administration of the Assessor’s Office. If the County elected to implement this merger option, the timber land classification would effectively cease to exist in Whatcom County, and the forest land classification as amended would be handled by the Assessor’s Office regardless of whether land is located in a city or in the unincorporated County.

In coordination with the Assessor’s Office, staff will be preparing an analysis of the pros and cons of such a merger, and will present an overview on this subject in Planning & Development Committee.

Thank you.
Timber Land to Forest Land Merger Option: SB 6180 – Pros/Cons Preliminary Draft Analysis
(7/11/2014)

Senate Bill 6180 authorizes counties to merge the Timber Land classification authorized under the Open Space Taxation Act (RCW 84.34) into the Forest Land classification authorized under Chapter 84.33 RCW.

The following list identifies potential “pros” and “cons” of such a merger:

**PROS:**

**Increased County Efficiencies & Customer Convenience**
- Administrative duties performed by one branch of county government (instead of two)
  - Customer Service
  - Record Keeping
  - Continuances
  - Assessment Cycle/Compliance
- Reduces need for coordination between PDS and Assessor’s Office
- Accessibility of service - customer convenience
  - One central location – Assessor’s Office, Auditor’s Office, Treasure’s Office

- Simplified application processing
  - Staff Report & presentation not required
  - Planning Commission review not required
  - Public Hearing not required
  - Taxation Agreement not required
  - Timber Management Plan would no longer be mandatory
  - Lower fees? PDS fee is $525.00
- One granting authority only (County Assessor) – even in incorporated areas
- Reduces Confusion – One tax reduction program to incentivize commercial forestry instead of two programs
- Emphasizes distinction between Land Use and Taxation & Reduces PDS Staffing

**CONS:**

**Fiscal Impacts**
- Increased Assessor’s Office staffing
- *May effect excess levies and bonds*
- Owners of classified Timber Land may “opt-out” without being subject to compensating tax/additional tax
- Although assessed property values for timber land and forest land are the same, and are unaffected by the new law; existing time frames for calculating “back taxes” are different:
  - Existing time frames require 7 years of additional tax when land is removed or withdrawn from Timber Land (RCW 84.34)
  - Existing time frames require 10 years compensating tax when land is removed or withdrawn from Forest land (RCW 84.33)

- Changes to Exemptions from requirement to pay compensating tax/additional tax at removal – this is a mixed set of changes: some are more favorable (flexible), some less; more information on this to be provided at the scheduled briefing

**Customer Service**
- Short term inconvenience during transition
- Owners of classified Timber Land must be notified by certified mail
- Outreach to professional development community needed
Brief Description: Consolidating designated forest lands and open space timber lands for ease of administration.


Senate Committee on Natural Resources & Parks
Senate Committee on Ways & Means
House Committee on Agriculture & Natural Resources
House Committee on Finance

Background: All property is subject to property tax each year based on the property's market value unless a specific exemption is provided by law. The state Constitution authorizes agricultural, timber, and open space lands to be valued on the basis of their current use rather than fair market value. The Legislature enacted the designated forest land program and the open space program under this constitutional authority.

Forest Land Program. To qualify for current use valuation under the designated forest land program, lands must total 20 or more acres used primarily for growing and harvesting timber. Limited incidental activities are allowed along with timber-related buildings, machinery, and other personal property. The application for forest land designation is processed by the assessor, who may require submission of a timber management plan at that time.

The valuation of designated forest land is set by statute, and updated annually by the Department of Revenue based on the value of the bare land for growing and harvesting timber. The value of standing timber is exempt from property tax and harvested timber is instead subject to a separate excise tax.

Upon removal from this designation, the land must be revalued to fair market value as of January 1 of the year of removal. In general, land that is removed is subject to a compensating tax equal to the tax benefit received in the most recent year multiplied by the number of years the land was designated, not to exceed nine.

Open Space Program. The open space program includes three different classifications: farm and agricultural land; timber land – open space timber; and open space land.
To qualify for current use valuation under the open space timber program, lands must total five or more acres used primarily for growing and harvesting timber for commercial purposes. As with designated forest land, limited incidental activities and timber-related buildings and personal property are allowed. An owner desiring current use classification under the open space timber program must apply to the county legislative authority. The elements of the application constitute a timber management plan under the statute.

Open space timber land is valued in the same manner as designated forest lands. In general, land classified under the open space programs must remain under the program for at least ten years following initial classification. Additionally, an owner must notify the assessor two years prior to having the land withdrawn. A withdrawal generally triggers the requirement to pay an additional tax equal to the difference between the tax paid based on current use and the tax that would have otherwise been paid over the last seven years.

Summary: A county legislative authority may, at its option, merge the county's open space timber program into its designated forest land program by ordinance. Upon merger of the programs, any land classified as open space timber is deemed designated forest land. Additionally, the date that property was classified as open space timber before the merger is considered to be the date of designation under the forest land program. The county must notify open space timber landowners of the merger, as well as the Department of Revenue.

The removal of land from an open space timber land program as a result of a merger does not trigger the requirement to pay additional tax. If an owner of open space timber land provided notice of withdrawal prior to merger, the land is removed as designated forest land once the two-year notice period has been completed.

The minimum size requirement for land to be designated as forest land is reduced from 20 acres to five acres, which applies generally to the designated forest land program regardless of whether a county merges the two programs. An assessor may require a timber management plan if the assessor has reason to believe that forest land of less than 20 acres is no longer being used for forest land purposes.

Corresponding changes are made to several statutes, as are a number of technical changes.

Votes on Final Passage:

Senate   35  13
House     98  0

Effective: June 12, 2014
As Passed House:
March 12, 2014

Title: An act relating to consolidating designated forest lands and open space timber lands for ease of administration.

Brief Description: Consolidating designated forest lands and open space timber lands for ease of administration.


Brief History:
Committee Activity:
Agriculture & Natural Resources: 2/25/14, 2/26/14 [DP];
Finance: 2/28/14 [DP].
Floor Activity:
Passed House: 3/12/14, 98-0.

Brief Summary of Bill
• Provides counties with the authority to merge open space timber programs into designated forest land programs.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 15 members: Representatives Blake, Chair; Lytton, Vice Chair; Buys, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Chandler, Dunshee, Haigh, Hurst, Kretz, Orcutt, Pettigrew, Schmick, Stanford, Van De Wege and Warnick.

Staff: Jason Callahan (786-7117).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 13 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking...

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Jeffrey Mitchell (786-7139).

Background:

All property is subject to an annual property tax based on the property's value, unless a specific exemption is provided by law. The state Constitution authorizes agricultural, timber, and open space lands to be valued on the basis of their current use rather than fair market value. Two programs currently implement this constitutional exception to fair market value: the "forest land" program and the "open space" program.

Forest Land Program.
To qualify for current use valuation under the forest land program, the land must be 20 acres or more and be used primarily for growing and harvesting timber. Qualifying land includes land used for incidental activities that are compatible for growing and harvesting timber but that is no more than 10 percent of the overall land. Qualifying land also includes land on which buildings, machinery, and other personal property necessary for the production and sale of timber products exist.

The application for forest land designation includes the date of acquisition, a copy of any existing timber management plan prepared by a trained forester, an explanation of the nature and extent to which any existing plan has been implemented, and other evidence of the owner's intent to continue using the property to grow timber.

The timber management plan includes a statement that the forest land consists of 20 or more contiguous acres and is devoted to growing and harvesting timber. The application and the timber management plan are each required to include a legal description of the land, a description of the timber or the plan for restocking, a statement about whether the forest land is used for grazing, and a statement that the applicant is in compliance with the state's forest practice laws and rules.

The valuation of designated forest land is set by statute and is based on the value of the bare land for growing and harvesting timber. The value of standing timber is exempt from property tax and harvested timber is instead subject to a separate excise tax.

Land is removed from forest land designation: (1) at the request of the owner; (2) by sale or transfer to an ownership making the land exempt from tax; (3) by sale or transfer to a new owner unless the new owner signs a notice of continuance; or (4) by a determination that the land is no longer primarily used for growing and harvesting timber or is not being managed in accordance with forest practices, laws, and rules. Land may not be removed from the designation if the owner is prevented from harvesting timber because of land use restrictions.

Upon removal from the designation, the land is revalued to market value as of January 1 of the year of removal. In general, land that is removed is subject to a compensating tax equal to the tax benefit received in the most recent year multiplied by the number of years the land
was designated, not to exceed nine years. An exception to the compensating tax is allowed under certain conditions.

**Open Space Program.**
Within the open space program, property may be valued at current use within three different classifications: farm and agricultural land; timber land; and open space land. Land qualifies for the open space timber land program if the land is at least 5 or more acres, or if it contains multiple parcels of land that are contiguous and in which there are at least 5 acres devoted primarily to the growth and harvest of timber for commercial purposes. Qualifications include the same limitations concerning incidental activities, property necessary for the production and sale of timber products, and residential sites as in the forest land program.

An owner desiring current use classification under the open space timber program must apply to the county legislative authority. The application includes: a legal description; the date of acquisition; a description of the timber or the plan for restocking; a statement of whether the land is covered by a forest management plan and the extent to which the plan has been implemented; a statement about whether the forest land is used for grazing; a statement that the applicant is in compliance with the forest practice laws and rules; and other information that is analogous to that required under the forest land program. The elements of the application are considered a timber management plan.

Open space timber land is valued according to the same schedule by which forest lands are valued. The criteria for classification continue to apply after classification has been granted. With some exception, land classified under an open space program must remain under the program for at least 10 years following initial classification. However, if within the 10-year period the use no longer qualifies under the open space program, or the owner requests withdrawal, or a sale of the property is made and the new owner does not sign a notice of intent to continue within the open space program, then the land is withdrawn from the program and additional tax, interest, and penalties apply.

If the owner wishes to withdraw the land from current use after 10 years, the owner must notify the assessor two years prior to having the land withdrawn. The withdrawal then triggers the requirement to pay additional tax and interest, but no penalty is imposed.

Land upon which short-rotation hardwoods are cultivated may be classified under the open space timber land program or the open space farm and agriculture program. If classified under the timber land program, harvested trees are subject to the forest excise tax.

**Summary of Bill:**

County legislative authorities are authorized to merge a county’s open space timber land program into its designated forest land program. In order for a county to merge programs, the county must enact an ordinance that terminates its open space timber land program and declares that land that had been in the timber land program to be as designated forest land. The date that property was classified as open space timber before the ordinance is considered to be the date of designation under the forest land program.
The removal of land from an open space timber land program as a result of a merger of programs is exempt from additional taxes, assessments, interest, and penalties.

The designated forest land program is also modified for all counties, regardless if the county enacts an ordinance merging the two programs. The minimum size requirement for land to be designated as forest land is reduced from 20 acres to 5 acres.

Also applicable to all designated forest land programs (not just those subject to a merger) is a change in the nature of timber management plans. The statutorily required elements of a timber management plan are made optional. In addition, an assessor may require a timber management plan if there is reason to believe that the land is no longer being used for forest land purposes.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony** (Agriculture & Natural Resources):

(In support) Giving an option for a county to merge the two forestry-related tax programs will provide administrative simplicity for the counties and reduce taxpayer confusion. The new tax methodology will avoid duplicative bookkeeping without making any changes in tax burdens and tax revenue, and without creating a tax shift.

(Opposed) None.

**Staff Summary of Public Testimony** (Finance):

(In support) This bill will help reduce administrative costs for the programs and improve their administration. This is a priority bill for the Washington State County Assessors Association. This is a good government bill that will bring efficiency to the program.

(Opposed) None.

**Persons Testifying** (Agriculture & Natural Resources): Diane Dorey, Lewis County Assessor; Bruce Walker, Pacific County Assessor; and John Ehrenreich, Washington Forest Protection Association.

**Persons Testifying** (Finance): Dianne Dorey; Bruce Walker; and John Ehrenreich, Washington Forest Protection Association.

**Persons Signed In To Testify But Not Testifying** (Agriculture & Natural Resources): None.

**Persons Signed In To Testify But Not Testifying** (Finance): None.
Estimated Cash Receipts

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Estimated Expenditures

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Local Gov. Courts *
Loc School dist-SPI
Local Gov. Other ** Non-zero but indeterminate cost. Please see discussion.
Local Gov. Total

Estimated Capital Budget Impact

NONE

Prepared by: Kathy Cody, OFM
Phone: (360) 902-9822
Date Published: Final 1/23/2014

* See Office of the Administrator for the Courts judicial fiscal note
** See local government fiscal note
FNPID: 36280
FNS029 Multiple Agency rollup
Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:
NONE

Estimated Expenditures from:

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Estimated Capital Budget Impact:
NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☐ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
☒ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
☐ Capital budget impact, complete Part IV.
☐ Requires new rule making, complete Part V.

Legislative Contact: Curt Gavigan
Agency Preparation: Thomas Christensen
Agency Approval: Don Gutmann
OFM Review: Kathy Cody

Phone: 360-786-7437 Date: 01/22/2014
Phone: 360-534-1507 Date: 01/23/2014
Phone: 360-534-1510 Date: 01/23/2014
Phone: (360) 902-9822 Date: 01/23/2014
Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This legislation allows a county legislative authority to merge its timber land classification with its designated forest land program.

To merge the programs the authority must enact an ordinance that terminates the timber land classification and declares land that had been classified as timber land is designated forest land. The date land was classified as timber land is considered the date the property was designated as forest land.

A county must notify the Department of Revenue (Department) after taking action to merge these programs. The Department must maintain a list of all counties that have provided this notice on the agency website. Further applications for timber land may not be approved, and land may not otherwise be classified as timber land. The county assessor must also notify timber land owners by certified mail.

Designated forest land is redefined from 20 or more acres to five or more acres. Timber land owners subject to the merging programs are not required to apply for forest land designation.

Timber land that is reclassified as designated forest land under this merger does not constitute withdrawal, removal, or change in use from the current use program and is not subject to additional taxes.

For designated forest land parcels less than 20 acres, the assessor may require a timber management plan to determine eligibility if he or she has reason to believe the property is no longer primarily devoted to growing and harvesting timber.

Timber land owners that provide notice of request to withdrawal to the assessor within two years of the date of the merger will have their land removed as designated forest land when two assessment years have elapsed following the receipt of this notice.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

REVENUE ESTIMATES

Since open space timber land and designated forest land are valued using the same method, the property tax base for regular levies is expected to remain the same.

Combining open space timber land with designated forest land will increase timber assessed values used for calculating rates for excess levies and bonds, minimally reducing levy rates for other taxpayers, subject to individual county participation. This will also require timber excise tax distributions to compensate for the reduced taxes to other taxpayers. Revenue losses, if any, from this change are expected to be negligible.

Combining these programs will also create small changes in distributions to school districts that are based on their percentage of total designated forest land within their district.

TOTAL REVENUE IMPACT:

State Government (cash basis, $000): none

Form FN (Rev 1/00) 2 6180-1-1 6180 SB
Local Government, if applicable (cash basis, $000): minimal

Local Government, ($000), Shift of Tax Burden: minimal

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

FIRST YEAR COSTS:
The Department will incur zero costs in Fiscal Year 2014.

SECOND YEAR COSTS:
The Department will incur total costs of $41,800 in Fiscal Year 2015. These costs include:
- Labor Costs – Time and effort equates to 0.4 FTEs.
- Amend fourteen administrative rules.

There are no ongoing costs associated with this bill.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

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III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

<table>
<thead>
<tr>
<th>Job Classification</th>
<th>Salary</th>
<th>FY 2014</th>
<th>FY 2015</th>
<th>2013-15</th>
<th>2015-17</th>
<th>2017-19</th>
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<td>32,688</td>
<td>0.1</td>
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<td>TAX POLICY SP 2</td>
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<td>TAX POLICY SP 3</td>
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<tr>
<td>WMS BAND 3</td>
<td>88,546</td>
<td>0.1</td>
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<tr>
<td><strong>Total FTE's</strong></td>
<td>252,618</td>
<td>0.4</td>
<td>0.2</td>
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</tr>
</tbody>
</table>

Part IV: Capital Budget Impact

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Should this legislation become law, the Department will use the expedited process to amend WAC 458-30-200, titled: "Definitions"; WAC 458-30-210, titled: "Classification of land under chapter 84.34 RCW"; WAC 458-30-232, titled: "Application for timber land classification"; WAC 458-30-240, titled: "Agreement relating to open space and timber land classifications"; WAC 458-30-275, titled: "Continuing classification upon sale or transfer of ownership of classified land --
LOCAL GOVERNMENT FISCAL NOTE
Department of Community, Trade and Economic Development

Bill Number: 6180 SB  Title: Forest lands & timber lands

Part I: Jurisdiction - Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:
☐ Cities:
☒ Counties: Counties may opt to merge their timber land classification with their designated forest land program.
☐ Special Districts:
☐ Specific jurisdictions only:
☐ Variance occurs due to:

Part II: Estimates

☐ No fiscal impacts.
☐ Expenditures represent one-time costs:
☒ Legislation provides local option: Same as above.
☒ Key variables cannot be estimated with certainty at this time: The number of counties opting to merge land programs is unknown.

Estimated revenue impacts to:

| Indeterminate Impact |

Estimated expenditure impacts to:

| Indeterminate Impact |

Part III: Preparation and Approval

Fiscal Note Analyst: Alicia LeDuc  Phone: 360/725-5040  Date: 01/23/2014
Leg. Committee Contact: Curt Gavigan  Phone: 3607867437  Date: 01/22/2014
Agency Approval: Alice Zillah  Phone: 360-725-5035  Date: 01/23/2014
OFM Review: Kathy Cody  Phone: (360) 902-9822  Date: 01/23/2014
Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

Section 2 amends RCW 84.33.130 to require county assessors to mail notices of program mergers to each timber land owner, and allows only compensating tax to be collected as a result of the change in designation.

Section 3 amends RCW 84.33.140 to state that land graded, assessed, and valued as forest land must continue to be graded, assessed, and valued as such until the removal of designation by the assessor upon receipt of a notice of request to withdraw land classified under RCW 84.34.020(3) within two years before the date of a county merging its timber land designation with its designated forest land program. Land previously classified under chapter 84.34 RCW would be removed under the provisions of this chapter when two assessment years have passed following receipt of the notice described in RCW 84.34.070(1).

Section 5 adds a new section to chapter 84.34 RCW to allow a county legislative authority the option to merge its timber land classification with the designated forest land program by way of an ordinance. Any agreement prepared by the granting authority when an application was approved classifying land as timber land would be terminated and no longer in effect.

Sections 8 amends RCW 84.34.070 to provide that lands designated as forest lands as a result of a program merger would not be considered a withdrawal or removal and would not be subject to additional tax. Any owner of land classified under RCW 84.34.020(3) who has provided the assessor with a notice of request to withdrawal within two years of the date of merger will have their land removed as designated forest land under the provisions of chapter 84.33 RCW when two assessment years have elapsed following the receipt of this notice.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

Counties opting to merge their timber land classification, also referred to as the open space timber land program, with their designated forest land program as outlined in the bill would experience a small (less than $3,500 per county) but indeterminate expenditure cost to enact the necessary ordinance to merge the programs and to mail notices of the merger to each owner of open space timber land. However, these costs most likely be offset by the reduction in county expenditures through consolidating the programs into one system with one administrator, likely the county assessor’s office, thus saving significant staff time (0.5 FTE per county per year). The number of counties opting to merge their open space timber land and designated forest land program is unknown; therefore, the expenditure impact is indeterminate.

The Local Government Fiscal Note Program (LGFN) estimates the average cost to adopt an ordinance per jurisdiction to range from $350 to $3,700 depending upon the size and complexity of the ordinance. Based on the LGFN model, counties opting to merge the programs would likely require a simple ordinance with costs averaging $350 plus publication costs of the ordinance based on attorney and staff time required.

Lewis County Assessor’s Office staff estimated the reduction in workload as a result of consolidating the two programs could yield cost savings of 0.5 FTE annually.

DISCUSSION:

The proposed legislation provides a local option for counties to merge their open space timber land and designated forest land programs, thus streamlining the application process for land owners and consolidating the process, in most cases, into the county assessor’s office. The designated forest land program currently has a land space benchmark of 20 acres; once a landowner’s parcel falls below that benchmark, the landowner must either pay an application fee and apply to reclassify their land as open space timber land, or remove the land from the program and pay the back owed taxes. By statute counties are allowed to set their own fee schedule for application to the open space timber land programs, with fees ranging as wide as $150 in Lewis County to $3,500 in Thurston County. The open space timber land program and designated forest land programs provide similar services and require similar plans and paperwork. County assessor staff commented that landowners receive no additional benefits in switching between programs, but must pay and complete applications in order to enter the open space timber land program when dividing or downsizing parcels.

Additionally, the two programs are often administered by two different segments of local government, with the designated forest lands program being administered by the assessor’s office and the open space forest land program being handled by the county commissioners. By opting to merge the two land programs, counties would streamline the process for land programs into the assessor’s office and save the administrative costs of requiring a commissioner hearing, public notice, and paperwork.

The proposed legislation will be most beneficial for rural counties, and these counties are the most likely to participate in the merge option.
outlined in the bill. Lewis and Pacific Counties, for example, both possess large amounts of designated forest lands (687,418 and 417,261 acres respectively), with comparably small amounts of open space timber land (21,146 and 3,166 acres). By consolidating these programs and these lands, local governments will be able to save money through consolidation and streamlining the while saving taxpayers time, energy and application fees.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

Counties opting to merge their open space timber land program with their designated forest land program as outlined in the bill may experience a loss of revenue in the form of forgone open space timber land program application fees. However, this revenue would most likely be compensated for through the expenditure savings described above. Program application fees vary by county and the number of counties opting to merge their land programs is unknown, therefore total revenue impacts to local jurisdictions cannot be estimated.

According to the Department of Revenue, combining open space timber land with designated forest land would increase timber assessed values used for calculating rates for excess levies and bonds, minimally reducing levy rates for other taxpayers, subject to individual county participation. This would also result in an increased expectation for timber excise tax distributions to compensate for the reduced taxes to other taxpayers, without affecting revenues from timber sales. Revenue losses, if any, from this increased expectation are expected to be negligible. The total number of timber land acres in Washington in 2013 was 152,426 acres while the total number of designated forest land is over 6.1 million acres; the overall number of timber land acres compared to designated forest land acres is small and the change in revenue would be as well. The proposed legislation will be most beneficial to rural counties, and these counties are the most likely to participate in the merge option outlined in the bill.

DISCUSSION:

Combining the two programs will not change the sale of timber nor the assessed property value. Parcels in both programs are assessed according to the current use value as provided by the Department of Revenue. Open space timber lands are additionally assessed according to highest and best use, a separate figure calculated for individual parcels by county assessor's office staff. Both land programs assess land at current value. Therefore, there aggregate tax revenue is not expected to change as a result of the proposed legislation. By merging the open space timber land into the designated forest land program. However, counties will save staff time (an estimated at 0.5 FTE per year by county officials) by removing the need to assess properties individually for highest and best use.

SOURCES:

Department of Revenue
Thurston County Assessor's Office
Local Government Fiscal Note for 1156 HB (2013) including:
Pacific County Assessor's Office
Lewis County Assessor's Office
Stevens County Assessor's Office
Local Government Fiscal Note Program unit cost data
CERTIFICATION OF ENROLLMENT

SENATE BILL 6180

Chapter 137, Laws of 2014

63rd Legislature
2014 Regular Session

PROPERTY TAXES--FOREST AND OPEN SPACE TIMBER LANDS--CONSOLIDATION

EFFECTIVE DATE: 06/12/14

Passed by the Senate February 17, 2014
YEAS 35  NAYS 13

BRAD OWEN
President of the Senate

Passed by the House March 12, 2014
YEAS 98  NAYS 0

FRANK CHOPP
Speaker of the House of Representatives

Approved March 28, 2014, 2:59 p.m.

CERTIFICATE
I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SENATE BILL 6180 as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN
Secretary

FILED
March 31, 2014

JAY INSLEE
Governor of the State of Washington

Secretary of State
State of Washington
SENATE BILL 6180

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By Senators Braun, Holmquist Newbry, Padden, Sheldon, Brown, Schoesler, Rivers, and Parlette

Read first time 01/16/14. Referred to Committee on Natural Resources & Parks.

AN ACT Relating to consolidating designated forest lands and open space timber lands for ease of administration; amending RCW 84.33.035, 84.33.130, 84.33.140, 84.33.145, 84.34.030, 84.34.041, 84.34.070, 84.34.330, 84.34.340, and 84.34.370; and adding a new section to chapter 84.34 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 84.33.035 and 2011 c 101 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agricultural methods" means the cultivation of trees that are grown on land prepared by intensive cultivation and tilling, such as irrigating, plowing, or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising trees such as Christmas trees and short-rotation hardwoods.

(2) "Average rate of inflation" means the annual rate of inflation as determined by the department averaged over the period of time as
provided in RCW 84.33.220 (1) and (2). This rate must be published in
the state register by the department not later than January 1st of each
year for use in that assessment year.

(3) "Composite property tax rate" for a county means the total
amount of property taxes levied upon forest lands by all taxing
districts in the county other than the state, divided by the total
assessed value of all forest land in the county.

(4) "Contiguous" means land adjoining and touching other property
held by the same ownership. Land divided by a public road, but
otherwise an integral part of a timber growing and harvesting
operation, is considered contiguous. Solely for the purposes of this
subsection (4), "same ownership" has the same meaning as in RCW
84.34.020(6).

(5) "Forest land" is synonymous with "designated forest land" and
means any parcel of land that is (twenty) five or more acres or
multiple parcels of land that are contiguous and total (twenty) five
or more acres that is or are devoted primarily to growing and
harvesting timber. Designated forest land means the land only and does
not include a residential homesite. The term includes land used for
incidental uses that are compatible with the growing and harvesting of
timber but no more than ten percent of the land may be used for such
incidental uses. It also includes the land on which appurtenances
necessary for the production, preparation, or sale of the timber
products exist in conjunction with land producing these products.

(6) "Harvested" means the time when in the ordinary course of
business the quantity of timber by species is first definitely
determined. The amount harvested must be determined by the Scribner
Decimal C Scale or other prevalent measuring practice adjusted to
arrive at substantially equivalent measurements, as approved by the
department.

(7) "Harvester" means every person who from the person's own land
or from the land of another under a right or license granted by lease
or contract, either directly or by contracting with others for the
necessary labor or mechanical services, fells, cuts, or takes timber
for sale or for commercial or industrial use. When the United States
or any instrumentality thereof, the state, including its departments
and institutions and political subdivisions, or any municipal
corporation therein so fells, cuts, or takes timber for sale or for
commercial or industrial use, the harvester is the first person other
than the United States or any instrumentality thereof, the state,
including its departments and institutions and political subdivisions,
or any municipal corporation therein, who acquires title to or a
possessory interest in the timber. The term "harvester" does not
include persons performing under contract the necessary labor or
mechanical services for a harvester.

(8) "Harvesting and marketing costs" means only those costs
directly associated with harvesting the timber from the land and
delivering it to the buyer and may include the costs of disposing of
logging residues. Any other costs that are not directly and
exclusively related to harvesting and marketing of the timber, such as
costs of permanent roads or costs of reforesting the land following
harvest, are not harvesting and marketing costs.

(9) "Incidental use" means a use of designated forest land that is
compatible with its purpose for growing and harvesting timber. An
incidental use may include a gravel pit, a shed or land used to store
machinery or equipment used in conjunction with the timber enterprise,
and any other use that does not interfere with or indicate that the
forest land is no longer primarily being used to grow and harvest
timber.

(10) "Local government" means any city, town, county, water-sewer
district, public utility district, port district, irrigation district,
flood control district, or any other municipal corporation, quasi-
municipal corporation, or other political subdivision authorized to
levy special benefit assessments for sanitary or storm sewerage
systems, domestic water supply or distribution systems, or road
construction or improvement purposes.

(11) "Local improvement district" means any local improvement
district, utility local improvement district, local utility district,
road improvement district, or any similar unit created by a local
government for the purpose of levying special benefit assessments
against property specially benefitted by improvements relating to the
districts.

(12) "Owner" means the party or parties having the fee interest in
land, except where land is subject to a real estate contract "owner"
means the contract vendee.
"Primarily" or "primary use" means the existing use of the land is so prevalent that when the characteristic use of the land is evaluated any other use appears to be conflicting or nonrelated.

"Short-rotation hardwoods" means hardwood trees, such as but not limited to hybrid cottonwoods, cultivated by agricultural methods in growing cycles shorter than fifteen years.

"Small harvester" means every person who from his or her own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding two million board feet in a calendar year. When the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use, not exceeding these amounts, the small harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in the timber. Small harvester does not include persons performing under contract the necessary labor or mechanical services for a harvester, and it does not include the harvesters of Christmas trees or short-rotation hardwoods.

"Special benefit assessments" means special assessments levied or capable of being levied in any local improvement district or otherwise levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and which may be levied only for the special benefits to be realized by property by reason of that local improvement.

"Stumpage value of timber" means the appropriate stumpage value shown on tables prepared by the department under RCW 84.33.091. However, for timber harvested from public land and sold under a competitive bidding process, stumpage value means the actual amount paid to the seller in cash or other consideration. The stumpage value of timber from public land does not include harvesting and marketing costs if the timber from public land is harvested by, or under contract for, the United States or any instrumentality of the United States, the state, including its departments and institutions and political subdivisions.
subdivisions, or any municipal corporation therein. Whenever payment for the stumpage includes considerations other than cash, the value is the fair market value of the other consideration. If the other consideration is permanent roads, the value of the roads must be the appraised value as appraised by the seller.

(18) "Timber" means forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170 includes Christmas trees and short-rotation hardwoods.

(19) "Timber assessed value" for a county means the sum of: (a) The total stumpage value of timber harvested from publicly owned land in the county multiplied by the public timber ratio, plus; (b) the total stumpage value of timber harvested from privately owned land in the county multiplied by the private timber ratio. The numerator of the public timber ratio is the rate of tax imposed by the county under RCW 84.33.051 on public timber harvests for the year of the calculation. The numerator of the private timber ratio is the rate of tax imposed by the county under RCW 84.33.051 on private timber harvests for the year of the calculation. The denominator of the private timber ratio and the public timber ratio is the composite property tax rate for the county for taxes due in the year of the calculation, expressed as a percentage of assessed value. The department must use the stumpage value of timber harvested during the most recent four calendar quarters for which the information is available. The department must calculate the timber assessed value for each county before October 1st of each year.

(20) "Timber assessed value" for a taxing district means the timber assessed value for the county multiplied by a ratio. The numerator of the ratio is the total assessed value of forest land in the taxing district. The denominator is the total assessed value of forest land in the county. As used in this section, "assessed value of forest land" means the assessed value of forest land for taxes due in the year the timber assessed value for the county is calculated plus an additional value for public forest land. The additional value for public forest land is the product of the number of acres of public forest land that are available for timber harvesting determined under RCW 84.33.089 and the average assessed value per acre of private forest land in the county.
(21) "Timber management plan" means a plan prepared by a trained forester, or any other person with adequate knowledge of timber management practices, concerning the use of the land to grow and harvest timber. Such a plan may include:

(a) A legal description of the forest land;

(b) A statement that the forest land is held in contiguous ownership of five or more acres and is primarily devoted to and used to grow and harvest timber;

(c) A brief description of the timber on the forest land or, if the timber on the land has been harvested, the owner's plan to restock the land with timber;

(d) A statement about whether the forest land is also used to graze livestock;

(e) A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and

(f) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the forest land within three years.

Sec. 2. RCW 84.33.130 and 2003 c 170 s 4 are each amended to read as follows:

(1) (a)(i) Notwithstanding any other provision of law, lands that were assessed as classified forest land before July 22, 2001, or as timber land under chapter 84.34 RCW before the merger date adopted by the county under section 5 of this act, are designated forest land for the purposes of this chapter.

(ii) The owners of land subject to the requirements of (a)(i) of this subsection are not required to apply for designation under this chapter. (As of July 22, 2001, the land and timber on such land must be assessed and taxed in accordance with the provisions of this chapter as of the date the land is designated forest land under (a)(i) of this subsection.

(b) If a county legislative authority opts under section 5 of this act to merge its timber land classification with the designated forest land program of the county, the following provisions apply beginning on the adopted merger date:
(i) The date the property was classified as timber land is considered to be the date the property was designated as forest land under this chapter;

(ii) The county assessor must notify each owner of timber land of the merger by certified mail; and

(iii) For any forest land subject to the provisions of (b)(i) of this subsection that is then removed from designation, only compensating tax will be collected as a result of the removal in accordance with RCW 84.33.140(12), unless otherwise provided by law.

(2) An owner of land desiring that it be designated as forest land and valued under RCW 84.33.140 as of January 1st of any year ((shall)) must submit an application to the assessor of the county in which the land is located before January 1st of that year. The application ((shall)) must be accompanied by a reasonable processing fee when the county legislative authority has established the requirement for such a fee.

(3) No application of designation is required when publicly owned forest land is exchanged for privately owned forest land designated under this chapter. The land exchanged and received by an owner subject to ad valorem taxation ((shall be)) is automatically granted designation under this chapter if the following conditions are met:

(a) The land will be used to grow and harvest timber; and

(b) The owner of the land submits a document to the assessor's office that explains the details of the forest land exchange within sixty days of the closing date of the exchange. However, if the owner fails to submit information regarding the exchange by the end of this sixty-day period, the owner must file an application for designation as forest land under this chapter and the regular application process will be followed.

(4) The application ((shall)) must be made upon forms prepared by the department and supplied by the assessor, and ((shall)) must include the following:

(a) A legal description of, or assessor's parcel numbers for, all land the applicant desires to be designated as forest land;

(b) The date or dates of acquisition of the land;

(c) A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;
(d) A copy of the timber management plan, if one exists, for the land prepared by a trained forester or any other person with adequate knowledge of timber management practices;

(e) If a timber management plan exists, an explanation of the nature and extent to which the management plan has been implemented;

(f) Whether the land is used for grazing;

(g) Whether the land has been subdivided or a plat has been filed with respect to the land;

(h) Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW;

(i) Whether the land is subject to forest fire protection assessments under RCW 76.04.610;

(j) Whether the land is subject to a lease, option, or other right that permits it to be used for any purpose other than growing and harvesting timber;

(k) A summary of the past experience and activity of the applicant in growing and harvesting timber;

(l) A summary of current and continuing activity of the applicant in growing and harvesting timber;

(m) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be designated as forest land;

(n) An affirmation that the statements contained in the application are true and that the land described in the application meets the definition of forest land in RCW 84.33.035; and

(o) A description and/or drawing showing what areas of land for which designation is sought are used for incidental uses compatible with the definition of forest land in RCW 84.33.035.

(5) The assessor ((shall)) must afford the applicant an opportunity to be heard if the applicant so requests.

(6) The assessor ((shall)) must act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:
(a) The land does not contain a "merchantable stand of timber" as defined in chapter 76.09 RCW and applicable rules. This reason ((shall not)) alone ((be)) is not sufficient to deny the application (i) if the land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or a longer period necessitated by unavailability of seed or seedlings, or (ii) if only isolated areas within the land do not meet the minimum standards due to rock outcroppings, swamps, unproductive soil or other natural conditions;

(b) The applicant, with respect to the land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line. However, if the assessor determines that a higher and better use exists for the land but this use would not be permitted or economically feasible by virtue of any federal, state, or local law or regulation, the land ((shall)) must be assessed and valued under RCW 84.33.140 without being designated as forest land.

(7) The application ((shall be)) is deemed to have been approved unless, prior to ((May)) July 1st of the year after the application was mailed or delivered to the assessor, the assessor notifies the applicant in writing of the extent to which the application is denied.

(8) An owner who receives notice that his or her application has been denied, in whole or in part, may appeal the denial to the county board of equalization in accordance with the provisions of RCW 84.40.038.

Sec. 3. RCW 84.33.140 and 2013 2nd sp.s. c 11 s 13 are each amended to read as follows:

(1) When land has been designated as forest land under RCW 84.33.130, a notation of the designation must be made each year upon the assessment and tax rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for
the land must, at the expense of the applicant, be filed by the
assessor in the same manner as deeds are recorded.

(2) In preparing the assessment roll as of January 1, 2002, for
taxes payable in 2003 and each January 1st thereafter, the assessor
must list each parcel of designated forest land at a value with respect
to the grade and class provided in this subsection and adjusted as
provided in subsection (3) of this section. The assessor must compute
the assessed value of the land using the same assessment ratio applied
generally in computing the assessed value of other property in the
county. Values for the several grades of bare forest land are as
follows:

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<tr>
<th>LAND GRADE</th>
<th>OPERABILITY CLASS</th>
<th>VALUES PER ACRE</th>
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(3) On or before December 31, 2001, the department must adjust by rule under chapter 34.05 RCW, the forest land values contained in subsection (2) of this section in accordance with this subsection, and must certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department must:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forest land values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section must be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment must be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values must be successively one year more recent.

(5) Land graded, assessed, and valued as forest land must continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice of request to withdraw land classified under RCW 84.34.020(3) within two years before the date of the merger under
section 5 of this act. Land previously classified under chapter 84.34
RCW will be removed under the provisions of this chapter when two
assessment years have passed following receipt of the notice as
described in RCW 84.34.070(1);

(b) Receipt of notice from the owner to remove the designation;
((4b+)) (c) Sale or transfer to an ownership making the land exempt
from ad valorem taxation;
((4e+)) (d) Sale or transfer of all or a portion of the land to a
new owner, unless the new owner has signed a notice of forest land
designation continuance, except transfer to an owner who is an heir or
devisee of a deceased owner, does not, by itself, result in removal of
designation. The signed notice of continuance must be attached to the
real estate excise tax affidavit provided for in RCW 82.45.150. The
notice of continuance must be on a form prepared by the department. If
the notice of continuance is not signed by the new owner and attached
to the real estate excise tax affidavit, all compensating taxes
calculated under subsection (11) of this section are due and payable by
the seller or transferor at time of sale. The auditor may not accept
an instrument of conveyance regarding designated forest land for filing
or recording unless the new owner has signed the notice of continuance
or the compensating tax has been paid, as evidenced by the real estate
excise tax stamp affixed thereto by the treasurer. The seller,
transferor, or new owner may appeal the new assessed valuation
calculated under subsection (11) of this section to the county board of
equalization in accordance with the provisions of RCW 84.40.038.
Jurisdiction is hereby conferred on the county board of equalization to
hear these appeals;
((4e+)) (e) Determination by the assessor, after giving the owner
written notice and an opportunity to be heard, that:
(i) The land is no longer primarily devoted to and used for growing
and harvesting timber. However, land may not be removed from
designation if a governmental agency, organization, or other recipient
identified in subsection (13) or (14) of this section as exempt from
the payment of compensating tax has manifested its intent in writing or
by other official action to acquire a property interest in the
designated forest land by means of a transaction that qualifies for an
exemption under subsection (13) or (14) of this section. The
governmental agency, organization, or recipient must annually provide
the assessor of the county in which the land is located reasonable
evidence in writing of the intent to acquire the designated land as
long as the intent continues or within sixty days of a request by the
assessor. The assessor may not request this evidence more than once in
a calendar year;

(ii) The owner has failed to comply with a final administrative or
judicial order with respect to a violation of the restocking, forest
management, fire protection, insect and disease control, and forest
debris provisions of Title 76 RCW or any applicable rules under Title
76 RCW; or

(iii) Restocking has not occurred to the extent or within the time
specified in the application for designation of such land.

(6) Land may not be removed from designation if there is a
governmental restriction that prohibits, in whole or in part, the owner
from harvesting timber from the owner's designated forest land. If
only a portion of the parcel is impacted by governmental restrictions
of this nature, the restrictions cannot be used as a basis to remove
the remainder of the forest land from designation under this chapter.
For the purposes of this section, "governmental restrictions" includes:
(a) Any law, regulation, rule, ordinance, program, or other action
adopted or taken by a federal, state, county, city, or other
governmental entity; or (b) the land's zoning or its presence within an
urban growth area designated under RCW 36.70A.110.

(7) The assessor has the option of requiring an owner of forest
land to file a timber management plan with the assessor upon the
occurrence of one of the following:
(a) An application for designation as forest land is submitted;

(b) Designated forest land is sold or transferred and a notice of
continuance, described in subsection (5)((e+)) of this section, is
signed; or

(c) The assessor has reason to believe that forest land sized less
than twenty acres is no longer primarily devoted to and used for
growing and harvesting timber. The assessor may require a timber
management plan to assist with determining continuing eligibility as
designated forest land.

(8) If land is removed from designation because of any of the
circumstances listed in subsection (5)(a) through ((e+)) (d) of this
section, the removal applies only to the land affected. If land is
removed from designation because of subsection (5)(e) of this
section, the removal applies only to the actual area of land that is no
longer primarily devoted to the growing and harvesting of timber,
without regard to any other land that may have been included in the
application and approved for designation, as long as the remaining
designated forest land meets the definition of forest land contained in
RCW 84.33.035.

(9) Within thirty days after the removal of designation as forest
land, the assessor must notify the owner in writing, setting forth the
reasons for the removal. The seller, transferor, or owner may appeal
the removal to the county board of equalization in accordance with the
provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice
of removal with a notation of the action, if any, upon appeal, together
with the legal description or assessor's parcel numbers for the land
removed from designation must, at the expense of the applicant, be
filed by the assessor in the same manner as deeds are recorded and a
notation of removal from designation must immediately be made upon the
assessment and tax rolls. The assessor must revalue the land to be
removed with reference to its true and fair value as of January 1st of
the year of removal from designation. Both the assessed value before
and after the removal of designation must be listed. Taxes based on
the value of the land as forest land are assessed and payable up until
the date of removal and taxes based on the true and fair value of the
land are assessed and payable from the date of removal from
designation.

(11) Except as provided in subsection (5)(d), (13), or (14)
of this section, a compensating tax is imposed on land removed from
designation as forest land. The compensating tax is due and payable to
the treasurer thirty days after the owner is notified of the amount of
this tax. As soon as possible after the land is removed from
designation, the assessor must compute the amount of compensating tax
and mail a notice to the owner of the amount of compensating tax owed
and the date on which payment of this tax is due. The amount of
compensating tax is equal to the difference between the amount of tax
last levied on the land as designated forest land and an amount equal
to the new assessed value of the land multiplied by the dollar rate of
the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forest land, plus compensating taxes on the land at forest land values up until the date of removal and the prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, becomes a lien on the land, which attaches at the time the land is removed from designation as forest land and has priority and must be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date will thereupon become delinquent. From the date of delinquency until paid, interest is charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section may not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW, or for acquisition and management as a community forest trust as defined in chapter 79.155 RCW. At such
time as the land is not used for the purposes enumerated, the
compensating tax specified in subsection (11) of this section is
imposed upon the current owner;
(d) The sale or transfer of fee title to the parks and recreation
commission for park and recreation purposes;
(e) Official action by an agency of the state of Washington or by
the county or city within which the land is located that disallows the
present use of the land;
(f) The creation, sale, or transfer of forestry riparian easements
under RCW 76.13.120;
(g) The creation, sale, or transfer of a conservation easement of
private forest lands within unconfined channel migration zones or
containing critical habitat for threatened or endangered species under
RCW 76.09.040;
(h) The sale or transfer of land within two years after the death
of the owner of at least a fifty percent interest in the land if the
land has been assessed and valued as classified forest land, designated
as forest land under this chapter, or classified under chapter 84.34
RCW continuously since 1993. The date of death shown on a death
certificate is the date used for the purposes of this subsection
(13)(h); or
(i)(i) The discovery that the land was designated under this
chapter in error through no fault of the owner. For purposes of this
subsection (13)(i), "fault" means a knowingly false or misleading
statement, or other act or omission not in good faith, that contributed
to the approval of designation under this chapter or the failure of the
assessor to remove the land from designation under this chapter.
(ii) For purposes of this subsection (13), the discovery that land
was designated under this chapter in error through no fault of the
owner is not the sole reason for removal of designation under
subsection (5) of this section if an independent basis for removal
exists. An example of an independent basis for removal includes the
land no longer being devoted to and used for growing and harvesting
timber.
(14) In a county with a population of more than six hundred
thousand inhabitants or in a county with a population of at least two
hundred forty-five thousand inhabitants that borders Puget Sound as
defined in RCW 90.71.010, the compensating tax specified in subsection
(11) of this section may not be imposed if the removal of designation as forest land under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax is imposed upon the current owner.

Sec. 4. RCW 84.33.145 and 2012 c 170 s 2 are each amended to read as follows:

(1) If no later than thirty days after removal of designation under this chapter the owner applies for classification under:

(a) RCW 84.34.020(1)((2), (2), or (3), then);

(b) RCW 84.34.020(2); or

(c) RCW 84.34.020(3), unless the timber land classification and designated forest land program are merged under section 5 of this act, then, for the purposes of (a), (b), or (c) of this subsection, the designated forest land may not be considered removed from designation for purposes of the compensating tax under RCW 84.33.140 until the application for current use classification under chapter 84.34 RCW is denied or the property is removed from classification under RCW 84.34.108.

(2) Upon removal of classification under RCW 84.34.108, the amount of compensating tax due under this chapter is equal to:

(a) The difference, if any, between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed valuation of the land when removed from classification under RCW 84.34.108 multiplied by the dollar rate of the last levy extended against the land, multiplied by

(b) A number equal to:

(i) The number of years the land was designated under this chapter, if the total number of years the land was designated under this chapter and classified under chapter 84.34 RCW is less than ten; or
(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was designated under this chapter and classified under chapter 84.34 RCW is at least ten.

((2+)) (3) Nothing in this section authorizes the continued designation under this chapter or defers or reduces the compensating tax imposed upon forest land not transferred to classification under subsection (1) of this section (which) that does not meet the definition of forest land under RCW 84.33.035. Nothing in this section affects the additional tax imposed under RCW 84.34.108.

((3+)) (4) In a county with a population of more than six hundred thousand inhabitants or in a county with a population of at least two hundred forty-five thousand inhabitants that borders Puget Sound as defined in RCW 90.71.010, no amount of compensating tax is due under this section if the removal from classification under RCW 84.34.108 results from a transfer of property described in RCW 84.34.108(6).

NEW SECTION. Sec. 5. A new section is added to chapter 84.34 RCW to read as follows:

(1) A county legislative authority may opt to merge its timber land classification with its designated forest land program. To merge the programs, the authority must enact an ordinance that:

(a) Terminates the timber land classification; and

(b) Declares that the land that had been classified as timber land is designated forest land under chapter 84.33 RCW.

(2) After a county timber land program is terminated:

(a) Land that had been classified as timber land within the county is deemed to be designated forest land under the provisions of RCW 84.33.130(1) and is no longer considered to be classified timber land for the purposes of this chapter; and

(b) Any agreement prepared by the granting authority when an application was approved classifying land as timber land is terminated and no longer in effect.

(3) A county must notify the department after taking action under this section. The department must maintain a list of all counties that have provided this notice on their agency internet web site.
Sec. 6. RCW 84.34.030 and 1989 c 378 s 10 are each amended to read as follows:

(1) An owner of (agricultural) land desiring current use classification under (subsection (2) of) RCW 84.34.020 (shall) must make application as follows:

(a) Application for classification under RCW 84.34.020(2) must be made to the county assessor upon forms prepared by the state department of revenue and supplied by the county assessor. (An owner of open space or timber land desiring current use)

(b) Application for classification under (subsections (1) and (3) of)

(i) RCW 84.34.020 (shall make application) (1); or

(ii) RCW 84.34.020(3), unless the timber land classification and designated forest land program are merged under section 5 of this act must be made, for (b) (i) or (ii) of this subsection, to the county legislative authority upon forms prepared by the state department of revenue and supplied by the county assessor.

(2) The application (shall) must be accompanied by a reasonable processing fee if (such) a processing fee is established by the city or county legislative authority. (Said) The application (shall) may require only such information reasonably necessary to properly classify an area of land under this chapter with a notarized verification of the truth thereof and (shall) must include a statement that the applicant is aware of the potential tax liability involved when (such) the land ceases to be (designated) classified as open space, farm and agricultural or timber land. Applications must be made during the calendar year preceding that in which (such) classification is to begin.

(3) The assessor (shall) must make necessary information, including copies of this chapter and applicable regulations, readily available to interested parties, and (shall) must render reasonable assistance to such parties upon request.

Sec. 7. RCW 84.34.041 and 2009 c 350 s 14 are each amended to read as follows:

(1) An application for current use classification or reclassification under RCW 84.34.020(3) (shall) must be made to the county legislative authority.
The application must be made upon forms prepared by the department of revenue and supplied by the granting authority and must include the following elements that constitute a timber management plan:

(a) A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

(b) The date or dates of acquisition of the land;

(c) A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;

(d) Whether there is a forest management plan for the land;

(e) If so, the nature and extent of implementation of the plan;

(f) Whether the land is used for grazing;

(g) Whether the land has been subdivided or a plat filed with respect to the land;

(h) Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(i) Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

(j) Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

(k) A summary of the past experience and activity of the applicant in growing and harvesting timber;

(l) A summary of current and continuing activity of the applicant in growing and harvesting timber;

(m) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

(2) An application made for classification of land under RCW 84.34.020(3) must be acted upon after a public hearing and after notice of the hearing is given by one publication in a newspaper of general circulation in the area at least ten days before the hearing. Application for classification of land in an incorporated area must be acted upon by: (a) A granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located in a...
meeting where members may be physically absent but participating through telephonic connection; or (b) separate affirmative acts by both the county and city legislative bodies where both bodies affirm the entirety of an application without modification or both bodies affirm an application with identical modifications.

(3) The granting authority (shall) must act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:

(a) The land does not contain a stand of timber as defined in chapter 76.09 RCW and applicable rules, except this reason (shall not) alone (be) is not sufficient to deny the application (i) if the land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or the longer period necessitated by unavailability of seed or seedlings, or (ii) if only isolated areas within the land do not meet minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions;

(b) The applicant, with respect to the land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line.

(4)(a) The timber management plan must be filed with the county legislative authority either: (i) When an application for classification under this chapter is submitted; (ii) when a sale or transfer of timber land occurs and a notice of continuance is signed; or (iii) within sixty days of the date the application for reclassification under this chapter or from designated forest land is received. The application for reclassification (shall) must be accepted, but (shall) may not be processed until the timber management plan is received. If the timber management plan is not
received within sixty days of the date the application for reclassification is received, the application for reclassification ((shall)) must be denied.

(b) If circumstances require it, the county assessor may allow in writing an extension of time for submitting a timber management plan when an application for classification or reclassification or notice of continuance is filed. When the assessor approves an extension of time for filing the timber management plan, the county legislative authority may delay processing an application until the timber management plan is received. If the timber management plan is not received by the date set by the assessor, the application or the notice of continuance ((shall)) must be denied.

(c) The granting authority may approve the application with respect to only part of the land that is described in the application, and if any part of the application is denied, the applicant may withdraw the entire application. The granting authority, in approving in part or whole an application for land classified pursuant to RCW 84.34.020(3), may also require that certain conditions be met.

(d) Granting or denial of an application for current use classification is a legislative determination and ((shall be)) is reviewable only for arbitrary and capricious actions. The granting authority may not require the granting of easements for land classified pursuant to RCW 84.34.020(3).

(e) The granting authority ((shall)) must approve or disapprove an application made under this section within six months following the date the application is received.

(5) No application may be approved under this section, and land may not otherwise be classified or reclassified under RCW 84.34.020(3), if the timber land classification and designated forest land program are merged under section 5 of this act.

Sec. 8. RCW 84.34.070 and 1992 c 69 s 10 are each amended to read as follows:

(1) When land has once been classified under this chapter, it ((shall)) must remain under such classification and ((shall)) must not be applied to other use except as provided by subsection (2) of this section for at least ten years from the date of classification ((and shall)). It must continue under such classification until and unless
withdrawn from classification after notice of request for withdrawal is made by the owner. During any year after eight years of the initial ten-year classification period have elapsed, notice of request for withdrawal of all or a portion of the land may be given by the owner to the assessor or assessors of the county or counties in which the land is situated. If a portion of a parcel is removed from classification, the remaining portion must meet the same requirements as did the entire parcel when the land was originally granted classification (pursuant to) under this chapter unless the remaining parcel has different income criteria. Within seven days the assessor must transmit one copy of the notice to the legislative body that originally approved the application. The assessor or assessors, as the case may be, must, when two assessment years have elapsed following the date of receipt of the notice, withdraw the land from the classification and the land is subject to the additional tax and applicable interest due under RCW 84.34.108. Agreement to tax according to use is not considered to be a contract and can be abrogated at any time by the legislature in which event no additional tax or penalty may be imposed.

(2)(a) The following reclassifications are not considered withdrawals or removals and are not subject to additional tax under RCW 84.34.108:

((a)) (i) Reclassification between lands under RCW 84.34.020 (2) and (3);

((b)) (ii) Reclassification of land classified under RCW 84.34.020 (2) or (3) or designated under chapter 84.33 RCW to open space land under RCW 84.34.020(1);

((c)) (iii) Reclassification of land classified under RCW 84.34.020 (2) or (3) to forest land designated under chapter 84.33 RCW; and

((d)) (iv) Reclassification of land classified as open space land under RCW 84.34.020(1)(c) and reclassified to farm and agricultural land under RCW 84.34.020(2) if the land had been previously classified as farm and agricultural land under RCW 84.34.020(2).

(b) Designation as forest land under RCW 84.33.130(1) as a result
of a merger adopted under section 5 of this act is not considered a
withdrawal or removal and is not subject to additional tax under RCW
84.34.108.

(c) Any owner of land classified under RCW 84.34.020(3) who has
provided the assessor with a notice of request to withdrawal under
subsection (1) of this section within two years of the date of merger
as described in section 5 of this act, will have their land removed as
designated forest land under the provisions of chapter 84.33 RCW when
two assessment years have elapsed following the receipt of this notice.

(3) Applications for reclassification ((shall be)) are subject to
applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and
chapter 84.33 RCW.

(4) The income criteria for land classified under RCW 84.34.020(2)
(b) and (c) may be deferred for land being reclassified from land
classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into
RCW 84.34.020(2) (b) or (c) for a period of up to five years from the
date of reclassification.

Sec. 9. RCW 84.34.330 and 1992 c 52 s 17 are each amended to read
as follows:

(1) Whenever farm and agricultural land or timber land has once
been exempted from special benefit assessments ((pursuant to)) under
RCW 84.34.320, and except as provided in subsection (2) of this
section, any withdrawal or removal from classification or change in use
from farm and agricultural land or timber land under chapter 84.34 RCW
((shall)) results in the following:

((±+)) (a) If the bonds used to fund the improvement in the local
improvement district have not been completely retired, ((such)) the
land ((shall)) immediately becomes liable for: ((±+)) (i) The amount
of the special benefit assessment listed in the notice provided for in
RCW 84.34.320; plus ((±+)) (ii) interest on the amount determined in
((±+)) (a)(i) of this ((section)) subsection (1), compounded annually
at a rate equal to the average rate of inflation from the time the
initial notice is filed by the governmental entity ((which)) that
created the local improvement district as provided in RCW 84.34.320 to
the time the ((owner withdraws such land)) land is withdrawn or removed
from the exemption category provided by this chapter((±+)).
If the bonds used to fund the improvement in the local improvement district have been completely retired, the land immediately becomes liable for: (a) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320; plus (b) interest on the amount determined in (2)(a) (b)(i) of this subsection compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity that created the local improvement district as provided in RCW 84.34.320, to the time the bonds used to fund the improvement have been retired; plus (iii) interest on the total amount determined in (2)(a) (b)(i) and (ii) of this subsection (1) at a simple per annum rate equal to the average rate of inflation from the time the bonds used to fund the improvement have been retired to the time the land is withdrawn or removed from the exemption category provided by this chapter.

The amount payable pursuant to under this section (shall) becomes due on the date the land is withdrawn or removed from its farm and agricultural land or timber land classification and is a lien on the land prior and superior to any other lien whatsoever except for the lien for general taxes, and is enforceable in the same manner as the collection of special benefit assessments are enforced by that local government.

(2) Designation as forest land under RCW 84.33.130(1) as a result of a merger of programs adopted under section 5 of this act is not considered a withdrawal, removal, or a change in use under this section.

Sec. 10. RCW 84.34.340 and 1992 c 52 s 18 are each amended to read as follows:

(1) Whenever farm and agricultural land or timber land is withdrawn or removed from its current use classification as farm and agricultural land or timber land, except as provided in subsection (2) of this section, the county assessor of the county in which the land is located must give written notice of the withdrawal or removal to the local government or its successor that filed with the assessor the notice required by RCW...
84.34.320. Upon receipt of the notice from the assessor, the local
government (shall) must mail a written statement to the owner of
(such) the land for the amounts payable as provided in RCW 84.34.330.
(such) The amounts due (shall be) are delinquent if not paid within
one hundred (and) eighty days after the date of mailing of the
statement, and (shall be) are subject to the same interest,
penalties, lien priority, and enforcement procedures that are
applicable to delinquent assessments on the assessment roll from which
that land had been exempted, except that the rate of interest charged
(shall) may not exceed the rate provided in RCW 84.34.330.

(2) Designation as forest land under RCW 84.33.130(1) as a result
of a merger adopted under section 5 of this act is not considered a
withdrawal or removal under this section.

Sec. 11. RCW 84.34.370 and 1992 c 52 s 20 are each amended to read
as follows:

(1) Except as provided in subsection (2) of this section, whenever
a portion of a parcel of land (which) that was classified as farm and
agricultural or timber land (pursuant to) under this chapter is
withdrawn or removed from classification or there is a change in use,
and (such) the land has been exempted from any benefit assessments
(pursuant to) under RCW 84.34.320, the previously exempt benefit
assessments (shall) become due on only that portion of the land
(which) that is withdrawn, removed, or changed.

(2) Designation as forest land under RCW 84.33.130(1) as a result
of a merger of programs adopted under section 5 of this act is not
considered a withdrawal, removal, or a change in use under this
section.

Passed by the Senate February 17, 2014.
Passed by the House March 12, 2014.
Approved by the Governor March 28, 2014.
Filed in Office of Secretary of State March 31, 2014.
Amendment of Whatcom County Code 12.60 Road Naming System

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.
Memo

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

Through: Frank M. Abart, Director

From: Roland Middleton, LEG, Special Projects Manager

Date: July 9, 2014

Re: Amending Whatcom County Code 12.60; the Road Naming System

Requested Action:

The Department of Public Works requests that the proposed amendment to the Road Naming System (WCC 12.60) be introduced at the July 22, 2014 Council meeting. We then request that a Public Hearing be advertised and held August 5, 2014 at that evening’s County Council meeting with the amendment ordinance adopted at said meeting.

Background and Purpose:

The current Road Naming System (WCC 12.60) does not provide a procedure for an applicant to request a change of an existing road name. In addition, Public Works has identified additional changes to WCC 12.60 to improve the implementation and administration of the code. The proposed amendment to WCC 12.60 will provide a public procedure for any applicant to request a change to a road name, and clarifies additional issues with the Whatcom County Road Naming System.

Furthermore, on September 16, 1982, the Lummi Indian Tribe and Whatcom County agreed in an Intergovernmental Agreement to provide the Lummi Nation with the opportunity to change the name of Haxton Way (Hallauer Consent Decree/ Civil Action No. 79-682R) with certain conditions (See attached Inter-local). The Lummi Indian Business Council has requested Whatcom County to initiate the process to change the name of Haxton Way.

The Lummi Nation has two options in renaming Haxton Way:

1) Follow the terms of the inter-local and submit a road name following the guidelines of the inter-local with a name incorporating Haxton within the new designation. Whatcom County would facilitate the process of the name change as per the revised code without requiring the fee, but with adequate public notification to ensure a proper transition to the new name by property owners, first responders, and the post office. (Lummi Nation to provide data as needed to help facilitate the process)

2) Submit a request of name change with corresponding fees as per the new code, and follow the policies and procedures as set forth in the code. The ultimate decision of the name change approval rests with the Whatcom County Council.
ORDINANCE NO. ________

AMENDMENT TO WCC 12.60
ROAD NAMING SYSTEM

WHEREAS, on September 16, 1982, the Lummi Indian Tribe and Whatcom County agreed in an Intergovernmental Agreement to provide the Lummi Nation with the opportunity to change the name of Haxton Way (Hallauer Consent Decree/ Civil Action No. 79-682R); and

WHEREAS, the Lummi Indian Business Council has requested Whatcom County to initiate the process to change the name of Haxton way; and

WHEREAS, current Whatcom County Code (WCC 12.60) does not provide a procedure for an applicant to request a change of an existing road name; and

WHEREAS, the Public Works Department has identified additional changes to WCC 12.60 to improve the implementation and administration of the code; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Road Naming System (WCC 12.60) is hereby amended as shown on Exhibit A.

ADOPTED this _____ day of __________, 20___.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Daniel L. Gibson
Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed: __________________
Chapter 12.60
ROAD NAMING SYSTEM

Sections:

12.60.010 Purpose.

The purpose of this chapter is to provide for a logical system of road naming and address numbering, which is consistent with the desires of Whatcom County residents, with the Whatcom County Comprehensive Plan, and with the practical needs of county residents, emergency service providers, and visitors. (Ord. 96-049).

12.60.020 Definitions.

A. "Address" means the appropriate combination of address number, directional prefix or suffix, road name, and road type, e.g., 100 East Bakerview Road.

B. "Address grid system" means an imaginary network of uniformly spaced horizontal and perpendicular lines used to establish regularly spaced intervals as the basis for assigning address numbers.

C. "Address marker" means a marker with numbers on two sides used to designate an address number along a road, or numbers affixed to a building.

D. "Address number" means the assigned property number which is written ahead of the road name, e.g., '525' Noon Road, and shall be numerical only.
Exhibit A

E. "Alpha road name" means a word, usually a proper or common noun, or a combination of words used to identify a road, e.g., 'Smith' Road, 'Trout Lake' Road.

F. "Applicant" means the individual(s) or entity responsible for initiating the creation or expansion of a road, or requesting the change of the name of an existing road.

G. "Block number" means the 100 number interval based on the address grid system.

H. "Building address number including building designation" means the property number assigned to a building.

I. "Directional prefix" is the word such as "West" or "East" placed ahead of the name of a road.

J. "Directional suffix" is the word such as "West" or "East" placed after the road type, e.g., Willow Lane East.

K. "Driveway": Primary function is to provide direct access to property.

L. "Joint driveway" means a driveway with primary function to provide direct access for up to four properties.

M. "Mobile home park" means any parcel of land or adjacent parcels of land in the same ownership which is utilized for occupancy by more than two mobile homes.

N. "Numeric road name" means an ordinal number used to identify a road, e.g., '2nd Street', '31st' Avenue.

O. "Private road" means a road which is on private property and which is maintained with private funds.

P. "Recreational vehicle park" means a parcel of land in which three or more sites are primarily for occupancy by recreational vehicles for travel, recreation or vacation uses.

Q. "Right-of-way" means a legal right of passage over a piece of land, generally established by either dedication, ownership, or easement.

R. "Road" means a travel way intended for the use of motorized vehicles or other modes of transportation.

S. "Road name sign" means a sign designating the name of a travel way.

T. "Road name type" follows the road's alpha road name proper and indicates the type of travel way, e.g., Britton 'Road', Sunset 'Lane'. (Ord. 96-049).
12.60.030 Responsibilities of the public works department.
A. Whatcom County department of public works, hereinafter called the department, is directed to assign and/or change address numbers to buildings and unimproved property, to facilitate and record the naming of roads, and to assure placement of road name signs, according to the provisions of this chapter.

B. The department will recommend to the executive for approval by the county council rules and regulations regarding all address numbering and road naming policies.

C. The department and the applicant shall work cooperatively and in a timely manner to facilitate and expedite the procedures required by this chapter. (Ord. 96-049).

12.60.040 Appointment and responsibilities of the citizen address and road name appeals committee.
A. The county council shall appoint a citizen address and road name appeals committee, hereinafter called the "citizen appeals committee", of five members representing the diversity of Whatcom County residents. Committee members shall serve three-year overlapping terms and shall be eligible for reappointment.

B. The responsibilities of the citizen appeals committee shall be as follows:

1. Consider and decide appeals of address numbering, and road name assignments and corrections;

2. Review and decide appeals in enacting the policies and procedures of this chapter;

3. Develop a list of preapproved road names from which applicants may choose;

4. May propose changes or additions in the county's address numbering, road naming, and sign policy.

C. Decisions by the citizen appeals committee may be appealed by the department to the county council. (Ord. 96-049).

12.60.050 Requirement for road name.
A. Road names shall be required for all public roads and private roads now existing or hereafter created when such roads:

1. Are any length and serve five or more lots; or

2. Are 1,000 feet or greater in length and serve three or more lots.

B. Roads which are not required to be named by the standards of WCC 12.60.050A above may also be named at the unanimous request of the applicant and/or all the property owners served by the
Exhibit A

road when said road serves three or four existing lots. There must be a minimum of three lots currently being served by the road to name the road. (Ord. 96-049).

12.60.060 Criteria for road name selection.
A. Objectives. Names should be pleasant sounding, appropriate, and easy to read and pronounce (so that the public, and children in particular, can handle the name in an emergency situation) and shall meet What-Comm (9-1-1) computer programming requirements.

B. Recommended Types of Names. Names of local historic families, individuals, landmarks and events, features of the natural terrain, plants and animals, names of aesthetic or community significance.

C. Unacceptable Names. Numeric (e.g., 42nd, 56th, Fifty-Fifth, etc.) if they have already been used or if they do not conform to the address grid system; alphabetical letters (A, B, C, etc.); frivolous, complicated or unseemly names (e.g., My Road, Slick Road).

D. Avoidance of Name Duplication. Similar sounding names shall be considered duplication regardless of spelling. No duplication of names shall be permitted within Whatcom County. Road type shall not be used to distinguish road names within these areas, except in logically compelling instances where there is contiguity (e.g. Oak Circle at the end of Oak Street; but not Oak Lane at a location not contiguous with Oak Street). Directional indicators (e.g., North, South, Northeast) shall not be allowed as street names to distinguish noncontiguous roads (i.e., if there were an existing Wilson Road, "North Wilson Road" could not be considered a distinct, nonduplicative name).

E. Road Type Designations. Due to existing road names, "view", "vista", "trail", and "plaza" shall not be permitted as a road name type. The designation "highway" shall be reserved for state and federal administered roads. The road name types "road" and "street" shall be reserved for Whatcom County public roads only.

F. Directional Prefixes. Roads running east-west which intersect (cross or abut) the Guide Meridian shall be prefixed "East" on the east side of the Guide and "West" on the west side of the Guide.

G. Directional Suffixes. Directional suffixes shall not be allowed in road names. (Ord. 96-049).

12.60.070 Name assignment procedure.
A. The applicant for a new road may propose three original names: a preferred name and two alternates. The department shall provide the road applicant with a copy of this chapter and a list of preapproved names from which a road name may be selected, if the applicant prefers not to propose an original name.

B. If preapproved name is not selected, the road name approval process shall consist of submission to the department for review including What-Comm 9-1-1 and the local fire chief district(s) according to the criteria set forth in WCC 12.60.060.
C. If an appeal is made, the citizen appeal committee shall evaluate the appeal with regard to compliance, review proposed road names for appropriateness, and make recommendations on new road names and road name changes.

D. When the recommendations of the department and the citizen appeals committee do not agree, or when the applicant contests the decisions of the department and the citizen appeals committee, the matter may be referred to the council for consideration. (Ord. 96-049).

12.60.080 Road name signs.
A. Signs on public county roads shall be placed and maintained by the county. When an applicant dedicates a road to the public, the applicant shall pay for the initial installation of the road name sign(s).

B. Signs on new private roads shall be installed and maintained by the applicant in accordance to Whatcom County Development Standards. On existing private roads, the responsibility for installation and maintenance of signs shall rest collectively with the owners of real property which abuts or may use the private road as access or as outlined in the plat covenants. (Ord. 96-049).

12.60.090 Road sign specifications.
A. For Arterial Roads. The color and letter size shall be consistent with current county road signs for all public county roads. In addition to the road name, block numbers shall be shown on all new and replacement arterial road signs.

B. For Private Roads. Signs designating private roads shall be the same style as public road signs in accordance with Whatcom County Development Standards. Block numbers shall be shown on or with all new and replacement private road signs at public road intersections. (Ord. 96-049).

12.60.100 Address numbering system.
A. An address numbering system following a grid pattern of 400 three- or four-digit numbers per mile meets current and projected future needs in Whatcom County. This system provides for one address number every 26.4 feet on either side of the road. (Ord. 96-049).

B. Except for Point Roberts, the horizontal (east-west) base line is the Whatcom County and Skagit County border. Numbers 0 to 99 are reserved for parcels in Skagit County that access and are addressed on Whatcom County roads. The base line is 100, and addresses increase to the north by 100 numbers per quarter-section line, 400 numbers per approximate mile.

C. Except for Point Roberts, the vertical (north-south) base line is the dividing line between range 2 east and range 3 east (Guide Meridian for most of the county). The base line is 100 and addresses increase going east and increase going west by 100 numbers per quarter-section line, 400 numbers per approximate mile.

D. For Point Roberts, the horizontal (east-west) base line is the theoretical western section line of 40N 3W 33. The base line is 1000 and addresses increase going east by 100 numbers per quarter-section line.
Exhibit A

400 numbers per approximate mile. The vertical (north-south) base line is the Canadian border. The base line is 0, and numbers increase to the south by 100 numbers per quarter-section line, 400 numbers per approximate mile.

E. Addresses on the north side of an east-west running road will be even numbers; addresses on the south side of an east-west road will be odd numbers. Addresses on the east side of a north-south running road will be even numbers; addresses on the west side of a north-south road will be odd numbers.

12.60.110 Correction of address number sequence.
The department shall make corrections where necessary to accomplish full implementation of the address numbering system for all county addresses in accordance with the following time-line and criteria:

A. The department shall correct addresses beginning in 1997, and shall continue until the entire county has been reviewed and corrected.

B. One fourth of the county shall be reviewed and corrected each year for four years. The quarter of the county being corrected shall correspond with the geographical quarters used by the county assessor's office. This review shall not preclude the department from making addressing corrections as needed.

C. Notices of address corrections shall be mailed to affected property owners in October, and become effective in April of the year following review six months after notification by the department.

D. Address changes shall become effective within six months of issuance. (Ord. 96-049).

12.60.120 Address number assignment.
A. The department shall assign address numbers to previously unaddressed lots prior to issuance of a building permit.

B. New address number assignments and address number corrections shall follow the address number system. New address numbers shall logically fit into the existing numbering system of the particular area. When incorrect address numbers are found during the permit process, corrections should be made to those addresses at that time.

C. One address per legal lot of record shall be assigned, and except in the following cases when the lot of record hosts:

1. One or more individual multiple dwelling or multiple occupant buildings (e.g., apartment buildings, condominiums, duplexes, quadplexes, office buildings, strip malls), then each building shall have there shall be one separate address per building for multidwelling units or alternately one address number may be assigned for the entire complex with alphabetical letters
assigned to the individual buildings as a prefix to the individual apartment identification, with alpha designators or suite numbers to distinguish between individual residences within each multidwelling unit.

2. One or more permitted detached accessory dwelling units, then each unit shall have a separate address.

2. An alpha building designator on a legal lot shall be allowed for a permitted attached accessory dwelling unit. (Ord. 96-049).

D. For nondwelling type detached accessory structures (e.g., shops, garages, barns), separate addresses shall not be assigned different from the primary lot of record address.

E. For multiple dwelling and multiple occupant building, alpha designator or suite number suffixes shall also be used in combination with the primary lot of record address.

F. For permitted attached accessory dwelling units, alpha designator suffix use is optional in combination with the primary lot of record address.

G. For mobile home and recreational vehicle parks, site numbers shall be assigned to the individual mobile home or recreational vehicle sites and not to the mobile homes or recreational vehicles themselves. One address number shall be assigned to the mobile home or recreational vehicle park as a whole. The address of any one unit in the mobile home or recreational vehicle park shall consist of the mobile home or recreational vehicle park address followed by the site number.

12.60.130 Life, safety, and property protection standards for address designation markers.

A. The owner of real property on which any building is located which is habitable or tenantable for residential, commercial, business, storage, or other purposes shall be responsible for ensuring that the proper address numbers are placed in such a position as to be plainly visible and legible from the road fronting the property.

B. Address Designation Marker. Where the building is not visible from the road or the address is not legible from the road, or more than one building is on a site, one address designation marker per building or address shall be provided at the junction of the driveway and the named road, and another address designation marker should be provided at the intersection of the individual driveway and the joint driveway. The ultimate responsibility for health and safety issues on private property rests with the property owner.

1. Placement. Address designation markers shall be placed so that the numbers are not obstructed by grass or landscaping. Installation and maintenance are the responsibility of the property owner.
2. Installation. Installation and maintenance of temporary address designation markers during all permitted construction shall be the responsibility of the permit applicant in compliance with subsections B and C of this section.

3. Specifications. Address designation markers must be visible at night. The minimum standard shall be three-inch numbers arranged horizontally or vertically on a clearly contrasting background. Reflective numbers and reflective backgrounds are recommended. Blue and white are the recommended colors to be used on address designation markers.

C. The property owner(s) of mobile home and recreational vehicle parks are responsible for ensuring that each space is marked with the individual site number. The site number shall be easily visible and legible and affixed to some permanent structure located on the space. In mobile home and recreational vehicle parks with multiple access lanes, the access lanes shall be marked with the range of site numbers served.

C. Specifications for Mobile Home Parks. In mobile home parks, including RV parks, site numbers shall be assigned to the individual mobile home sites and not to the mobile homes themselves. One address number shall be assigned to the mobile home park as a whole. (The address of any one unit in the mobile home park shall consist of the mobile home park address followed by the site number.) The property owner(s) of mobile home parks are responsible for ensuring that each mobile home space is marked with the individual site number. The site number shall be easily visible and legible and affixed to some permanent structure located on the mobile home space. In mobile home parks with multiple access lanes, the access lanes shall be marked with the range of site numbers served.

D. Specifications for Apartment Complexes. One address number per building shall be assigned to each apartment building in the complex. The address of any one (individual apartment) unit in the apartment building shall consist of the address of the building followed by the individual apartment identification.

E. Map Signs. In apartment complexes or mobile home parks where multiple buildings exist, map signs are recommended to be posted at the main entrance of the complex. (Ord. 96-049).

12.60.140 Road name changes and procedures.
Some road names warrant being changed in order to reduce confusion arising from duplicate names or by different names on segments of the same travel way (which may or may not change direction). In addition, a request may be made to change an existing road name. Whenever possible, road name changes shall be made concurrently with correction of address number sequencing (refer to WCC 12.60.110). The road(s) shall be renamed by the following procedure:

A. For department-initiated road name changes, the department shall notify all property owners with addresses that use the current road name (affected property owners) served by the roads that their road(s) requires a name change. Within this notification, the (affected) property owner shall be informed of the opportunity they have to participate in the selection of the new road name, and the department shall also outline the following:
Exhibit A

First Notification:

1. The reason for the road name change (duplication, merging roads, etc.);

2. The two (or more) existing affected road names;

3. The department may recommend road name(s) or changes based on the following criteria:
   a. WCC 12.60.060, Criteria for road name selection,
   b. WCC 12.60.070, Name assignment procedure,
   c. Historical records (deeds, plats, etc.),
   d. Date on which road(s) were named,
   e. Number of affected residents and/or property owners of record located on each road,
   f. Extenuating circumstances known by the department,
   g. Preapproved road name list;

4. The date at which a response is due back to the department, any additional circumstances to be considered, and the road name proposals (a three-week period).

Second Notification:

1. A brief summary of prior notice;

2. A list of all proposed road names submitted by residents;

3. A date in which the residents need to submit their top two choices (a two-week period).

Third Notification:

1. Talled results from responses for new road name. The department will strive to obtain consensus.

2. An outline of the appeal process with the deadline to submit an appeals request (three weeks from date of third notice);

3. The department will make the official road name announcement;

4. The date when the new road name may become effective (additional three-week period).
   (Ord. 96-049).
B. For non-department-initiated road name changes, the applicant shall submit a road name change application form (which the department shall create and maintain consistent with this chapter) to the department, together with the fees per the Whatcom County Unified Fee Schedule.

1. Each road name change application shall include the following:

   a. A vicinity map showing the existing road.
   
   b. The current name of the road.
   
   c. The proposed name of the road.
   
   d. The reason for the road name change.
   
   e. List of names, mailing addresses, and parcel numbers of all property owners with addresses that use the current road name (affected property owners).
   
   f. Typed, self-adhering (self-stick) mailing labels containing the names and addresses of all affected property owners.
   
   g. A notarized affidavit certifying that the above statements and the information contained in any papers or plans submitted are true and accurate to the best of the applicant's knowledge, and that the list of affected property owners is complete and current.

2. The department will send a notice of the requested road name change to the affected property owners, What-Comm 9-1-1, and the local fire district(s), asking for comments on the requested road name change.

3. The notice will provide a 30 day comment period.

4. The department shall provide a staff report to the Whatcom County Council including, but not limited to, the following information:

   a. The comments received on the requested application.
   
   b. An analysis on the name change meeting the criteria of WCC 12.60.060.
   
   c. Cost of changing the road signs.

5. The Whatcom County Council will hold a public hearing and make a decision on the request.
6. If the Whatcom County Council approves the request, the ordinance changing the road name will include the requirement for the applicant to reimburse the department for the actual cost of the road sign changes.

12.60.150 Master map.
The department shall develop a master map of all public and private roads in Whatcom County in conjunction with WCC 12.60.110 and shall maintain and keep current thereafter. (Ord. 96-049).

12.60.160 Compliance requirements and penalties.
A. All address assignments or changes duly required by the department shall be recorded on title transfers.

B. Any person, firm, or corporation violating any of the provisions of this chapter, or of the codes adopted by reference by this chapter, shall be deemed guilty of a civil offense and shall be given 30 days to correct the situation and shall be fined not more than $250.00 for each offense. (Ord. 96-049).

12.60.190 Severability.
If any portion of this chapter is deemed to be invalid or inoperative, all remaining sections shall continue in effect. (Ord. 96-049).
INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and executed by and between WHATCOM COUNTY, a municipal corporation of the State of Washington, hereinafter designated as the "County", and the Lummi Indian Tribe, an Indian Tribe recognized as such by the federal government, hereinafter designed as "LIT".

WHEREAS, the parties to this Agreement recognize the need for closer governmental ties in order to promote the efficient administration of a variety of governmental services for the benefit of their constituents.

NOW, THEREFORE, IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

1. The County recognizes the importance of identifying the boundaries of the Lummi Reservation and hereby acknowledges the propriety of placing suitable signs identifying same at appropriate boundary points.

2. The County shall recognize and give effect to building, construction, zoning, shoreline management, development, and other similar permits issued by the LIT planning office for property located upon the Lummi Reservation; provided, that the standards for issuance of such permits by the Tribe shall be the same as those imposed by the County.

This provision is not intended to limit or remove the County's authority to issue permits for those properties within the Reservation subject to County jurisdiction.

3. With regard to land located within the Lummi Reservation, the County shall cause a stamp to be placed upon all deeds, permits, records and tax statements filed with or issued by the County to the effect that such land is located within the Lummi Indian Reservation and tribal laws may apply to the land and activities occurring thereon. The stamp shall give the address and telephone number of the LIT offices.
4. The County and LIT shall seek to obtain grants or other funding for the purpose of repairing and/or upgrading Lummi Shore Road.

5. The County Engineer shall determine whether access for children to the beach area on Lummi Shore Road, at the Portage, is feasible either through removal of a portion of the rip rap, construction of a walkway, or by some other means which will not adversely affect the roadway or incur significant cost. If such access is feasible, the County and LIT will jointly undertake implementation of such project.

6. A name, to be chosen by LIT, shall be added to Haxton Way so as to create a new roadway designation incorporating both names. Ten years subsequent to creation of the new designation the parties shall determine, by mutual agreement, whether the designation shall be retained, altered, or otherwise changed.

7. The LIT is working on plans for the development of the Gooseberry Point Small Boat Harbor. The County recognizes that this project involves LIT property located exclusively within the boundaries of the Lummi Reservation and, therefore, that the LIT has jurisdiction over said project. LIT agrees that the construction, use and enjoyment of the Gooseberry Point Small Boat Harbor shall be conducted in such a manner as not to interfere with the operation of the County ferry service to Lummi Island.

8. The County Sheriff shall recommend members of the tribal police force to the State Patrol Academy; provided, that the tribal police meet the Sheriff's standards for deputies.

9. Whereas, the County has agreed to formally recognize the LIT as the government of the Lummi Indian Reservation
within the framework of Federal, Tribal and State law, and to treat the Lummi Indian Tribe as a self-governing entity, the LIT hereby agrees to exercise its governmental powers, as to all people coming within its jurisdiction, in accordance with the requirements and principles of due process of law and the equal protection of the laws.

10. This Agreement is conditioned upon the entrance, and approval by the court, of a Consent Decree by the parties hereto in the federal district court under Civil Action No. 79-682R.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 6th day of September, 1982.

LUMMI INDIAN TRIBE

BY: Edward Jones

WHATCOM COUNTY

BY: John Louws
County Executive
# WHATCOM COUNTY COUNCIL AGENDA BILL

## CLEARANCES

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<td>7/8/14</td>
<td>7/15/14</td>
<td>July 22, 2014</td>
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<td>B</td>
<td>7-8-14</td>
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### Executive:

Jack Louws

## TITLE OF DOCUMENT:

A resolution approving recommendations on one application for open space current use assessment on lands located within the City of Ferndale.

## ATTACHMENTS:


Background Documents on file with the Council Office: Staff Report, Maps, Photos, and other Documents.

### SEPA review required?

( ) Yes (X) No

### SEPA review completed?

( ) Yes N/A

### Should Clerk schedule a hearing?

( ) Yes ( ) No

### Requested Date: August 5, 2014

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## SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

In accordance with WCC, Section 3.28.020 which establishes procedures for processing applications for open space current use taxation, Whatcom County Planning Commission recommendations are hereby forwarded to the Whatcom County Council to approve in whole or in part or to deny one application for open space current use assessment as authorized by the Open Space Taxation Act (Chapter 84.34 RCW).

The lands that are subject of this application are located entirely within the corporate boundaries of the City of Ferndale. The Open Space Taxation Act provides that the City and County may meet as one body to act on such applications or hold separate hearings. The City of Ferndale Planning Director has indicated that the City has elected to take separate action and expects to hold a separate hearing on this application on or about August 18, 2014. Official action taken by City of Ferndale after a second hearing will complete the approval/denial on this application in accordance with RCW 84.34.037(1).

A draft resolution has been prepared to initiate Council action should they wish to approve Planning Commission recommendations, and a copy of this resolution has been forwarded to the City of Ferndale for review in making its decision on whether to approve in whole or in part or deny the subject application.

* Distribution Request: Assessors Office – Janice Judge

## COMMITTEE ACTION:

7/22/2014: Introduced 7-0

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Related County Contract #: Related File Numbers: OS2014-1 Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
TO: Honorable Jack Louws, Whatcom County Executive, & Honorable Members of the Whatcom County Council

THROUGH: J.E. "Sam" Ryan, Planning & Development Services, Director

FROM: Erin Osborn, Planner

DATE: July 14, 2014

SUBJECT: Open Space Application in City of Ferndale

Presented here for your consideration is an attached packet containing Planning Commission recommendations to approve one application for open space tax classification located within the City of Ferndale. A draft resolution is also attached should the Council wish to approve recommendations made by the Planning Commission, after a public hearing is held on the application.

The applicant is requesting reclassification of land currently classified as designated forest land (Chapter 84.33 RCW) to Timber Land as authorized under the Open Space Taxation Act (Chapter 84.34 RCW). This application was reviewed as part of a larger group of applications presented to the Planning Commission last month, but because the land is located in an incorporated area, it requires a slightly different approval process.

The County Council, acting as granting authority, may approve in whole or in part or deny applications to classify or reclassify land in the unincorporated areas of the county. Applications to classify or reclassify land located within the jurisdiction of an incorporated area may be approved after a decision is made by a joint granting authority that assembles as one body (composed of three members of the County and three members of the City), or by each body taking separate identical affirmative acts. (RCW 84.34.037)

The City of Ferndale has indicated that instead of assembling as a one body, it prefers to take separate action at its own hearing likely to be held on August 18, 2014. The City has expressed an inclination to approve the application subject to a condition, paraphrased: 'approval will not exempt current or land owners or heirs from the requirement of obtaining City of Ferndale land use development permits'.

I look forward to presenting a brief overview on this application at an upcoming public hearing.

Thank you.
RESOLUTION NO: 

APPROVING RECOMMENDATIONS ON ONE APPLICATION FOR OPEN SPACE CURRENT USE ASSESSMENT IN CITY OF FERNDALE

WHEREAS, The Open Space Taxation Act, codified as Chapter 84.34 RCW, gives counties authority to approve applications for current use classification and reclassification for the following classifications: Open Space Land, Farm & Agricultural Conservation Land, Farm and Agricultural Land, and Timber Land; and

WHEREAS, Pursuant to Whatcom County Code, Section 3.28.020, applications for the classification of Open Space Land, Farm & Agricultural Conservation Land and Timber Land are received and evaluated by Whatcom County Planning and Development Services Department staff, and the results of this evaluation are then presented to the Whatcom County Planning Commission for their review and consideration in making recommendations to the County Council on whether to approve the applications in whole or in part; and

WHEREAS, Pursuant to RCW 84.34.055 and WAC 458-30-330 Whatcom County has adopted a Public Benefit Rating System (PBRS) by Ordinance # 95-040, which is used by staff to rate applications for Open Space Land and Open Space Farm & Agricultural Conservation Land; and

WHEREAS, Pursuant to Whatcom County Ordinance # 95-040 applications for Timber Land are no longer reviewed under the County's PBRS, and are instead reviewed for consistency with the definition of Timber Land as defined in RCW 84.34.020(3) and the required Timber Management Plan is reviewed for conformance with RCW 84.34.041; and

WHEREAS, On June 26, 2014, the Whatcom County Planning Commission held a work session and considered staff recommendations, asked clarifying questions from applicants or their agents who were present on applications referenced in Master File Number OS2014-1, and voted to make recommendations
to the Whatcom County Council on whether to approve in whole or in part or deny each application; and

WHEREAS, Pursuant to RCW 84.34.037, applications to classify or reclassify lands that are located entirely within unincorporated Whatcom County are approved or disapproved by the County Council who acts as the granting authority; and

WHEREAS, One of the applications referenced under Master File Number OS2014-1 (E. Bailey & Bailey Trust) was a split jurisdiction application, comprising lands located both in the City of Ferndale and also comprising lands located within unincorporated Whatcom County; and

WHEREAS, Applications to classify or reclassify land that are located entirely within an incorporated area must be acted upon by a joint granting authority, whereby applications may be approved by each legislative authority taking separate but affirmative actions, or by three members of each legislative body meeting together as one body to act on applications for the purposes of approval or denial; and

WHEREAS, The City of Ferndale Planning Director indicated that due to various challenges associated with scheduling, the Ferndale City Council would likely prefer to act separately on the applications, and proposed that the City Council would likely schedule and hold a separate hearing on the subject applications on or about August 18, 2014; and

WHEREAS, On August 5, 2014, in good faith that the City of Ferndale would take its own action on the subject applications, the Whatcom County Council held its own public hearing and considered recommendations from the Whatcom County Planning Commission, staff recommendations, and considered all input from the public on the application referenced in Master File Number OS2014-1 that is located on lands located within the City of Ferndale; and

WHEREAS, Pursuant to WAC 197-11-800(6)(c), matters relating to Open Space Current Use Assessment are exempt from environmental review under the State Environmental Policy Act (SEPA); and

WHEREAS, Pursuant to RCW 36.70.390, the statutory requirements regarding legal notice have been met; and

WHEREAS, The County Council has adopted the following pertinent Findings of Fact and Reasons for Action:

1. Whatcom County Planning and Development Services received five applications to classify or reclassify land under the open space current use program (Chapter 84.34. RCW) on lands located within the jurisdiction of Whatcom County and on lands located within the City of Ferndale. These applications were processed as a group under Master File Number OS2014-1.
2. Of the five applications referenced in OS2014-1: one is for Open Space Land (OSL), one is for Farm and Agricultural Conservation Land (a sub-classification of open space land) (OSFACL), and three applications are for the classification of Timber Land (OSTL). Upon receipt of these applications, Planning and Development Services staff evaluated the open space land and farm and agricultural conservation land applications with the Public Benefit Rating System (PBRS), and evaluated applications for timber land for conformance with Subsection 84.34.020(3) & 84.34.041 of the Open Space Taxation Act (RCW 84.34).

3. Staff prepared a report for the Planning Commission with recommendations on whether to approve in whole or in part or to deny these applications based on review with the applicable evaluation criteria and scores assigned (as applicable). This report was presented to the Whatcom County Planning Commission and to members of the public who were present at the Whatcom County Planning Commission meeting work session held on June 26, 2014.

4. At the June 26, 2014 Planning Commission Work Session, staff gave an approximately 30 minute overview presentation on the Open Space Current Use Program, its statutory and local authority, a brief overview on the Open Space Taxation Act, and outlined the respective roles of the Planning Commission, County Council, County Assessor's Office, and Joint Granting Authority (for applications located within incorporated areas) in reviewing these type of applications. As part of this overview presentation, staff noted that decisions made to approve or deny applications authorized under the Open Space Taxation are reviewable (by Superior Court) only for "arbitrary & capricious actions". Staff also noted, that based on earlier Planning Commission suggestions, and per direction from the County Council and County Executive a preliminary draft report had been prepared by staff which summarized the PDS open space current use program, analyzed key issues in program administration, and that this report (dated December 6, 2013) had been submitted to PDS management and County Executive for their review.

5. Upon conclusion of the staff overview on the open space current use program, staff then made an approximately 45 minute presentation going over each of the individual applications referenced in Master File OS2014-1, pausing to answer questions from commissioners. The single application for the classification of open space land was presented first, followed by the single application for farm and agricultural conservation land, and then a presentation on the three timber land applications. Staff noted that of the applications for timber land one was a "split jurisdiction", noting that after the application was received portions of the land subject of application was annexed by the City of Ferndale. Staff suggested that commissioners wait to deliberate and make motions on each application until after staff presentation on individual applications.

6. After staff presentations and Planning Commission deliberation and votes on the Open Space Land and Farm and Agricultural Conservation Land applications, staff presented the timber land applications.

7. Staff explained to the Planning Commission that staff recommendations of
approval on timber land applications are based on whether the application meets the definition of timber land as defined in RCW 84.34.020(3), and whether the Timber Management Plan submitted on file as part of the application is consistent with RCW 84.34.041 which outlines the elements of a timber management plan. Based on staff review and site inspections, staff recommended approval on all three of the timber land applications. Staff recommendations of approval were based on review of the timber management plans submitted, site inspections to verify that forest conditions matched those identified in the Plans, and for overall conformance with state law.

8. Prior to voting on timber land applications, one of the Planning Commissioners asked for information about the loss of revenue or shift in taxes that would result from approving an application for timber land, and asked why this information was not provided on the timber land applications. Staff indicated that this information was not provided because it is not one of the criteria considered for approval or disapproval. The commissioner asked if staff would be prohibited from providing this information, and staff indicated that while there is no prohibition on the provision of this information, adding that it could be provided in the future, it can’t be the basis on which a decision to approve or not approve is based, because this information is not a criteria for approval. The commissioner indicated that he would vote to deny all of the timber land applications because information on loss of revenue or shift in taxes was not provided.

9. Whatcom County Planning Commissioners considered staff findings and recommendations on the E. Bailey and Bailey Trust application, and staff suggested that two separate votes be taken on the E. Bailey and Bailey Trust application respective of the jurisdiction in which the subject property was located.

10. After deliberations, the Planning Commission voted to recommend that the County Council approve the portion of the E. Bailey and Bailey Trust timber land application in the jurisdiction of the City.

11. The Planning Commission also voted to recommend that the County Council approve the E. Bailey and Bailey Trust timber land application unincorporated Whatcom County.

12. On July 1, 2014, PDS staff contacted City of Ferndale Planning Director, Jori Burnett and a discussion was held to learn about the City’s preferences on review of the subject applications. Mr. Burnett indicated that due to various challenges with scheduling, it would probably be best if the City would hold its own hearing to approve a separate resolution to act on the subject application. Mr. Burnett requested that any approval by the County Council include a granting condition affirming that ‘any approval granted does not exempt the owner or subsequent heirs from land use development permits required by the City of Ferndale’. PDS staff agreed to forward this to the Whatcom County Council, adding it as a proposed condition in a draft resolution prepared for the County Council’s consideration.

14. On July 8, 2014, Planning & Development Services prepared an Agenda Bill, Draft Resolution and attachments including all relevant information on file in regards to one application on lands located within the City of Ferndale, referenced under OS2014-1, and forwarded these materials to the Whatcom County Council. The agenda bill requested that the draft resolution be introduced at the regularly scheduled Council Meeting to be held on July 22, 2014, and also included a request for a public hearing to be scheduled on August 5, 2014.

15. On July 22, 2014, a draft resolution was introduced to the Council agenda for consideration by the County Council at a later date.

16. A public hearing was scheduled to take place before the County Council at their regularly scheduled evening meeting, to be held on August 5, 2014. Notice of this public hearing was published in the Bellingham Herald prior to the hearing. In addition, Applicants were sent a letter by US Mail stating that a public hearing would be held on their individual applications on August 5, 2014.

17. On August 5, 2014, the Whatcom County Council held a public hearing on applications to classify or reclassify lands that are located within the City of Ferndale as referenced under OS2014-1, and after considering all relevant information, and after considering input from the public, they made a final decision on whether to approve in whole or in part or deny the application referenced under OS2014-1 that is on lands located within the City of Ferndale.

NOW, THEREFORE, BE IT RESOLVED BY THE WHATCOM COUNTY COUNCIL:

1. Recommendations on the application for open space current use assessment referenced in Master File Number OS2014-1 that is located on lands located within the City of Ferndale, listed below, is hereby approved subject to conditions as noted herein:

Timber Land (OSTL)

OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust (application to reclassify lands located within the City of Ferndale)

Application to reclassify as Timber Land from Designated Forest Land Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 060364 0000 (PID: 90425): Application OSTL acres = 5.06
GEO ID: 390208 105297 0000 (PID: 90440): Application OSTL acres = 5.06
GEO ID: 390208 124252 0000 (PID: 90445): Application OSTL acres = 1.28

E. Bailey
GEO ID: 390208 022379 0000 (PID: 90406): Application OSTL acres = 5.06
GEO ID: 390208 087338 0000 (PID: 90433): Application OSTL acres = 5.06

Total Application OSTL acres in City of Ferndale = 21.52

Whatcom County Planning Commission Recommendation:

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan pursuant to RCW 84.34.041
3. Hold Harmless Agreement
4. Approval for reclassification from Designated Forest Land to Timber Land does not exempt the applicant/owner or any subsequent heir subject to this approval from requirements to obtain land use and development permits that are required by the City of Ferndale

2. The Whatcom County Council directs the Assessor to place the above referenced parcels into the appropriate open space current use classification.

3. Adjudication of invalidity of any of the sections, clauses, or provisions of this resolution shall not affect or impair the validity of the resolution as a whole or any part thereof other than the part so declared to be invalid.

APPROVED this __________ day of __________________________, 2013

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis
Clerk of the Council

Carl Weimer
Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
WHATCOM COUNTY PLANNING COMMISSION
FINDINGS OF FACT, REASONS FOR ACTION, AND
RECOMMENDATIONS

Applications for Open Space Current Use Assessment
Master File Number OS2014-1

THE WHATCOM COUNTY PLANNING COMMISSION ENTERS THE FOLLOWING
FINDINGS OF FACT, REASONS FOR ACTION, AND RECOMMENDATIONS:

FINDINGS OF FACT AND REASONS FOR ACTION

1. Whatcom County Planning and Development Services received five
applications to classify or reclassify land under the open space current
use program (Chapter 84.34. RCW) on lands located within the
jurisdiction of Whatcom County and on lands located within the City of
Ferndale. These applications were processed as a group under Master
File Number OS2014-1.

2. Of the five applications referenced in OS2014-1: one is for Open Space
Land (OSL), one is for Farm and Agricultural Conservation Land (a sub-
classification of open space land) (OSFACL), and three applications are
for the classification of Timber Land (OSTL). Upon receipt of these
applications, Planning and Development Services staff evaluated the
open space land and farm and agricultural conservation land
applications with the Public Benefit Rating System (PBRS), and
evaluated applications for timber land for conformance with Subsection
84.34.020(3) & 84.34.041 of the Open Space Taxation Act (RCW
84.34).

3. Staff prepared a report for the Planning Commission with
recommendations on whether to approve in whole or in part or to deny
these applications based on review with the applicable evaluation
criteria and scores assigned (as applicable). This report was presented
to the Whatcom County Planning Commission and to members of the
public who were present at the Whatcom County Planning Commission
meeting work session held on June 26, 2014.

4. At the June 26, 2014 Planning Commission Work Session, staff gave an
approximately 30 minute overview presentation on the Open Space
Current Use Program, its statutory and local authority, a brief overview
on the Open Space Taxation Act, and outlined the respective roles of the
Planning Commission, County Council, County Assessor’s Office, and
Joint Granting Authority (for applications located within incorporated
areas) in reviewing these type of applications. As part of this overview
presentation, staff noted that decisions made to approve or deny
applications authorized under the Open Space Taxation are reviewable (by Superior Court) only for "arbitrary & capricious actions". Staff also noted, that based on earlier Planning Commission suggestions, and per direction from the County Council and County Executive a preliminary draft report had been prepared by staff which summarized the PDS open space current use program, analyzed key issues in program administration, and that this report (dated December 6, 2013) had been submitted to PDS management and County Executive for their review.

5. Upon conclusion of the staff overview on the open space current use program, staff then made an approximately 45 minute presentation going over each of the individual applications referenced in Master File OS2014-1, pausing to answer questions from commissioners. The single application for the classification of open space land was presented first, followed by the single application for farm and agricultural conservation land, and then a presentation on the three timber land applications. Staff noted that of the applications for timber land one was a "split jurisdiction", noting that after the application was received portions of the land subject of application was annexed by the City of Ferndale. Staff suggested that commissioners wait to deliberate and make motions on each application until after staff presentation on individual applications.

6. Staff recommended approval on the application for Open Space Land (Hurlbut). Staff recommendation of approval on this application was based on an assigned Public Benefit Rating (PBR) score of 45 points or higher which, pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System is consistent with a staff recommendation of approval. Staff recommended approval after scoring the application with a public benefit rating (PBR) of 92.75.

The Hurlbut proposal included public access to the rear of the lots under consideration from the access that is provided to Stimpson Reserve and Lake Geneva Preserve abutting their .044 (+/-) parcel acres. Proposed public access to the wooded and grassy area north of the subject acres could be used for a viewpoint overlooking the lake, and for viewing birds and terrestrial species that frequent the site.

7. After deliberation, Planning Commissioners came to a consensus to recommend that the County Council approve the Hurlbut application in its entirety subject to staff’s recommended conditions.

8. Staff recommended approval on the single application for Farm and Agricultural Conservation Land (Hemnes). Staff recommendation of approval on this application was based on an assigned Public Benefit Rating (PBR) score of 45 points or higher, which pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System is consistent with a staff recommendation of approval. Staff recommended approval after scoring the application with a public benefit rating (PBR) of 57.12.
9. The Hemnes property was purchased in 2014. The land was (and at time of review was still) classified as Farm and Agricultural Land. Staff explained that current classification that applies to the land is different than the farm and agricultural conservation land classification being sought in that farm and agricultural land requires the owners to show income from commercial agriculture, but farm and agricultural conservation land does not. At the time of sale, it was discovered by the Assessor that the previous owners could not demonstrate income from commercial agriculture; therefore the Assessor signed off on the Notice of Continuance pending reclassification to a different classification authorized under the Open Space Taxation Act, by the new owners, Lucas and Amy Hemnes.

10. The Hemnes family manages a herd of approximately 55 head of beef cattle and uses the 3.81 acres to pasture about 4 head of beef (yearlings) as part of the larger operation. The long term plan is to continue to raise beef on the subject parcel, rotating stock during the winter months over to a barn and additional rented agricultural land on the Siper Road. Beef from the Hemnes herd is processed at a facility in Bow, Washington, and is sold locally to Boundary Bay Brewery, located in the city of Bellingham.

11. A proposed public access statement was discussed verbally between the applicant and staff, and then later confirmed with a written public access statement and proposed rules of public conduct. The proposal was that the applicants would give farm tours to prospective customers, and would be willing to provide farm educational opportunities to youth groups such as 4-H by appointment. Staff noted, there is ample off-street parking, and an open space sign could be posted at the corner of Sand Road and Sundown View Lane.

12. Staff explained to the Planning Commission that the Open Space Taxation Act authorizes counties to approve Open Space Land and Farm and Agricultural Conservation Land applications subject to specific conditions. Given that the owners expressed a desire to continue a long term agricultural operation on the subject property; they may at some point in the next 3-5 years be able to qualify for the Farm and Agricultural Land classification administered by the Assessor. To qualify for that classification, and although subject to change, current income requirements (revenue from commercial agriculture) would be $1,500.00 per year for three out of the five years preceding the date of application. The County Council could approve this application subject to a farm plan that outlines a program for meeting income requirements associated with the Farm and Agricultural Land classification, and eventual reclassification back to the Farm and Agricultural Land classification within a certain time frame.

Staff provided the Planning Commission with a Property Tax Advisory
from the Department of Revenue which states: "...additional eligibility requirements for the open space and timber classifications must not conflict with state law and not arbitrarily or capriciously restrict access to either classification."

13. After deliberation, and after considering staff input, Planning Commissioners came to a consensus that they would be willing to recommend that the County Council approve the Hemnes application subject to a condition requiring the applicants within four years of approval for Farm and Agricultural Conservation Land as defined in RCW 84.34.020(1)(c)(8)(a) to apply for and be approved for the classification of Farm and Agricultural land as defined in RCW 84.34.020(2)(c). Subject to this proposed condition, the Planning Commission voted to recommend that the County Council approve the Hemnes application in its entirety.

14. Staff discussed the special condition in the above finding (No. 13) with PDS County attorney and with Department of Revenue staff. After these discussions, staff concluded that it might be more consistent with the purpose of classification if the condition was worded differently, as follows: "Within four years of application approval, the applicants must apply for and demonstrate that they meet income requirements established in the Open Space Taxation Act for approval of the Farm and Agricultural Land classification as it is defined in RCW 84.34.020(2)(c)."

Staff's conclusion was based on a reconsideration of the purpose of the reclassification and the definition of the classification being sought, i.e. land previously classified as farm and agricultural land that is no longer able to meet income requirements associated with qualification as farm and agricultural land. If a condition required an approval by independent entity, if for some reason it was not approved, even though the applicants might show income to qualify for classification as farm and agricultural land, and even though they might apply, the act of approval would be outside of the applicant's control, and a disapproval might not be consistent with state law or the purpose of classification.

In addition, staff noted that it would be in the interest of the applicant to return to farm and agricultural land, because the reduction in assessed value would likely to be more than in the farm and agricultural conservation land classification.

15. Staff presented information that described the estimated resulting tax shift that would occur if the Hurlbut and Hemnes' applications were to be approved. Using figures provided by the County Assessor's Office, it was noted that the assessed property value reduction would result in an estimated tax shift of approximately $170.10 (Hurlbut) and $705.99 (Hemnes) to other tax payers per year if the applications were to be approved.

Staff was not able to provide information to the Planning Commission about what how the overall tax shift would affect individual property owners because it would be a very difficult calculation to perform. This
is because not all property owners located in a geographic tax code area are subject to the same set of taxing district levies, and therefore it would not be as simple as dividing the number of parcels by the monetary shift in taxes to obtain an estimated tax shift on a per parcel basis.

16. After staff presentations and Planning Commission deliberation and votes on the Open Space Land and Farm and Agricultural Conservation Land applications, staff presented the timber land applications.

17. Staff explained to the Planning Commission that staff recommendations of approval on timber land applications are based on whether the application meets the definition of timber land as defined in RCW 84.34.020(3), and whether the Timber Management Plan submitted on file as part of the application is consistent with RCW 84.34.041 which outlines the elements of a timber management plan. Based on staff review and site inspections, staff recommended approval on all three of the timber land applications. Staff recommendations of approval were based on review of the timber management plans submitted, site inspections to verify that forest conditions matched those identified in the Plans, and for overall conformance with state law.

18. Prior to voting on timber land applications, one of the Planning Commissioners asked for information about the loss of revenue or shift in taxes that would result from approving an application for timber land, and asked why this information was not provided on the timber land applications. Staff indicated that this information was not provided because it is not one of the criteria considered for approval or disapproval. The commissioner asked if staff would be prohibited from providing this information, and staff indicated that while there is no prohibition on the provision of this information, adding that it could be provided in the future, it can't be the basis on which a decision to approve or not approve is based, because this information is not a criteria for approval. The commissioner indicated that he would vote to deny all of the timber land applications because information on loss of revenue or shift in taxes was not provided.

19. Whatcom County Planning Commissioners considered staff findings and recommendations on the E. Bailey and Bailey Trust application, and staff suggested that two separate votes be taken on the E. Bailey and Bailey Trust application respective of the jurisdiction in which the subject property was located.

20. After deliberations, the Planning Commission voted to recommend that the County Council approve the portion of the E. Bailey and Bailey Trust timber land application in the jurisdiction of the City.

21. The Planning Commission voted to recommend that the County Council approve the E. Bailey and Bailey Trust timber land application unincorporated Whatcom County.

22. Whatcom County Planning Commissioners considered staff findings and recommendations on the Engelund application for timber land and voted
to recommend approval to the County Council.

23. Whatcom County Planning Commissioners considered staff findings and recommendations on the Sunset SW LLC application and voted to recommended denial. During Planning Commissioner review, it was noted that the land that is subject of application is located on the shoreline of Lake Whatcom, and is designated Rural under the Whatcom County Shoreline Management Program (SMP).

24. Staff acknowledged that the land that was subject to application was located within the jurisdiction of the SMP, and indicated that staff had researched the matter to determine whether or not the land subject to the application could be harvested. Staff stated that the land subject of application contained five or more acres devoted primarily to the growth and harvest of timber for commercial purposes (5.63 acres); that the applicant had retained the services of a professional forester who prepared a Timber Management Plan that contained all of the elements of a Timber Management Plan, and according to PDS Natural Resource staff the owner could harvest of timber in the Rural SMP designation after a Shoreline Substantial Development Permit was applied for and approved, subject to specific conditions to protect the lake and its habitat functions.

25. The Planning Commission vote on a motion to recommend that the County Council approve the Sunset SW LLC application for Timber Land was 3 in favor and 3 against, which is a tie, indicating that the motion failed to recommend that the County Council approve the subject application.

RECOMMENDATION
Whatcom County Planning Commission recommendations to the Whatcom County Council on open space current use classification applications referenced under Master File Number OS2014-1 are listed below:

Open Space Land (OSL)

OSP2014-00002 – Hurlbut

New application to classify property as Open Space Land
GEO ID: 380335 523242 0000: (PID: 82464)
GEO ID: 380335 525241 0000: (PID: 82465)
GEO ID: 380335 538230 0000: (PID: 82477)
Total Parcel acres = 0.44 (+/-); OSL acres= 0.44 (+/-)
PBR 92.75
ESTIMATED SHIFT IN TAXES IF APPROVED: $170.10

Whatcom County Planning Commission Recommendation:

Approval: subject to the following conditions:
1. Public Access as described in the Application Narrative
2. Small Open Space Sign posted on Lot # 19
3. Hold Harmless Agreement

Farm & Agricultural Conservation Land (OSFAACL)

OSP2014-00005 – Hemnes

Application to re-classify property from Farm & Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land)
GEO ID: 390429 041191 0000: (PID: 107711)
Total Parcel acres = 4.81; OSFAACL acres= 3.81; Homesite acres = 1.00
PBR 57.12
ESTIMATED SHIFT IN TAXES IF APPROVED: $705.99

Whatcom County Planning Commission Recommendation:

Approval: subject to the following conditions:

2. Open Space Sign posted at corner of Sundown Lane and Sand Rd.
3. Within four years of date of approval for reclassification to Farm and Agricultural Conservation Land the applicant must apply for and be approved for reclassification back to the Farm and Agricultural Land as defined in RCW 84.34.020(2)(c).
4. Hold Harmless Agreement

Timber Land (OSTL)

OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust
(application to reclassify lands located within the City of Ferndale)

Application to reclassify as Timber Land from Designated Forest Land
Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 060364 0000 (PID: 90425): Application OSTL acres = 5.06
GEO ID: 390208 105297 0000 (PID: 90440): Application OSTL acres = 5.06
GEO ID: 390208 124252 0000 (PID: 90445): Application OSTL acres = 1.28

E. Bailey
GEO ID: 390208 022379 0000 (PID: 90406): Application OSTL acres = 5.06
GEO ID: 390208 087338 0000 (PID: 90433): Application OSTL acres = 5.06

Total Application OSTL acres in City of Ferndale = 21.52

Whatcom County Planning Commission Recommendation:
Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan pursuant to RCW 84.34.041
3. Hold Harmless Agreement

OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust
(application to reclassify lands located within unincorporated Whatcom County)

Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 235213 0000 (PID: 90564): Application OSTL acres = 4.57

E. Bailey
GEO ID: 390208 185232 0000 (PID: 90457): Application OSTL acres = 4.58

Total Application OSTL acres in the unincorporated Whatcom County = 9.15

Whatcom County Planning Commission Recommendation:

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan pursuant to RCW 84.34.041
3. Hold Harmless Agreement

OSP2014-00003 – Engelund
New application to classify property as Timber Land
GEO ID: 400101 259478 0000 (PID: 112929)
Parcel acres = 10.56; OSTL acres = 8.5; Homesite acres = 2.06

Whatcom County Planning Commission Recommendation:

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan pursuant to RCW 84.34.041
3. Hold Harmless Agreement

OSP2014-00004 – Sunset SW LLC
New application to classify property as Timber Land
GEO ID: 380429 020020 0000 (PID: 83486): Parcel acres = 3.91 acres currently classified as OSTL
GEO ID: 380432 025554 0000 (PID: 83946); 1.72 acres of which 1.36 is currently classified as OSTL (according to Assessor’s records)
Application OSTL acres = 0.28 (0.28 acres is according to survey. Survey shows an apparent discrepancy between Assessor’s records which indicate 0.36 acres)

NOTE: If approved, the additional 0.28 acres in this application it would bring the total OSTL acres covered under the application to 5.63 (+/-) acres, all subject to a new taxation agreement.

Whatcom County Planning Commission Recommendation:

Denial: Based on a finding expressed by dissenting commissioners that it would not be in the best interests of the public to harvest timber on the shore of Lake Whatcom.

WHATCOM COUNTY PLANNING COMMISSION

[Signature]
David Onkels, Chair

[Signature]
Becky Boxx, Secretary

Date
JULY 8, 2014

Date
7-10-14

Commissioners present at the June 26, 2014 meeting when votes were taken to approve the above listed recommendations on one application for Open Space Land, one application for Farm and Agricultural Conservation Land and three applications for Timber Land: David Onkels; Mary Beth Teigrobe; Gary Honcoop; Natalie McClendon; Walter Haugen; David Hunter.

Commissioners Absent: Ben Elenbaas, Ken Bell, Gerald Vekved.

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, David Onkels, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Gary Honcoop, David Onkels, Mary Beth Teigrob, Walter Haugen, Natalie McClendon, David Hunter
Absent: Ben Elenbaas, Jerry Vekved, Ken Bell

Staff Present: Mark Personius, Erin Osborn, Becky Boxx

Department Update
Mark updated the commission on the following:
- Items before the County Council.
- Upcoming commission schedule.

Open Session for Public Comment
There was no public comment.

Commissioner Comments
Commissioner Honcoop commented on his visit on the USS Nimitz.

Approval of Minutes
May 22, 2014: Approval of the minutes was put on hold until the next meeting due to lack of members needed for approval.

Open Space Applications
Erin Osborn presented an overview of the Open Space Program.

The open space current use program is a property tax reduction program. In the 1960’s the state constitution was amended to enact the program. It authorizes three classifications and one sub-classification. Open Space Land is about conservation of a broad scope of resources. It has a sub-classification, Farm and Agricultural Conservation Land. There is also Timber Land, and Farm and Agricultural Land.

State law provides that applications for the Open Space Land and the Farm and Agricultural Conservation Land are processed in same manner as an amendment to the Comprehensive Plan. Therefore they come before the Planning Commission. When the Planning Commission reviews the applications they are to consider the overall benefit of preserving the land relative to the monetary shift in taxes. The higher the score on the application the greater the tax shift. Regarding Timber Land there is nothing in state law that assigns a role to the Planning Commission. However, until 1995 they were reviewed with the Public Benefit Rating System. After ordinance 1995-040 Timber Land was removed from Planning Commission review, however another ordinance that is codified in WCC 2.28 states that they are still reviewed by the Planning Commission, and so
therefore they are. The County Council has asked staff to put together an analysis of the program which staff has done but Council has not reviewed it yet. The Timber Land classification requires at least five acres be devoted to the growth and harvest of timber for commercial purposes. A Timber Management Plan is required for approval. Recently the legislature amended the Designated Forest Land Program changing the minimum allowed to five acres. This may result in less Timber Land applications.

The commission reviewed the applications.

Open Space Land – Hurlbut

This is approximately .48 acres. The zoning is R5A. It is located above Lake Whatcom Boulevard. It is very steep. The owners purchased the land for the sole purpose of conservation and to protect the hillside from further erosion. It has been prone to mudslides. A slide in 1992 destroyed the owner’s house. Two of the lots are subject to a restrictive covenant prohibiting development until 2027. There is public access to the Stimson Reserve property. The application was given a score of 92.75 with a recommendation of approval.

Farm & Agricultural Conservation Land – Hemnes

This land used to be owned and farmed by some dairy farmers in the area. The property was sold and short platted. It is a 4.81 acre parcel with one acre for the homesite. The previous owners (who sold to the Hemnes family) could not continue to keep the property in Farm and Agricultural Land because they couldn’t demonstrate income requirements so they applied for the conservation program. The 3.81 is used to raise beef cattle. The application was given a score of 57.12 with a recommendation of approval. The score is somewhat low because of the small size of the property. For public access, the owners are offering to engage with youth or agriculture groups to teach sustainable beef farming.

Open Space Timber Land – Bailey Trust

Shortly after this application came in in 2010 the City of Ferndale annexed the property east of the freeway. Because of joint granting authority the application was put on hold. All of the property is under the Designated Forest Land Program which at the time of application required a 20 acre minimum. Also the property ownership names were changed for estate planning purposes. This disqualified them from the Designated Forest Land Program because the property was not in one ownership. In 2011 the statute changed the term contiguous to mean land in same ownership (one family). The application included an excellent timber management plan. Reforestation will need to be done if approved. There are 9.51 acres in the county and 21.52 acres in the City of Ferndale. Staff recommends approval.

Open Space Timber Land – Engelund

This parcel is heavily forested with an excellent Timber Management Plan. It is 10.56 acres. They are asking to classify approximately 8.5 acres. The zoning is R10A. Staff recommends approval.
Open Space Timber Land – Sunset SW LLC
This property is on Lake Whatcom and is .28 acres. The acreage to the north is already classified as Timber Land. This piece of land appears to have been inadvertently left out when the other acreage was classified, but the record is not clear on this. The property is subject to a Rural Shoreline Management Program designation, and this designation allows timber harvest subject to issuance of a shoreline substantial development permit and conditions to protect the shoreline.

Commissioner Haugen noted there is no mention of the tax shift dollar value.

Ms. Osborn stated there are no laws, codes, etc. that requires consideration of the tax shift when approving a Timber Land application. The value of timber land is based on soil classification and operability.

Commissioner Haugen stated that if the commission is asked to make a decision all the information should be given otherwise the commission is in limbo. Is staff prohibited from giving the commission that information?

Ms. Osborn stated they are not prohibited.

Commissioner Haugen stated he wanted it.

Commissioner Hencoop stated there has to be findings to support their decisions otherwise they are considered arbitrary and capricious.

Commissioner Haugen did not agree.

Commissioner Teigrob did not see how it was possible to harvest trees there without impacting the lake.

Commissioner Hencoop said they could look at the operability of harvest there which is one of the conditions they can review.

Ms. Osborn stated the commission could put conditions on the harvest.

Commissioner McClendon asked why this application is for timber not open space land.

Ms. Osborn stated the parcel across the road is classified as Timber Land. They are applying for Timber Land because they want the best possible tax reduction and the same tax classification as the other parcel they plan to harvest in the future.

Commissioner McClendon asked if it is very hard to classify as operable does that lower the value?

Ms. Osborn stated it does.
Commissioner Honcoop stated it appears some of the trees are in the public right-of-way which can’t be harvested.

Commissioner Teigrob asked how many trees are in that small area.

Ms. Osborn stated it is considered fully stocked by the plan. In order to be fully stocked there has to be 100 trees per acre so there would have to be approximately 25 trees on the lot.

Commissioner Haugen asked the applicant’s representative how many trees there are.

Jesse Stoner stated he did not know how many trees are there. None of them are in the water or the county right-of-way.

Commissioner Honcoop asked if the surveyed area includes the shore area outside the water.

Mr. Stoner stated yes.

The commission acted on the applications as follows:

Open Space Land – Hurlbut

Commissioner Honcoop moved to recommend approval. Commissioner McClendon seconded. The motion carried.

Farm & Agricultural Conservation Land – Hemnes

Commissioner Hunter moved to recommend approval. Commissioner Haugen seconded.

Commissioner Honcoop asked about the sale of the property. Did the new owners sign a continuance to stay in open space?

Ms. Osborn stated the previous owners did not maintain the finance requirements to stay in open space so the Hemnes continued it pending reclassification. If they don’t get approved they have to pay back taxes.

Commissioner Honcoop asked where the public benefit is. What is there to ensure they will continue to use it as outlined?

Ms. Osborn stated they can add conditions.

Commissioner Honcoop asked who would enforce those conditions.

There was no response to this question.
Commissioner Teigrob stated that being in Open Space Agricultural Conservation versus Open Space Farm and Agriculture leaves no incentive to continue to farm because the monetary requirements go away.

Ms. Osborn stated that this issue has been a point of discussion for some time regarding this classification. The commission can assign conditions if they want.

Commissioner Hunter stated he sees no benefit to the county if this is put into Open Space Farm and Agricultural Conservation because he doesn’t believe it will change the use of the land.

Commissioner Teigrob made a friendly amendment requiring the applicant to apply and be approved Open Space Farm and Agricultural Land within four years. Commission McClendon seconded. The amendment carried.

The vote on the main motion to recommend approval carried.

Open Space Timber Land – Bailey Trust

Commissioner Teigrob moved to recommend approval for the parcel within the City of Ferndale. Commissioner Hunter seconded.

Commissioner Haugen stated the tax shift is not known. As such he has no choice but to vote no on the Timber Land applications. He has an issue with the protocol and procedure.

The vote on the motion to recommend approval carried.

Commission Honcoop moved to recommend approval for the parcel within the county. Commissioner McClendon seconded. The motion carried.

Open Space Timber Land – Engelund

Commissioner Honcoop moved to recommend approval. Commissioner Teigrob seconded. The motion carried.

Open Space Timber Land – Sunset SW LLC

Commissioner Teigrob moved to recommend approval. Commissioner Honcoop seconded.

Commission Onkels asked Mr. Stoner the reason for the application.

Mr. Stoner stated when the application was originally done, many years ago, the owner thought this parcel was included. This application takes care of that oversight. The timber management plan was actually written including this property.

Commissioner Hunter asked if the property has been harvested in the last 20 years.
Mr. Stoner stated it has not.

Commissioner Onkels stated the typical harvest cycle is 70 years.

Ms. Osborn stated that conifer species are generally a 50 year crop.

Commissioner Hunter asked Ms. Osborn if this parcel is in fact harvestable. Ms. Osborn stated yes it is based on her research.

The vote on the motion to recommend approval failed.

The meeting was adjourned at 8:50 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

David Onkels, Chair

Becky Boxx, Secretary
BACKGROUND

INFORMATION ON

FILE

IN THE

COUNCIL OFFICE
MEMORANDUM

TO: Honorable Members of the Whatcom County Planning Commission

THROUGH: Mark Personius, Long Range Planning Division Manager

FROM: Erin Osborn, Planner

DATE: June 17, 2014

SUBJECT: 2014 Open Space Current Use Applications

Attached is a packet summarizing staff review and recommendations on five applications for open space current use taxation this year.

Staff will present the report at your upcoming June 26th meeting, and following discussion, ask for your recommendations on whether or not each application should be approved (in whole or in part) or disapproved. Staff will forward your recommendations on to the County Council who will make a final decision on the applications after holding a public hearing.

The staff report provides a summary of the applications, and also contains staff recommendations on whether they should be approved in whole or in part or denied respective of their conformance with specific evaluation and review criteria. Application summary, staff findings and recommendations are found on Pages 2-8 of the report, with background information on the Open Space Current Use Program presented on Pages 8-15. There are also a number of attachments that provide additional information about the individual applications, and the County’s property tax reduction programs.

I look forward to presenting my report at your June 26th meeting.

Please contact me if you have any questions.

Thank you.
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

STAFF RECOMMENDATIONS TO THE WHATCOM COUNTY PLANNING
COMMISSION ON FIVE APPLICATIONS FOR CLASSIFICATION OR
RECLASSIFICATION AS OPEN SPACE LAND, OR FARM & AGRICULTURAL
CONSERVATION LAND OR TIMBER LAND
AS AUTHORIZED UNDER CHAPTER 84.34 RCW

MASTER FILE NUMBER OS2014-1

Introduction:

This report summarizes staff findings and recommendations on a total of five applications for classification or reclassification as Open Space Land, Farm and Agricultural Conservation Land, and Timber Land as authorized under the Open Space Taxation Act, Chapter 84.34 RCW.

This report is prepared for the June 26, 2014 Whatcom County Planning Commission meeting where Planning Commissioners will deliberate on the subject applications respective of whether they should be approved in whole or in part, or denied. At the conclusion of the Planning Commission work session, staff will forward recommendations made by the Planning Commission to the Whatcom County Council for their review in making a final decision on each application.

The report is composed of five main parts:

1. Summary of five applications to classify or reclassify property pursuant to applicable state and local regulations;

2. Application review, staff findings, and staff recommendations;

3. Background information on the Open Space Taxation Act;

4. Staff, Planning Commission, and County Council Roles in application review, approval or denial;

5. Discussion outlining the evaluation criteria established for review of applications for Open Space Land, Farm & Agricultural Conservation Land, and Timber Land.
I. Application Summary

Open Space Land (OSL)

OSP2014-00002 – Hurlbut

New application to classify property as Open Space Land
GEO ID: 380335 523242 0000: (PID: 82464)
GEO ID: 380335 525241 0000: (PID: 82465)
GEO ID: 380335 538230 0000: (PID: 82477)
Total Parcel acres = 0.44 (+/-); OSL acres= 0.44 (+/-)
PBR 92.75
ESTIMATED SHIFT IN TAXES IF APPROVED: $170.10

Farm & Agricultural Conservation Land (OSFACL)

OSP2014-00005 – Hemnes

Application to re-classify property from Farm & Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land)
GEO ID: 390429 041191 0000: (PID: 107711)
Total Parcel acres = 4.81; OSFACL acres= 3.81; Homesite acres = 1.00
PBR 57.12
ESTIMATED SHIFT IN TAXES IF APPROVED: $705.99

Timber Land (OSTL)

OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust

Application to reclassify as Timber Land from Designated Forest Land
Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 060364 0000 (PID: 90425): Parcel/Application acres = 5.06
GEO ID: 390208 105297 0000 (PID: 90440): Parcel/Application acres = 5.06
GEO ID: 390208 124252 0000 (PID: 90445): Parcel/Application acres = 1.28
GEO ID: 390208 235213 0000 (PID: 90564): Parcel/Application acres = 4.57
E. Bailey
GEO ID: 390208 022379 0000 (PID: 90406): Parcel/Application acres = 5.06
GEO ID: 390208 087338 0000 (PID: 90433): Parcel/Application acres = 5.06
GEO ID: 390208 185232 0000 (PID: 90457): Parcel/Application acres = 4.58
Total Parcel Acres in Unincorporated County = 9.15
Total Parcel Acres in City = 21.52
Timber Management Plan – Staff Approval
Note: Parcels in italicized text are located within unincorporated Whatcom County. Parcels in regular text are located within City of Ferndale
OSP2014-00003 – Engelund
New application to classify property as Timber Land
GEO ID: 400101 259478 0000 (PID: 112929)
Parcel acres = 10.56; OSTL acres= 8.5; Homesite acres = 2.06
Timber Management Plan – Staff Approval

OSP2014-00004 – Sunset SW LLC
New application to classify property as Timber Land
GEO ID: 380429 020020 0000 (PID: 83486): Parcel acres = 3.91 acres
currently classified as OSTL
GEO ID: 380432 0255554 0000 (PID: 83946); 1.72 acres of which 1.36 is
currently classified as OSTL (according to Assessor’s records)
Total Application acres =0.28 (Note: 0.28 acres is according to survey.
Survey shows an apparent discrepancy between Assessor’s records which
indicate 0.36 acres)
NOTE: If approved, the additional 0.28 acres in this application would bring
the total acres covered under the application to 5.63 (+/-) acres subject to a
new taxation agreement
Timber Management Plan – Staff Approval

II. Application Review & Staff Findings

Staff findings referenced under Master File Number OS2014-1 are listed in
summary below.

All applications have been reviewed by staff, and have received a site
inspection. Attached for reference at the end of this report are site
evaluation worksheets, maps, and other supporting documents. A power
point slide show of each property along with staff narrative will be presented
at the June 26, 2014 Planning Commission Work Session.

A. Open Space Land (OSL) & Farm & Agricultural Conservation Land
(OSFACL)

Applications for Open Space Land and Farm & Agricultural Conservation Land are
evaluated by staff in accordance with Whatcom County Open Space Policy and
Criteria and Public Benefit Rating System (1995), often referred to as the
Whatcom County PBRS. Ratings are computed with a formula developed by the
County Assessor, resulting in an overall score that is called a Public Benefit
Rating (PBR). Applications must receive a Public Benefit Rating of at least 45
points for a staff recommendation of approval.
Open Space Land (OSL)

OSP2014-00002 – Hurlbut

New application to classify property as Open Space Land
GEO ID: 380335 523242 0000: (PID: 82464)
GEO ID: 380335 525241 0000: (PID: 82465)
GEO ID: 380335 538230 0000: (PID: 82477)
Total Parcel acres = 0.44 (+/-); OSL acres= 0.44 (+/-)

PBR 92.75
ESTIMATED SHIFT IN TAXES IF APPROVED: $170.00

Discussion: On February 13, 2013, Planning & Development Services Department received an application from property owners Max K. and Hueih-Hueih Hurlbut to classify approximately 0.44 acres currently assessed at true and fair value (fair market value) to Open Space Land (OSL).

The Hurlbut application consisting of Lots 18, 19, 22, and 23 of the Amended Plat of Geneva on Lake Whatcom are subject to a Rural designation in the Comprehensive Plan, and are subject to zoning regulations located in Title 20, Chapter 20.36 – Rural District, with a density of one dwelling unit per 5 acres (R5A). The site is also subject to watershed regulations in WCC Chapter 20.51 – Lake Whatcom Overlay District. The property is located at 2700 Lake Whatcom Shore, near Strawberry Point on the Southern shore of Lake Whatcom. The property is accessible by automobile directly off of Lake Whatcom Shore.

The proposal narrative submitted with the application indicates that the property is steep and the area is prone to mudslides. Mudslides originating from above the existing Hurlbut residence occurred in 1982, 1998, and 2000. In 1982 a mudslide completely destroyed the Hurlbut residence, which has since been re-built on the same site. Mr. & Mrs. Hurlbut purchased the property for the specific purpose of conservation. A restrictive covenant has been recorded on title of Lots 22 & 23, which prohibits construction of structures and land disturbing activity. This covenant is valid until February 1st, 2027.

The subject property is in an undeveloped natural state that offers food and protection to a variety of wildlife including birds and terrestrial mammals, and may help to stabilize soil and prevent future erosion. The site is in the Lake Whatcom Watershed.

The application proposal indicates that public access will be limited in that access may only be from the adjacent 80 acre Lake Geneva Preserve or the Stimpson Reserve, largely held in public ownership. The owners have indicated that they would rather not be subject to the requirement of having to post an “open space sign”.

After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of 92.75 (for details, please see attached evaluation worksheet sheet). A Public Benefit Rating of at least 45 points must be attained to receive a staff recommendation of approval. The application has received a PBR greater than 45, and therefore staff recommends that the Hurlbut application for Open Space Land classification be approved subject to conditions listed below.

Staff Recommendation:

Approval, subject to the following attached special conditions:

1. Public Access to the Property from Lake Geneva Preserve or Stimpson Reserve as discussed in the Application Narrative on file.
2. Posted Open Space Sign on Lot 22
4. Hold Harmless Agreement

Farm & Agricultural Conservation Land (OSFACL)

OSP2014-00005 – Hemnes

New application to classify property as Open Space Land
Application to re-classify property from Farm & Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land)
GEO ID: 390429 041191 0000: (PID: 107711)
Total Parcel acres = 4.81; OSFACL acres = 3.81; Homesite acres = 1.00
PBR 57.12
ESTIMATED SHIFT IN TAXES IF APPROVED: $705.99

Discussion: On January 9, 2014, Planning & Development Services Department received an application from property owners Lucas and Amy Hemnes to reclassify 3.81 acres of their 4.81 acre parcel from Farm and Agricultural Land to Farm and Agricultural Conservation Land (OSFACL).

The Hemnes property is designated Rural in the Comprehensive Plan and is subject to zoning regulations located in Title 20, Chapter 20.36 – Rural District, with a density of one dwelling unit per 5 acres (R5A). The property is located at 2930 Sundown View Lane just off the Sand Road between Smith and Goshen. The property is accessible by automobile directly off Sundown View Lane.

Application materials submitted indicate that the property was purchased in 2014. The land was (and still is) classified as Farm and Agricultural Land. This is a different classification than the farm conservation classification that is applied for in that it requires the owners to show income from commercial agriculture. At the time of sale, it was discovered by the Assessor that the
previous owners could not demonstrate income from commercial agriculture; therefore the Assessor signed off on the Notice of Continuance pending reclassification by Lucas and Amy Hemnes.

The Hemnes family manages a herd of approximately 55 head of beef cattle and uses the 3.81 acres to pasture about 4 head of beef (yearlings) as part of the larger operation. The long term plan is to continue to raise beef on the subject parcel, rotating stock during the winter months over to a barn and additional rented agricultural land on the Siper Road. Beef from the Hemnes herd is processed at a facility in Bow, Washington, and is sold locally to Boundary Bay Brewery, located in the city of Bellingham.

Proposed public access was discussed verbally with staff. The proposal discussed was that the applicants would give farm tours to prospective customers, and would be willing to provide farm educational opportunities to youth groups such as 4-H by appointment. There is ample off street parking, and an open space sign could be posted at the corner of Sand Road and Sundown View Lane.

After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of 57.12 (for details, please see attached evaluation worksheet sheet). A Public Benefit Rating of at least 45 points must be attained to receive a staff recommendation of approval. The application has received a PBR greater than 45, and therefore staff recommends that the Hemnes application for Farm and Agricultural Conservation Land classification be approved subject to conditions listed below.

Note: The County Council may approve applications for Open Space Land and Farm and Agricultural Conservation Land subject to specific conditions. Given that the owners wish to continue a long term agricultural operation on the subject property; they may at some point in the next 3-5 years be able to qualify for the Farm and Agricultural Land classification administered by the Assessor. To qualify for that classification, and although subject to change, current income requirements (revenue from commercial agriculture) would be $1,500.00 per year for three out of the five years preceding the date of application. The County Council could approve this application subject to a farm plan that outlines a program for meeting income requirements associated with the Farm and Agricultural Land classification, and eventual reclassification back to the Farm and Agricultural Land classification in a certain time frame. (See attached Property Tax Advisory from Department of Revenue).

Staff Recommendation:

Approval, subject to the following attached special conditions:
1. Public Access to allow Farm Education to Youth Groups (such as 4-H) by appointment.
2. Posted Open Space Sign on the property at the corner of Sand Road and Sundown View Lane
4. Hold Harmless Agreement

B. Timber Land (OST)

Timber Management Plans were submitted with the following applications to classify or reclassify as Timber Land. Following staff review of the timber management plan in accordance with approval criteria, and site inspection to ensure consistency between Plans and forest conditions, staff has made recommendations on each of the applications, listed below:

**Timber Land (OSTL)**

OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust
Application to reclassify as Timber Land from Designated Forest Land
Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 060364 0000 (PID: 90425): Parcel/Application acres = 5.06
GEO ID: 390208 105297 0000 (PID: 90440): Parcel/Application acres = 5.06
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GEO ID: 390208 087338 0000 (PID: 90433): Parcel/Application acres = 5.06
GEO ID: 390208 185232 0000 (PID: 90457): Parcel/Application acres = 4.58
Total Parcel Acres in Unincorporated County = 9.15
Total Parcel Acres in City = 21.52
Timber Management Plan – Staff Approval
Note: Parcels in italicized text are located within unincorporated Whatcom County. Parcels in regular text are located within City of Ferndale

Staff Recommendation:

Approval, subject to the following attached conditions:
1. No less than 5 acres devoted primarily to the growth and harvest of timber for commercial purposes.
2. Approved Timber Management Plan
3. Hold Harmless Agreement
OSP2014-00003 – Engelund

New application to classify property as Timber Land
GEO ID: 400101 259478 0000 (PID: 112929)
Parcel acres = 10.56; OSTL acres= 8.5; Homesite acres = 2.06
Timber Management Plan – Staff Approval

Approval, subject to the following attached conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of
timber for commercial purposes
2. Approved Timber Management Plan
3. Hold Harmless Agreement

OSP2014-00004 – Sunset SW LLC

New application to classify property as Timber Land
GEO ID: 380429 020020 0000 (PID: 83486): Parcel acres = 3.91 acres
currently classified as OSTL
GEO ID: 380432 025555 4 0000 (PID: 83946); 1.72 acres of which 1.36 is
currently classified as OSTL (according to Assessor’s records)
Total Application acres =0.28 (Note: 0.28 acres is according to survey.
Survey shows an apparent discrepancy between Assessor’s records which
indicate 0.36 acres)
NOTE: If approved, the additional 0.28 acres in this application would bring
the total acres covered under the application to 5.63 (+/-) acres subject to a
new taxation agreement
Timber Management Plan – Staff Approval

Approval, subject to the following attached conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of
timber for commercial purposes
2. Approved Timber Management Plan
3. Hold Harmless Agreement

III. Recommendations

Staff requests that the Whatcom County Planning Commission consider staff
recommendations on applications referenced in Master File Number OS2014-1 as
discussed in this report, subject to conditions and applicable scores as noted
herein. Staff requests that the Whatcom County Planning Commission vote on
motions to approve in whole or in part or deny recommendations on individual
applications referenced under Master File Number OS2014-1.
IV. Background Information

The Open Space Taxation Act was passed by the Washington State legislature in 1970. In part, the law was created to provide a solution to and address a statewide concern that lands were being irrevocably converted to uses inconsistent with commercial agriculture, commercial forestry, and the conservation or preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, and recreational opportunities.

The Open Space Taxation Act codified in Chapter 84.34 of the Revised Code of Washington (84.34 RCW) gives counties the authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use i.e. fair market value. Lands classified as Open Space Land or Timber Land receive a greatly reduced assessed value; thereby providing a financial incentive to property owners to voluntarily conserve and preserve open space lands as defined by state law and further defined by county ordinance.

V. Classifications

There are three major classifications and one sub-classification authorized by the Open Space Taxation Act (Chapter 84.34 RCW):

1. Farm and Agricultural Land
2. Open Space Land
   - Farm and Agricultural Conservation Land
3. Timber Land

Pursuant to Chapter 84.34 RCW, the County Assessor’s Office is charged with administration of applications for the classification of Farm and Agricultural Land (No. 1 above). In accordance with Whatcom County Code, Title 3, Chapter 3.28, Planning & Development Services Department is charged with administration of Open Space Land, Farm and Agricultural Conservation Land & Timber Land applications. Staff from both PDS and the Assessor’s Office work closely and function as a team in monitoring and maintaining existing agreements on approved applications, as well as processing new applications. Applications and fees for Open Space Land, Farm and Agricultural Conservation Land and Timber Land are received by Planning & Development Services Department.

VI. Application Processing

A. Roles of Staff, Planning Commission, County Council & Assessor’s Office in Processing Applications for Open Space Current Use Taxation.

Applications that are the subject of this report are located within both unincorporated areas and incorporated areas. You will note that several parcels
in the joint E. Bailey and Bailey Trust Application are located within the City of Ferndale. Please note the County also receives and processes applications on lands within incorporated areas (cities), but in processing applications on lands within the cities, the granting authority is composed of members from both legislative bodies (both the county and the city).

When land that is the subject of application is located within an unincorporated area, Whatcom County planning staff evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications, who in turn make recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied. Whatcom County Council is the granting authority, and pursuant to state law is charged with approving in whole or in part or denying each application.

When land that is the subject of application is located within an incorporated area, Whatcom County planning staff evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications, who in turn make recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied. The Whatcom County Council will take its final action in approving in whole or in part or denying each application and the City of Ferndale is expected to take separate action to approve in whole or in part or deny each application. In order for an application that is located within an incorporated area to be approved, both the City and the County must take identical affirmative acts, (both must vote to approve).

Upon approval or denial, the County Assessor is notified, and makes adjustments on the basis of the approved current use value of the parcel.

As discussed earlier in this report, of the five subject applications there is one application to reclassify as Open Space Land, and one application to re-classify from Farm and Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land) and there are three applications to classify or reclassify property as Timber Land. Each classification has a distinct evaluation system. These evaluation systems are discussed in more detail in Section VII, with emphasis on clarification of the Planning Commission role with respect to reviewing and making recommendations on the different types of applications.

Applications for Open Space Land are evaluated with the Whatcom County Space Policy & Public Benefit Rating System, 1995 (PBRS). Timber Land applications are evaluated for conformance with RCW 84.34.020(3) – Definition of Timber Land, and RCW 84.34.041 which outlines the elements that constitute a Timber Management Plan. The PBRS is attached at the end of this report for
reference. The PBRS authorizes the Planning Commission to make recommendations to the County Council on applications for Open Space Land after considering the potential loss of revenue or shift in taxes that would occur as a result of approval relative to the public benefit of the amenity being conserved or preserved. This is an important distinction both in terms of defining the role of the Planning Commission in making recommendations to the County Council on whether to approve or deny applications for Open Space Land, and in understanding how the Public Benefit Rating System is applied.

It should be noted that the Planning Commission is not charged with considering of the loss of revenue or shift in taxes when making recommendations on applications for Timber Land as this only applies to applications for Open Space Land. More discussion on both of these evaluation systems and review criteria follows in Section VII (A & B).

B. Public Hearing

A public hearing is required for both Open Space Land, and Timber Land. In past years, public hearings have typically been held before the Planning Commission, but recently due to Planning Commission schedule devoted to Growth Management Compliance issues and other pressing matters of importance, a decision has been made at the staff level to change the venue of public hearings on Open Space applications from the Planning Commission to County Council to be held at their regularly scheduled evening meetings. Given that there is no statute, rule or local ordinance to specify where a public hearing on these applications is required to be held, staff has made arrangements with the Clerk of the Council, who schedules a public hearing on the subject applications. This change will give the County Council an opportunity to hear from staff, receive Planning Commission recommendations, and also hear from the Public as they deliberate on each application. The City of Ferndale is expected to hold a separate public hearing on applications to reclassify land to Timber Land that are located within their jurisdiction.

VII. Evaluation Systems

Open Space Land and its sub-classification Farm and Agricultural Conservation Land are evaluated with the Whatcom County Public Benefit Rating System (PBRS). The PBRS was originally approved by Council in 1987 by resolution and then later adopted by ordinance in 1995 (WC Ord. 95-040).

Applications for Open Space Timber Land are evaluated as modified in 1995 by WC Ord. 95-040 in conformance with RCW 84.34.041.

A. Whatcom County Open Space Policy & Public Benefit Rating System

The Public Benefit Rating System is an evaluation tool consisting of natural resource, recreation, historical site, and agricultural land priority resource
categories that correspond to a range of potential points that may be assigned relative to the amount of benefit that may be provided to the public as a result of approving each application. Generally, resources of importance identified in the PBRS include lands that preserve or conserve: farmland, streams or shorelines and associated buffers, critical areas, ground water protection areas, threatened or endangered wildlife and wildlife habitat, opportunities for public recreation, scenic views and vistas, historic property, and others.

Applications for Open Space Land are also evaluated on the quality of the applicant’s proposed public access. It is part of the Whatcom County Public Benefit Rating System Public Access Policy to require public access unless there is known habitat for an endangered species of wildlife, or where there is a known archeological site, or when the purpose of the open space is for wetland conservation.

In cases such as those listed above, when the County Council is acting as the granting authority, the requirement of public access may be waived at Council discretion. The Public Access Policy also contains a requirement that owners of property approved as Open Space Land post an Open Space sign that displays the rules of conduct for public access when public access is required.

Not all counties have adopted a Public Benefit Rating System. One reason a county may elect to adopt a PBRS is because decisions made by the granting authority (County Council), whether to approve or deny applications may only be appealed to Superior Court for arbitrary and capricious actions. The purpose of the Public Benefit Rating System is to assist the legislative authority in developing a measure of consistency in awarding reduction in assessed value according to a point system that corresponds to the relative importance of the resource being conserved.

Resources that have been identified as providing public benefit if conserved, and the corresponding range of potential points awarded for preserving or conserving those resources (i.e. the Public Benefit Rating System) were all adopted after consideration by the Planning Commission, and adopted by Council who heard from the public on this matter at a series of public hearings in the late 1980’s. The PBRS was originally approved by Council in 1987 by resolution and then later revised and adopted by ordinance in 1995 (WC Ord. 95-040). The last revision to the PBRS in 1995 was to remove Open Space Timber Land from the Public Benefit Rating System; it removed a requirement of public access on Timber Land applications, and adopted approval criteria based on state law (RCW 84.34.041); otherwise the PBRS has not changed in the last 25 years or so.

Even though the PBRS has a point system, at its core the PBRS is a qualitative as opposed to a quantitative system. Many observers, Planning
Commissioners, Council Members, and members of the public alike, have indicated the PBRS may appear to be too subjective. In response, staff has begun a practice to address this point. Whenever staff reviews and evaluates an application for Open Space Land or Farm & Agricultural Conservation Land, research is conducted and past reviews are considered, so that there is some measure of consistency in scores assigned. When staff reviews a new group of applications, similar applications that have been evaluated and approved in the past are also considered by comparison so that for any particular group of applications reviewed, comparable points are being assigned to similar priority resources or amenities in the current group of applications being processed.

Listed below is a brief summary of some of the resources that have been identified in the County’s Public Benefit Rating System.

- Conserve or enhance natural, cultural or scenic resources; or
- Protect streams, stream corridors, wetlands, natural shorelines and aquifers; or
- Protect soil resources and unique or critical wildlife and native plant habitat; or
- Promote conservation principles by example or by offering educational opportunities; or
- Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces; or
- Enhance recreational opportunities; or
- Preserve historic and archeology sites; or
- Affect any other factors relevant in weighing benefits to the general welfare of the public by preserving the current use of the property.

Once staff review has been completed and points are awarded, they are computed with a formula developed by the County Assessor resulting in a score that is called a Public Benefit Rating (PBR). A Public Benefit Rating of at least 45 points must be attained to receive a staff recommendation of approval. The PBR represents the degree of conformance with the county’s adopted Basic Value and Public Benefit Value criteria that are part of the PBRS. The Public Benefit Rating (PBR) is used as a factor applied to another computed value to arrive at a new current use per acre value for the property, once approved. Attached to this report for reference is a document that gives a hypothetical example describing this formula, and also contains a discussion of the shift or off-set in taxes resulting from approving an application for Open Space Land. In addition, in Section II (A), staff has also included “estimated tax shift if approved” at the Public Benefit Rating assigned by staff.

*Special Note: The attached document entitled “Hypothetical Example of Applied Public Benefit Rating” uses a consolidated levy rate of 10 dollars per every one thousand dollars of assessed value. The consolidated levy rate is
not always the same for every parcel, as it depends on which taxing districts apply to the land that is the subject of application. The staff report lists “hypothetical estimated tax shift, if approved” on the Hurlbut and Hemnes applications. This “estimated tax shift” is based on an applied consolidated levy rate per every thousand dollars of assessed (current use) property value. Although parcel valuation information is based on information provided by the Assessor’s Office, it is provided only as a reference to assist decision makers with an understanding of the potential tax shift; only the Assessor’s office can give exact information about the change in taxation as it applies to any given application approval.

Please find attached individual evaluation sheets that include a detailed description of the public benefit offered and assigned scores for each criterion, and a spreadsheet provided by the Assessor’s Office estimating the shift in taxes that would occur if the Hurlbut and Hemnes applications are approved.

B. Timber Management Plan Evaluation Criteria: Authority: RCW 84.34.041 & Whatcom County Ord. 95-040

Applications received for the classification of Timber Land must contain five or more acres (not including home site), primarily devoted to the growth and harvest of timber for commercial purposes. In order for consideration, the applicant must submit a timber management plan that meets requirements as outlined in RCW 84.34.041 as established in Whatcom County Ordinance 95-040.

Timber Management Plans are rated by staff on whether or not they address the elements that constitute a timber management plan. Site visits are conducted to assess whether forest conditions described in the plan are consistent with what is on the ground. Approval is recommended for those applications that meet the definition of timber land as defined in RCW 84.34.020(3), and after a timber management plan has been submitted that contains all of the elements that constitute a timber management plan as described in RCW 84.34.041.

Please find attached evaluation sheets for each individual application for the Timber Land classification:

Timber Management Plans are evaluated to determine whether or not the plan contains the following elements that constitute a timber management plan as outlined in the Open Space Taxation Act [(RCW 84.34.041 (1) (a-m))].

a. A legal description of, or assessor’s parcel numbers for, all land the applicant desires to be classified as timber land;

b. The date or dates of acquisition of the land;
c. A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;
d. Whether there is a forest management plan for the land;
e. If so, the nature and extent of implementation of the plan;
f. Whether the land is used for grazing;
g. Whether the land has been subdivided or a plat filed with respect to the land;
h. Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;
i. Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;
j. Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;
k. A summary of the past experience and activity of the applicant in growing and harvesting timber;
l. A summary of current and continuing activity of the applicant in growing and harvesting timber;
m. A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

ATTACHMENTS
2013 Whatcom County Property Tax Reduction Program Map; 2014 Open Space Application Vicinity Map; Individual Application Maps; Individual Application Evaluation Forms; Estimate If-Approved Current Use Value (from County Assessor’s Office); Hypothetical Example of Applied Public Benefit Rating; Whatcom County Open Space Policies & Public Benefit Rating System; 2014 Department of Revenue Open Space Taxation Act, Publication; Whatcom County Property Tax Reduction Program Publication (June 12, 2014)

Report Prepared for the Whatcom County Planning Commission by:

Erin Osborn, Planner
Open Space Land Public Benefit Rating System-Evaluation Form

File # OSP2014-00002

<table>
<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification: Open Space Land</th>
</tr>
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<tbody>
<tr>
<td>Max K. and Hueih-Hueih Huribut 2700 Lake Whatcom Shore</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Status: New Application</th>
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<tbody>
<tr>
<td>2700 Lake Whatcom Shore</td>
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<table>
<thead>
<tr>
<th>City:</th>
<th>Assessors Parcel No. (s):</th>
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<tr>
<td>Bellingham</td>
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<table>
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<th>State: Wa Zip:</th>
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<table>
<thead>
<tr>
<th>Site Address:</th>
<th>Parcel Acre(s): 0.48</th>
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<tr>
<td>2700 Lake Whatcom Shore</td>
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<table>
<thead>
<tr>
<th>Subarea:</th>
<th>Zoning Designation: Rural One Dwelling Unit per Five Acres (RSA)</th>
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<tr>
<td>Lake Whatcom</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comp Plan Designation:</th>
<th>Historical Land Use: Vacant - Forested</th>
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<tbody>
<tr>
<td>Rural</td>
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<table>
<thead>
<tr>
<th>Application Acre(s)</th>
<th>Soil/Type Capabilities:</th>
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</thead>
<tbody>
<tr>
<td>0.48</td>
<td># 110 - Nati loam – 30-60% Slopes</td>
</tr>
<tr>
<td></td>
<td># 139 – Sehome loam – 2-8% Slopes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comments:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property is adjacent to an area where mud slides occurred in 1982; 1998; 2000, completely destroying the applicants residence in 1982 (since re-built). Property owners land use objectives include conservation of soil resources, protection of property, and enhancement of Lake Whatcom water quality and ecosystems.</td>
</tr>
</tbody>
</table>
Basic Value (BV) | Score | MAX
---|---|---
**Enhance Scenic Resources**
Conservation 0.48 acres forested hillside preserves Lake Whatcom hillside views enjoyed by residents, visitors, walkers, cyclists, motorists, swimmers, and water craft operators. | 10 | 10

**Protect Streams/Shorelines**
Lot 19 is subject to a restrictive covenants regarding sewer availability which may curtail residential development. Lots 22 & 23 are subject to restrictive covenants that prohibit construction for a period of time (2027). The applicants wish to conserve the land in accordance with the open space land classification in perpetuity.

**Protect Soils/Wildlife**
Prohibition of construction, and preservation of natural vegetation, protects soil from erosion on up to 60% slopes, and provides wildlife habitat.

**Promote Conservation Principles:**
A small posted Open Space sign will communicate that the site is under conservation and may increase awareness about conservation opportunities available under the County’s open space current program.

**Enhance Abutting Open Space**
Lots 18, 19, 22, & 23 are located just south of and abutting the protected Stimpson Reserve & Lake Geneva Preserve

**Recreation Opportunities**
Limited recreation: hiking, scenic views, nature observation, wildlife viewing may be accessible from Stimpson Reserve, and Lake Geneva Preserve.

**Historic / Archeological Significance**
None.

**Public Access**
Small Posted Open Space Sign; public access is limited to the linkages from adjacent property. Access from Lake Whatcom Blvd. is not viable.

**Water Resource Protection**
The purpose of conservation is to protect the geologically sensitive hillside from further erosion, and protect the health of Lake Whatcom.

**Wildlife Habitat**
Retention of tree canopy and naturally vegetated understory preserves offers protection to a diversity of wildlife species and promotes ecosystem health.

**Parcel Size**
0.48 acres.

**Abutting Open Space**
5%

**Natural Areas**
The sloped hillside property is naturally vegetated. While subject to the open space classification, the land will remain in a naturally vegetated condition for the life of the agreement.

**Financial Advantage**
None.

**Discretionary Value**
Classification as open space land will protect and enhance water quality and wildlife habitat in Lake Whatcom. This is a prime example of public benefit.

Total 53 70

The Public Benefit Rating is calculated using the following formula:
Public Benefit Rating Formula: BV+(BV x PBV) = PBR 53 + (53X.95) = 92.75

**OSP2014-00002**
Public Benefit Rating (PBR) = 92.75

Must receive at least 45 points for approval
Open Space Applications 2014
- Hurlbut

Open Space Land - New Application OSL

OSP2014-00002 - Max K. and Hueih Hueih Hurlbut
Geo ID: 380335 523242; 380335 525241; 380335 538230
Parcel acres = .45

Subject Parcels
Zoning & Comprehensive Plan
Open Space Land
OSP2014-00002 – Max K. and Hueih Hueih Hurlbut
Geo ID: 380335 523242; 380335 525241; 380335 538230
Parcel acres = .45
PROTECTED PROPERTY
IN THE LAKE WHATCOM WATERSHED
(As of 1-29-2010)

PROTECTED LAND

City Watershed Properties
Watershed Acquisition Prgm Land
1498 - Acres (465 Jointly protected)
709 - Units (124 Jointly protected)
Whatcom Co Protected - 288 Acres
WLT Protected - 182 Acres
Stimson Reserve 355 Acres
SV 25 Yr Sewer Restr. 498 Lts 89 Ac
SV Com Areas 593 Lots 95 Acres

SV Non Buildable 13 Lots 2.2 Acres

Bellingham City Limits
Urban Growth Area
Sudden Valley Boundary
Watershed Boundary
Lake Whatcom
Streams

SILVER BEACH PRESERVE
22 Acres
57 Units

OSTRODE
1 Acre
2 Units

AGATE RIDGE PRESERVE
341 Acres
68 Units

AGATE POND PRESERVE
(Conservation Easement)
136 Acres
6 Units

MACATEE & WELLS
5 Acres
13 Units

LAPLANTE
2 Acres
8 Units

OLSEN CREEK PRESERVE
61 Acres
14 Units

THREE CREEKS PRESERVE
165 Acres
15 Units

LOOKOUT MTN PRESERVE
399 Acres
10 Units

BOURJ
3.85 Acres
2 Units

BLOOMER
2 Acres
2 Units

SUDEN VALLEY
195 Acres
1104 units
(Does not include
of consolidations
or recreational areas)

THREE RIVERS PRESERVE
37 Acres
7 Units

SCEEN VALLEY
21 Acres
5 Units

ZIBBIST
21 Acres
5 Units

Lake Whatcom

Streams
**Farm & Agricultural Conservation Land Public Benefit Rating System-Evaluation Form**

File # OSP2014-00005

<table>
<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification: Farm &amp; Agriculture Conservation Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lucas &amp; Amy Hemnes</td>
<td>Status: Transfer From Farm Agriculture Land</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>2930 Sundown View Lane</th>
</tr>
</thead>
<tbody>
<tr>
<td>City:</td>
<td>Bellingham</td>
</tr>
<tr>
<td>State:</td>
<td>WA</td>
</tr>
<tr>
<td>Zip:</td>
<td>98226</td>
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</table>

<table>
<thead>
<tr>
<th>Site Address:</th>
<th>2930 Sundown View Lane Off of Sand Road between Goshen and Smith</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subarea:</td>
<td>N/A</td>
</tr>
</tbody>
</table>

| Comp Plan Designation: | Parcel Acre(s): 4.81 |

| Historical Land Use: Agriculture - Dairying | Application Acre(s) 3.81 |

<table>
<thead>
<tr>
<th>Zoning Designation: Rural (R5A)</th>
</tr>
</thead>
</table>

| Shorelines: | N/A |

| Soil/Type Capabilities: | # 62 Hale Silt Loam - Drained, 0-2% Slopes |

**Comments:** Classification will preserve agriculture protection overlay soils. These soils have been determined by Whatcom County, in consultation with the Natural Resource Conservation Service and local farmers, as being the best soils for farming.
### Basic Value (BV) Score | Public Benefit Value (PBV) Score | Total
--- | --- | ---
15 | 15 | 30% | 40% | 51 | 12% | 100%

#### Traditional or Potential

**Farmland**: Property is utilized as part of an ongoing 55 head beef cattle business; owners provide Boundary Bay Brewery with local beef. Previous owners did not maintain income for OSAG, continuance was granted pending reclassification.

**Soil Value**: # 62 – Hale Silt Loam - Drained - 0-2% slopes. Designated as Agricultural Protection Overlay Soil.

**Comprehensive Plan Designation**: Rural

**Promote Conservation Principles**: Posted Open Space Sign will promote awareness of conservation opportunities available to the public. Will teach manure management and herd management/herd rotation.

**Enhance Abutting Open Space**: Retains grass land/pasture, with manure management plan. Part of larger farm operation with 55 head of beef cattle

**Recreation Opportunities**: Agricultural education to local youth groups by appointment. Farm tours by appointment.

**Historic / Archeological Significance**: None.

**Enhance Scenic Resources**: Helps preserve pastoral setting along Sand Road.

**Protect Streams/Shorelines**: Grassy areas preserve hydrologic processes, help control stormwater run-off. Manure management plan, and herd management plan will help preserve water quality.

**Protect Soils/Wildlife**: Preserves Hale Silt Loam for existing and future agriculture.

#### Public Access:
- Posted Open Space Sign; Public Access by Appointment; Ample Off Street Public Parking off of Sand Road.

#### Water Resource Protection:
- Located in Moderate to High Critical Aquifer Recharge Area

#### Wildlife Habitat:
- Vegetated pasture provides habitat for small mammals and birds.

#### Parcel Size:
- 4.81 acres – Parcels less than 5 acres automatically receive a 40% decrease for this category. -40% 5°/o 20%

#### Abutting Open Space:
- OSAG to the North
- OSAG to the West

#### Natural Areas:

#### Financial Advantage:
- 0% 40% (+/-)

#### Discretionary Value:
- 0% 40% (+/-)

#### Total

The **Public Benefit Rating is calculated using the following formula**:

Public Benefit Rating Formula \[ BV+(BV \times PBV) = PBR = 51 + (51 \times 1.2) = 57.12 \]

**OSP2014-00005** Public Benefit Rating (PBR) = 57.12

*Application must receive at least 45 points for a staff recommendation of approval*
Farm and Agriculture Conservation Land Transfer from ASAG to OSFACL

OSP2014-00005 – Lucas & Amy Hemnes
Geo ID: 390429 041191 – OSAG to OSFACL
Parcel acres = 4.81; Homesite acre = 1.0

Subject Parcel
Open Space Applications 2014
- Hemnes

Zoning & Comprehensive Plan
Farm and Agriculture Conservation Land
OSP2014-00005 – Lucas & Amy Hemnes
Geo ID: 390429 041191 – OSAG to OSFACL
Parcel Ac. = 4.81; Total App. Ac. = 3.81
### Open Space Timber Land
### Current Use Classification-Evaluation Form

**File # OSP2014-00001**

<table>
<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification: Timber Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loren H. Bailey, SR. Credit Shelter Trust Elinor Bailey</td>
<td>Status: Transfer From Designated Forest Land</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Assessor’s Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>6759 Enterprise Road</td>
<td>390208 060364 0000 390208 022379 0000</td>
</tr>
<tr>
<td>City: Ferndale</td>
<td>390208 105297 0000 390208 087335 0000</td>
</tr>
<tr>
<td>State: WA Zip: 98248</td>
<td>390208 124252 0000 390208 185232 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site Address:</th>
<th>Bailey Trust (above) Elinor Bailey (above)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matz Road East of I-5</td>
<td>390208 235213 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subarea:</th>
<th>Parcels in County Parcels in City</th>
</tr>
</thead>
<tbody>
<tr>
<td>NA</td>
<td></td>
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<table>
<thead>
<tr>
<th>Comp Plan Designation:</th>
<th>Parcel Acre(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Growth Area Reserve City of Ferndale</td>
<td>Bailey Trust: 5.06; 5.06; 1.28; 4.57 E. Bailey: 5.06; 5.06; 4.58</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use:</th>
<th>Application Acre(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forested, Undeveloped</td>
<td>Parcels in County: 9.15 acres Parcels in City of Ferndale: 21.52 acres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Note:</th>
<th>County Zoning Designation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Ferndale annexed parcels east of I-5 after application was received.</td>
<td>Rural One Dwelling Unit per 10 Acres (R10A) City Zoning Designation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Predominant Soil/Type Capabilities:</th>
<th>Shorelines:</th>
</tr>
</thead>
<tbody>
<tr>
<td>#45 - Edmonds-Woodlyn loams, 0-2% Slopes, 50 year site index - Red Alder = 90</td>
<td>N/A</td>
</tr>
<tr>
<td>#99 - Squalicum gravelly loam, 15-30% Slopes, 50 year site index - Douglas fir = 112</td>
<td></td>
</tr>
<tr>
<td>#100 - Lynden sandy loam, 0-3% Slopes, 50 year site index - Douglas fir = 112</td>
<td></td>
</tr>
<tr>
<td>#165 - Tromp loam, 0-2% Slopes, 50 year site index - Douglas fir = 100</td>
<td></td>
</tr>
</tbody>
</table>

**Comments:** Generally productive Woodland soils. Lynden sandy loam and Tromp loam, relatively deep well drained; Edmonds-Woodlyn loams, are poorly drained, hydric soils. Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended.
A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

- The parcel(s) parcels under same ownership or in multiple ownership contain a minimum of 5 acres primarily devoted to the growth and harvest of timber for commercial purposes.
- A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;
- The date or dates of acquisition of the land;
- A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;
- Whether there is a forest management plan for the land; If so, the nature and extent of implementation of the plan;
- Whether the land is used for grazing;
- Whether the land has been subdivided or a plat filed with respect to the land;
- Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;
- Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;
- Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;
- A summary of the past experience and activity of the applicant in growing and harvesting timber;
- A summary of current and continuing activity of the applicant in growing and harvesting timber;
- A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

**OSP2014-00001 Staff Recommendation:** ☑ Approval ☐ Denial
Timber Land - Transfer Application DFL to OSTL

OSP2014-00001 – Loren H. Bailey Sr. Credit Shelter Trust, Elinor I. Bailey

Geo ID: 390208 060364 – 5.06 Ac.
Geo ID: 390208 105297 – 5.06 Ac.
Geo ID: 390208 124252 – 1.28 Ac.
Geo ID: 390208 235213 – 4.57 Ac.
Total App. Acres - 14.7 ac.

Total App. Acres - 15.97 ac.,...

Subject Parcels
Zoning & Comprehensive Plan
Timber Land - Transfer Application DFL to OSTL
OSP2014-00001 – Loren H. Bailey Sr. Credit Shelter Trust, Elinor I. Bailey
Geo ID: 390208 060364 - 5.06 Ac. Geo ID: 390208 022379 - 5.06 Ac.
Geo ID: 390208 105297 - 5.06 Ac. Geo ID: 390208 087338 - 5.06 Ac.
Geo ID: 390208 124252 - 1.28 Ac. Geo ID: 390208 185232 - 4.58 Ac.
Total App. Acres - 15.97 ac.
**Open Space Timber Land**

**Current Use Classification-Evaluation Form**

File # OSP2014-00003

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification: <strong>Timber Land</strong></th>
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<tr>
<td>Paul and April Engelund</td>
<td>Status: New Application</td>
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<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Assessor’s Parcel No. (s):</th>
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<tbody>
<tr>
<td>9601 Stein Road</td>
<td>400101 259478 0000</td>
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<table>
<thead>
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<tbody>
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<td>Custer</td>
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<table>
<thead>
<tr>
<th>Site Address:</th>
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<tr>
<td>9601 Stein Road</td>
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<table>
<thead>
<tr>
<th>Comp Plan Designation: Rural</th>
<th>Parcel Acre(s): 10.56 (+/-)</th>
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<thead>
<tr>
<th>Historical Land Use:</th>
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<tr>
<td>Forested, Residential</td>
<td>8.5 (+/-)</td>
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<thead>
<tr>
<th>Zoning Designation: Rural One Dwelling Unit per 10 Acres (R10A)</th>
<th>Shorelines: N/A</th>
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<table>
<thead>
<tr>
<th>Predominant Soil/Type Capabilities:</th>
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<tbody>
<tr>
<td># 93 - Labounty silt loam, 0-2% Slopes, 50 year site index – Red Alder = 90</td>
</tr>
<tr>
<td># 179 - Whatcom silt loam, 3-8% Slopes, 50 year site index – Douglas fir = 116</td>
</tr>
<tr>
<td># 180 - Whatcom silt loam, 8-15% Slopes, 50 year site index – Douglas fir = 116</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comments: Productive Woodland soils.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended.</td>
</tr>
</tbody>
</table>

---

**Notes:**

- **Open Space Timber Land Current Use Classification-Evaluation Form**
- **PL4-83-012D**
- **Page 1 of 2**
- **Rev. June 2011**
- **255**
A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

- The parcel(s) parcels under same ownership or in multiple ownership contain a minimum of 5 acres primarily devoted to the growth and harvest of timber for commercial purposes.
- A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;
- The date or dates of acquisition of the land;
- A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;
- Whether there is a forest management plan for the land; If so, the nature and extent of implementation of the plan;
- Whether the land is used for grazing;
- Whether the land has been subdivided or a plat filed with respect to the land;
- Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;
- Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;
- Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;
- A summary of the past experience and activity of the applicant in growing and harvesting timber;
- A summary of current and continuing activity of the applicant in growing and harvesting timber;
- A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

**OSP2014-00003 Staff Recommendation:** ☑ Approval □ Denial
Timber Land - New Application

OSP2014-00003 - Paul & April Engelund
Geo ID: 400101 259478 - 10.56 Ac.
Total App. Acres - 8.5 ac.

[Map Image]

Subject Parcel
Zoning & Comprehensive Plan

Timber Land - New Application

OSP2014-00003 – Paul & April Engelund
Geo ID: 400101 259478 – 10.58 Ac.
Total App. Acres - 8.5 ac.
**Open Space Timber Land**  
**Current Use Classification-Evaluation Form**

**File # OSP2014-00004**

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<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification: Timber Land</th>
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<tr>
<td>Sunset SW LLC</td>
<td>Status: New Application</td>
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<td></td>
<td></td>
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<tr>
<td>Street Address:</td>
<td>Assessor's Parcel No. (s):</td>
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<td>2920 Northshore Road</td>
<td>380432 025554 0000</td>
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<tr>
<td></td>
<td>380429 020020 0000</td>
</tr>
<tr>
<td>City: Bellingham</td>
<td></td>
</tr>
<tr>
<td>State: WA Zip: 98226</td>
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| Site Address:    | Parking Acre(s): 5.63 (+/-) |
| Abutting 2920 Northshore Road to the East | |
| Subarea: Lake Whatcom | |

| Comp Plan Designation: Rural | Parcel Acre(s): 5.63 (+/-) |
|                             |                             |

| Historical Land Use: | Application Acre(s) for a total of 5.63 (+/-) acres |
| Forested, Undeveloped | 0.28 (+/-) |

| Zoning Designation: Rural One Dwelling Unit per 5 Acres (R5A) |
|                                                               |
| Shoreslines: Rural |

| Predominant Soil/Type Capabilities: # 157 - Squalicum gravelly loam, - 15-30% Slopes, 50 year site index - Douglas fir = 132 |
| Comments: Productive Woodland soils. Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended. |
| NOTE: Rural Shoreline Permitted Uses are subject to WCC 23.30.074 (E) which provides for Agricultural and Forest Practices subject to WCC 23.90.11(c) Policies and Regulations, forest practices may require a Shoreline Substantial Development Permit. |
A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

- The parcel(s) parcels under same ownership or in multiple ownership contain a minimum of 5 acres primarily devoted to the growth and harvest of timber for commercial purposes.

- A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

- The date or dates of acquisition of the land;

- A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;

- Whether there is a forest management plan for the land; If so, the nature and extent of implementation of the plan;

- Whether the land is used for grazing;

- Whether the land has been subdivided or a plat filed with respect to the land;

- Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

- Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

- Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

- A summary of the past experience and activity of the applicant in growing and harvesting timber;

- A summary of current and continuing activity of the applicant in growing and harvesting timber;

- A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

**OSP2014-00004 Staff Recommendation:** ☑ Approval ☐ Denial
Timber Land - New Application

OSP2014-00004 – Sunset SW LLC

Geo ID: 380432 025554 – 1.72 Ac. (1.36 Ac. currently OST)
Geo ID: 380429 020020 - 3.91 Ac. (3.91 Ac. currently OST)
Total App. Ac. - .28 ac./Total Ac. (subject to approval) - 5.63

Subject Parcels
Zoning & Comprehensive Plan
Timber Land - New Application
OSP2014-00004 – Sunset SW LLC
Geo ID: 380432 025554 – 1.72 Ac. (1.36 Ac. currently OST)
Geo ID: 380429 020020 - 3.91 Ac. (3.91 Ac. currently OST)
App. Ac. - .28 ac./Total Ac. (subject to approval) - 5.63

Rural
Rural Forest
Commercial Forest
Subject Parcels
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PBR acreage rate calculation

\[
\text{FMV} - ((\text{FMV} - \text{HCU}) \times \text{PBR}) = \text{CU AC RATE}
\]

<table>
<thead>
<tr>
<th>ac</th>
<th>rate</th>
<th>av</th>
<th>Levy</th>
<th>Tax</th>
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<td>2014 Tax Difference</td>
<td></td>
<td></td>
<td></td>
<td>$57.43</td>
</tr>
</tbody>
</table>
EXPLANATION OF TAX SHIFT:

LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01

Fair Market Value TAX = 600,000 X .01 = $6,000.00 Taxes

Current Use Value TAX = 110,400 X .01 = $1,104.00 Taxes

- Difference between FMV Tax & CUV Tax $6,000-$1,104 = $4,896

- $4,896 in taxes that would otherwise be collected from this tax payer are “shifted” to other tax payers in the form of an increase in the levy rate applied to all assessed values on property within any given taxing district (as applicable) including the subject parcel acres that are approved for assessment at current use. The particular taxing district will still need to meet its budget, and in order to accomplish this, to offset reduction in value from properties classified under the current use programs (and other exemptions) will increase its levy rate to meet its budget.

NOTE: at 100% PBR the shift in taxes on the above example would be $5,760.00

- Generally, a tax code area is defined by geographic boundaries where most all of the parcels are subject to the same consolidated levy rate. However, not all parcels in a geographically defined tax code area are captured by the same taxing districts. For example, if in a particular tax code area there are two parcels of land that are contiguous, and one is developed, and one is raw unimproved land, and both are in the fire district’s boundaries, the improved land will be subject to a levy by the fire district, but the unimproved land will not be subject to a levy by the fire district.

- The example above illustrates why it is difficult to calculate the increase in taxes affecting tax payers whose land is assessed at fair market value, that would be imposed by the approval of a parcel at current use values.

- To further illustrate: the compensating increase in a taxing district’s levy rate will also apply to land assessed at current use values within a taxing district’s boundaries, but since the assessed value per acre has been substantially reduced as compared to fair market value, the amount of compensatory tax to meet the district’s budget is proportionately much less from these parcels as compared to those from parcels assessed at fair market value.
HYPOTHETICAL EXAMPLE OF APPLIED PUBLIC BENEFIT RATING
RESULTING IN NEW CURRENT USE VALUE AND "SHIFT" IN TAXES
UPON APPLICATION APPROVAL
TO CLASSIFY OR RE-CLASSIFY AS OPEN SPACE LAND

TERMS:
FMVA= Fair Market Value per acre
CUVA = Current Use Value per acre
FMV = Fair Market Value per acre multiplied by # of acres
CUV = Current Use Value per Acre multiplied by # of acres
PBR = Public Benefit Rating
DIFF = Difference between FMV and CUV
SAVINGS = Savings is difference between Fair Market Value and Current Use Value multiplied by the PBR
NEW VALUE is FMV-SAVINGS
NEW VALUE X CONSOLIDATED LEVY RATE = NEW TAXES
LEVY RATE = HYPOTHETICAL CONSOLIDATED LEVY RATE

FORMULA:

FMV - CUV = DIFF
DIFF X PBR = SAVINGS
FMV - SAVINGS = NEW VALUE
NEW VALUE X LEVY RATE = TAXES

CALCULATION:

FMV - CUV = DIFF
600,000 - 24,000 = 576,000
DIFF X PBR = SAVINGS
576,000 X .85 = 489,600
FMV - SAVINGS = NEW VALUE
600,000 - 489,600 = 110,400 = New CU Value
NEW VALUE X LEVY RATE = NEW TAXES ON LAND VALUED AT CURRENT USE
110,400 X .01 = 1,104
FMV taxes = 6,000
Current Use Taxes = 1,104
TAX SHIFT = 4,896

HYPOTHETICAL EXAMPLE:
Application for Open Space Land
= 20 acres – vacant raw land

Variables:
Fair Market Value/acre = 30,000
PBR = 85%
CUVA = 1,200
CUV = 20 X 1,200 = 24,000

HYPOTHETICAL CONSOLIDATED LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01
Whatcom County

Open Space Policy and Criteria

and

Public Benefit Rating System, 1995
SUMMARY OF WHATCOM COUNTY OPEN SPACE POLICIES

1. **Public Benefit Rating System:** All applications for open space—farm and agriculture conservation will be rated according to the Whatcom County Public Benefit Rating System described in the following pages. A Public Benefit Rating of at least 45 must be attained in order to be recommended for approval. In addition, the amount of tax reduction to be granted to open space applications will be based on the Public Benefit Rating. The greater the public benefit provided by keeping the property in open space use, the greater the tax reduction.

2. **Public Access:** As a condition of approval, owners of open space parcels must agree to provide a certain degree of public access according to the Whatcom County Public Access Policy listed on Page 12. All applications shall be accompanied by the owner’s proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined in the Whatcom County Public Access Policy. Note: On parcels where there is a documented occurrence of a State or Federal Endangered or Threatened species; Federal Proposed Endangered or Threatened Species; and State Sensitive or Monitor Species; or where there is a known or potentially significant archaeological site; or when the purpose of the open space is for wetland conservation, the public access requirement may be waived by the Council.

3. **Open Space Sign:** As a condition of approval, owners of open space parcels must agree to post a sign in a location visible to passing motorists, in accordance with the Whatcom County Open Space Sign Policy on Page 13 indicating the parcel’s open space status and the availability of public access. As with the public access requirement, the requirement for posting of a sign may be waived in some instances.

4. **Hold Harmless Agreement:** All open space property owners must sign a hold harmless agreement, freeing Whatcom County of any liability which may arise as a result of open space approval. A copy of the hold harmless agreement is included on Page 14.
WHATCOM COUNTY OPEN SPACE POLICY AND CRITERIA
AND PUBLIC BENEFIT RATING SYSTEM

I. APPROVAL CRITERIA: OPEN SPACE/OPEN SPACE AND OPEN SPACE/FARM & AGRICULTURE CONSERVATION

Washington State law specifies that:
In determining whether an application made for open space current use taxation status should be approved or disapproved, pursuant to RCW 84.34.020, subsection (1)(b) (Open Space/Open Space) or subsection (c) (Open Space/Farm & Agriculture Conservation), the Whatcom County Planning Commission will consider in its recommendations to the County Council whether or not preservation of the current use of the land, when balanced against the resulting revenue loss or tax shift from granting the application will:

1. Conserve or enhance natural, cultural or scenic resources, or
2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers, or
3. Protect soil resources and unique or critical wildlife and native plant habitat, or
4. Promote conservation principles by example or by offering educational opportunities, or
5. Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, or
6. Enhance recreation opportunities, or
7. Preserve historic and archaeological sites, or
8. Affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property.

II. PUBLIC BENEFIT RATING SYSTEM

A. Based on the first seven (7) approval criteria listed above in conjunction with number eight (8) above, the Planning Department staff will assign each application for Open Space/Open Space and Open Space/Farm & Agriculture Conservation a PUBLIC BENEFIT RATING using the method described below.

B. A parcel must receive a PUBLIC BENEFIT RATING of at least forty five (45) to be recommended for approval.

C. The PUBLIC BENEFIT RATING will be used by the County Assessor’s office in determining the amount of tax reduction for Open Space/Open Space and Open Space/Farm & Agriculture Conservation parcels.
III. PUBLIC BENEFIT RATING CALCULATION

A. BASIC VALUE
The Planning and Development Services Department will review each Open Space/Open Space and Open Space/Farm & Agriculture Conservation application and will assign to each a BASIC VALUE that represents the degree of conformance with the BASIC VALUE CRITERIA listed in Section IV below.

B. PUBLIC BENEFIT VALUE
The BASIC VALUE will be increased (or decreased) by a percentage (PUBLIC BENEFIT VALUE) representing the benefit to the general welfare of preserving the current use of the property, based on conformance with the factors listed in section V below.

C. PUBLIC BENEFIT RATING FORMULA
The PUBLIC BENEFIT RATING will be calculated using the following formula:

\[ PBR = BV + (BV \times PBV) \]

where:

- \( PBR \) = PUBLIC BENEFIT RATING
- \( BV \) = BASIC VALUE
- \( PBV \) = PUBLIC BENEFIT VALUE

IV. BASIC VALUE CRITERIA:

A. Open Space/Open Space
A maximum of ten points for open space/open space applications may be assigned for each of the 7 items based upon conformance with the criteria listed below.

1. Conserve or enhance natural, cultural or scenic resources.

Criteria for approval:

a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;

b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
c. lands which can serve to prevent the spread of high density residential development into less developed areas;
d. lands located adjacent to airports.

2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.
Criteria for approval:

a. lands within a 100-year floodplain;
b. lands within or adjacent to areas of domestic water supply;
c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
d. lands which provide for preservation of bogs or swamps;
e. lands adjacent to bodies of water, both marine and fresh;
f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

3. Protect soil resources and unique or critical wildlife and native plant habitat.
Criteria for approval:

a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On parcels where there this documentation, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

4. Promote conservation principles by example or by offering educational opportunities.
Criteria for approval:

a. lands which are an example of application of conservation principles;
b. lands which offer opportunities for conservation education such as
5. **Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;**

**Criteria for approval:**

a. land that the local County Park Board has identified for possible future park acquisition;
b. land designated in County Parks, Recreation and Open Space Study and other documents as significant park land, open space or conservation areas;
c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

6. **Enhance recreation opportunities.**

**Criteria for approval:**

a. lands possessing private recreational facilities which are available to the public without charge;
b. lands which provide opportunities for passive recreational activities such as, but not limited to, hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

7. **Preserve historic and archaeological sites.**

**Criteria for approval:**

a. areas or sites which have been identified as significant on local, state or national Historic Registers;
b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

B. **Open Space/Farm & Agriculture Conservation**

Only parcels consistent with RCW 84.34.020(8)(a)(b) may be considered for Open Space/Farm & Agriculture Conservation.
A maximum of **fifteen (15)** points for **Open Space/Farm & Agriculture Conservation** applications may be assigned for each of the first two (2) items listed below, and a maximum of **five (5)** points may be assigned for the **remaining eight (8) items** listed below based upon conformance with the criteria listed.

1. **Traditional or potential farmland.**
   
   **Criteria for approval:** lands which have historically been used for agriculture; and/or lands that have not been devoted to a use inconsistent with agricultural uses.

2. **Soil Value**
   
   **Criteria for approval:**
   
   a. lands which contain prime farmland as defined by the U.S. Department of Agriculture; or
   
   b. lands which contain capability classification I-IV according to the US Department of Agriculture Land Capability Classification system.

3. **Comprehensive Plan Designation**
   
   **Criteria for approval:** Lands which are designated Agriculture or Incentive Agriculture in the Whatcom County Comprehensive Plan.

4. **Conserve or enhance natural, cultural or scenic resources.**
   
   **Criteria for approval:**
   
   a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
   
   b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
   
   c. lands which can serve to prevent the spread of high density residential development into less developed areas;
   
   d. lands located adjacent to airports.
5. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.

Criteria for approval:
- lands within a 100-year floodplain;
- lands within or adjacent to areas of domestic water supply;
- lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
- lands which provide for preservation of bogs or swamps;
- lands adjacent to bodies of water, both marine and fresh;
- lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

6. Protect soil resources and unique or critical wildlife and native plant habitat.

Criteria for approval:
- lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
- lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
- lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On these parcels the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

7. Promote conservation principles by example or by offering educational opportunities.

Criteria for approval:
- lands which are an example of application of conservation principles;
- lands which offer opportunities for conservation education.
such as interpretive centers or trails.

8. Enhance the value to the public of abutting or neighboring parks, forests, agricultural lands, wildlife preserves, nature reservations or sanctuaries or other open spaces.

Criteria for approval:
   a. land that the local County Park Board has identified for possible future park acquisition;
   b. land designated in County Parks, Recreation and Open Space Studies and other documents as significant park land, open space or conservation areas;
   c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
   d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

9. Enhance recreation opportunities.

criteria for approval:
   a. lands possessing private recreational facilities which are available to the public without charge;
   b. lands which provide opportunities for passive recreational activities such as but not limited to hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

10. Preserve historic and archaeological sites.

Criteria for approval:
   a. areas or sites which have been identified as significant on local, state or national Historic Registers;
   b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.
V. PUBLIC BENEFIT VALUE CRITERIA

The following list of open space characteristics have been determined to have a high priority in providing (or detracting from) benefit to the general welfare will be used to determine the PUBLIC BENEFIT VALUE for each Open Space/Open Space and Open Space/Farm & Agriculture Conservation application. The total PUBLIC BENEFIT VALUE will increase (or decrease) the BASIC VALUE by a certain percentage. It is possible to attain a PUBLIC BENEFIT VALUE of up to 140%, resulting in a maximum possible increase of 140%.

A. PUBLIC ACCESS (Maximum 40% increase)
1. Shoreline access
2. Recreation access
3. Public road frontage
4. Availability of off-street parking
5. Quality of access in terms of accessibility and owner's Proposed rules of conduct and access management

B. WATER RESOURCE PROTECTION (Maximum 20% increase)
1. Watershed of domestic water supply
2. Aquifer recharge area
3. Preservation of hydrologic processes:
   - streams and natural drainage courses
   - wetlands, swamps, bogs
   - lakes

C. WILDLIFE HABITAT (Maximum 20% increase)
1. State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species.
2. Abundance and diversity of wildlife (associated with "edge" type habitat and areas of vegetative and topographic diversity).

D. PARCEL SIZE
1. Twenty (20) acres or larger (Maximum 10% increase)
2. Smaller than five (5) nominal acres (Maximum 10% decrease for OS Open Space applications; Required 40% decrease for OS Farm and Agriculture Conservation applications)

E. LINKAGE WITH OTHER OPEN SPACES (Maximum 5%
Adjacent to other Open Space, parks, or open areas associated with Planned Unit Developments, Cluster Subdivisions, or Binding Site Plans.

F. NATURAL AREAS (Maximum 5% increase)
Based on how much of parcel is in natural cover and not developed with homesite, outbuildings, and clearings.

G. FINANCIAL ADVANTAGE (Maximum 40% decrease)
The use to which the land is put derives a financial advantage for its owners.

H. DISCRETIONARY VALUE (Maximum 40% increase)
(Minimum 40% decrease)
Discretionary value may be added or subtracted where land provides or detracts from public benefits other than those specifically listed above. If discretionary value is added or subtracted, the provision of or detraction from public benefits shall be set forth in detail on the supplemental application form and on the scoring sheet.
PUBLIC ACCESS

All applications for Open Space/Open Space and Open Space Farm & Agriculture Conservation shall be accompanied by the owners’ proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined below.

The term “Public Access” is limited and defined as the right of any individual to request permission to enter and visit the premises on foot for legitimate recreational purposes such as bird watching, scenic observation, scientific investigation, picnicking during daylight hours, and strolling and general relaxation on the premises. This right is subject to the execution by the visitor of:

1. An agreement to abide by any reasonable rules of personal conduct required by the owners while on the premises, and

2. A general release of the owner from liability for any injury suffered by the visitor while on the premises. Permission will be granted without discrimination, EXCEPT in the case of a person in disorderly or apparently intoxicated condition in which case permission will be denied. Any permission previously granted shall become automatically revoked, and the visitor deemed to be a trespasser upon the premises.

Owners retain and reserve the power to officially post and enforce rules not inconsistent with the foregoing provisions and conditions for public entry upon the premises.

DATED this ___________ day of ___________, 2000

SIGNED:

________________________________________

owner

________________________________________

owner

12
OPEN SPACE SIGN POLICY

As a condition of approval of your open space application, you must post a two foot (2' x 2') sign on your property to indicate open space status, public access, and the Open Space Agreement number within one month of executing the Open Space Agreement.

The sign must be located on the property's road frontage in as conspicuous a location as possible.

Construction of the sign will be the responsibility of the applicant and will be in accordance with the specifications on file with the Planning and Development Services Department. It is the property owner's responsibility to assure that the sign remains in place during the period of the open space agreement.

This policy affects all Open Space/Open Space and Open Space/Farm and Agricultural Conservation applications.
Whatcom County Council

AFFIDAVIT OF POSTING OF OPEN SPACE SIGN
PURSUANT TO WHATCOM COUNTY OPEN SPACE SIGN POLICY AND SPECIFICATION

_________________________________________, being first duly sworn upon oath, deposes and says:

That I have posted a two foot by two foot Open Space Sign in accordance with the Whatcom County Open Space Sign Policy and the Whatcom County Open Space Sign Specification, in a conspicuous location, visible to passing motorists, indicating the Open Space status of the following Open Space parcel(s):
Assessor’s Parcel Number(s):

I understand that it is the property owner’s responsibility to assure that the sign(s) remains in place during the period of the Open Space Agreement; that posting of the Open Space sign is subject to verification by County personnel; and that failure to maintain the sign is a violation of the Open Space Agreement and may result in withdrawal of Open Space status with attendant taxes and penalties payable pursuant to RCW 84.34.

________________________________________
Signature of Property Owner or other person posting property

I certify that I know or have satisfactory evidence that ________________________________ signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated ________________________________
Signature of Notary Public

Title ________________________________
My Appointment
Expires ________________________________

Seal ________________________________
WHATCOM COUNTY OPEN SPACE SIGN SPECIFICATION

As a condition of approval of your Open Space application, you must post at least one Open Space sign on the property’s road frontage in a conspicuous location, visible to passing motorists. It shall be the property owner’s responsibility to assure that the sign remains in place during the period of the Open Space Agreement.

A typical sign and mounting are illustrated below. The sign shall be purchased from the Whatcom County Planning and Development Department for $5.00 plus tax of .39 cents. The sign shall be permanently attached to a weather-resistant solid backing at least two feet by two feet in size. You may also post reasonable rules of personal conduct while on the premises, pursuant to Whatcom County Public Access Policy. Such rules shall be approved by the Planning Department prior to posting.

TYPICAL SIGN AND MOUNTING
HOLD HARMLESS AGREEMENT

Owner Name

Owner Name

In consideration for Whatcom County's approval of the attached Open Space Application, with any conditions that may be imposed, hereby agree to defend, indemnify and hold harmless Whatcom County, its officers and employees from any claim that may arise against Whatcom County as a result of the approval of the attached application with conditions.

This agreement shall become binding only after the Whatcom County Council has approved the attached application.

Parcel number(s):

DATED: This ______ day of _____________________, 2008

SIGNED:

Owner Name

Owner Name
The information and instructions in this publication are to be used when applying for assessment on the basis of current use under the "open space laws," chapter 84.34 RCW and chapter 458-30 WAC.

What is the Open Space Taxation Act?
The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

Lands qualifying for current use classification
The law provides three classifications:

Open space land
Farm and agricultural land
Timber land

Open space land is defined as any of the following:

1. Any land area zoned for open space by a comprehensive official land use plan adopted by any city or county.

2. Any land area in which the preservation in its present use would:
   a. Conserve and enhance natural or scenic resources.
   b. Protect streams or water supply.
   c. Promote conservation of soils, wetlands, beaches or tidal marshes. (As a condition of granting open space classification, the legislative body may not require public access on land classified for the purpose of promoting conservation of wetlands.)
   d. Enhance the value to the public of neighbouring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.
   e. Enhance recreation opportunities.
   f. Preserve historic sites.
   g. Preserve visual quality along highway, road, and street corridors or scenic vistas.
   h. Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative authority granting the open space classification.

3. Any land meeting the definition of "farm and agricultural conservation land," which means either:
   a. Land previously classified under the farm and agricultural classification that no longer meets the criteria and is reclassified under open space land; or
   b. "Traditional farmland," not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

This fact sheet provides general information regarding the Open Space Taxation Act. The information is current at the date of publication. Please note subsequent law changes may supersede or invalidate some of this information.
Farm and agricultural land is defined as any of the following:

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
   a. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes.
   b. Enrolled in the federal conservation reserve program (CRP) or its successor administered by the United States Department of Agriculture.
   c. Other commercial agricultural activities established under chapter 458-30 WAC.

2. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has produced a gross income equivalent to:
   a. Prior to January 1, 1993, $100 or more per acre per year for three of the five calendar years preceding the date of application for classification.
   b. On or after January 1, 1993, $200 or more per acre per year for three of the five calendar years preceding the date of application for classification.

3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
   a. Seven years and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.
   b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.

4. For parcels of land five acres or more but less than 20 acres, “gross income from agricultural uses” includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.

5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
   a. Prior to January 1, 1993, $1,000 or more per year for three of the five calendar years preceding the date of application for classification.
   b. On or after January 1, 1993, $1,500 or more per year for three of the five calendar years preceding the date of application for classification.

6. “Farm and agricultural land” also includes any of the following:
   a. Incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.

b. Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.

c. Any non-contiguous parcel one to five acres, that is an integral part of the farming operations.

d. Land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes, the housing or residence is on or contiguous to the classified land, and the classified land is 20 or more acres.

e. Land that is used primarily for equestrian-related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to minimum gross income requirements.

f. Land that is primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not. For additional criteria regarding this use, please refer to RCW 84.34.020(2)(h).
Timber land is defined as the following:
Any parcel of land five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than 10 percent of the land may be used for such incidental uses.

It also includes the land which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

The timber land classification may be unavailable in some counties. As a result of the passage of Senate Bill 6180 in 2014, counties have the option to merge their timber land classification into their designated forest land program under chapter 84.33 RCW. To determine whether your county offers the timber land classification, you may contact the county assessor or visit the Department of Revenue’s website at: www.dor.wa.gov.

Who may apply?
An owner or contract vendee may apply for current use assessment. However, all owners or contract vendees must sign the application for classification, and any resulting agreement.

When may I apply?
Applications may be made for classification at any time during the year from January 1 through December 31. If approved, current use assessment will begin on January 1 following the year the application was submitted.

Where do I get the application?
Application forms for the farm and agricultural land classification are available from the county assessor’s office. Application forms for the open space and timber land classifications are available from either the county assessor’s office or by contacting the county legislative authority.

Where do I file the application?
An application for open space classification is filed with the county legislative authority.
An application for farm and agricultural land classification is filed with the county assessor.
An application for timber land classification is filed with the county legislative authority. Timber land applications require that a timber management plan also be filed.

Is there an application fee?
The city or county legislative authority may, at their discretion, establish a processing fee to accompany each application. This fee must be in an amount that reasonably covers the processing costs of the application.

What happens after I file my application for open space classification?
Applications for classification or reclassification as “open space land” are made to the appropriate agency or official called the “granting authority.” If the land is located in the county’s unincorporated area, the county legislative authority is the granting authority on the application. If the land is located within an incorporated area of the county, the application is acted upon by both the county and city legislative authorities.

If the application is subject to a comprehensive plan that has been adopted by any city or county it will be processed in the same manner in which an amendment to the comprehensive plan is processed. If the application is not subject to a comprehensive land use plan, a public hearing on the application will be conducted, but a notice announcing the hearing must be published at least 10 days prior to the hearing.

The granting authority must approve or reject the application within six months of receiving the application. In determining whether an application made for classification or reclassification should be approved or denied, the granting authority may consider the benefits to the general welfare of preserving the current use of the property.
They may require that certain conditions be met including but not limited to the granting of easements.

If the application is approved, the granting authority will, within five calendar days of the approval date, send an agreement to the applicant for signature showing the land classification and conditions imposed. The applicant may accept or reject the agreement. If the applicant accepts, he or she must sign and return the agreement to the granting authority within 30 days after receipt.

The approval or denial of the application for classification or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

How does a public benefit rating system work?
If the county legislative authority has established a public benefit rating system (PBRS) for the open space classification, the criteria contained within the rating system governs the eligibility and valuation of the land subject to the application.

When a county creates or amends a PBRS, all classified open space land will be rated under the new PBRS. Land that no longer qualifies for classification will not be removed from classification, but will be rated according to the PBRS. Within 30 days of receiving notification of the new assessed value established by the PBRS, the owner may request removal of classification of the land without imposition of additional tax, interest, and penalty.

What happens after I file my application for farm and agricultural land classification?
Upon application for classification or reclassification, the assessor may require applicants to provide data regarding the use of the land, including, but not limited to, the productivity of typical crops, sales receipts, federal income tax returns, other related income and expense data, and any other information relevant to the application.

The application will be considered approved unless the assessor notifies the applicant in writing prior to May 1 of the year after the application was submitted. The criteria for classification continue to apply after classification has been granted.

What is an “advisory committee”?
The county legislative authority must appoint a five member committee representing the active farming community within the county. This committee will serve in an advisory capacity to the assessor in implementing assessment guidelines as established by the Department of Revenue for the assessment of open space lands, farm and agricultural lands, and timber lands.

How do I appeal a denial of my farm and agricultural land application?
The owner may appeal the assessor's denial to the board of equalization in the county where the land is located. The appeal must be filed with the board on or before July 1 of the year of the determination or within 30 days after the mailing of the notice of denial, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

What happens after I file my application for timber land classification?
Applications for timber land classification or reclassification are made to the county legislative authority. A timber management plan is required at the time of application or when a sale or transfer of timber land occurs and a notice of continuance is signed.

The application form requests information about forest management, restocking, fire protection, insect and disease control, weed control, and any other summary of experience and activity that supports the growth and harvest of timber for commercial purposes.
The application is acted upon in a manner similar to open space land applications and within six months of receiving the application.

Approval or denial of a timber land application is a legislative determination and is reviewable only for arbitrary and capricious action. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

**How is the value of classified land determined?**

The assessor is required to maintain two values for each parcel that is classified. The first is the value that would be placed on the land if it was not classified. This is commonly referred to as the "fair market value." The second is the current use land value based on its current use, not highest and best use, as classified by the granting authority.

Open space land located within a county that has adopted a public benefit rating system will be valued according to the criteria of the rating system.

In the absence of a rating system, the per acre value can be no less than the lowest per acre value of classified farm and agricultural land in the county.

In determining the current use value of farm and agricultural land, the assessor considers the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years. This earning or productive capacity is the "net cash rental" and is capitalized by a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

Timber land is valued according to a schedule prepared by the Department of Revenue according to chapter 84.33 RCW. The Department of Revenue annually adjusts and certifies timber land values to be used by county assessors in preparing assessment rolls. The assessors assign the timber land values to the property based upon land grades and operability classes.

**How long does the classification last?**

The land continues in its classification until a request for removal is made by the owner, the use of land no longer complies, a sale or transfer to an owner that causes land to be exempt from property taxes, or the ownership has changed and the new owner has not signed a Notice of Continuance. The notice of removal is recorded with the county auditor in the same manner as the recording of state tax liens on real property. Additional tax, interest, and penalties will apply if the land is removed and the removal does not meet one of the exceptions listed in RCW 84.34.108(6).

**How do I withdraw from classification?**

If intending to withdraw all or a portion of the land from classification after 10 years of classification, the owner must give the county assessor two years prior notice. This notice can be filed after the eighth assessment year of the initial 10-year classification period.

If a portion of the land is removed from classification, the remaining portion must meet the requirements of original classification unless the remaining land has different income or investment criteria.
What happens after I file a request to withdraw?

Upon receipt of a request for withdrawal, the assessor notifies the granting authority that originally approved the classification, and, when two years have elapsed, the assessor withdraws the land from classification. The land withdrawn from classification is subject to seven years of additional tax and interest, but not a 20 percent penalty.

What happens if the classified land is sold or transferred?

When classified land is sold or transferred, the seller or transferor becomes liable at the time of sale for the additional tax, interest, and penalty unless the new owner(s) signs the Notice of Continuance which is attached to or shown on the real estate excise tax affidavit. The county auditor cannot accept an instrument of conveyance on any classified land unless the Notice of Continuance has been signed or the additional tax, interest, and penalty has been paid. The assessor determines if the land qualifies for continued classification.

What if I want to change the use of my classified property?

An owner changing the use of land from a classified use must notify the county assessor within 60 days of this action. The assessor will remove the land from classified status and impose an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on the land had it not been classified. The additional tax is payable for the last seven tax years, plus interest at the same rate as charged on delinquent property taxes, plus a penalty of 20 percent of the total amount.

If the assessor removes my land from classification, may I appeal?

Yes, the owner may file an appeal of the removal from classification to the county board of equalization on or before July 1 of the year of the determination, or within 30 days of the date the notice was mailed by the assessor, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

Upon removal from classification, what taxes are due?

At the time the land is removed from classification, any taxes owing from January 1 of the removal year through the removal date, and any additional tax, applicable interest, and penalty owing are due and payable to the county treasurer within 30 days of the owner being notified.

What if the additional taxes are not paid?

Any additional tax, applicable interest, and penalty become a lien on the land at the time the land is removed from classification. This lien has priority over any other encumbrance on the land. Such a lien may be foreclosed upon expiration of the same period after delinquency in the same manner as delinquent real property taxes. If unpaid, interest is charged on the total amount due at the same rate that is applied by law to delinquent property taxes. Interest accrues from the date of the delinquency until the date the total amount is paid in full.

What is done with the additional tax, interest, and penalty paid when land is removed from classification?

Upon collection, the additional tax is distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The applicable interest and penalties are distributed to the county's current expense fund.
How do I change the classification of my property?

Land may be reclassified, upon request by the owner, subject to all applicable qualifications for each classification, without additional tax, interest, and penalty for the following:

1. Land classified as farm and agricultural land may be reclassified to timber land; timber land may be reclassified to farm and agricultural land.

2. Land classified as either farm and agricultural land or timber land under chapter 84.34 RCW, or forest land under chapter 84.33 RCW may be reclassified to open space land.

3. Land classified as farm and agricultural land or timber land may be reclassified to forest land under chapter 84.33 RCW.

4. Land previously classified as farm and agricultural land may be reclassified to open space land as “farm and agricultural conservation land” and subsequently be reclassified back to farm and agricultural land.

Is supporting information required to change classifications?

The assessor may require an owner of classified land to submit data regarding the use of the land, productivity of typical crops, income and expense data, and similar information regarding continued eligibility.

Laws and Rules

It is helpful to read the complete laws, Revised Code of Washington, chapters 84.33 and 84.34 (RCW) and rules, Washington Administrative Code, chapter 458-30 (WAC) to understand requirements of the classifications and the tax liabilities incurred.

Applications for reclassification are acted upon in the same manner as approvals for initial classification.

The county assessor approves all applications for farm and agricultural classifications and reclassifications. The county legislative authority (and in some cases, the city legislative authority) approves all land classifications or reclassifications for timber land and open space land, including farm and agricultural conservation land.

Need More Information?

Requirements for making application for current use classification are available at the county assessor’s office or by contacting the county legislative authority.

For general information contact:

- Department of Revenue, Property Tax Division
  P. O. Box 47471
  Olympia, Washington 98504-7471
  (360) 534-1400
- Website dor.wa.gov
- Telephone Information Center
  1-800-647-7706
- To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715.
- Teletype (TTY) users please call 1-800-451-7985.
Establishing Additional Eligibility Requirements for the Current Use Program

In response to multiple inquiries from county officials and property owners as to whether assessors and county legislative authorities have the authority to establish additional eligibility requirements for the three current use classifications other than those allowed in chapters 84.34 RCW and 458-30 WAC, the Department of Revenue has issued this Property Tax Advisory.

**Question:** May counties adopt ordinances establishing eligibility requirements for the three current use classifications in chapter 84.34 RCW that are in addition to the eligibility requirements in state statute?

**Answer:** Counties may adopt ordinances that establish additional eligibility requirements for the “open space” and “timber land” classifications, but not for the “farm and agricultural land” classification. However, additional eligibility requirements for the open space and timber land classifications must not conflict with state law and not arbitrarily or capriciously restrict access to either classification.

**Analysis:**
Article XI § 11 of the Washington State Constitution (“Constitution”) allows local governments to adopt regulations that are not in conflict with state law. It provides that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary, and other regulations as are not in conflict with general laws.”

Washington case law has established two tests to determine a local ordinance’s validity with respect to state law. An ordinance is invalid if:
- it directly conflicts with a state statute; or
- the Legislature manifests an intent to preempt the field/subject matter.

Article VII § 11 of the Constitution allows three classes of land to qualify for current use valuation: open space land, farm and agricultural land, and timber land. Statutory criteria and procedures contained in

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2. *Id.* at 827.
chapter 84.34 RCW govern the three classifications of land. The Department of Revenue’s analysis of the validity of local ordinances for the three classifications of land is discussed below.

Example One: The county legislative authority passes an ordinance adopting a Public Benefit Rating System (PBRS). The section on Farm and Agricultural Conservation Land in the ordinance states the following:

"Farm and Agricultural Conservation Land" means:

- Land that was either previously classified under RCW 84.34.020(2) (farm and agricultural land) that no longer meets the criteria of that subsection and is reclassified as open space land: or
- Traditional farmland not classified under chapter 84.33 or 84.34 RCW that has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture.

Eligible lands must meet one of these definitions and return to commercial agricultural production within 10 years.

The county legislative authority approves and denies all open space land (which includes the farm and agricultural conservation land sub classification) applications. The decision to grant or deny the application is a legislative determination and is reviewable only for "arbitrary or capricious" actions. (RCW 84.34.037(5)) In determining whether classification will be granted, the revenue loss or tax shift as well as the benefits from preserving or protecting environmental, scenic, or recreational resources must be considered. (RCW 84.34.037(2))

The county legislative authority may adopt a PBRS that establishes additional eligibility requirements for classifying property as open space land. (RCW 84.34.055) However, the additional requirements may not arbitrarily or capriciously restrict access to the open space land classification.

The eligibility requirement in this example which limits the amount of time a parcel can be classified as farm and agricultural conservation land may be permissible under RCW 84.34.037(4) as a condition of granting the open space land classification. This condition appears consistent with the intent that "farm and agriculture conservation land" have a high potential for returning to commercial agriculture as described in RCW 84.34.037(2)(c)(ii).

On the other hand, if land does not return to commercial agricultural production within the required period, the assessor could remove it from classification because the land did not meet the conditions of approval. An alternative to removing the land from classification could be reducing the benefit the parcel receives from being classified as farm and agricultural conservation land. This alternative may be more appropriate for land being preserved for long-term agricultural purposes instead of land that has a high potential of returning to commercial agricultural use within 10 years.

3 "Arbitrary and capricious" has been defined as action which is willful and unreasoning, without consideration and in disregard of facts and circumstances. See, Heinmiller v. Dep’t of Health, 127 Wn.2d 595, 903 P.2d 433, cert. denied, 518 U.S. 1006, 116 S. Ct. 2526, 135 L. Ed. 2d 1051 (1995).
In contrast, if the county legislative authority passes an ordinance requiring all parcels be removed from classification after a 10-year period, regardless of how the land is being used, it could be considered arbitrary and capricious because land would be removed even if it is actively farmed or being preserved for future commercial agricultural use. Additionally, land used for commercial agriculture that cannot qualify for reclassification as farm and agricultural land under RCW 84.34.020(2) because it entered farm and agricultural conservation land as “traditional farmland,” should not be removed simply because of a time limitation if it meets the other statutory requirements for classification.

Example Two: The county legislative authority passes an ordinance that requires a minimum parcel size of 10 acres for classification as open space land.

Open Space Land – RCW 84.34.020(1)
Although there is no minimum parcel size requirement under state law, a county may require a minimum parcel size to qualify as open space land. For this example, the intent of the minimum acreage requirement is to maximize the benefit to the public by granting classification to larger parcels, so this would fall within the discretion granted by the statute to consider public benefit when approving an application.

Farm and Agricultural Land – RCW 84.34.020(2)
Unlike the open space land classification, the county assessor approves and denies all applications for the farm and agricultural land classification. This difference, together with the fact that the definition of “farm and agricultural land” contains detailed and objective criteria for determining whether a property qualifies, indicates that counties may not adopt ordinances that establish additional eligibility requirements for the farm and agricultural land classification without conflicting with Article XI § 11 of the Washington Constitution.

If a county adopts an ordinance that places additional restrictions on the eligibility for the farm and agricultural land classification, then the ordinance is removing a benefit that is available under the state statute. As such, an ordinance with minimum acreage requirements would conflict with state statute and be considered invalid by Washington courts.

Thus, the Department takes the position that state law preempts counties from imposing additional eligibility requirements beyond those listed in state statute.

Timber Land – RCW 84.34.020(3)
The county legislative authority approves and denies all timber land applications. This discretion primarily involves whether the property is devoted to the growth and harvest of timber for commercial purposes. (RCW 84.34.020(3))

As with the application process for open space land, the granting or denial of an application for the timber land classification is a legislative determination and is reviewable only for arbitrary and capricious actions. (RCW 84.34.041(4))
The county legislative authority must act upon the application "with due regard for all relevant evidence and without any one or more items of evidence necessarily being determinative." (RCW 84.34.041(3))

Thus, the application must be considered as a whole, in its entirety, as to whether the county believes the property is devoted primarily to the growth and harvest of timber for commercial purposes.

Accordingly, counties may restrict the approval of applications by enacting ordinances that require certain conditions be satisfied depending on the characteristics of the property or the information in the timber management plan as long as a single condition, by itself, is not determinative of whether the application is denied.

However, to reconcile this provision with the language in RCW 84.34.041(3), these conditions must be related to ensuring the property is devoted primarily to the growth and harvest of timber for commercial purposes. Consequently, the Department would consider conditions, such as an ordinance imposing minimum acreage requirements that differ from those allowed in state statute, to be invalid as it conflicts with state statute.

**Example Three:** The county legislative authority adopts an ordinance that states the following:

Pursuant to RCW 84.34.020(3), the primary use of the property must be for the production of forest crops. To qualify for classification as timber land, the land cannot contain a residence if it is at least 5 but less than 20 acres. It is deemed that such land is being used primarily as a home site, and therefore does not comply with the intent and purpose of the timber land classification.

State law defines "timber land," in RCW 84.34.020(3), in part, as follows:

"Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential home site.

Under state law, parcels that are less than 20 acres, but at least five acres, may be classified as timber land, even if there is a residence. The county ordinance, however, prohibits parcels smaller than 20 acres, with a residence, from qualifying for the timber land classification.

State law would allow a six-acre parcel of land with a one-acre home site to qualify for the timber land classification. If a parcel includes a home site, the home site acreage is excluded from the qualifying timber acreage.

The ordinance takes away a possibility that exists in state law; therefore, the Department would consider the ordinance to be invalid as it conflicts with the state statute.

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4 However, see RCW 84.34.041(3) for three specific circumstances in which an application can be denied without regard to other evidence.
In a nutshell, what are Whatcom County’s property tax reduction programs all about?

In accordance with state law, all property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law (RCW 84.40.030).

In addition to many other types of property tax reduction programs, there are two state laws that allow an exception to property valuation at its ‘highest and best use’.

**Designated Forest Land** — Chapter 84.33 RCW [authorizes one tax classification]

Open Space Taxation Act — Chapter 84.34 RCW [authorizes three tax classifications & one sub-classification]

To summarize, the above listed property tax reduction laws were established by the Washington State Legislature to address a statewide concern that lands were being converted to uses inconsistent with commercial agriculture, commercial forestry, the preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, protection of soil and water resources, parks, forests, wildlife preserves, and recreational uses.

The above described tax laws give county assessors authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use (i.e. fair market value). Lands classified as Farm & Agricultural Land, Open Space Land, Farm & Agricultural Conservation Land, Timber Land, and Designated Forest Land receive a reduced assessed value; thereby providing financial incentives to property owners to voluntarily conserve and preserve these lands.

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**Whatcom County Property Tax Reduction Programs**

1. **Open Space Taxation Act — Chapter 84.34 RCW**

   **1. Farm & Agricultural Land**

   All applications for Farm & Agricultural Land are made to the County Assessor’s Office, including applications made on lands located in cities. The County Assessor is the granting authority who approves or denies all applications for Farm & Agricultural Land, and who monitors all applications for compliance with their eligibility requirements.

   **2. Open Space Land**

   All applications for Open Space Land are received and processed by Planning & Development Services Department, and all applications on lands located within an unincorporated area are approved or denied by the County Council, acting in its role as the granting authority.

   There is no minimum acreage to qualify. Applications for Open Space Land are evaluated with the Public Benefit Rating System. Applications scoring a Public Benefit Rating (PBR) of 45 points or more receive a staff recommendation of approval. Applications are first reviewed by the Planning Commission, and then after a Public Hearing and after considering the loss of revenue or shift in taxes relative to the benefit offered, the County Council approves or denies each application.

   **3. Timber Land**

   All applications for Timber Land located within unincorporated areas are received and processed by Planning & Development Services Department. Applications on lands located within an unincorporated area are approved or denied by the Whatcom County Council, acting in its role as the granting authority.

   To qualify, the application must be a minimum of 5 acres devoted primarily to the growth and harvest of timber for commercial purposes.

   Applications are evaluated with Whatcom County Timber Management Plan Criteria, and RCW 84.30.061 which lists elements of a timber management plan; applications must receive a score of 7 of out of 14 possible points for a recommendation of approval.

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**Notice of Continuance**

At the time of sale or transfer in ownership of lands classified under chapters 84.33 & 84.34 RCW, unless the buyer signs a Notice of Continuance and agrees to use the land in accordance with the purpose of classification, the land will be removed from the classification and the seller must pay compensating tax, or additional tax and interest, and penalties (as applicable). The owner may apply to have the land reclassified under Chapter 84.34 RCW.

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*Incorporated Areas: Applications for Open Space Land, Farm & Agricultural Conservation Land, and Timber Land on lands located within a city are acted upon by a joint granting authority comprised of members from the respective city’s council and the County Council.*

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*“BACK TAXES”: When land ceases to qualify or for any other reason is removed from any of the above described property tax classifications, and except in certain circumstances, the owner/seller will be required to pay additional tax or compensating tax, subject to interest, and penalties (as applicable). Please see the back page of this document for more information about Whatcom County’s Property Tax Reduction Programs*
**TERMINOLOGY**

"**Applicant**" means the owner who submits an application for classification or reclassification of land under chapter 84.33 or 84.34 RCW.

"**Application**" means an application for classification or reclassification of land under chapter 84.33 or 84.34 RCW.

"**Classified land**" means a parcel(s) of land that has been approved by the appropriate granting authority for taxation under chapter 84.33 or 84.34 RCW.

"**Reclassification**" means when land classified under chapter 84.33 or 84.34 RCW is changed from one classification to a different classification established by chapter 84.34 RCW or into designated forest land as described in chapter 84.33 RCW.

"**Current use value**" means the taxable value of a parcel of land placed on the assessment rolls following its classification or reclassification under chapter 84.34 RCW.

"**Grantee authority**" means the appropriate agency or official that acts on an application for classification or reclassification under chapter 84.33 or 84.34 RCW.

"**Notice of continuance**" is the notice signed when land classified under chapter 84.33 or 84.34 RCW is sold or transferred and the new owner requests that the classified use of the land remains classified under chapter 84.33 or 84.34 RCW.

"**Removal**" or "**removal**" is when land classified under chapter 84.33 or 84.34 RCW is removed from classification by the assessor because the owner requests removal, the new owner fails to sign the notice of continuance, the assessor does not approve continuance, or the land is no longer used for the purpose under which classification was granted.

"**True and fair value -- Highest and best use**": Unless specifically provided otherwise by statute, all property shall be valued on the basis of its highest and best use for assessment purposes. Highest and best use is the most profitable, likely use to which a property can be put, it is the use which will yield the highest return on the owner’s investment. In some cases, land used for agricultural purposes may have the highest market value, and so in this regard may be considered the “highest and best use”; but when agricultural land is classified as Farm & Agricultural Land, the “current use value” of the land may in some cases be lower than the highest & best use value.

"**Commercial agricultural purposes**" means the use of land on a continuous and regular basis, prior to and subsequent to application for classification or reclassification, that demonstrates that the owner or lessee is engaged in and intends to obtain through lawful means, a monetary profit from cash income by producing an agricultural product.

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**PUBLIC BENEFIT RATING SYSTEM (PBRS)**

**Frequently Asked Questions**

The County’s Open Space Policy & Criteria & Public Benefit Rating System states in part that Whatcom County Planning Commission will consider in its recommendations to the County Council, the loss of revenue or shift in taxes that would occur if an application for Open Space Land or Farm & Agricultural Conservation Land were to be approved. (Whatcom County Ord. 95-040) Even if an application receives a score of 45 points or above, which correlates with a recommendation of approval, the County Council may still consider the loss of revenue or shift in taxes that would occur in making its decision to approve or deny an application.

Q. Why this discretion?

A. Instead of electing to adopt a PBRS that results in automatic approval or denial of an application solely on the basis of its score, the County Council has exercised its authority, in accordance with state law, to also consider each application in terms of its overall benefit relative to the monetary shift in taxes that would occur if the application were to be approved. This is to ensure that for each and every application, the overall benefit is considered relative to the tax burden being shifted onto other taxpayers.

For example, if a property owner applies for classification as Open Space Land on 1000 acres that is located within an urban area, and it scores a Public Benefit Rating of 45 or above, because this land when assessed at its highest and best use (i.e. fair market value) results in a property value that is very high, the shift in taxes as a result of approving this application might be considered too great a burden on the other tax payers and not worth the benefit of preserving the land in its current use, (relative to the shift in taxes); and for these reasons the granting authority might decide to deny the application, or approve only part of the application.

Q. Who pays the taxes that are shifted?

A. Generally, when applications are approved for assessment at current use, other tax payers pay more; this is because when cumulative assessed property values go down, levy rates generally increase so that individual taxing districts may meet their budget goals; this "tax shift" also applies to those properties assessed at 'current use'.

Please Note: This is a very general explanation of the Public Benefit Rating System, and exceptions may apply.

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**RECLASSIFICATION**

Generally, and in some cases, land may be eligible to reclassify from one property tax classification to another. Subject to application fees, and approval under applicable criteria, land currently classified under one classification may be approved to reclassify into another classification without having to pay back taxes, interest, or penalties, at time of reclassification. It should be noted that any time land is removed from any of the classifications listed below, the owner will be required to pay additional tax, or compensating tax, and interest and penalties, as applicable.

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<td><strong>Total County Acres</strong></td>
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**FACTS & FIGURES**

**CONTACT US:**

Whatcom County Assessor
Courthouse Suite 106
311 Grand Avenue
Bellingham, WA 98225
Phone: (360) 676-6790
TDD: (360) 738-4555
E-mail: assessor@co.whatcom.wa.us

Whatcom County Planning & Development Services (PDS)
5280 Northwest Drive
Bellingham, Washington 98226
Telephone: (360) 676-6907
E-mail: pds@co.whatcom.wa.us

Washington State Department of Revenue is the state agency charged with overseeing the provisions of property tax reduction programs that are authorized under Chapters 84.33 & 84.34 RCW.

294
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITLE OF DOCUMENT:
A resolution approving recommendations on five applications for open space current use assessment on lands located within unincorporated Whatcom County.

ATTACHMENTS:
Cover Memo, Draft Resolution, Planning Commission Facts & Findings,
Planning Commission June 26, 2014 Work Session Draft Minutes,
Background Documents on file with the Council Office: Staff Report, Maps, Photos, and other Documents.

SEPA review required? ( ) Yes (X) No
SEPA review completed? ( ) Yes N/A

Should Clerk schedule a hearing? (X) Yes () No
Requested Date: August 5, 2014

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
In accordance with Whatcom County Code, Section 3.28.020 which establishes procedures for processing applications for open space current use taxation, Whatcom County Planning Commission recommendations are hereby forwarded to the Whatcom County Council to approve in whole or in part or to deny five applications for open space current use assessment as authorized by the Open Space Taxation Act (Chapter 84.34 RCW).
The lands that are the subject of these applications are located entirely within unincorporated Whatcom County.
A draft resolution has been prepared to initiate Council action should the Council wish to approve Planning Commission recommendations.

Note: Because this group of applications contained a “split” jurisdiction application on lands located within the City of Ferndale, a separate agenda bill has also been prepared to introduce a separate resolution, and to request a separate hearing so that the County Council can act on the portion of the land in one particular application on lands located within the City of Ferndale, separately from its action on lands that are in this group of applications located entirely in unincorporated Whatcom County. The City of Ferndale has indicated that it will likely hold a public hearing on this portion of the subject application (E. Bailey/Bailey Trust) on or about August 18, 2014.

* Distribution Request: Assessors Office – Janice Judge

COMMITTEE ACTION: 
COUNCIL ACTION:
7/22/2014: Introduced 7-0

Related County Contract #: Related File Numbers: OS2014-1 Ordinance or Resolution Number:

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

TO: Honorable Jack Louws, Whatcom County Executive, & Honorable Members of the Whatcom County Council

THROUGH: J.E. “Sam” Ryan, Planning & Development Services, Director

FROM: Erin Osborn, Planner

DATE: July 9, 2014

SUBJECT: Open Space Applications in Unincorporated Whatcom County

Presented here for your consideration is an attached packet containing recommendations from the Planning Commission on five applications to classify or reclassify land, for the purposes of open space taxation, on lands located entirely within unincorporated Whatcom County. A draft resolution is also attached should the Council wish to approve recommendations made by the Planning Commission.

You are also being asked to review a second open space application packet that is being introduced at the same time. This is an application to reclassify land located within the City of Ferndale, and because the land is located within an incorporated area, the application requires a slightly different approval process. All of these applications were reviewed as one group by the Planning Commission last month, and are now separated according to their different approval processes.

Staff recommended approval on all of the applications. Planning Commissioners voted to approve all of the applications except for one. They voted to recommend denial on the Sunset SW LLC application for Timber Land which is located on the shore of Lake Whatcom. However, staff review indicates that this application should be approved because it conforms to application approval criteria.

Note: Open Space Land (including its sub-classification Farm and Agricultural Conservation Land), and Timber Land applications may be approved by the County Council subject to conditions, so long as these conditions do not "...conflict with state law and not arbitrarily or capriciously restrict access to either classification." (DOR, PTA NUMBER 16.1.2011).

The Planning Commission voted to recommend that Council approve the Hemnes application to reclassify Farm and Agricultural Land to Farm and Agricultural Conservation Land subject to a unique and unprecedented condition. Staff recommends approval of this application, and strongly supports the intent of the Planning Commission’s recommendation; however after discussion with County legal staff and Department of Revenue staff, staff is requesting that Council
consider a slightly different wording for the condition. The language contained in the Planning Commission condition is listed below, followed by staff’s recommended language.

Planning Commission Recommendation:

"Within four years of date of approval for reclassification to Farm and Agricultural Conservation Land the applicants (owners) must apply for and be approved for reclassification back to the Farm and Agricultural Land as defined in RCW 84.34.020(2)(c)."

Staff Recommendation:

"Within four years of application approval for reclassification to Farm and Agricultural Conservation Land, the applicants must apply for and demonstrate that they meet income requirements established in the Open Space Taxation Act for approval of the Farm and Agricultural Land classification as it is defined in RCW 84.34.020(2)(c)."

Staff’s recommendation is based on a reconsideration of the purpose of the reclassification and the definition of the classification being sought, i.e. land previously classified as farm and agricultural land that no longer meets income requirements associated with that classification:

If a condition requires approval by independent entity, and if for some reason it was not approved, even though the applicants might show income to qualify for returning to classification as farm and agricultural land, and even though they might apply, so if disapproved, a condition to require approval might not be consistent with state law or the purpose of classification, and failure to meet the condition (as described) would be outside of the applicant’s control.

Staff also notes that it would be in the interest of the applicant to apply for farm and agricultural land classification, because if approved, the reduction in assessed value would likely be more than with the farm and agricultural conservation land classification.

I look forward to presenting a brief overview on these applications, and answering questions at an upcoming public hearing.

Thank you.
RESOLUTION NO: _____________

APPROVING RECOMMENDATIONS ON APPLICATIONS FOR OPEN SPACE CURRENT USE ASSESSMENT

WHEREAS, The Open Space Taxation Act, codified as Chapter 84.34 RCW, gives counties authority to approve applications for current use classification and reclassification for the following classifications: Open Space Land, Farm & Agricultural Conservation Land, Farm and Agricultural Land, and Timber Land; and

WHEREAS, Pursuant to Whatcom County Code, Section 3.28.020, applications for the classification of Open Space Land, Farm & Agricultural Conservation Land and Timber Land are received and evaluated by Whatcom County Planning and Development Services Department staff, and the results of this evaluation are then presented to the Whatcom County Planning Commission for their review and consideration in making recommendations to the County Council on whether to approve the applications in whole or in part; and

WHEREAS, Pursuant to RCW 84.34.055 and WAC 458-30-330 Whatcom County has adopted a Public Benefit Rating System (PBRS) by Ordinance # 95-040, which is used by staff to rate applications for Open Space Land and Open Space Farm & Agricultural Conservation Land; and

WHEREAS, Applications for Open Space Land and Open Space Farm & Agricultural Conservation Land are evaluated with the Public Benefit Rating System and assigned a Public Benefit Rating (PBR) that corresponds with a staff recommendation of approval or denial, and must receive a score of 45 or above for a staff recommendation of approval; and

WHEREAS, In accordance with the Whatcom County Open Space Policies and Public Benefit Rating System, public access is a condition of approval for Open Space Land applications, except that this requirement may be waived by the Council when the purpose of the classification is for the conservation of
wetlands; or when there is a documented occurrence of: State or Federal Threatened Endangered Species, Federal Proposed Endangered or Threatened Species, State Sensitive or Monitor Species; or when there is a known or potentially significant archaeological site; and

WHEREAS, Pursuant to Whatcom County Ordinance # 95-040 applications for Timber Land are no longer reviewed under the County’s PBRS, and are instead reviewed for consistency with the definition of Timber Land as defined in RCW 84.34.020(3) and the required Timber Management Plan is reviewed for conformance with RCW 84.34.041; and

WHEREAS, On June 26, 2014, the Whatcom County Planning Commission held a work session and considered staff recommendations, asked clarifying questions from applicants or their agents who were present on applications referenced in Master File Number OS2014-1, and voted to make recommendations to the Whatcom County Council on whether to approve in whole or in part or deny each application; and

WHEREAS, Pursuant to RCW 84.34.037, applications to classify or reclassify lands that are located entirely within unincorporated Whatcom County are approved or disapproved by the County Council who acts as the granting authority; and

WHEREAS, One of the applications referenced under Master File Number OS2014-1 (E. Bailey & Bailey Trust) was a split jurisdiction application, comprising lands located both in the City of Ferndale and also comprising lands located within unincorporated Whatcom County; and

WHEREAS, Applications to classify or reclassify land that are located entirely within an incorporated area must be acted upon by a joint granting authority composed of members from each respective jurisdictions legislative authority, whereby applications may be approved by each legislative authority taking separate but affirmative acts, or by three members of each legislative body meeting together to act as one body for the purposes of approval or denial; and

WHEREAS, The City of Ferndale Planning Director indicated that due to various challenges associated with scheduling, the Ferndale City Council would likely prefer to act separately on the applications, and proposed that the City would schedule and hold a separate hearing on the subject applications on or about August 18, 2014; and

WHEREAS, On August 5, 2014, in good faith that the City of Ferndale would take its own action on the application within its jurisdiction, the Whatcom County Council held its own public hearing and considered recommendations from the Whatcom County Planning Commission, staff recommendations, and
considered all input from the public on applications referenced in Master File Number OS2014-1 that are located on lands located entirely within unincorporated areas of Whatcom County, and held another separate hearing on the application on lands located in the City of Ferndale; and

WHEREAS, Pursuant to WAC 197-11-800(6)(c), matters relating to Open Space Current Use Assessment are categorically exempt from environmental review under the State Environmental Policy Act (SEPA); and

WHEREAS, Pursuant to RCW 36.70.390, the statutory requirements regarding legal notice have been met; and

WHEREAS, The County Council has adopted the following Findings of Fact and Reasons for Action:

1. Whatcom County Planning and Development Services received five applications to classify or reclassify land under the open space current use program (Chapter 84.34. RCW) on lands located within the jurisdiction of Whatcom County and on lands located within the City of Ferndale. These applications were processed as a group under Master File Number OS2014-1.

2. Of the five applications referenced in OS2014-1: one is for Open Space Land (OSL), one is for Farm and Agricultural Conservation Land (a sub-classification of open space land) (OSFACL), and three applications are for the classification of Timber Land (OSTL). Upon receipt of these applications, Planning and Development Services staff evaluated the open space land and farm and agricultural conservation land applications with the Public Benefit Rating System (PBRS), and evaluated applications for timber land for conformance with Subsection 84.34.020(3) & 84.34.041 of the Open Space Taxation Act (RCW 84.34).

3. Staff prepared a report for the Planning Commission with recommendations on whether to approve in whole or in part or to deny these applications based on review with the applicable evaluation criteria and scores assigned (as applicable). This report was presented to the Whatcom County Planning Commission and to members of the public who were present at the Whatcom County Planning Commission meeting work session held on June 26, 2014.

4. At the June 26, 2014 Planning Commission Work Session, staff gave an approximately 30 minute overview presentation on the Open Space Current Use Program, its statutory and local authority, a brief overview on the Open Space Taxation Act, and outlined the respective roles of the Planning Commission, County Council, County Assessor's Office, and Joint Granting Authority (for applications located within incorporated areas) in reviewing these type of applications. As part of this overview presentation, staff noted that decisions made to approve or deny applications authorized under the Open Space Taxation are reviewable (by
Superior Court) only for “arbitrary & capricious actions”. Staff also noted, that based on earlier Planning Commission suggestions, and per direction from the County Council and County Executive a preliminary draft report had been prepared by staff which summarized the PDS open space current use program, analyzed key issues in program administration, and that this report (dated December 6, 2013) had been submitted to PDS management and County Executive for their review.

5. Upon conclusion of the staff overview on the open space current use program, staff then made an approximately 45 minute presentation going over each of the individual applications referenced in Master File OS2014-1, pausing to answer questions from commissioners. The single application for the classification of open space land was presented first, followed by the single application for farm and agricultural conservation land, and then a presentation on the three timber land applications. Staff noted that of the applications for timber land one was a “split jurisdiction”, noting that after the application was received portions of the land subject of application was annexed by the City of Ferndale. Staff suggested that commissioners wait to deliberate and make motions on each application until after staff presentation on individual applications.

6. Staff recommended approval on the application for Open Space Land (Hurlbut). Staff recommendation of approval on this application was based on an assigned Public Benefit Rating (PBR) score of 45 points or higher which, pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System is consistent with a staff recommendation of approval. Staff recommended approval after scoring the application with a public benefit rating (PBR) of 92.75.

The Hurlbut proposal included public access to the rear of the lots under consideration from the access that is provided to Stimpson Reserve and Lake Geneva Preserve abutting their .044 (+/-) parcel acres. Proposed public access to the wooded and grassy area north of the subject acres could be used for a viewpoint overlooking the lake, and for viewing birds and terrestrial species that frequent the site.

7. After deliberation, Planning Commissioners came to a consensus to recommend that the County Council approve the Hurlbut application in its entirety subject to staff’s recommended conditions.

8. Staff recommended approval on the single application for Farm and Agricultural Conservation Land (Hemnes). Staff recommendation of approval on this application was based on an assigned Public Benefit Rating (PBR) score of 45 points or higher, which pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System is consistent with a staff recommendation of approval. Staff recommended approval after scoring the application with a public benefit rating (PBR) of 57.12.

9. The Hemnes property was purchased in 2014. The land was (and at time of review was still) classified as Farm and Agricultural Land. Staff
explained that current classification that applies to the land is different than the farm and agricultural conservation land classification being sought in that farm and agricultural land requires the owners to show income from commercial agriculture, but farm and agricultural conservation land does not. At the time of sale, it was discovered by the Assessor that the previous owners could not demonstrate income from commercial agriculture; therefore the Assessor signed off on the Notice of Continuance pending reclassification to a different classification authorized under the Open Space Taxation Act, by the new owners, Lucas and Amy Hemnes.

10. The Hemnes family manages a herd of approximately 55 head of beef cattle and uses the 3.81 acres to pasture about 4 head of beef (yearlings) as part of the larger operation. The long term plan is to continue to raise beef on the subject parcel, rotating stock during the winter months over to a barn and additional rented agricultural land on the Siper Road. Beef from the Hemnes herd is processed at a facility in Bow, Washington, and is sold locally to Boundary Bay Brewery, located in the city of Bellingham.

11. A proposed public access statement was discussed verbally between the applicant and staff, and then later confirmed with a written public access statement and proposed rules of public conduct. The proposal was that the applicants would give farm tours to prospective customers, and would be willing to provide farm educational opportunities to youth groups such as 4-H by appointment. Staff noted, there is ample off-street parking, and an open space sign could be posted at the corner of Sand Road and Sundown View Lane.

12. Staff explained to the Planning Commission that the Open Space Taxation Act authorizes counties to approve Open Space Land and Farm and Agricultural Conservation Land applications subject to specific conditions. Given that the owners expressed a desire to continue a long term agricultural operation on the subject property; they may at some point in the next 3-5 years be able to qualify for the Farm and Agricultural Land classification administered by the Assessor. To qualify for that classification, and although subject to change, current income requirements (revenue from commercial agriculture) would be $1,500.00 per year for three out of the five years preceding the date of application. The County Council could approve this application subject to a farm plan that outlines a program for meeting income requirements associated with the Farm and Agricultural Land classification, and eventual reclassification back to the Farm and Agricultural Land classification within a certain time frame.

Staff provided the Planning Commission with a Property Tax Advisory from the Department of Revenue which states: "...additional eligibility requirements for the open space and timber classifications must not conflict with state law and not arbitrarily or capriciously restrict access to
either classification."

13. After deliberation, and after considering staff input, Planning Commissioners came to a consensus that they would be willing to recommend that the County Council approve the Hemnes application subject to a condition requiring the applicants within four years of approval for Farm and Agricultural Conservation Land as defined in RCW 84.34.020(1)(c)(8)(a) to apply for and be approved for the classification of Farm and Agricultural land as defined in RCW 84.34.020(2(c). Subject to this proposed condition, the Planning Commission voted to recommend that the County Council approve the Hemnes application in its entirety.

14. Staff discussed the special condition in the above finding (No. 13) with PDS County attorney and with Department of Revenue staff. After these discussions, staff concluded that it might be more consistent with the purpose of classification if the condition was worded differently, as follows: "Within four years of application approval, the applicants must apply for and demonstrate that they meet income requirements established in the Open Space Taxation Act for approval of the Farm and Agricultural Land classification as it is defined in RCW 84.34.020(2(c)."

Staff’s conclusion was based on a reconsideration of the purpose of the reclassification and the definition of the classification being sought, i.e. land previously classified as farm and agricultural land that is no longer able to meet income requirements associated with qualification as farm and agricultural land. If a condition required an approval by independent entity, if for some reason it was not approved, even though the applicants might show income to qualify for classification as farm and agricultural land, and even though they might apply, the act of approval would be outside of the applicant’s control, and a disapproval might not be consistent with state law or the purpose of classification.

In addition, staff noted that it would be in the interest of the applicant to return to farm and agricultural land, because the reduction in assessed value would likely be more than in the farm and agricultural conservation land classification.

15. Staff presented information that described the estimated resulting tax shift that would occur if the Hurlbut and Hemnes’ applications were to be approved. Using figures provided by the County Assessor’s Office, it was noted that the assessed property value reduction would result in an estimated tax shift of approximately $170.10 (Hurlbut) and $705.99 (Hemnes) to other tax payers per year if the applications were to be approved.

Staff was not able to provide information to the Planning Commission about what how the overall tax shift would affect individual property owners because it would be a very difficult calculation to perform. This is because not all property owners located in a geographic tax code area are subject to the same set of taxing district levies, and therefore it would not be as simple as dividing the number of parcels by the monetary shift in taxes to obtain an estimated tax shift on a per parcel basis.
16. After staff presentations and Planning Commission deliberation and votes on the Open Space Land and Farm and Agricultural Conservation Land applications, staff presented the timber land applications.

17. Staff explained to the Planning Commission that staff recommendations of approval on timber land applications are based on whether the application meets the definition of timber land as defined in RCW 84.34.020(3), and whether the Timber Management Plan submitted on file as part of the application is consistent with RCW 84.34.041 which outlines the elements of a timber management plan. Based on staff review and site inspections, staff recommended approval on all three of the timber land applications. Staff recommendations of approval were based on review of the timber management plans submitted, site inspections to verify that forest conditions matched those identified in the Plans, and for overall conformance with state law.

18. Prior to voting on timber land applications, one of the Planning Commissioners asked for information about the loss of revenue or shift in taxes that would result from approving an application for timber land, and asked why this information was not provided on the timber land applications. Staff indicated that this information was not provided because it is not one of the criteria considered for approval or disapproval. The commissioner asked if staff would be prohibited from providing this information, and staff indicated that while there is no prohibition on the provision of this information, adding that it could be provided in the future, it can't be the basis on which a decision to approve or not approve is based, because this information is not a criteria for approval. The commissioner indicated that he would vote to deny all of the timber land applications because information on loss of revenue or shift in taxes was not provided.

19. Whatcom County Planning Commissioners considered staff findings and recommendations on the E. Bailey and Bailey Trust application, and staff suggested that two separate votes be taken on the E. Bailey and Bailey Trust application respective of the jurisdiction in which the subject property was located.

20. After deliberations, the Planning Commission voted to recommend that the County Council approve the portion of the E. Bailey and Bailey Trust timber land application in the jurisdiction of the City.

21. The Planning Commission voted to recommend that the County Council approve the E. Bailey and Bailey Trust timber land application unincorporated Whatcom County.

22. Whatcom County Planning Commissioners considered staff findings and recommendations on the Engelund application for timber land and voted to recommend approval to the County Council.

23. Whatcom County Planning Commissioners considered staff findings and recommendations on the Sunset SW LLC application and voted to recommended denial. During Planning Commissioner review, it was noted that the land that is subject of application is located on the shoreline of
Lake Whatcom, and is designated Rural under the Whatcom County Shoreline Management Program (SMP).

24. Staff acknowledged that the land that was subject to application was located within the jurisdiction of the SMP, and indicated that staff had researched the matter to determine whether or not the land subject to the application could be harvested. Staff stated that the land subject of application contained five or more acres devoted primarily to the growth and harvest of timber for commercial purposes (5.63 acres); that the applicant had retained the services of a professional forester who prepared a Timber Management Plan that contained all of the elements of a Timber Management Plan, and according to PDS Natural Resource staff the owner could harvest of timber in the Rural SMP designation after a Shoreline Substantial Development Permit was applied for and approved, subject to specific conditions to protect the lake and its habitat functions.

25. The Planning Commission vote on a motion to recommend that the County Council approve the Sunset SW LLC application for Timber Land was 3 in favor and 3 against, which is a tie, indicating that the motion failed to recommend that the County Council approve the subject application.

26. On July 8, 2014, Planning & Development Services staff prepared a report on behalf of the Planning Commission containing Facts, Findings, and Reasons for Action on all applications referenced under OS2014-1, and this report was reviewed for accuracy and signed by the Planning Commission Chair and Planning Commissioner, Secretary.

27. On July 8, 2014, Planning & Development Services prepared an Agenda Bill, Draft Resolution and attachments including all relevant information on file in regards to the subject applications referenced under OS2014-1, and forwarded this to the Whatcom County Council. The agenda bill requested that the draft resolution be introduced at the regularly scheduled Council Meeting to be held on July 22, 2014, and also included a request for a public hearing to be scheduled on August 5, 2014.

28. On July 22, 2014, a draft resolution was introduced.

29. A public hearing was scheduled to take place before the County Council at their regularly scheduled evening meeting, held on August 5, 2014. Notice of this public hearing was published in the Bellingham Herald prior to the hearing. In addition, Applicants were sent a letter by US Mail stating that a public hearing would be held on their individual applications on August 5, 2014.

30. On August 5, 2014, the Whatcom County Council held a public hearing on applications to classify or reclassify lands that are located within the unincorporated areas of Whatcom County as referenced under OS2014-1, and after considering all relevant information, and after considering input from the public, they made a final decision on whether to approve in whole or in part or deny applications to classify or reclassify lands located within the unincorporated areas of Whatcom County as referenced under.
NOW, THEREFORE, BE IT RESOLVED BY THE WHATCOM COUNTY COUNCIL:

1. Recommendations on applications for open space current use assessment referenced in Master File Number OS2014-1 listed below are hereby approved subject to conditions and applicable scores as noted herein:

**Open Space Land (OSL)**

**OSP2014-00002 – Hurlbut**
New application to classify property as Open Space Land
GEO ID: 380335 523242 0000: (PID: 82464)
GEO ID: 380335 525241 0000: (PID: 82465)
GEO ID: 380335 538230 0000: (PID: 82477)
Total Parcel acres = 0.44 (+/-); OSL acres= 0.44 (+/-)

**PBR 92.75**
**ESTIMATED SHIFT IN TAXES IF APPROVED:** $170.10

Whatcom County Planning Commission Recommendation:

**Approval:** subject to the following conditions:

1. Public Access as described in the Application Narrative
2. Small Open Space Sign posted on Lot # 19
3. Hold Harmless Agreement

**Farm & Agricultural Conservation Land (OSFACL)**

**OSP2014-00005 – Hemnes**
Application to re-classify property from Farm & Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land)
GEO ID: 390429 041191 0000: (PID: 107711)
Total Parcel acres = 4.81; OSFACL acres= 3.81; Homesite acres = 1.00

**PBR 57.12**
**ESTIMATED SHIFT IN TAXES IF APPROVED:** $705.99

Whatcom County Planning Commission Recommendation:

**Approval:** subject to the following conditions:

2. Open Space Sign posted at corner of Sundown Lane and Sand Rd.
3. Within four years of date of approval for reclassification to Farm and Agricultural Conservation Land the applicant must apply for and be
approved for reclassification back to the Farm and Agricultural Land as defined in RCW 84.34.020(2)(c).

4. Hold Harmless Agreement

**Timber Land (OSTL)**

OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust
(portion of the application to reclassify lands that are located within unincorporated Whatcom County)

Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 235213 0000 (PID: 90564): Application OSTL acres = 4.57

E. Bailey
GEO ID: 390208 185232 0000 (PID: 90457): Application OSTL acres = 4.58

Total Application OSTL acres in the unincorporated Whatcom County = 9.15

**Whatcom County Planning Commission Recommendation:**

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan pursuant to RCW 84.34.041
3. Hold Harmless Agreement

OSP2014-00003 – Engelund
New application to classify property as Timber Land
GEO ID: 400101 259478 0000 (PID: 112929)
Parcel acres = 10.56; OSTL acres = 8.5; Homesite acres = 2.06

**Whatcom County Planning Commission Recommendation:**

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan pursuant to RCW 84.34.041
3. Hold Harmless Agreement

OSP2014-00004 – Sunset SW LLC
New application to classify property as Timber Land
GEO ID: 380429 020020 0000 (PID: 83486): Parcel acres = 3.91 acres currently classified as OSTL
GEO ID: 380432 0255554 0000 (PID: 83946); 1.72 acres of which 1.36 is currently classified as OSTL (according to Assessor’s records)
Application OSTL acres =0.28 (0.28 acres is according to survey. Survey shows an apparent discrepancy between Assessor’s records which indicate 0.36 acres)

NOTE: If approved, the additional 0.28 acres in this application it would bring the total OSTL acres covered under the application to 5.63 (+/-) acres, all subject to a new taxation agreement.

Whatcom County Planning Commission Recommendation:

Denial: Based on a finding expressed by dissenting commissioners that it would not be in the best interests of the public to harvest timber on the shore of Lake Whatcom.

2. The Whatcom County Council directs the Assessor to place the above referenced parcels into the appropriate open space current use classification.

3. Adjudication of invalidity of any of the sections, clauses, or provisions of this resolution shall not affect or impair the validity of the resolution as a whole or any part thereof other than the part so declared to be invalid.

APPROVED this ___________ day of ________________________, 2013

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis
Clerk of the Council

Carl Weimer
Council Chair

APPROVED AS TO FORM:

[Signature]

Civil Deputy Prosecutor
DRAFT RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
June 26, 2014

Regular Meeting

1 Call To Order: The meeting was called to order, by Whatcom County Planning
Commission Chair, David Onkels, in the Northwest Annex Conference Room at 6:30 p.m.

2 Roll Call
Present: Gary Hencoop, David Onkels, Mary Beth Teigrob, Walter Haugen, Natalie
McClendon, David Hunter
Absent: Ben Elenbaas, Jerry Vekved, Ken Bell

3 Staff Present: Mark Personius, Erin Osborn, Becky Boxx

4 Department Update
Mark updated the commission on the following:
• Items before the County Council.
• Upcoming commission schedule.

5 Open Session for Public Comment
There was no public comment.

6 Commissioner Comments
Commissioner Hencoop commented on his visit on the USS Nimitz.

7 Approval of Minutes
May 22, 2014: Approval of the minutes was put on hold until the next meeting due to lack
of members needed for approval.

8 Open Space Applications
Erin Osborn presented an overview of the Open Space Program.

The open space current use program is a property tax reduction program. In the 1960’s
the state constitution was amended to enact the program. It authorizes three
classifications and one sub-classification. Open Space Land is about conservation of a
broad scope of resources. It has a sub-classification, Farm and Agricultural Conservation
Land. There is also Timber Land, and Farm and Agricultural Land.

State law provides that applications for the Open Space Land and the Farm and
Agricultural Conservation Land are processed in same manner as an amendment to the
Comprehensive Plan. Therefore they come before the Planning Commission. When the
Planning Commission reviews the applications they are to consider the overall benefit of
preserving the land relative to the monetary shift in taxes. The higher the score on the
application the greater the tax shift. Regarding Timber Land there is nothing in state law
that assigns a role to the Planning Commission. However, until 1995 they were reviewed
with the Public Benefit Rating System. After ordinance 1995-040 Timber Land was
removed from Planning Commission review, however another ordinance that is codified in
WCC 2.28 states that they are still reviewed by the Planning Commission, and so
therefore they are. The County Council has asked staff to put together an analysis of the program which staff has done but Council has not reviewed it yet. The Timber Land classification requires at least five acres be devoted to the growth and harvest of timber for commercial purposes. A Timber Management Plan is required for approval. Recently the legislature amended the Designated Forest Land Program changing the minimum allowed to five acres. This may result in less Timber Land applications.

The commission reviewed the applications.

Open Space Land – Hurlbut

This is approximately .48 acres. The zoning is R5A. It is located above Lake Whatcom Boulevard. It is very steep. The owners purchased the land for the sole purpose of conservation and to protect the hillside from further erosion. It has been prone to mudslides. A slide in 1992 destroyed the owner’s house. Two of the lots are subject to a restrictive covenant prohibiting development until 2027. There is public access to the Stimson Reserve property. The application was given a score of 92.75 with a recommendation of approval.

Farm & Agricultural Conservation Land – Hemnes

This land used to be owned and farmed by some dairy farmers in the area. The property was sold and short platted. It is a 4.81 acre parcel with one acre for the homesite. The previous owners (who sold to the Hemnes family) could not continue to keep the property in Farm and Agricultural Land because they couldn’t demonstrate income requirements so they applied for the conservation program. The 3.81 is used to raise beef cattle. The application was given a score of 57.12 with a recommendation of approval. The score is somewhat low because of the small size of the property. For public access, the owners are offering to engage with youth or agriculture groups to teach sustainable beef farming.

Open Space Timber Land – Bailey Trust

Shortly after this application came in in 2010 the City of Ferndale annexed the property east of the freeway. Because of joint granting authority the application was put on hold. All of the property is under the Designated Forest Land Program which at the time of application required a 20 acre minimum. Also the property ownership names were changed for estate planning purposes. This disqualified them from the Designated Forest Land Program because the property was not in one ownership. In 2011 the statute changed the term contiguous to mean land in same ownership (one family). The application included an excellent timber management plan. Reforestation will need to be done if approved. There are 9.51 acres in the county and 21.52 acres in the City of Ferndale. Staff recommends approval.

Open Space Timber Land – Engelund

This parcel is heavily forested with an excellent Timber Management Plan. It is 10.56 acres. They are asking to classify approximately 8.5 acres. The zoning is R10A. Staff recommends approval.
Open Space Timber Land – Sunset SW LLC
This property is on Lake Whatcom and is .28 acres. The acreage to the north is already classified as Timber Land. This piece of land appears to have been inadvertently left out when the other acreage was classified, but the record is not clear on this. The property is subject to a Rural Shoreline Management Program designation, and this designations allows timber harvest subject to issuance of a shoreline substantial development permit and conditions to protect the shoreline.

Commissioner Haugen noted there is no mention of the tax shift dollar value.

Ms. Osborn stated there are no laws, codes, etc. that requires consideration of the tax shift when approving a Timber Land application. The value of timber land is based on soil classification and operability.

Commissioner Haugen stated that if the commission is asked to make a decision all the information should be given otherwise the commission is in limbo. Is staff prohibited from giving the commission that information?

Ms. Osborn stated they are not prohibited.

Commissioner Haugen stated he wanted it.

Commissioner Honcoop stated there has to be findings to support their decisions otherwise they are considered arbitrary and capricious.

Commissioner Haugen did not agree.

Commissioner Teigrob did not see how it was possible to harvest trees there without impacting the lake.

Commissioner Honcoop said they could look at the operability of harvest there which is one of the conditions they can review.

Ms. Osborn stated the commission could put conditions on the harvest.

Commissioner McClendon asked why this application is for timber not open space land.

Ms. Osborn stated the parcel across the road is classified as Timber Land. They are applying for Timber Land because they want the best possible tax reduction and the same tax classification as the other parcel they plan to harvest in the future.

Commissioner McClendon asked if it is very hard to classify as operable does that lower the value?

Ms. Osborn stated it does.
Commissioner Honcoop stated it appears some of the trees are in the public right-of-way which can’t be harvested.

Commissioner Teigrob asked how many trees are in that small area.

Ms. Osborn stated it is considered fully stocked by the plan. In order to be fully stocked there has to be 100 trees per acre so there would have to be approximately 25 trees on the lot.

Commissioner Haugen asked the applicant’s representative how many trees there are.

Jesse Stoner stated he did not know how many trees are there. None of them are in the water or the county right-of-way.

Commissioner Honcoop asked if the surveyed area includes the shore area outside the water.

Mr. Stoner stated yes.

The commission acted on the applications as follows:

Open Space Land - Hurlbut

Commissioner Honcoop moved to recommend approval. Commissioner McClendon seconded. The motion carried.

Farm & Agricultural Conservation Land – Hemnes

Commissioner Hunter moved to recommend approval. Commissioner Haugen seconded.

Commissioner Honcoop asked about the sale of the property. Did the new owners sign a continuance to stay in open space?

Ms. Osborn stated the previous owners did not maintain the finance requirements to stay in open space so the Hemnes continued it pending reclassification. If they don’t get approved they have to pay back taxes.

Commissioner Honcoop asked where the public benefit is. What is there to ensure they will continue to use it as outlined?

Ms. Osborn stated they can add conditions.

Commissioner Honcoop asked who would enforce those conditions.

There was no response to this question.
Commissioner Teigrob stated that being in Open Space Agricultural Conservation versus Open Space Farm and Agriculture leaves no incentive to continue to farm because the monetary requirements go away.

Ms. Osborn stated that this issue has been a point of discussion for some time regarding this classification. The commission can assign conditions if they want.

Commissioner Hunter stated he sees no benefit to the county if this is put into Open Space Farm and Agricultural Conservation because he doesn’t believe it will change the use of the land.

Commissioner Teigrob made a friendly amendment requiring the applicant to apply and be approved Open Space Farm and Agricultural Land within four years. Commission McClendon seconded. The amendment carried.

The vote on the main motion to recommend approval carried.

Open Space Timber Land – Bailey Trust

Commissioner Teigrob moved to recommend approval for the parcel within the City of Ferndale. Commissioner Hunter seconded.

Commissioner Haugen stated the tax shift is not known. As such he has no choice but to vote no on the Timber Land applications. He has an issue with the protocol and procedure.

The vote on the motion to recommend approval carried.

Commission Honcoop moved to recommend approval for the parcel within the county. Commissioner McClendon seconded. The motion carried.

Open Space Timber Land – Engelund

Commissioner Honcoop moved to recommend approval. Commissioner Teigrob seconded. The motion carried.

Open Space Timber Land – Sunset SW LLC

Commissioner Teigrob moved to recommend approval. Commissioner Honcoop seconded.

Commission Onkels asked Mr. Stoner the reason for the application.

Mr. Stoner stated when the application was originally done, many years ago, the owner thought this parcel was included. This application takes care of that oversight. The timber management plan was actually written including this property.

Commissioner Hunter asked if the property has been harvested in the last 20 years.
Mr. Stoner stated it has not.

Commissioner Onkels stated the typical harvest cycle is 70 years.

Ms. Osborn stated that conifer species are generally a 50 year crop.

Commissioner Hunter asked Ms. Osborn if this parcel is in fact harvestable. Ms. Osborn stated yes it is based on her research.

The vote on the motion to recommend approval failed.

The meeting was adjourned at 8:50 p.m.

Minutes prepared by B. Boxx.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:

David Onkels, Chair
Becky Boxx, Secretary
BACKGROUND

INFORMATION ON FILE

IN THE COUNCIL OFFICE
MEMORANDUM

TO: Honorable Members of the Whatcom County Planning Commission

THROUGH: Mark Personius, Long Range Planning Division Manager

FROM: Erin Osborn, Planner

DATE: June 17, 2014

SUBJECT: 2014 Open Space Current Use Applications

Attached is a packet summarizing staff review and recommendations on five applications for open space current use taxation this year.

Staff will present the report at your upcoming June 26th meeting, and following discussion, ask for your recommendations on whether or not each application should be approved (in whole or in part) or disapproved. Staff will forward your recommendations on to the County Council who will make a final decision on the applications after holding a public hearing.

The staff report provides a summary of the applications, and also contains staff recommendations on whether they should be approved in whole or in part or denied respective of their conformance with specific evaluation and review criteria. Application summary, staff findings and recommendations are found on Pages 2-8 of the report, with background information on the Open Space Current Use Program presented on Pages 8-15. There are also a number of attachments that provide additional information about the individual applications, and the County’s property tax reduction programs.

I look forward to presenting my report at your June 26th meeting.

Please contact me if you have any questions.

Thank you.
STAFF RECOMMENDATIONS TO THE WHATCOM COUNTY PLANNING COMMISSION ON FIVE APPLICATIONS FOR CLASSIFICATION OR RECLASSIFICATION AS OPEN SPACE LAND, OR FARM & AGRICULTURAL CONSERVATION LAND OR TIMBER LAND AS AUTHORIZED UNDER CHAPTER 84.34 RCW

MASTER FILE NUMBER OS2014-1

Introduction:

This report summarizes staff findings and recommendations on a total of five applications for classification or reclassification as Open Space Land, Farm and Agricultural Conservation Land, and Timber Land as authorized under the Open Space Taxation Act, Chapter 84.34 RCW.

This report is prepared for the June 26, 2014 Whatcom County Planning Commission meeting where Planning Commissioners will deliberate on the subject applications respective of whether they should be approved in whole or in part, or denied. At the conclusion of the Planning Commission work session, staff will forward recommendations made by the Planning Commission to the Whatcom County Council for their review in making a final decision on each application.

The report is composed of five main parts:

1. Summary of five applications to classify or reclassify property pursuant to applicable state and local regulations;

2. Application review, staff findings, and staff recommendations;

3. Background information on the Open Space Taxation Act;

4. Staff, Planning Commission, and County Council Roles in application review, approval or denial;

5. Discussion outlining the evaluation criteria established for review of applications for Open Space Land, Farm & Agricultural Conservation Land, and Timber Land.
I. Application Summary

Open Space Land (OSL)

OSP2014-00002 – Hurlbut

New application to classify property as Open Space Land
GEO ID: 380335 523242 0000: (PID: 82464)
GEO ID: 380335 525241 0000: (PID: 82465)
GEO ID: 380335 538230 0000: (PID: 82477)
Total Parcel acres = 0.44 (+/-); OSL acres = 0.44 (+/-)
PBR 92.75
ESTIMATED SHIFT IN TAXES IF APPROVED: $170.10

Farm & Agricultural Conservation Land (OSFACL)

OSP2014-00005 – Hemnes

Application to re-classify property from Farm & Agricultural Land to Farm and
Agricultural Conservation Land (a sub-classification of Open Space Land)
GEO ID: 390429 041191 0000: (PID: 107711)
Total Parcel acres = 4.81; OSFACL acres = 3.81; Homesite acres = 1.00
PBR 57.12
ESTIMATED SHIFT IN TAXES IF APPROVED: $705.99

Timber Land (OSTL)

OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter
Trust

Application to reclassify as Timber Land from Designated Forest Land
Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 060364 0000 (PID: 90425): Parcel/Application acres = 5.06
GEO ID: 390208 105297 0000 (PID: 90440): Parcel/Application acres = 5.06
GEO ID: 390208 124252 0000 (PID: 90445): Parcel/Application acres = 1.28
GEO ID: 390208 235213 0000 (PID: 90564): Parcel/Application acres = 4.57
E. Bailey
GEO ID: 390208 022379 0000 (PID: 90406): Parcel/Application acres = 5.06
GEO ID: 390208 087338 0000 (PID: 90433): Parcel/Application acres = 5.06
GEO ID: 390208 185232 0000 (PID: 90457): Parcel/Application acres = 4.58
Total Parcel Acres in Unincorporated County = 9.15
Total Parcel Acres in City = 21.52
Timber Management Plan – Staff Approval
Note: Parcels in italicized text are located within unincorporated Whatcom
County. Parcels in regular text are located within City of Ferndale
OSP2014-00003 – Engelund
New application to classify property as Timber Land
GEO ID: 400101 259478 0000 (PID: 112929)
Parcel acres = 10.56; OSTL acres = 8.5; Homesite acres = 2.06
Timber Management Plan – Staff Approval

OSP2014-00004 – Sunset SW LLC
New application to classify property as Timber Land
GEO ID: 380429 020020 0000 (PID: 83486): Parcel acres = 3.91 acres currently classified as OSTL
GEO ID: 380432 025554 0000 (PID: 83946); 1.72 acres of which 1.36 is currently classified as OSTL (according to Assessor’s records)
Total Application acres = 0.28 (Note: 0.28 acres is according to survey. Survey shows an apparent discrepancy between Assessor’s records which indicate 0.36 acres)
NOTE: If approved, the additional 0.28 acres in this application would bring the total acres covered under the application to 5.63 (+/-) acres subject to a new taxation agreement
Timber Management Plan – Staff Approval

II. Application Review & Staff Findings

Staff findings referenced under Master File Number OS2014-1 are listed in summary below.

All applications have been reviewed by staff, and have received a site inspection. Attached for reference at the end of this report are site evaluation worksheets, maps, and other supporting documents. A power point slide show of each property along with staff narrative will be presented at the June 26, 2014 Planning Commission Work Session.

A. Open Space Land (OSL) & Farm & Agricultural Conservation Land (OSFACL)

Applications for Open Space Land and Farm & Agricultural Conservation Land are evaluated by staff in accordance with Whatcom County Open Space Policy and Criteria and Public Benefit Rating System (1995), often referred to as the Whatcom County PBRS. Ratings are computed with a formula developed by the County Assessor, resulting in an overall score that is called a Public Benefit Rating (PBR). Applications must receive a Public Benefit Rating of at least 45 points for a staff recommendation of approval.
Open Space Land (OSL)

OSP2014-00002 – Hurlbut

New application to classify property as Open Space Land
GEO ID: 380335 523242 0000: (PID: 82464)
GEO ID: 380335 525241 0000: (PID: 82465)
GEO ID: 380335 538230 0000: (PID: 82477)
Total Parcel acres = 0.44 (+/-); OSL acres= 0.44 (+/-)

PBR 92.75

ESTIMATED SHIFT IN TAXES IF APPROVED: $170.00

Discussion: On February 13, 2013, Planning & Development Services Department received an application from property owners Max K. and Hueil-Hueil Hurlbut to classify approximately 0.44 acres currently assessed at true and fair value (fair market value) to Open Space Land (OSL).

The Hurlbut application consisting of Lots 18, 19, 22, and 23 of the Amended Plat of Geneva on Lake Whatcom are subject to a Rural designation in the Comprehensive Plan, and are subject to zoning regulations located in Title 20, Chapter 20.36 – Rural District, with a density of one dwelling unit per 5 acres (R5A). The site is also subject to watershed regulations in WCC Chapter 20.51 – Lake Whatcom Overlay District. The property is located at 2700 Lake Whatcom Shore, near Strawberry Point on the Southern shore of Lake Whatcom. The property is accessible by automobile directly off of Lake Whatcom Shore.

The proposal narrative submitted with the application indicates that the property is steep and the area is prone to mudslides. Mudslides originating from above the existing Hurlbut residence occurred in 1982, 1998, and 2000. In 1982 a mudslide completely destroyed the Hurlbut residence, which has since been re-built on the same site. Mr. & Mrs. Hurlbut purchased the property for the specific purpose of conservation. A restrictive covenant has been recorded on title of Lots 22 & 23, which prohibits construction of structures and land disturbing activity. This covenant is valid until February 1st, 2027.

The subject property is in an undeveloped natural state that offers food and protection to a variety of wildlife including birds and terrestrial mammals, and may help to stabilize soil and prevent future erosion. The site is in the Lake Whatcom Watershed.

The application proposal indicates that public access will be limited in that access may only be from the adjacent 80 acre Lake Geneva Preserve or the Stimpson Reserve, largely held in public ownership. The owners have indicated that they would rather not be subject to the requirement of having to post an “open space sign”.

4
After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of **92.75** (for details, please see attached evaluation worksheet sheet). A Public Benefit Rating of at least 45 points must be attained to receive a *staff recommendation of approval*. The application has received a PBR greater than 45, and therefore staff recommends that the Hurlbut application for Open Space Land classification be approved subject to conditions listed below.

**Staff Recommendation:**

**Approval**, subject to the following attached special conditions:

1. Public Access to the Property from Lake Geneva Preserve or Stimpson Reserve as discussed in the Application Narrative on file.
2. Posted Open Space Sign on Lot 22
4. Hold Harmless Agreement

**Farm & Agricultural Conservation Land (OSFACL)**

**OSP2014-00005 – Hemnes**

New application to classify property as Open Space Land
Application to re-classify property from Farm & Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land)
GEO ID: 390429 041191 0000: (PID: 107711)
Total Parcel acres = 4.81; OSFACL acres= 3.81; Homesite acres = 1.00
**PBR 57.12**
**ESTIMATED SHIFT IN TAXES IF APPROVED:** **$705.99**

**Discussion:** On January 9, 2014, Planning & Development Services Department received an application from property owners Lucas and Amy Hemnes to reclassify 3.81 acres of their 4.81 acre parcel from Farm and Agricultural Land to Farm and Agricultural Conservation Land (OSFACL).

The Hemnes property is designated Rural in the Comprehensive Plan and is subject to zoning regulations located in Title 20, Chapter 20.36 – Rural District, with a density of one dwelling unit per 5 acres (R5A). The property is located at 2930 Sundown View Lane just off the Sand Road between Smith and Goshen. The property is accessible by automobile directly off Sundown View Lane.

Application materials submitted indicate that the property was purchased in 2014. The land was (and still is) classified as Farm and Agricultural Land. This is a different classification than the farm conservation classification that is applied for in that it requires the owners to show income from commercial agriculture. At the time of sale, it was discovered by the Assessor that the
previous owners could not demonstrate income from commercial agriculture; therefore the Assessor signed off on the Notice of Continuance pending reclassification by Lucas and Amy Hemnes.

The Hemnes family manages a herd of approximately 55 head of beef cattle and uses the 3.81 acres to pasture about 4 head of beef (yearlings) as part of the larger operation. The long term plan is to continue to raise beef on the subject parcel, rotating stock during the winter months over to a barn and additional rented agricultural land on the Siper Road. Beef from the Hemnes herd is processed at a facility in Bow, Washington, and is sold locally to Boundary Bay Brewery, located in the city of Bellingham.

Proposed public access was discussed verbally with staff. The proposal discussed was that the applicants would give farm tours to prospective customers, and would be willing to provide farm educational opportunities to youth groups such as 4-H by appointment. There is ample off street parking, and an open space sign could be posted at the corner of Sand Road and Sundown View Lane.

After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of 57.12 (for details, please see attached evaluation worksheet sheet). A Public Benefit Rating of at least 45 points must be attained to receive a staff recommendation of approval. The application has received a PBR greater than 45, and therefore staff recommends that the Hemnes application for Farm and Agricultural Conservation Land classification be approved subject to conditions listed below.

Note: The County Council may approve applications for Open Space Land and Farm and Agricultural Conservation Land subject to specific conditions. Given that the owners wish to continue a long term agricultural operation on the subject property; they may at some point in the next 3-5 years be able to qualify for the Farm and Agricultural Land classification administered by the Assessor. To qualify for that classification, and although subject to change, current income requirements (revenue from commercial agriculture) would be $1,500.00 per year for three out of the five years preceding the date of application. The County Council could approve this application subject to a farm plan that outlines a program for meeting income requirements associated with the Farm and Agricultural Land classification, and eventual reclassification back to the Farm and Agricultural Land classification in a certain time frame. (See attached Property Tax Advisory from Department of Revenue).

Staff Recommendation:

Approval, subject to the following attached special conditions:
1. Public Access to allow Farm Education to Youth Groups (such as 4-H) by appointment.
2. Posted Open Space Sign on the property at the corner of Sand Road and Sundown View Lane
4. Hold Harmless Agreement

B. Timber Land (OST)

Timber Management Plans were submitted with the following applications to classify or re-classify as Timber Land. Following staff review of the timber management plan in accordance with approval criteria, and site inspection to ensure consistency between Plans and forest conditions, staff has made recommendations on each of the applications, listed below:

**Timber Land (OSTL)**

**OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust**
Application to reclassify as Timber Land from Designated Forest Land
Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 060364 0000 (PID: 90425): Parcel/Application acres = 5.06
GEO ID: 390208 105297 0000 (PID: 90440): Parcel/Application acres = 5.06
GEO ID: 390208 124252 0000 (PID: 90445): Parcel/Application acres = 1.28
GEO ID: 390208 235213 0000 (PID: 90564): Parcel/Application acres = 4.57
E. Bailey
GEO ID: 390208 022379 0000 (PID: 90406): Parcel/Application acres = 5.06
GEO ID: 390208 087338 0000 (PID: 90433): Parcel/Application acres = 5.06
GEO ID: 390208 185232 0000 (PID: 90457): Parcel/Application acres = 4.58
Total Parcel Acres in Unincorporated County = 9.15
Total Parcel Acres in City = 21.52
Timber Management Plan – Staff Approval
Note: Parcels in italicized text are located within unincorporated Whatcom County. Parcels in regular text are located within City of Ferndale

Staff Recommendation:

**Approval**, subject to the following attached conditions:
1. No less than 5 acres devoted primarily to the growth and harvest of timber for commercial purposes.
2. Approved Timber Management Plan
3. Hold Harmless Agreement
OSP2014-00003 – Engelund
New application to classify property as Timber Land
GEO ID: 400101 259478 0000 (PID: 112929)
Parcel acres = 10.56; OSTL acres= 8.5; Homesite acres = 2.06
Timber Management Plan – Staff Approval

Approval, subject to the following attached conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of timber for commercial purposes
2. Approved Timber Management Plan
3. Hold Harmless Agreement

OSP2014-00004 – Sunset SW LLC
New application to classify property as Timber Land
GEO ID: 380429 020020 0000 (PID: 83486): Parcel acres = 3.91 acres currently classified as OSTL
GEO ID: 380432 0255554 0000 (PID: 83946); 1.72 acres of which 1.36 is currently classified as OSTL (according to Assessor’s records)
Total Application acres =0.28 (Note: 0.28 acres is according to survey.
Survey shows an apparent discrepancy between Assessor’s records which indicate 0.36 acres)
NOTE: If approved, the additional 0.28 acres in this application would bring the total acres covered under the application to 5.63 (+/-) acres subject to a new taxation agreement
Timber Management Plan – Staff Approval

Approval, subject to the following attached conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of timber for commercial purposes
2. Approved Timber Management Plan
3. Hold Harmless Agreement

III. Recommendations

Staff requests that the Whatcom County Planning Commission consider staff recommendations on applications referenced in Master File Number OS2014-1 as discussed in this report, subject to conditions and applicable scores as noted herein. Staff requests that the Whatcom County Planning Commission vote on motions to approve in whole or in part or deny recommendations on individual applications referenced under Master File Number OS2014-1.
IV. Background Information

The Open Space Taxation Act was passed by the Washington State legislature in 1970. In part, the law was created to provide a solution to and address a statewide concern that lands were being irrevocably converted to uses inconsistent with commercial agriculture, commercial forestry, and the conservation or preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, and recreational opportunities.

The Open Space Taxation Act codified in Chapter 84.34 of the Revised Code of Washington (84.34 RCW) gives counties the authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use i.e. fair market value. Lands classified as Open Space Land or Timber Land receive a greatly reduced assessed value; thereby providing a financial incentive to property owners to voluntarily conserve and preserve open space lands as defined by state law and further defined by county ordinance.

V. Classifications

There are three major classifications and one sub-classification authorized by the Open Space Taxation Act (Chapter 84.34 RCW):

1. Farm and Agricultural Land
2. Open Space Land
   - Farm and Agricultural Conservation Land
3. Timber Land

Pursuant to Chapter 84.34 RCW, the County Assessor’s Office is charged with administration of applications for the classification of Farm and Agricultural Land (No. 1 above). In accordance with Whatcom County Code, Title 3, Chapter 3.28, Planning & Development Services Department is charged with administration of Open Space Land, Farm and Agricultural Conservation Land & Timber Land applications. Staff from both PDS and the Assessor’s Office work closely and function as a team in monitoring and maintaining existing agreements on approved applications, as well as processing new applications. Applications and fees for Open Space Land, Farm and Agricultural Conservation Land and Timber Land are received by Planning & Development Services Department.

VI. Application Processing

A. Roles of Staff, Planning Commission, County Council & Assessor’s Office in Processing Applications for Open Space Current Use Taxation.

Applications that are the subject of this report are located within both unincorporated areas and incorporated areas. You will note that several parcels
in the joint E. Bailey and Bailey Trust Application are located within the City of Ferndale. Please note the County also receives and processes applications on lands within incorporated areas (cities), but in processing applications on lands within the cities, the granting authority is composed of members from both legislative bodies (both the county and the city).

When land that is the subject of application is located within an unincorporated area, Whatcom County planning staff evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications, who in turn make recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied. Whatcom County Council is the granting authority, and pursuant to state law is charged with approving in whole or in part or denying each application.

When land that is the subject of application is located within an incorporated area, Whatcom County planning staff evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications, who in turn make recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied. The Whatcom County Council will take its final action in approving in whole or in part or denying each application and the City of Ferndale is expected to take separate action to approve in whole or in part or deny each application. In order for an application that is located within an incorporated area to be approved, both the City and the County must take identical affirmative acts, (both must vote to approve).

Upon approval or denial, the County Assessor is notified, and makes adjustments on the basis of the approved current use value of the parcel.

As discussed earlier in this report, of the five subject applications there is one application to reclassify as Open Space Land, and one application to re-classify from Farm and Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land) and there are three applications to classify or reclassify property as Timber Land. Each classification has a distinct evaluation system. These evaluation systems are discussed in more detail in Section VII, with emphasis on clarification of the Planning Commission role with respect to reviewing and making recommendations on the different types of applications.

Applications for Open Space Land are evaluated with the Whatcom County Space Policy & Public Benefit Rating System, 1995 (PBRS). Timber Land applications are evaluated for conformance with RCW 84.34.020(3) – Definition of Timber Land, and RCW 84.34.041 which outlines the elements that constitute a Timber Management Plan. The PBRS is attached at the end of this report for
reference. The PBRS authorizes the Planning Commission to make recommendations to the County Council on applications for Open Space Land after considering the potential loss of revenue or shift in taxes that would occur as a result of approval relative to the public benefit of the amenity being conserved or preserved. This is an important distinction both in terms of defining the role of the Planning Commission in making recommendations to the County Council on whether to approve or deny applications for Open Space Land, and in understanding how the Public Benefit Rating System is applied.

It should be noted that the Planning Commission is not charged with considering of the loss of revenue or shift in taxes when making recommendations on applications for Timber Land as this only applies to applications for Open Space Land. More discussion on both of these evaluation systems and review criteria follows in Section VII (A & B).

B. Public Hearing

A public hearing is required for both Open Space Land, and Timber Land. In past years, public hearings have typically been held before the Planning Commission, but recently due to Planning Commission schedule devoted to Growth Management Compliance issues and other pressing matters of importance, a decision has been made at the staff level to change the venue of public hearings on Open Space applications from the Planning Commission to County Council to be held at their regularly scheduled evening meetings. Given that there is no statute, rule or local ordinance to specify where a public hearing on these applications is required to be held, staff has made arrangements with the Clerk of the Council, who schedules a public hearing on the subject applications. This change will give the County Council an opportunity to hear from staff, receive Planning Commission recommendations, and also hear from the Public as they deliberate on each application. The City of Ferndale is expected to hold a separate public hearing on applications to reclassify land to Timber Land that are located within their jurisdiction.

VII. Evaluation Systems

Open Space Land and its sub-classification Farm and Agricultural Conservation Land are evaluated with the Whatcom County Public Benefit Rating System (PBRS). The PBRS was originally approved by Council in 1987 by resolution and then later adopted by ordinance in 1995 (WC Ord. 95-040).

Applications for Open Space Timber Land are evaluated as modified in 1995 by WC Ord. 95-040 in conformance with RCW 84.34.041.

A. Whatcom County Open Space Policy & Public Benefit Rating System

The Public Benefit Rating System is an evaluation tool consisting of natural resource, recreation, historical site, and agricultural land priority resource
categories that correspond to a range of potential points that may be assigned relative to the amount of benefit that may be provided to the public as a result of approving each application. Generally, resources of importance identified in the PBRS include lands that preserve or conserve: farmland, streams or shorelines and associated buffers, critical areas, ground water protection areas, threatened or endangered wildlife and wildlife habitat, opportunities for public recreation, scenic views and vistas, historic property, and others.

Applications for Open Space Land are also evaluated on the quality of the applicant’s proposed public access. It is part of the Whatcom County Public Benefit Rating System Public Access Policy to require public access unless there is known habitat for an endangered species of wildlife, or where there is a known archeological site, or when the purpose of the open space is for wetland conservation.

In cases such as those listed above, when the County Council is acting as the granting authority, the requirement of public access may be waived at Council discretion. The Public Access Policy also contains a requirement that owners of property approved as Open Space Land post an Open Space sign that displays the rules of conduct for public access when public access is required.

Not all counties have adopted a Public Benefit Rating System. One reason a county may elect to adopt a PBRS is because decisions made by the granting authority (County Council), whether to approve or deny applications may only be appealed to Superior Court for arbitrary and capricious actions. The purpose of the Public Benefit Rating System is to assist the legislative authority in developing a measure of consistency in awarding reduction in assessed value according to a point system that corresponds to the relative importance of the resource being conserved.

Resources that have been identified as providing public benefit if conserved, and the corresponding range of potential points awarded for preserving or conserving those resources (i.e. the Public Benefit Rating System) were all adopted after consideration by the Planning Commission, and adopted by Council who heard from the public on this matter at a series of public hearings in the late 1980’s. The PBRS was originally approved by Council in 1987 by resolution and then later revised and adopted by ordinance in 1995 (WC Ord. 95-040). The last revision to the PBRS in 1995 was to remove Open Space Timber Land from the Public Benefit Rating System; it removed a requirement of public access on Timber Land applications, and adopted approval criteria based on state law (RCW 84.34.041); otherwise the PBRS has not changed in the last 25 years or so.

Even though the PBRS has a point system, at its core the PBRS is a qualitative as opposed to a quantitative system. Many observers, Planning
Commissioners, Council Members, and members of the public alike, have indicated the PBRS may appear to be too subjective. In response, staff has begun a practice to address this point. Whenever staff reviews and evaluates an application for Open Space Land or Farm & Agricultural Conservation Land, research is conducted and past reviews are considered, so that there is some measure of consistency in scores assigned. When staff reviews a new group of applications, similar applications that have been evaluated and approved in the past are also considered by comparison so that for any particular group of applications reviewed, comparable points are being assigned to similar priority resources or amenities in the current group of applications being processed.

Listed below is a brief summary of some of the resources that have been identified in the County’s Public Benefit Rating System.

- Conserve or enhance natural, cultural or scenic resources; or
- Protect streams, stream corridors, wetlands, natural shorelines and aquifers; or
- Protect soil resources and unique or critical wildlife and native plant habitat; or
- Promote conservation principles by example or by offering educational opportunities; or
- Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces; or
- Enhance recreational opportunities; or
- Preserve historic and archeology sites; or
- Affect any other factors relevant in weighing benefits to the general welfare of the public by preserving the current use of the property.

Once staff review has been completed and points are awarded, they are computed with a formula developed by the County Assessor resulting in a score that is called a Public Benefit Rating (PBR). A Public Benefit Rating of at least 45 points must be attained to receive a staff recommendation of approval. The PBR represents the degree of conformance with the county’s adopted Basic Value and Public Benefit Value criteria that are part of the PBRS. The Public Benefit Rating (PBR) is used as a factor applied to another computed value to arrive at a new current use per acre value for the property, once approved. Attached to this report for reference is a document that gives a hypothetical example describing this formula, and also contains a discussion of the shift or off-set in taxes resulting from approving an application for Open Space Land. In addition, in Section II (A), staff has also included “estimated tax shift if approved” at the Public Benefit Rating assigned by staff.

*Special Note: The attached document entitled “Hypothetical Example of Applied Public Benefit Rating” uses a consolidated levy rate of 10 dollars per every one thousand dollars of assessed value. The consolidated levy rate is
not always the same for every parcel, as it depends on which taxing districts apply to the land that is the subject of application. The staff report lists "hypothetical estimated tax shift, if approved" on the Hurlbut and Hemnes applications. This "estimated tax shift" is based on an applied consolidated levy rate per every thousand dollars of assessed (current use) property value. Although parcel valuation information is based on information provided by the Assessor's Office, it is provided only as a reference to assist decision makers with an understanding of the potential tax shift; only the Assessor's office can give exact information about the change in taxation as it applies to any given application approval.

Please find attached individual evaluation sheets that include a detailed description of the public benefit offered and assigned scores for each criterion, and a spreadsheet provided by the Assessor's Office estimating the shift in taxes that would occur if the Hurlbut and Hemnes applications are approved.

B. Timber Management Plan Evaluation Criteria: Authority: RCW 84.34.041 & Whatcom County Ord. 95-040

Applications received for the classification of Timber Land must contain five or more acres (not including home site), primarily devoted to the growth and harvest of timber for commercial purposes. In order for consideration, the applicant must submit a timber management plan that meets requirements as outlined in RCW 84.34.041 as established in Whatcom County Ordinance 95-040.

Timber Management Plans are rated by staff on whether or not they address the elements that constitute a timber management plan. Site visits are conducted to assess whether forest conditions described in the plan are consistent with what is on the ground. Approval is recommended for those applications that meet the definition of timber land as defined in RCW 84.34.020(3), and after a timber management plan has been submitted that contains all of the elements that constitute a timber management plan as described in RCW 84.34.041.

Please find attached evaluation sheets for each individual application for the Timber Land classification:

Timber Management Plans are evaluated to determine whether or not the plan contains the following elements that constitute a timber management plan as outlined in the Open Space Taxation Act [(RCW 84.34.041 (1) (a-m))].

a. A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

b. The date or dates of acquisition of the land;
c. A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;

d. Whether there is a forest management plan for the land;

e. If so, the nature and extent of implementation of the plan;

f. Whether the land is used for grazing;

g. Whether the land has been subdivided or a plat filed with respect to the land;

h. Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

i. Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

j. Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

k. A summary of the past experience and activity of the applicant in growing and harvesting timber;

l. A summary of current and continuing activity of the applicant in growing and harvesting timber;

m. A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

**ATTACHMENTS**

2013 Whatcom County Property Tax Reduction Program Map; 2014 Open Space Application Vicinity Map; Individual Application Maps; Individual Application Evaluation Forms; Estimate If-Approved Current Use Value (from County Assessor's Office); Hypothetical Example of Applied Public Benefit Rating; Whatcom County Open Space Policies & Public Benefit Rating System; 2014 Department of Revenue Open Space Taxation Act, Publication; Whatcom County Property Tax Reduction Program Publication (June 12, 2014)

Report Prepared for the Whatcom County Planning Commission by:

Erin Osborn, Planner
WHATCOM COUNTY
Property Tax
Reduction Programs
Chapters 84.34 RCW,
84.33 RCW

Legend
- Farm & Agricultural Land
- Designated Forest Land
- Open Space Land
- Farm & Agricultural Conservation Land
- Timber Land
- Incorporated City Limits
- Urban Growth Area
- Major/Port Industrial UGA
- Urban Growth Area Reserve

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Open Space Land  
Public Benefit Rating System-Evaluation Form

Property Owner(s)  
Max K. and Hueih-Hueih Hurlbut  
2700 Lake Whatcom Shore

Classification: Open Space Land

Status: New Application

Assessor’s Parcel No. (s):  
380335 523242 0000  
380335 525241 0000  
380335 538230 0000

City: Bellingham  
State: WA Zip: 98229

Site Address:  
2700 Lake Whatcom Shore

Subarea: Lake Whatcom

Comp Plan Designation: Rural

Historical Land Use:  
Vacant – Forested

Application Acre(s) 0.48

Zoning Designation:  
Rural One Dwelling Unit per Five Acres (R5A)

Soil/Type Capabilities:  
# 110 - Nati loam – 30-60% Slopes  
# 139 – Sehome loam – 2-8% Slopes

Shorelines: 2008 SMP: Shoreline Residential

Comments:  
Property is adjacent to an area where mud slides occurred in 1982; 1998; 2000, completely destroying the applicants residence in 1982 (since re-built). Property owners land use objectives include conservation of soil resources, protection of property, and enhancement of Lake Whatcom water quality and ecosystems.
Basic Value (BV) | Score | MAX | Public Benefit Value (PBV) | Score | MAX
---|---|---|---|---|---
**Enhance Scenic Resources**
Conservation 0.48 acres forested hillside preserves Lake Whatcom hillside views enjoyed by residents, visitors, walkers, cyclists, motorists, swimmers, and water craft operators. | 10 | 10 | **Public Access**
Small Posted Open Space Sign; public access is limited to the linkages from adjacent property. Access from Lake Whatcom Blvd. is not viable. | 15% | 40% 
**Protect Streams/Shorelines**
Lot 19 is subject to a restrictive covenants regarding sewer availability which may curtail residential development. Lots 22 & 23 are subject to restrictive covenants that prohibit construction for a period of time (2027). The applicants wish to conserve the land in accordance with the open space land classification in perpetuity. | 10 | 10 | **Water Resource Protection**
The purpose of conservation is to protect the geologically sensitive hillside from further erosion, and protect the health of Lake Whatcom. | 20% | 20%
**Protect Soils/Wildlife**
Prohibition of construction, and preservation of natural vegetation, protects soil from erosion on up to 60% slopes, and provides wildlife habitat. | 10 | 10 | **Wildlife Habitat**
Retention of tree canopy and naturally vegetated understory preserves offers protection to a diversity of wildlife species and promotes ecosystem health. | 20% | 20%
**Promote Conservation Principles:**
A small posted Open Space sign will communicate that the site is under conservation and may increase awareness about conservation opportunities available under the County’s open space current program. | 10 | 10 | **Parcel Size**
0.48 acres. | -10% | 10%
**Enhance Abutting Open Space**
Lots 18, 19, 22, & 23 are located just south of and abutting the protected Stimpson Reserve & Lake Geneva Preserve. | 10 | 10 | **Abutting Open Space**
5% | 5%
**Recreation Opportunities**
Limited recreation: hiking, scenic views, nature observation, wildlife viewing may be accessible from Stimpson Reserve, and Lake Geneva Preserve. | 3 | 10 | **Natural Areas**
The sloped hillside property is naturally vegetated. While subject to the open space classification, the land will remain in a naturally vegetated condition for the life of the agreement. | 5% | 5%
**Historic / Archeological Significance**
None. | 0 | 10 | **Financial Advantage**
None. | 0% | 40% (+/-)
**Discretionary Value**
Classification as open space land will protect and enhance water quality and wildlife habitat in Lake Whatcom. This is a prime example of public benefit. | 20% | 40% (+/-)

Total 53 | Total 75% | 100%

*The Public Benefit Rating is calculated using the following formula:*
Public Benefit Rating Formula- BV+(BV x PBV) = PBR 53 +(53X.95) = 92.75

**OSP2014-00002**
Public Benefit Rating (PBR) = 92.75

Must receive at least 45 points for approval
Open Space Land - New Application OSL

OSP2014-00002 – Max K. and Hueih Hueih Hurlbut
Geo ID: 380335 523242; 380335 525241; 380335 538230
Parcel acres = .45

Subject Parcels
Zoning & Comprehensive Plan
Open Space Land
OSP2014-00002 - Max K. and Hueih Hueih Hurlbut
Geo ID: 380335 523242; 380335 525241; 380335 538230
Parcel acres = .45
PROTECTED PROPERTY IN THE LAKE WHATCOM WATERSHED (As of 1-29-2010)

- City Watershed Properties
- Watershed Acquisition Prgm Land
  - 1496 Acres (465 Jointly protected)
  - 709 Units (124 Jointly protected)
- Whatcom Co Protected - 288 Acres
- WLT Protected - 182 Acres
- Stimpson Reserve 355 Acres
- SV 25 Yr Sewer Restr. 498 Lts 89 Ac
- SV Com Areas 593 Lots 95 Acres
- SV Non Buildable 13 Lots 2.2 Acres

- Bellingham City Limits
- Urban Growth Area
- Sudden Valley Boundary
- Watershed Boundary
- Lake Whatcom Streams

PROTECTED LAND

- Silver Beach Preserve 22 Acres 57 Units
- Strode 1 Acre 2 Units
- Agate Ridge Preserve 341 Acres 66 Units
- Zarnowitz 3 Acres 6 Units
- Macaitie & Wells 5 Acres 13 Units
- Laplante 2 Acres 6 Units
- Oriental Creek Preserve 290 Acres 332 Units
- Lake Geneva Preserve 60 Acres 44 Units
- Dutch Harbor Preserve 24 Acres 12 Units
- Lookout Mtn Preserve 398 Acres 10 Units
- Three Rivers Preserve 37 Acres 7 Units
- Sudden Valley 185 Acres 1104 Units (Does not include idd consolidations or recreational areas)
- Zobrist 21 Acres 5 Units
- Greens Creek 3 Acres 6 Units
- Agate Pond Preserve (Conservation Easement) 100 Acres 4 Units
- Three Creeks Preserve 185 Acres 15 Units

Streams: Three Rivers, Preserves 37 Acres 7 Units

Miles

0 0.5 1 2
## Farm & Agricultural Conservation Land
### Public Benefit Rating System-Evaluation Form

**File # OSP2014-00005**

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification: Farm &amp; Agriculture Conservation Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lucas &amp; Amy Hemnes</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Status: Transfer From Farm Agriculture Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>2930 Sundown View Lane</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City:</th>
<th>Assessor’s Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bellingham</td>
<td>390429 041191 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State: WA Zip: 98226</th>
<th>Parcel Acre(s): 4.81</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Site Address: 2930</th>
<th>Application Acre(s) 3.81</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sundown View Lane Off of</td>
<td>Zoning Designation: Rural (R5A)</td>
</tr>
<tr>
<td>Sand Road between Goshen</td>
<td></td>
</tr>
<tr>
<td>and Smith</td>
<td></td>
</tr>
<tr>
<td>Subarea: N/A</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comp Plan Designation:</th>
<th>Soil/Type Capabilities: # 62 Hale Silt Loam - Drained, 0-2% Slopes</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use:</th>
<th>Comments: Classification will preserve agriculture protection overlay soils. These soils have been determined by Whatcom County, in consultation with the Natural Resource Conservation Service and local farmers, as being the best soils for farming.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture - Dairying</td>
<td></td>
</tr>
</tbody>
</table>
### Basic Value (BV) Score MA \[Public \text{ Benefit Value (PBV)} \] Score MA

<table>
<thead>
<tr>
<th><strong>Traditional or Potential</strong></th>
<th><strong>Farmland</strong>: Property is utilized as part of an ongoing 55 head beef cattle business; owners provide Boundary Bay Brewery with local beef. Previous owners did not maintain income for OSAG, continuance was granted pending reclassification.</th>
<th>15 15</th>
<th><strong>Public Access</strong>: Posted Open Space Sign; Public Access by Appointment; Ample Off Street Public Parking off of Sand Road.</th>
<th>30% 40%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Soil Value</strong>: # 62 - Hale Silt Loam - Drained ~ 0-2% slopes. Designated as Agricultural Protection Overlay Soil.</td>
<td>15 15</td>
<td><strong>Water Resource Protection</strong>: Located in Moderate to High Critical Aquifer Recharge Area</td>
<td>10% 20%</td>
<td></td>
</tr>
<tr>
<td><strong>Comprehensive Plan</strong></td>
<td><strong>Designation</strong>: Rural</td>
<td>0 5</td>
<td><strong>Wildlife Habitat</strong>: Vegetated pasture provides habitat for small mammals and birds.</td>
<td>10% 20%</td>
</tr>
<tr>
<td><strong>Promote Conservation</strong></td>
<td><strong>Principles</strong>: Posted Open Space Sign will promote awareness of conservation opportunities available to the public. Will teach manure management and herd management/herd rotation.</td>
<td>5 5</td>
<td><strong>Parcel Size</strong>: 4.81 acres – Parcels less than 5 acres automatically receive a 40% decrease for this category.</td>
<td>-40%</td>
</tr>
<tr>
<td><strong>Enhance Abutting Open Space</strong>: Retains grass land/pasture, with manure management plan. Part of larger farm operation with 55 head of beef cattle</td>
<td>3 5</td>
<td><strong>Abutting Open Space</strong>: OSAG to the North OSAG to the West</td>
<td>2% 5%</td>
<td></td>
</tr>
<tr>
<td><strong>Recreation Opportunities</strong>: Agricultural education to local youth groups by appointment. Farm tours by appointment.</td>
<td>5 5</td>
<td><strong>Natural Areas</strong>:</td>
<td>0% 5%</td>
<td></td>
</tr>
<tr>
<td><strong>Historic / Archeological</strong></td>
<td><strong>Significance</strong>: None.</td>
<td>0 5</td>
<td><strong>Financial Advantage</strong>:</td>
<td>0% 40% (+/-)</td>
</tr>
<tr>
<td><strong>Enhance Scenic Resources</strong>: Helps preserve pastoral setting along Sand Road.</td>
<td>3 5</td>
<td><strong>Discretionary Value</strong>:</td>
<td>0% 40% (+/-)</td>
<td></td>
</tr>
<tr>
<td><strong>Protect Streams/Shorelines</strong>: Grassy areas preserve hydrologic processes, help control stormwater run-off. Manure management plan, and herd management plan will help preserve water quality.</td>
<td>3 5</td>
<td><strong>Total</strong>:</td>
<td>51 70 12% 100%</td>
<td></td>
</tr>
<tr>
<td><strong>Protect Soils/Wildlife</strong>: Preserves Hale Silt Loam for existing and future agriculture.</td>
<td>3 5</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**The Public Benefit Rating is calculated using the following formula:**

Public Benefit Rating Formula \[ BV+(BV \times PBV) = PBR = 51 + (51 \times 0.12) = 57.12 \]

**Application must receive at least 45 points for a staff recommendation of approval**

---

OSP2014-00005

Public Benefit Rating (PBR) = 57.12
Farm and Agriculture Conservation Land Transfer from ASAG to OSFACL

OSP2014-00005 – Lucas & Amy Hemnes
Geo ID: 390429 041191 – OSAG to OSFACL
Parcel acres = 4.81; Homestead acre = 1.0

Subject Parcel

2013 Aerial Photo

Subject Parcel

Open Space Applications 2014
- Hemnes
Zoning & Comprehensive Plan
Farm and Agriculture Conservation Land
OSP2014-00005 – Lucas & Amy Hemnes
Geo ID: 390429 041191 – OSAG to OSFAACL
Parcel Ac. = 4.81; Total App. Ac. = 3.81
## Open Space Timber Land Current Use Classification-Evaluation Form

**File # OSP2014-00001**

<table>
<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification: <strong>Timber Land</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Loren H. Bailey, SR. Credit Shelter Trust Elinor Bailey</td>
<td>Status: Transfer From Designated Forest Land</td>
</tr>
<tr>
<td>Street Address: 6759 Enterprise Road</td>
<td>Assessor’s Parcel No. (s):</td>
</tr>
<tr>
<td>City: Ferndale</td>
<td>390208 060364 0000 390208 022379 0000</td>
</tr>
<tr>
<td>State: WA Zip: 98248</td>
<td>390208 105297 0000 390208 087338 0000</td>
</tr>
<tr>
<td>Site Address: Matz Road East of I-5</td>
<td>390208 124252 0000 390208 185232 0000</td>
</tr>
<tr>
<td>Subarea: NA</td>
<td>Bailey Trust (above) Elinor Bailey (above)</td>
</tr>
<tr>
<td>Comp Plan Designation: Urban Growth Area Reserve City of Ferndale</td>
<td>Parcels in County Parcels in City</td>
</tr>
<tr>
<td>Historical Land Use: Forested, Undeveloped</td>
<td>Parcel Acre(s): Bailey Trust: 5.06; 5.06; 1.28; 4.57 E. Bailey: 5.06; 5.06; 4.58</td>
</tr>
<tr>
<td>Note: City of Ferndale annexed parcels east of I-5 after application was received.</td>
<td>Application Acre(s) Parcels in County: 9.15 acres Parcels in City of Ferndale: 21.52 acres</td>
</tr>
<tr>
<td>County Zoning Designation: Rural One Dwelling Unit per 10 Acres (R10A) City Zoning Designation</td>
<td>Shorelines: N/A</td>
</tr>
</tbody>
</table>

**Predominant Soil/Type Capabilities:**

- #45 - Edmonds-Woodlyn loams, 0-2% Slopes, 50 year site index - Red Alder = 90
- #99 - Squalicum gravelly loam, 15-30% Slopes, 50 year site index - Douglas fir = 112
- #100 - Lynden sandy loam, 0-3% Slopes, 50 year site index - Douglas fir = 112
- #165 - Tromp loam, 0-2% Slopes, 50 year site index - Douglas fir = 100

**Comments:** Generally productive Woodland soils. Lynden sandy loam and Tromp loam, relatively deep well drained; Edmonds-Woodlyn loams, are poorly drained, hydric soils. Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended.
A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

- The parcel(s) parcels under same ownership or in multiple ownership contain a minimum of 5 acres primarily devoted to the growth and harvest of timber for commercial purposes.
- A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;
- The date or dates of acquisition of the land;
- A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;
- Whether there is a forest management plan for the land; If so, the nature and extent of implementation of the plan;
- Whether the land is used for grazing;
- Whether the land has been subdivided or a plat filed with respect to the land;
- Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;
- Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;
- Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;
- A summary of the past experience and activity of the applicant in growing and harvesting timber;
- A summary of current and continuing activity of the applicant in growing and harvesting timber;
- A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.
Timber Land - Transfer Application DFL to OSTL

OSP2014-00001 – Loren H. Bailey Sr. Credit Shelter Trust, Elinor I. Bailey
Geo ID: 390208 060364 - 5.06 Ac.  Geo ID: 390208 022379 - 5.06 Ac.
Geo ID: 390208 105297 - 5.06 Ac.  Geo ID: 390208 087338 - 5.06 Ac.
Geo ID: 390208 124252 - 1.28 Ac.  Geo ID: 390208 185232 - 4.58 Ac.

Total App. Acres - 15.97 ac.

Subject Parcels
Zoning & Comprehensive Plan
Timber Land - Transfer Application DFL to OSTL
OSP2014-00001 – Loren H. Bailey Sr. Credit Shelter Trust, Elinor I. Bailey
Geo ID: 390208 060364 – 5.06 Ac. Geo ID: 390208 022379 – 5.06 Ac.
Geo ID: 390208 105297 - 5.06 Ac. Geo ID: 390208 087338 - 5.06 Ac.
Geo ID: 390208 124252 - 1.28 Ac. Geo ID: 390208 185232 - 4.58 Ac.
Total App. Acres - 15.97 ac.

Loren H. Bailey Sr.
Credit Shelter Trust,
Elinor I. Bailey

City
UGA
UGA Reserve
Rural
Agriculture
Subject Parcels

346
**Open Space Timber Land**

**Current Use Classification-Evaluation Form**

File # OSP2014-00003

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification: Timber Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paul and April Engelund</td>
<td>Status: New Application</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Assessor’s Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>9601 Stein Road</td>
<td>400101 259478 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City:</th>
<th>State: WA Zip: 98240</th>
</tr>
</thead>
<tbody>
<tr>
<td>Custer</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site Address:</th>
<th>Subarea: NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>9601 Stein Road</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comp Plan Designation: Rural</th>
<th>Parcel Acre(s): 10.56 (+/-)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use: Forested, Residential</th>
<th>Application Acre(s) 8.5 (+/-)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Zoning Designation: Rural One Dwelling Unit per 10 Acres (R10A)</th>
<th>Shorelines: N/A</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Predominant Soil/Type Capabilities:</th>
</tr>
</thead>
<tbody>
<tr>
<td># 93 – Labounty silt loam, 0-2% Slopes, 50 year site index – Red Alder = 90</td>
</tr>
<tr>
<td># 179 – Whatcom silt loam, 3-8% Slopes, 50 year site index – Douglas fir = 116</td>
</tr>
<tr>
<td># 180 – Whatcom silt loam, 8-15% Slopes, 50 year site index – Douglas fir = 116</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comments: Productive Woodland soils.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended.</td>
</tr>
</tbody>
</table>
A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

- The parcel(s) parcels under same ownership or in multiple ownership contain a minimum of 5 acres primarily devoted to the growth and harvest of timber for commercial purposes.

- A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

- The date or dates of acquisition of the land;

- A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;

- Whether there is a forest management plan for the land; If so, the nature and extent of implementation of the plan;

- Whether the land is used for grazing;

- Whether the land has been subdivided or a plat filed with respect to the land;

- Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

- Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

- Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

- A summary of the past experience and activity of the applicant in growing and harvesting timber;

- A summary of current and continuing activity of the applicant in growing and harvesting timber;

- A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

**Staff Recommendation:** ☑ Approval  ☐ Denial
Timber Land - New Application

OSP2014-00003 – Paul & April Engelund
Geo ID: 400101 259478 – 10.56 Ac.
Total App. Acres - 8.5 ac.

Subject Parcel
Zoning & Comprehensive Plan

Timber Land - New Application
OSP2014-00003 -- Paul & April Engelund
Geo ID: 400101 259478 -- 10.56 Ac.
Total App. Acres - 8.5 ac.
**Open Space Timber Land**  
**Current Use Classification-Evaluation Form**

**File # OSP2014-00004**

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification: <strong>Timber Land</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Sunset SW LLC</td>
<td>Status: New Application</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Assessor’s Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>2920 Northshore Road</td>
<td>380432 025554 0000</td>
</tr>
<tr>
<td></td>
<td>380429 020020 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City:</th>
<th>Zip: 98226</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bellingham</td>
<td></td>
</tr>
</tbody>
</table>

| State: WA              |                                |
|                        |                                |

| Site Address:          |                                |
| Abutting 2920 Northshore Road to the East |                                |

| Subarea: Lake Whatcom  |                                |

<table>
<thead>
<tr>
<th>Comp Plan Designation:</th>
<th>Parcel Acre(s): 5.63 (+/-)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural</td>
<td></td>
</tr>
</tbody>
</table>

| Historical Land Use:  | Application Acre(s)           |
| Forested, Undeveloped | 0.28 (+/-) for a total of 5.63 (+/-) acres |

| Zoning Designation:   |                                 |
| Rural One Dwelling Unit per 5 Acres (R5A) |                                 |

| Shorelines: Rural     |                                 |

<table>
<thead>
<tr>
<th>Predominant Soil/Type Capabilities:</th>
</tr>
</thead>
<tbody>
<tr>
<td># 157 - Squalicum gravelly loam, - 15-30% Slopes, 50 year site index – Douglas fir = 132</td>
</tr>
</tbody>
</table>

| Comments: Productive Woodland soils. |
| Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended. |

| NOTE: Rural Shoreline Permitted Uses are subject to WCC 23.30.074 (E) which provides for Agricultural and Forest Practices subject to WCC 23.90.11(c) Policies and Regulations, forest practices may require a Shoreline Substantial Development Permit. |
A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

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- A summary of the past experience and activity of the applicant in growing and harvesting timber;
- A summary of current and continuing activity of the applicant in growing and harvesting timber;
- A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.
Timber Land - New Application
OSP2014-00004 - Sunset SW LLC
Geo ID: 380432 025554 - 1.72 Ac. (1.36 Ac. currently OST)
Geo ID: 380429 020020 - 3.91 Ac. (3.91 Ac. currently OST)
Total App. Ac. - .28 ac./Total Ac. (subject to approval) - 5.63
Subject Parcels

2013 Aerial Photo

353
Zoning & Comprehensive Plan
Timber Land - New Application
OSP2014-00004 – Sunset SW LLC
Geo ID: 380432 025554 – 1.72 Ac. (1.36 Ac. currently OST)
Geo ID: 380429 020020 - 3.91 Ac. (3.91 Ac. currently OST)
App. Ac. – .28 ac./Total Ac. (subject to approval) - 5.63

Open Space Applications 2014
- Sunset SW LLC
<table>
<thead>
<tr>
<th>ac</th>
<th>rate</th>
<th>av</th>
<th>Levy</th>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>390429 041191 0000</td>
<td>market value</td>
<td>3.81</td>
<td>30,000</td>
<td>114,300</td>
</tr>
<tr>
<td></td>
<td>open space value</td>
<td>3.81</td>
<td>13,861</td>
<td>52,809</td>
</tr>
<tr>
<td></td>
<td>2014 Tax Difference</td>
<td>$705.99</td>
<td></td>
<td></td>
</tr>
<tr>
<td>380335 538230 0000</td>
<td>market value</td>
<td>0.22</td>
<td>23,727</td>
<td>5,220</td>
</tr>
<tr>
<td></td>
<td>open space value</td>
<td>0.22</td>
<td>3,339</td>
<td>735</td>
</tr>
<tr>
<td></td>
<td>2014 Tax Difference</td>
<td>$55.24</td>
<td></td>
<td></td>
</tr>
<tr>
<td>380335 525241 0000</td>
<td>market value</td>
<td>0.11</td>
<td>47,455</td>
<td>5,220</td>
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<tr>
<td></td>
<td>open space value</td>
<td>0.11</td>
<td>5,059</td>
<td>556</td>
</tr>
<tr>
<td></td>
<td>2014 Tax Difference</td>
<td>$57.43</td>
<td></td>
<td></td>
</tr>
<tr>
<td>380335 523242 0000</td>
<td>market value</td>
<td>0.11</td>
<td>47,455</td>
<td>5,220</td>
</tr>
<tr>
<td></td>
<td>open space value</td>
<td>0.11</td>
<td>5,059</td>
<td>556</td>
</tr>
<tr>
<td></td>
<td>2014 Tax Difference</td>
<td>$57.43</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

PBR acreage rate calculation

FMV - (FMV - HCU) x PBR = CU AC RATE

<table>
<thead>
<tr>
<th>FMV</th>
<th>FMV</th>
<th>HCU</th>
<th>PBR</th>
<th>CU AC RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>30,000</td>
<td>(30,000 - 1,745) x 57.12%</td>
<td>= 13,861</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23,727</td>
<td>(23,727 - 1,745) x 92.75%</td>
<td>= 3,339</td>
<td></td>
<td></td>
</tr>
<tr>
<td>47,455</td>
<td>(47,455 - 1,745) x 92.75%</td>
<td>= 5,059</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

355
EXPLANATION OF TAX SHIFT:

LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01

Fair Market Value TAX = 600,000 X .01 = $6,000.00 Taxes

Current Use Value TAX = 110,400 X .01 = $1,104.00 Taxes

- Difference between FMV Tax & CUV Tax $6,000-$1,104 = $4,896

- $4,896 in taxes that would otherwise be collected from this tax payer are “shifted” to other tax payers in the form of an increase in the levy rate applied to all assessed values on property within any given taxing district (as applicable) including the subject parcel acres that are approved for assessment at current use. The particular taxing district will still need to meet its budget, and in order to accomplish this, to offset reduction in value from properties classified under the current use programs (and other exemptions) will increase its levy rate to meet its budget.

NOTE: at 100% PBR the shift in taxes on the above example would be $5,760.00

- Generally, a tax code area is defined by geographic boundaries where most all of the parcels are subject to the same consolidated levy rate. However, not all parcels in a geographically defined tax code area are captured by the same taxing districts. For example, if in a particular tax code area there are two parcels of land that are contiguous, and one is developed, and one is raw unimproved land, and both are in the fire district’s boundaries, the improved land will be subject to a levy by the fire district, but the unimproved land will not be subject to a levy by the fire district.

- The example above illustrates why it is difficult to calculate the increase in taxes affecting tax payers whose land is assessed at fair market value, that would be imposed by the approval of a parcel at current use values.

- To further illustrate: the compensating increase in a taxing district’s levy rate will also apply to land assessed at current use values within a taxing district’s boundaries, but since the assessed value per acre has been substantially reduced as compared to fair market value, the amount of compensatory tax to meet the district’s budget is proportionately much less from these parcels as compared to those from parcels assessed at fair market value.
HYPOTHETICAL EXAMPLE OF APPLIED PUBLIC BENEFIT RATING
RESULTING IN NEW CURRENT USE VALUE AND "SHIFT" IN TAXES

UPON APPLICATION APPROVAL
TO CLASSIFY OR RE-CLASSIFY AS OPEN SPACE LAND

TERMS:

FMVA = Fair Market Value per acre
CUVA = Current Use Value per acre
FMV = Fair Market Value per acre multiplied by # of acres
CUV = Current Use Value per Acre multiplied by # of acres
PBR = Public Benefit Rating
DIFF = Difference between FMV and CUV
SAVINGS = Savings is difference between Fair Market Value and Current Use Value multiplied by the PBR
NEW VALUE is FMV-SAVINGS
NEW VALUE X CONSOLIDATED LEVY RATE = NEW TAXES
LEVY RATE = HYPOTHETICAL CONSOLIDATED LEVY RATE

FORMULA:

FMV-CUV = DIFF
DIFF X PBR = SAVINGS
FMV-SAVINGS = NEW VALUE
NEW VALUE X LEVY RATE = TAXES

CALCULATION:

FMV - CUV = DIFF
600,000 - 24,000 = 576,000
DIFF X PBR = SAVINGS
576,000 X .85 = 489,600
FMV-SAVINGS = NEW VALUE
600,000 - 489,600 = 110,400 = New CU Value

NEW VALUE X LEVY RATE = NEW TAXES ON LAND VALUED AT CURRENT USE

110,400 X .01 = 1,104

FMV taxes = 6,000
Current Use Taxes = 1,104
TAX SHIFT = 4,896

HYPOTHETICAL EXAMPLE:

Application for Open Space Land
= 20 acres – vacant raw land

Variables:
Fair Market Value/acre = 30,000
PBR = 85%
CUVA = 1,200
CUV = 20 X 1,200 = 24,000
HYPOTHETICAL CONSOLIDATED LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01

357
Whatcom County

Open Space Policy and Criteria

and

Public Benefit Rating System, 1995
SUMMARY OF WHATCOM COUNTY OPEN SPACE POLICIES

I. **Public Benefit Rating System**: All applications for open space-open space and open space-farm and agriculture conservation will be rated according to the Whatcom County Public Benefit Rating System described in the following pages. A Public Benefit Rating of at least 45 must be attained in order to be recommended for approval. In addition, the amount of tax reduction to be granted to open space applications will be based on the Public Benefit Rating. The greater the public benefit provided by keeping the property in open space use, the greater the tax reduction.

II. **Public access**: As a condition of approval, owners of open space parcels must agree to provide a certain degree of public access according to the Whatcom County Public Access Policy listed on Page 12. All applications shall be accompanied by the owner’s proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined in the Whatcom County Public Access Policy. Note: On parcels where there is a documented occurrence of a State or Federal Endangered or Threatened species; Federal Proposed Endangered or Threatened Species; and State Sensitive or Monitor Species; or where there is a known or potentially significant archaeological site; or when the purpose of the open space is for wetland conservation, the public access requirement may be waived by the Council.

III. **Open Space Sign**: As a condition of approval, owners of open space parcels must agree to post a sign in a location visible to passing motorists, in accordance with the Whatcom County Open Space Sign Policy on Page 13 indicating the parcel’s open space status and the availability of public access. As with the public access requirement, the requirement for posting of a sign may be waived in some instances.

IV. **Hold Harmless Agreement**: All open space property owners must sign a hold harmless agreement, freeing Whatcom County of any liability which may arise as a result of open space approval. A copy of the hold harmless agreement is included on Page 14.
WHATCOM COUNTY OPEN SPACE POLICY AND CRITERIA
AND PUBLIC BENEFIT RATING SYSTEM

I. APPROVAL CRITERIA: OPEN SPACE/OPEN SPACE AND OPEN
SPACE/FARM & AGRICULTURE CONSERVATION

Washington State law specifies that:
In determining whether an application made for open space current use taxation status should
be approved or disapproved, pursuant to RCW 84.34.020, subsection (1)(b) (Open
Space/Open Space) or subsection (c) (Open Space/Farm & Agriculture Conservation), the
Whatcom County Planning Commission will consider in its recommendations to the County
Council whether or not preservation of the current use of the land, when balanced against the
resulting revenue loss or tax shift from granting the application will:

1. Conserve or enhance natural, cultural or scenic resources, or
2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers, or
3. Protect soil resources and unique or critical wildlife and native plant habitat, or
4. Promote conservation principles by example or by offering educational
   opportunities, or
5. Enhance the value of abutting or neighboring parks, forests, wildlife preserves,
   nature reservations or sanctuaries or other open spaces, or
6. Enhance recreation opportunities, or
7. Preserve historic and archaeological sites, or
8. Affect any other factors relevant in weighing benefits to the general welfare of
   preserving the current use of the property.

II. PUBLIC BENEFIT RATING SYSTEM

A. Based on the first seven (7) approval criteria listed above in conjunction with
   number eight (8) above, the Planning Department staff will assign each
   application for Open Space/Open Space and Open Space/Farm &
   Agriculture Conservation a PUBLIC BENEFIT RATING using the method
   described below.

B. A parcel must receive a PUBLIC BENEFIT RATING of at least forty five
   (45) to be recommended for approval.

C. The PUBLIC BENEFIT RATING will be used by the County Assessor’s
   office in determining the amount of tax reduction for Open Space/Open Space
   and Open Space/Farm & Agriculture Conservation parcels.
III. PUBLIC BENEFIT RATING CALCULATION

A. BASIC VALUE
The Planning and Development Services Department will review each Open Space/Open Space and Open Space/Farm & Agriculture Conservation application and will assign to each a BASIC VALUE that represents the degree of conformance with the BASIC VALUE CRITERIA listed in Section IV below.

B. PUBLIC BENEFIT VALUE
The BASIC VALUE will be increased (or decreased) by a percentage (PUBLIC BENEFIT VALUE) representing the benefit to the general welfare of preserving the current use of the property, based on conformance with the factors listed in section V below.

C. PUBLIC BENEFIT RATING FORMULA
The PUBLIC BENEFIT RATING will be calculated using the following formula:

\[ PBR = BV + (BV \times PBV) \]

where:

- \( PBR \) = PUBLIC BENEFIT RATING
- \( BV \) = BASIC VALUE
- \( PBV \) = PUBLIC BENEFIT VALUE

IV. BASIC VALUE CRITERIA:

A. Open Space/Open Space
A maximum of ten points for open space/open space applications may be assigned for each of the 7 items based upon conformance with the criteria listed below.

1. Conserve or enhance natural, cultural or scenic resources.

   Criteria for approval:

   a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
   b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
c. lands which can serve to prevent the spread of high density residential
development into less developed areas;
d. lands located adjacent to airports.

2. Protect streams, stream corridors, wetlands, natural shorelines and
aquifers.
Criteria for approval:

a. lands within a 100 year floodplain;
b. lands within or adjacent to areas of domestic water supply;
c. lands near or adjacent to streams or rivers where, if alterations were to
occur, a resulting loss of quality would also occur in the conditions of
water and the general functioning of the regime;
d. lands which provide for preservation of bogs or swamps;
e. lands adjacent to bodies of water, both marine and fresh;
f. lands including and adjacent to wetlands and tidal areas (these lands
would not necessarily be approved contingent upon public access
agreement due to biological sensitivities).

3. Protect soil resources and unique or critical wildlife and native plant
habitat.
Criteria for approval:

a. lands where slopes exceed 25% or areas where underlying geology and
soils are known to produce unstable conditions;
b. lands where, if alterations were to occur, a resulting high risk of soil
erosion would follow;
c. lands which represent habitats for unique or critical wildlife or native
plants, or where there is a documented occurrence of a State or Federal
Endangered Species; State or Federal Threatened Species; Federal
Proposed Endangered or Threatened Species; or State Sensitive or
Monitor Species as listed in the Washington Department of Wildlife
Nongame Data System. On parcels where there this documentation, the
Department shall automatically recommend approval with a
recommendation that a sign and public access shall not be required.

4. Promote conservation principles by example or by offering educational
opportunities.
Criteria for approval:

a. lands which are an example of application of conservation principles;
b. lands which offer opportunities for conservation education such as
interpretive centers or trails.

5. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;
Criteria for approval:

a. land that the local County Park Board has identified for possible future park acquisition;

b. land designated in County Parks, Recreation and Open Space Study and other documents as significant park land, open space or conservation areas;

c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;

d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

6. Enhance recreation opportunities.
Criteria for approval:

a. lands possessing private recreational facilities which are available to the public without charge;

b. lands which provide opportunities for passive recreational activities such as, but not limited to, hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

7. Preserve historic and archaeological sites.

Criteria for approval:

a. areas or sites which have been identified as significant on local, state or national Historic Registers;

b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

B. Open Space/Farm & Agriculture Conservation

Only parcels consistent with RCW 84.34.020(8)(a)(b) may be considered for Open Space/Farm & Agriculture Conservation.
A maximum of fifteen (15) points for Open Space/Farm & Agriculture Conservation applications may be assigned for each of the first two (2) items listed below, and a maximum of five (5) points may be assigned for the remaining eight (8) items listed below based upon conformance with the criteria listed.

1. Traditional or potential farmland.

   **Criteria for approval:** lands which have historically been used for agriculture; and/or lands that have not been devoted to a use inconsistent with agricultural uses.

2. Soil Value

   **Criteria for approval:**
   a. lands which contain prime farmland as defined by the U.S. Department of Agriculture; or
   b. lands which contain capability classification I-IV according to the US Department of Agriculture Land Capability Classification system.

3. Comprehensive Plan Designation

   **Criteria for approval:** Lands which are designated Agriculture or Incentive Agriculture in the Whatcom County Comprehensive Plan.

4. Conserve or enhance natural, cultural or scenic resources.

   **Criteria for approval:**
   a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
   b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
   c. lands which can serve to prevent the spread of high density residential development into less developed areas;
   d. lands located adjacent to airports.
5. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.

Criteria for approval:
   a. lands within a 100-year floodplain;
   b. lands within or adjacent to areas of domestic water supply;
   c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
   d. lands which provide for preservation of bogs or swamps;
   e. lands adjacent to bodies of water, both marine and fresh;
   f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

6. Protect soil resources and unique or critical wildlife and native plant habitat.

Criteria for approval:
   a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
   b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
   c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On these parcels the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

7. Promote conservation principles by example or by offering educational opportunities.

Criteria for approval:
   a. lands which are an example of application of conservation principles;
   b. lands which offer opportunities for conservation education
such as interpretive centers or trails.

8. **Enhance the value to the public of abutting or neighboring parks, forests, agricultural lands, wildlife preserves, nature reservations or sanctuaries or other open spaces.**

**Criteria for approval:**
- a. land that the local County Park Board has identified for possible future park acquisition;
- b. land designated in County Parks, Recreation and Open Space Studies and other documents as significant park land, open space or conservation areas;
- c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
- d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

9. **Enhance recreation opportunities.**

**Criteria for approval:**
- a. lands possessing private recreational facilities which are available to the public without charge;
- b. lands which provide opportunities for passive recreational activities such as but not limited to hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

10. **Preserve historic and archaeological sites.**

**Criteria for approval:**
- a. areas or sites which have been identified as significant on local, state or national Historic Registers;
- b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.
V. PUBLIC BENEFIT VALUE CRITERIA

The following list of open space characteristics have been determined to have a high priority in providing (or detracting from) benefit to the general welfare will be used to determine the PUBLIC BENEFIT VALUE for each Open Space/Open Space and Open Space/Farm & Agriculture Conservation application. The total PUBLIC BENEFIT VALUE will increase (or decrease) the BASIC VALUE by a certain percentage. It is possible to attain a PUBLIC BENEFIT VALUE of up to 140%, resulting in a maximum possible increase of 140%.

A. PUBLIC ACCESS (Maximum 40% increase)
   1. Shoreline access
   2. Recreation access
   3. Public road frontage
   4. Availability of off-street parking
   5. Quality of access in terms of accessibility and owner’s Proposed rules of conduct and access management

B. WATER RESOURCE PROTECTION (Maximum 20% increase)
   1. Watershed of domestic water supply
   2. Aquifer recharge area
   3. Preservation of hydrologic processes:
      -streams and natural drainage courses
      -wetlands, swamps, bogs
      -lakes

C. WILDLIFE HABITAT (Maximum 20% increase)
   1. State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species.
   2. Abundance and diversity of wildlife (associated with "edge" type habitat and areas of vegetative and topographic diversity).

D. PARCEL SIZE
   1. Twenty (20) acres or larger (Maximum 10% increase)
   2. Smaller than five (5) nominal acres (Maximum 10% decrease for OS Open Space applications; Required 40% decrease for OS Farm and Agriculture Conservation applications)

E. LINKAGE WITH OTHER OPEN SPACES (Maximum 5%
increase)  
Adjacent to other Open Space, parks, or open areas associated with Planned Unit Developments, Cluster Subdivisions, or Binding Site Plans.

F. NATURAL AREAS (Maximum 5% increase)  
Based on how much of parcel is in natural cover and not developed with homesite, outbuildings, and clearings.

G. FINANCIAL ADVANTAGE (Maximum 40% decrease)  
The use to which the land is put derives a financial advantage for its owners.

H. DISCRETIONARY VALUE (Maximum 40% increase)  
(Minimum 40% decrease)  
Discretionary value may be added or subtracted where land provides or detracts from public benefits other than those specifically listed above. If discretionary value is added or subtracted, the provision of or detract from public benefits shall be set forth in detail on the supplemental application form and on the scoring sheet.
PUBLIC ACCESS

All applications for Open Space/Open Space and Open Space Farm & Agriculture Conservation shall be accompanied by the owners' proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined below.

The term “Public Access” is limited and defined as the right of any individual to request permission to enter and visit the premises on foot for legitimate recreational purposes such as bird watching, scenic observation, scientific investigation, picnicking during daylight hours, and strolling and general relaxation on the premises. This right is subject to the execution by the visitor of:

1. An agreement to abide by any reasonable rules of personal conduct required by the owners while on the premises, and

2. A general release of the owner from liability for any injury suffered by the visitor while on the premises. Permission will be granted without discrimination, EXCEPT in the case of a person in disorderly or apparently intoxicated condition in which case permission will be denied. Any permission previously granted shall become automatically revoked, and the visitor deemed to be a trespasser upon the premises.

Owners retain and reserve the power to officially post and enforce rules not inconsistent with the foregoing provisions and conditions for public entry upon the premises.

DATED this ______ day of ______________, 2000

SIGNED:

________________________________________

owner

________________________________________

owner
OPEN SPACE SIGN POLICY

As a condition of approval of your open space application, you must post a two foot (2' x 2') sign on your property to indicate open space status, public access, and the Open Space Agreement number within one month of executing the Open Space Agreement.

The sign must be located on the property's road frontage in as conspicuous a location as possible.

Construction of the sign will be the responsibility of the applicant and will be in accordance with the specifications on file with the Planning and Development Services Department. It is the property owner's responsibility to assure that the sign remains in place during the period of the open space agreement.

This policy affects all Open Space/Open Space and Open Space/Farm and Agricultural Conservation applications.
Whatcom County Council

AFFIDAVIT OF POSTING OF OPEN SPACE SIGN PURSUANT TO WHATCOM COUNTY OPEN SPACE SIGN POLICY AND SPECIFICATION

________________________________________, being first duly sworn upon oath, deposes and says:

That I have posted a two foot by two foot Open Space Sign in accordance with the Whatcom County Open Space Sign Policy and the Whatcom County Open Space Sign Specification, in a conspicuous location, visible to passing motorists, indicating the Open Space status of the following Open Space parcel(s):

Assessor’s Parcel Number(s):

________________________________________

I understand that it is the property owner’s responsibility to assure that the sign(s) remains in place during the period of the Open Space Agreement; that posting of the Open Space sign is subject to verification by County personnel; and that failure to maintain the sign is a violation of the Open Space Agreement and may result in withdrawal of Open Space status with attendant taxes and penalties payable pursuant to RCW 84.34.

________________________________________
Signature of Property Owner or other person posting property

I certify that I know or have satisfactory evidence that signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated __________________________________

Signature of ____________________________

Notary Public ____________________________

Title ____________________________________

Seal ____________________________________

My Appointment __________________________

Expires ________________________________

371
As a condition of approval of your Open Space application, you must post at least one Open Space sign on the property's road frontage in a conspicuous location, visible to passing motorists. It shall be the property owner's responsibility to assure that the sign remains in place during the period of the Open Space Agreement.

A typical sign and mounting are illustrated below. The sign shall be purchased from the Whatcom County Planning and Development Department for $5.00 plus tax of .39 cents. The sign shall be permanently attached to a weather-resistant solid backing at least two feet by two feet in size. You may also post reasonable rules of personal conduct while on the premises, pursuant to Whatcom County Public Access Policy. Such rules shall be approved by the Planning Department prior to posting.

TYPICAL SIGN AND MOUNTING
HOLD HARMLESS AGREEMENT

Owner Name

Owner Name

In consideration for Whatcom County’s approval of the attached Open Space Application, with any conditions that may be imposed, hereby agree to defend, indemnify and hold harmless Whatcom County, its officers and employees from any claim that may arise against Whatcom County as a result of the approval of the attached application with conditions.

This agreement shall become binding only after the Whatcom County Council has approved the attached application.

Parcel number(s):

DATED: This _______ day of ______________________, 2008

SIGNED:

Owner Name

Owner Name
The information and instructions in this publication are to be used when applying for assessment on the basis of current use under the “open space laws,” chapter 84.34 RCW and chapter 458-30 WAC.

What is the Open Space Taxation Act?
The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

Lands qualifying for current use classification
The law provides three classifications:

Open space land
Farm and agricultural land
Timberland

Open space land is defined as any of the following:

1. Any land area zoned for open space by a comprehensive official land use plan adopted by any city or county.
2. Any land area in which the preservation in its present use would:
   a. Conserve and enhance natural or scenic resources.
   b. Protect streams or water supply.
   c. Promote conservation of soils, wetlands, beaches or tidal marshes. (As a condition of granting open space classification, the legislative body may not require public access on land classified for the purpose of promoting conservation of wetlands.)
   d. Enhance the value to the public of neighbouring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.
   e. Enhance recreation opportunities.
   f. Preserve historic sites.
   g. Preserve visual quality along highway, road, and street corridors or scenic vistas.
   h. Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative authority granting the open space classification.
3. Any land meeting the definition of “farm and agricultural conservation land,” which means either:
   a. Land previously classified under the farm and agricultural classification that no longer meets the criteria and is reclassified under open space land; or
   b. “Traditional farmland,” not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

This fact sheet provides general information regarding the Open Space Taxation Act. The information is current at the date of publication. Please note subsequent law changes may supersede or invalidate some of this information.
Farm and agricultural land is defined as any of the following:

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
   a. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes.
   b. Enrolled in the federal conservation reserve program (CRP) or its successor administered by the United States Department of Agriculture.
   c. Other commercial agricultural activities established under chapter 458-30 WAC.

2. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
   a. Seven years and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.
   b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.

3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
   a. Seven years and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.

4. For parcels of land five acres or more but less than 20 acres, “gross income from agricultural uses” includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.

5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
   a. Prior to January 1, 1993, $1,000 or more per year for three of the five calendar years preceding the date of application for classification.
   b. On or after January 1, 1993, $1,500 or more per year for three of the five calendar years preceding the date of application for classification.

6. “Farm and agricultural land” also includes any of the following:
   a. Incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.
   b. Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.
   c. Any non-contiguous parcel one to five acres, that is an integral part of the farming operations.
   d. Land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes, the housing or residence is on or contiguous to the classified land, and the classified land is 20 or more acres.
   e. Land that is used primarily for equestrian-related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to minimum gross income requirements.
   f. Land that is primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not. For additional criteria regarding this use, please refer to RCW 84.34.020(2)(h).
Timber land is defined as the following:
Any parcel of land five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than 10 percent of the land may be used for such incidental uses.

It also includes the land which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

The timber land classification may be unavailable in some counties. As a result of the passage of Senate Bill 6180 in 2014, counties have the option to merge their timber land classification into their designated forest land program under chapter 84.33 RCW. To determine whether your county offers the timber land classification, you may contact the county assessor or visit the Department of Revenue’s website at: www.dor.wa.gov.

Who may apply?
An owner or contract vendee may apply for current use assessment. However, all owners or contract vendees must sign the application for classification, and any resulting agreement.

When may I apply?
Applications may be made for classification at any time during the year from January 1 through December 31. If approved, current use assessment will begin on January 1 following the year the application was submitted.

Where do I get the application?
Application forms for the farm and agricultural land classification are available from the county assessor’s office. Application forms for the open space and timber land classifications are available from either the county assessor’s office or by contacting the county legislative authority.

Where do I file the application?
An application for open space classification is filed with the county legislative authority.

An application for farm and agricultural land classification is filed with the county assessor.

An application for timber land classification is filed with the county legislative authority. Timber land applications require that a timber management plan also be filed.

Is there an application fee?
The city or county legislative authority may, at their discretion, establish a processing fee to accompany each application. This fee must be in an amount that reasonably covers the processing costs of the application.

What happens after I file my application for open space classification?
Applications for classification or reclassification as “open space land” are made to the appropriate agency or official called the “granting authority.” If the land is located in the county’s unincorporated area, the county legislative authority is the granting authority on the application. If the land is located within an incorporated area of the county, the application is acted upon by both the county and city legislative authorities.

If the application is subject to a comprehensive plan that has been adopted by any city or county it will be processed in the same manner in which an amendment to the comprehensive plan is processed. If the application is not subject to a comprehensive land use plan, a public hearing on the application will be conducted, but a notice announcing the hearing must be published at least 10 days prior to the hearing.

The granting authority must approve or reject the application within six months of receiving the application. In determining whether an application made for classification or reclassification should be approved or denied, the granting authority may consider the benefits to the general welfare of preserving the current use of the property.
They may require that certain conditions be met including but not limited to the granting of easements.

If the application is approved, the granting authority will, within five calendar days of the approval date, send an agreement to the applicant for signature showing the land classification and conditions imposed. The applicant may accept or reject the agreement. If the applicant accepts, he or she must sign and return the agreement to the granting authority within 30 days after receipt.

The approval or denial of the application for classification or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

How does a public benefit rating system work?
If the county legislative authority has established a public benefit rating system (PBRS) for the open space classification, the criteria contained within the rating system governs the eligibility and valuation of the land subject to the application.

When a county creates or amends a PBRS, all classified open space land will be rated under the new PBRS. Land that no longer qualifies for classification will not be removed from classification, but will be rated according to the PBRS. Within 30 days of receiving notification of the new assessed value established by the PBRS, the owner may request removal of classification of the land without imposition of additional tax, interest, and penalty.

What happens after I file my application for farm and agricultural land classification?
Upon application for classification or reclassification, the assessor may require applicants to provide data regarding the use of the land, including but not limited to, the productivity of typical crops, sales receipts, federal income tax returns, other related income and expense data, and any other information relevant to the application.

The application will be considered approved unless the assessor notifies the applicant in writing prior to May 1 of the year after the application was submitted. The criteria for classification continue to apply after classification has been granted.

What is an “advisory committee”?
The county legislative authority must appoint a five member committee representing the active farming community within the county. This committee will serve in an advisory capacity to the assessor in implementing assessment guidelines as established by the Department of Revenue for the assessment of open space lands, farm and agricultural lands, and timber lands.

How do I appeal a denial of my farm and agricultural land application?
The owner may appeal the assessor’s denial to the board of equalization in the county where the land is located. The appeal must be filed with the board on or before July 1 of the year of the determination or within 30 days after the mailing of the notice of denial, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

What happens after I file my application for timber land classification?
Applications for timber land classification or reclassification are made to the county legislative authority. A timber management plan is required at the time of application or when a sale or transfer of timber land occurs and a notice of continuance is signed.

The application form requests information about forest management, restocking, fire protection, insect and disease control, weed control, and any other summary of experience and activity that supports the growth and harvest of timber for commercial purposes.
The application is acted upon in a manner similar to open space land applications and within six months of receiving the application.

Approval or denial of a timber land application is a legislative determination and is reviewable only for arbitrary and capricious action. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

How is the value of classified land determined?
The assessor is required to maintain two values for each parcel that is classified. The first is the value that would be placed on the land if it was not classified. This is commonly referred to as the “fair market value.” The second is the current use land value based on its current use, not highest and best use, as classified by the granting authority.

Open space land located within a county that has adopted a public benefit rating system will be valued according to the criteria of the rating system.

In the absence of a rating system, the per acre value can be no less than the lowest per acre value of classified farm and agricultural land in the county.

In determining the current use value of farm and agricultural land, the assessor considers the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years. This earning or productive capacity is the “net cash rental” and is capitalized by a “rate of interest” charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

Timber land is valued according to a schedule prepared by the Department of Revenue according to chapter 84.33 RCW. The Department of Revenue annually adjusts and certifies timber land values to be used by county assessors in preparing assessment rolls. The assessors assign the timber land values to the property based upon land grades and operability classes.

When are taxes due on classified lands?
Land classified as open space, farm and agricultural, or timber land is assessed at its current use value and placed on the assessment rolls the year after the application was submitted. Taxes on classified land are due and payable the year after the current use value was placed on the assessment rolls.

How long does the classification last?
The land continues in its classification until a request for removal is made by the owner, the use of land no longer complies, a sale or transfer to an owner that causes land to be exempt from property taxes, or the ownership has changed and the new owner has not signed a Notice of Continuance. The notice of removal is recorded with the county auditor in the same manner as the recording of state tax liens on real property. Additional tax, interest, and penalties will apply if the land is removed and the removal does not meet one of the exceptions listed in RCW 84.34.108(6).

How do I withdraw from classification?
If intending to withdraw all or a portion of the land from classification after 10 years of classification, the owner must give the county assessor two years prior notice. This notice can be filed after the eighth assessment year of the initial 10-year classification period.

If a portion of the land is removed from classification, the remaining portion must meet the requirements of original classification unless the remaining land has different income or investment criteria.
What happens after I file a request to withdraw?
Upon receipt of a request for withdrawal, the assessor notifies the granting authority that originally approved the classification, and, when two years have elapsed, the assessor withdraws the land from classification. The land withdrawn from classification is subject to seven years of additional tax and interest, but not a 20 percent penalty.

What if I want to change the use of my classified property?
An owner changing the use of land from a classified use must notify the county assessor within 60 days of this action. The assessor will remove the land from classified status and impose an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on the land had it not been classified. The additional tax is payable for the last seven tax years, plus interest at the same rate as charged on delinquent property taxes, plus a penalty of 20 percent of the total amount.

If the assessor removes my land from classification, may I appeal?
Yes, the owner may file an appeal of the removal from classification to the county board of equalization on or before July 1 of the year of the determination, or within 30 days of the date the notice was mailed by the assessor, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

Upon removal from classification, what taxes are due?
At the time the land is removed from classification, any taxes owing from January 1 of the removal year through the removal date, and any additional tax, applicable interest, and penalty owing are due and payable to the county treasurer within 30 days of the owner being notified.

What if the additional taxes are not paid?
Any additional tax, applicable interest, and penalty become a lien on the land at the time the land is removed from classification. This lien has priority over any other encumbrance on the land. Such a lien may be foreclosed upon expiration of the same period after delinquency in the same manner as delinquent real property taxes. If unpaid, interest is charged on the total amount due at the same rate that is applied by law to delinquent property taxes. Interest accrues from the date of the delinquency until the date the total amount is paid in full.

What is done with the additional tax, interest, and penalty paid when land is removed from classification?
Upon collection, the additional tax is distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The applicable interest and penalties are distributed to the county's current expense fund.
How do I change the classification of my property?

Land may be reclassified, upon request by the owner, subject to all applicable qualifications for each classification, without additional tax, interest, and penalty for the following:

1. Land classified as farm and agricultural land may be reclassified to timber land; timber land may be reclassified to farm and agricultural land.

2. Land classified as either farm and agricultural land or timber land under chapter 84.34 RCW, or forest land under chapter 84.33 RCW may be reclassified to open space land.

3. Land classified as farm and agricultural land or timber land may be reclassified to forest land under chapter 84.33 RCW.

4. Land previously classified as farm and agricultural land may be reclassified to open space land as “farm and agricultural conservation land” and subsequently be reclassified back to farm and agricultural land.

Is supporting information required to change classifications?
The assessor may require an owner of classified land to submit data regarding the use of the land, productivity of typical crops, income and expense data, and similar information regarding continued eligibility.

Laws and Rules
It is helpful to read the complete laws, Revised Code of Washington, chapters 84.33 and 84.34 (RCW) and rules, Washington Administrative Code, chapter 458-30 (WAC) to understand requirements of the classifications and the tax liabilities incurred.

Need More Information?
Requirements for making application for current use classification are available at the county assessor’s office or by contacting the county legislative authority.

For general information contact:

- Department of Revenue, Property Tax Division
  P. O. Box 47471
  Olympia, Washington 98504-7471
  (360) 534-1400
- Website dor.wa.gov
- Telephone Information Center
  1-800-647-7706
- To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715.
- Teletype (TTY) users please call 1-800-451-7985.

Applications for reclassification are acted upon in the same manner as approvals for initial classification. The county assessor approves all applications for farm and agricultural classifications and reclassifications. The county legislative authority (and in some cases, the city legislative authority) approves all land classifications or reclassifications for timber land and open space land, including farm and agricultural conservation land.
Establishing Additional Eligibility Requirements for the Current Use Program

In response to multiple inquiries from county officials and property owners as to whether assessors and county legislative authorities have the authority to establish additional eligibility requirements for the three current use classifications other than those allowed in chapters 84.34 RCW and 458-30 WAC, the Department of Revenue has issued this Property Tax Advisory.

**Question:** May counties adopt ordinances establishing eligibility requirements for the three current use classifications in chapter 84.34 RCW that are in addition to the eligibility requirements in state statute?

**Answer:** Counties may adopt ordinances that establish additional eligibility requirements for the "open space" and "timber land" classifications, but not for the "farm and agricultural land" classification. However, additional eligibility requirements for the open space and timber land classifications must not conflict with state law and not arbitrarily or capriciously restrict access to either classification.

**Analysis:**
Article XI § 11 of the Washington State Constitution ("Constitution") allows local governments to adopt regulations that are not in conflict with state law. It provides that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary, and other regulations as are not in conflict with general laws.”

Washington case law has established two tests to determine a local ordinance's validity with respect to state law. An ordinance is invalid if:
- it directly conflicts with a state statute; or
- the Legislature manifests an intent to preempt the field/subject matter.

Article VII § 11 of the Constitution allows three classes of land to qualify for current use valuation: open space land, farm and agricultural land, and timber land. Statutory criteria and procedures contained in

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2. *Id.* at 827.
chapter 84.34 RCW govern the three classifications of land. The Department of Revenue’s analysis of the validity of local ordinances for the three classifications of land is discussed below.

**Example One:** The county legislative authority passes an ordinance adopting a Public Benefit Rating System (PBRS). The section on Farm and Agricultural Conservation Land in the ordinance states the following:

"Farm and Agricultural Conservation Land" means:

- Land that was either previously classified under RCW 84.34.020(2) (farm and agricultural land) that no longer meets the criteria of that subsection and is reclassified as open space land; or
- Traditional farmland not classified under chapter 84.33 or 84.34 RCW that has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture.

Eligible lands must meet one of these definitions and return to commercial agricultural production within 10 years.

The county legislative authority approves and denies all open space land (which includes the farm and agricultural conservation land sub classification) applications. The decision to grant or deny the application is a legislative determination and is reviewable only for "arbitrary or capricious" actions. (RCW 84.34.037(5)) In determining whether classification will be granted, the revenue loss or tax shift as well as the benefits from preserving or protecting environmental, scenic, or recreational resources must be considered. (RCW 84.34.037(2))

The county legislative authority may adopt a PBRS that establishes additional eligibility requirements for classifying property as open space land. (RCW 84.34.055) However, the additional requirements may not arbitrarily or capriciously restrict access to the open space land classification.

The eligibility requirement in this example which limits the amount of time a parcel can be classified as farm and agricultural conservation land may be permissible under RCW 84.34.037(4) as a condition of granting the open space land classification. This condition appears consistent with the intent that "farm and agriculture conservation land" have a high potential for returning to commercial agriculture as described in RCW 84.34.037(2)(c)(ii).

On the other hand, if land does not return to commercial agricultural production within the required period, the assessor could remove it from classification because the land did not meet the conditions of approval. An alternative to removing the land from classification could be reducing the benefit the parcel receives from being classified as farm and agricultural conservation land. This alternative may be more appropriate for land being preserved for long-term agricultural purposes instead of land that has a high potential of returning to commercial agricultural use within 10 years.

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* "Arbitrary and capricious" has been defined as action which is willful and unreasoning, without consideration and in disregard of facts and circumstances. See, Heinmiller v. Dep’t of Health, 127 Wn.2d 595, 903 P.2d 433, cert. denied, 518 U.S. 1006, 116 S. Ct. 2526, 135 L. Ed. 2d 1051 (1995).
In contrast, if the county legislative authority passes an ordinance requiring all parcels be removed from classification after a 10-year period, *regardless of how the land is being used*, it could be considered arbitrary and capricious because land would be removed even if it is actively farmed or being preserved for future commercial agricultural use. Additionally, land used for commercial agriculture that cannot qualify for reclassification as farm and agricultural land under RCW 84.34.020(2) because it entered farm and agricultural conservation land as “traditional farmland,” should not be removed simply because of a time limitation if it meets the other statutory requirements for classification.

**Example Two:** The county legislative authority passes an ordinance that requires a minimum parcel size of 10 acres for classification as open space land.

*Open Space Land – RCW 84.34.020(1)*

Although there is no minimum parcel size requirement under state law, a county may require a minimum parcel size to qualify as open space land. For this example, the intent of the minimum acreage requirement is to maximize the benefit to the public by granting classification to larger parcels, so this would fall within the discretion granted by the statute to consider public benefit when approving an application.

*Farm and Agricultural Land – RCW 84.34.020(2)*

Unlike the open space land classification, the county assessor approves and denies all applications for the farm and agricultural land classification. This difference, together with the fact that the definition of “farm and agricultural land” contains detailed and objective criteria for determining whether a property qualifies, indicates that counties may not adopt ordinances that establish additional eligibility requirements for the farm and agricultural land classification without conflicting with Article XI § 11 of the Washington Constitution.

If a county adopts an ordinance that places additional restrictions on the eligibility for the farm and agricultural land classification, then the ordinance is removing a benefit that is available under the state statute. As such, an ordinance with minimum acreage requirements would conflict with state statute and be considered invalid by Washington courts.

Thus, the Department takes the position that state law preempts counties from imposing additional eligibility requirements beyond those listed in state statute.

*Timber Land – RCW 84.34.020(3)*

The county legislative authority approves and denies all timber land applications. This discretion primarily involves whether the property is devoted to the growth and harvest of timber for commercial purposes. (RCW 84.34.020(3))

As with the application process for open space land, the granting or denial of an application for the timber land classification is a legislative determination and is reviewable only for arbitrary and capricious actions. (RCW 84.34.041(4))
The county legislative authority must act upon the application “with due regard for all relevant evidence and without any one or more items of evidence necessarily being determinative.” (RCW 84.34.041(3))

Thus, the application must be considered as a whole, in its entirety, as to whether the county believes the property is devoted primarily to the growth and harvest of timber for commercial purposes.

Accordingly, counties may restrict the approval of applications by enacting ordinances that require certain conditions be satisfied depending on the characteristics of the property or the information in the timber management plan as long as a single condition, by itself, is not determinative of whether the application is denied.

However, to reconcile this provision with the language in RCW 84.34.041(3), these conditions must be related to ensuring the property is devoted primarily to the growth and harvest of timber for commercial purposes. Consequently, the Department would consider conditions, such as an ordinance imposing minimum acreage requirements that differ from those allowed in state statute, to be invalid as it conflicts with state statute.

**Example Three:** The county legislative authority adopts an ordinance that states the following:

Pursuant to RCW 84.34.020(3), the primary use of the property must be for the production of forest crops. To qualify for classification as timber land, the land cannot contain a residence if it is at least 5 but less than 20 acres. It is deemed that such land is being used primarily as a home site, and therefore does not comply with the intent and purpose of the timber land classification.

State law defines "timber land," in RCW 84.34.020(3), in part, as follows:

"Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential home site.

Under state law, parcels that are less than 20 acres, but at least five acres, may be classified as timber land, even if there is a residence. The county ordinance, however, prohibits parcels smaller than 20 acres, with a residence, from qualifying for the timber land classification.

State law would allow a six-acre parcel of land with a one-acre home site to qualify for the timber land classification. If a parcel includes a home site, the home site acreage is excluded from the qualifying timber acreage.

The ordinance takes away a possibility that exists in state law; therefore, the Department would consider the ordinance to be invalid as it conflicts with the state statute.

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4 However, see RCW 84.34.041(3) for three specific circumstances in which an application can be denied without regard to other evidence.
WHATCOM COUNTY PROPERTY TAX REDUCTION PROGRAMS

In a nutshell, what are Whatcom County’s property tax reduction programs all about?

In accordance with state law, all property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law (RCW 84.40.030).

In addition to many other types of property tax reduction programs, there are two state laws that allow an exception to property valuation at its ‘highest and best use’:

Designated Forest Land — Chapter 84.33 RCW [authorizes one tax classification]

Open Space Taxation Act — Chapter 84.34 RCW [authorizes three tax classifications & one sub-classification]

To summarize, the above listed property tax reduction laws were established by the Washington State Legislature to address a statewide concern that lands were being converted to uses inconsistent with commercial agriculture, commercial forestry, the preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, protection of soil and water resources, parks, forests, wildlife preserves, and recreational uses.

The above described tax laws give county assessors authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use (i.e. fair market value). Lands classified as Farm & Agricultural Land, Open Space Land, Farm & Agricultural Conservation Land, Timber Land, and Designated Forest Land receive a reduced assessed value; thereby providing financial incentives to property owners to voluntarily conserve and preserve these lands.

**Please see the back page of this document for more information about Whatcom County’s Property Tax Reduction Programs**

1. Designated Forest Land

The County Assessor is the granting authority who approves or denies all applications for Designated Forest Land, and once approved, monitors all applications for compliance with eligibility requirements. Applications for designated forest land are made to the County Assessor’s Office, including applications on lands located within a city.

To qualify, new applications must consist of a minimum of 5 acres devoted primarily to growing and harvesting timber. At any time the county assessor determines that the land ceases to qualify for assessment under the designated forest land classification, the land must be removed from the classification with a requirement that the seller pay compensating tax. The owner may apply to have the land reclassified under Chapter 84.34 RCW.

**Notice of Continuance:** At the time of sale or transfer in ownership of lands classified under chapters 84.33 & 84.34 RCW, unless the buyer signs a Notice of Continuance and agrees to use the land in accordance with the purpose of classification, the land will be removed from the classification and the seller must pay compensating tax, or additional tax and interest, and penalties (as applicable). The owner may apply to have the land reclassified under Chapter 84.34 RCW.

2. Open Space Land

All applications for Open Space Land are received and processed by Planning & Development Services Department, and all applications on lands located within an unincorporated area are approved or denied by the County Council, acting in its role as the granting authority. There is no minimum acreage to qualify. Applications for Open Space Land are evaluated with the Public Benefit Rating System. Applications scoring a Public Benefit Rating (PBR) of 45 points or more receive a staff recommendation of approval. Applications are first reviewed by the Planning Commission, and then after a Public Hearing and after considering the loss of revenue or shift in taxes relative to the benefit offered, the County Council approves or denies each application.

- **Farm & Agricultural Conservation Land** is a sub-classification of Open Space Land.

To qualify for Farm & Agricultural Conservation Land, the land must have been previously classified as Farm & Agricultural Land, or have been used as “Traditional Farm Land”, and although the evaluation criteria is slightly different, with an emphasis on the preservation of farm land, the application approval/denial process is identical to Open Space Land.

Public Access is required for all applications to classify as Open Space Land or Farm and Agricultural Conservation Land, but this requirement may be waived by the County Council when the purpose of classification is to protect wetlands or endangered species, or archaeological sites.

3. Timber Land

All applications for Timber Land located within unincorporated areas are received and processed by Planning & Development Services Department. Applications on lands located within an unincorporated area are approved or denied by the Whatcom County Council, acting in its role as the granting authority.

To qualify, the land subject to the application must be a minimum of 5 acres devoted primarily to the growth and harvest of timber for commercial purposes.

Applications are evaluated with Whatcom County Timber Management Plan Criteria, and RCW 84.34.041 which lists elements of a timber management plan; applications must receive a score of 7 out of 24 possible points for a recommendation of approval. As with Open Space Land and Farm & Agricultural Conservation Land, applications for Timber Land are reviewed by the Planning Commission, and then after a Public Hearing are approved or denied by the County Council.

**“BACK TAXES”: When land ceases to qualify or for any other reason is removed from any of the above described property tax classifications, and except in certain circumstances, the owner/seller will be required to pay additional tax or compensating tax, subject to interest, and penalties (as applicable).**

Open Space Taxation Act — Chapter 84.34 RCW

1. Farm & Agricultural Land

All applications for Farm & Agricultural Land are made to the County Assessor’s Office, including applications made on lands located in cities. The County Assessor is the granting authority who approves or denies all applications for Farm & Agricultural Land, and who monitors all applications for compliance with their eligibility requirements.

There is no minimum acreage to qualify.

Applications made to classify land 20 acres or more must demonstrate that the land is used for “commercial agricultural purposes.” Applications to classify land that consists of less than 20 acres must demonstrate that the land is devoted to commercial agricultural uses, and also must demonstrate that a certain amount of gross income is made from commercial agricultural uses:

New applications consisting of less than five acres must demonstrate an average gross income of $1500.00 per year for three out of five years preceding the date of application.

New applications consisting of 5 acres or more but less than 20 acres are required to show an average gross income of $1000.00 per acre per year for three out of five years preceding the date of application; or have standing crops of short rotation hardwoods with an expectation of harvest within seven years, with a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year; or have a standing crop of hardwoods and softwoods and an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year.

Note: Any land that is used primarily for aesthetic related activities for which a charge is made, including, but not limited to, stable, training, riding, clinics, schooling, shows, or grazing for feed and that otherwise meet the requirements, may also qualify (RCW 84.34.020 (36)(a)).

*Please see the back page of this document for definition of “Commercial Agricultural Purposes”.

**“Standing crop” means Christmas trees, vineyards, fruit trees, or other perennial crops that are planted using agricultural methods normally used in the commercial production of that particular crop; and typically do not produce harvestable quantities in the initial years after planting.

Incorporated Areas: Applications for Open Space Land, Farm & Agricultural Conservation Land, and Timber Land on lands located within a city are acted upon by a joint granting authority comprised of members from the respective city’s council and the County Council.

**Public Access is required for all applications to classify as Open Space Land or Farm and Agricultural Conservation Land, but this requirement may be waived by the County Council when the purpose of classification is to protect wetlands or endangered species, or archaeological sites.**
TERMINOLOGY

"Applicant" means the owner who submits an application for classification or recategorization of land under chapter 84.33 or 84.34 RCW.

"Application" means an application for classification or recategorization of land under chapter 84.33 or 84.34 RCW.

"Classified land" means a parcel(s) of land that has been approved by the appropriate granting authority for taxation under chapter 84.33 or 84.34 RCW.

"Classification" means when land classified under chapter 84.33 or 84.34 RCW is changed from one classification to a different classification established by chapter 84.34 RCW or into designated forest land as described in chapter 84.33 RCW.

"Current use value" means the taxable value of a parcel of land placed on the assessment rolls following its classification or recategorization under chapter 84.34 RCW.

"Grantee authority" means the appropriate agency or official that acts on an application for classification or recategorization under chapter 84.33 or 84.34 RCW.

"Notice of continuance" is the notice signed when land classified under chapter 84.33 or 84.34 RCW is sold or transferred and the new owner requests that the classified use of the land remains classified under chapter 84.33 or 84.34 RCW.

"Removal" or "removed" is when land classified under chapter 84.33 or 84.34 RCW is removed from classification by the assessor because the owner requests removal, the new owner fails to sign the notice of continuance, the assessor does not approve continuance, or the land is no longer used for the purpose under which classification was granted.

"True and fair value -- Highest and best use": Unless specifically provided otherwise by statute, all property shall be valued on the basis of its highest and best use for assessment purposes. Highest and best use is the most profitable, likely use to which a property can be put. It is the use which will yield the highest return on the owner's investment. In some cases, land used for agricultural purposes may have the highest market value, and so in this regard may be considered the "highest and best use"; but when agricultural land is classified as Farm & Agricultural Land, the "current use value" of the land in some cases be lower than the highest "best use value.

"Commercial agricultural purposes" means the use of land on a continuous and regular basis, prior to and subsequent to application for classification or recategorization, that demonstrates that the owner or lessee is engaged in and intends to obtain through lawful means, a mone­tary profit from cash income by producing an agricultural product.

PUBLIC BENEFIT RATING SYSTEM (PBRS)

Frequently Asked Questions

The County's Open Space Policy & Criteria & Public Benefit Rating System states in part that the Whatcom County Planning Commission will consider its recommendations to the County Council, the loss of revenue or shift in taxes that would occur if an application for Open Space Land or Farm & Agricultural Conservation Land were to be approved. (Whatcom County Ord. 95-040) Even if an application receives a score of 45 points or above, which correlates with a recommendation of approval, the County Council may still consider the loss of revenue or shift in taxes that would occur in making its decision to approve or deny an application.

Q. Why this discretion?

A. Instead of electing to adopt a PBRS that results in automatic approval or denial of an application solely on the basis of its score, the County Council has exercised its authority, in accordance with state law, to also consider each application in terms of its overall benefit relative to the monetary shift in taxes that would occur if the application were to be approved. This is to ensure that for each application, the overall benefit is considered relative to the tax burden being shifted onto other taxpayers.

For example, if a property owner applies for classification as Open Space Land on 1000 acres that is located within an urban area, and it scores a Public Benefit Rating of 45 or above, because this land when assessed at its highest and best use (i.e. fair market value) results in a property value that is very high, the shift in taxes as a result of approving this application might be considered too great a burden on the other taxpayer pays and not worth the benefit of preserving the land in its current use, (relative to the shift in taxes); and for these reasons the granting authority might decide to deny the application, or approve only part of the application.

Q. Who pays the taxes that are shifted?

A. Generally, when applications are approved for assessment at current use, other tax payers pay more; this is because when cumulative assessed property values go down, levy rates generally increase so that individual taxing districts may meet their budget goals; this "tax shift" also applies to those properties assessed at "current use."

Please Note: This is a very general explanation of the Public Benefit Rating System, and exceptions may apply.

RECLASSIFICATION

Generally, and in some cases, land may be eligible to reclassify from one property tax classification to another. Subject to application fees, and approval under applicable criteria, land currently classified under one classification may be approved to reclassify into another classification without having to pay back taxes, interest, or penalties, at time of reclassification.

It should be noted that any land is removed from any of the classifications listed below, the owner will be required to pay additional tax, or compensating tax, and interest and penalties, as applicable.

Renewed Forest Land may reclassify to:
- Farm & Agricultural Land
- Open Space Land
- Timber Land
- Designated Forest Land

Farm & Agricultural Land may reclassify to:
- Open Space Land
- Farm & Agricultural Conservation Land
- Timber Land
- Designated Forest Land
- Open Space Land

Farm & Agricultural Conservation Land may reclassify to:
- Farm & Agricultural Land
- Open Space Land

FACTS & FIGURES

Current Use What are the fees to What are the fees Where can I apply to File a Request for Classification of? to File a Request for Continuance? (Applicant's Office)

Farm & Agricultural $150.00 $0--Assessor’s Office
Land

Open Space Land $525.00 $0--PDS

Farm & Agricultural $550.00 $0--PDS
Conservation Land

Timber Land $525.00 $0--PDS

Designated Forest Land No Application Fee (Recording fees apply) $0--Assessor's Office

Note: Fees are in accordance with the Whatcom County Unified Fee Schedule and are subject to change.

CONTACT US:

Whatcom County Assessor Courthouse Suite 106 311 Grand Avenue Bellingham, WA 98225 Phone: (360) 676-6790 TDD: (360) 738-4555 E-mail: assessor@co.whatcom.wa.us

Whatcom County Planning & Development Services (PDS) 5280 Northwest Drive Bellingham, Washington 98226 Telephone: (360) 676-6907 E-mail: pds@co.whatcom.wa.us

Washington State Department of Revenue is the state agency charged with overseeing the provisions of property tax reduction programs that are authorized under Chapters 84.33 & 84.34 RCW.

Whatcom County Property Tax Reduction Programs Presentation Handout - X01-June 12, 2014
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITLE OF DOCUMENT: Appointments to the Northwest Senior Services Board

ATTACHMENTS: NWRC Executive Director correspondence with recommendation for two new appointments to the board; new candidate applications.

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

County Executive Jack Louws requests confirmation of his appointment of Julie Martin and Nanette Davis to the Northwest Senior Services Board.

COMMITTEE ACTION:

COUNCIL ACTION:

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

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
July 17, 2014

To: Jack Louws, Whatcom County Executive

From: Dan Murphy, Executive Director

Subject: Recommendations for Whatcom County Northwest Senior Services Board (NWSSB) Positions

Background
Currently the NWSSB has four Whatcom County vacancies to fill. After confirming the recruitment and appointment process with County staff, NWRC staff conducted a search for new Whatcom County representatives to fill these four vacancies on the Northwest Senior Services Board (NWSSB).

Process
A substantial amount of time and effort was devoted to outreach and recruitment of applicants for these positions. On July 10th, an interview committee (composed of NWSSB members Joan Fortune, Shirley Forslof and David Bell) met with three candidates. There was a fourth candidate who did not respond to requests for an interview.

Recommendations
The interview committee is recommending that Whatcom County residents Julie Martin, and Nanette Davis be appointed to the NWSSB. Their terms would be effective immediately and would expire on June 30, 2017. The committee felt that both of these candidates would be highly effective representatives of seniors and people with disabilities in our region.

Attached are the application materials of the interviewed candidates.

Please feel free to call me if you have any questions or require additional information about the search process or the candidates. Thank you for your attention to this Board appointment process.

Enclosures

cc: NWSSB interview committee members
MEMBERSHIP APPLICATION
NWSSB

Marian Yunghans
103 Windward Drive
Bellingham, WA. 98229
360-733-1589
yunghans.marian@gmail.com

Education – Master of Arts, Western Michigan University/Kalamazoo, Michigan
Retired teacher having taught Stateside in Michigan and Washington as well as overseas in Nigeria, Sri Lanka, India, and Germany.

Community Involvement -
Another View Columnist for Bellingham Herald covering senior issues
Editor of Pacific Northwest Retirement Magazine
Trustee/Whatcom County Council on Aging
Board President/ Bellingham Senior Activity Center
American Red Cross Volunteer/ Public Education Team, Disaster Action Team, First Responder, Class Instructor
Public Relations Officer/ Whatcom County Fire Department
Regional Chairman/Puget Sound Blood Center
Recipient of Certificate of Appreciation from State of Washington in recognition for making Bellingham a better community

State Involvement – AARP
Instructor for 55/Alive Senior Driving Program
Washington State Communication Coordinator
Washington State Partnership & Communication Specialist/Tax-Aide Program
Recipient AARP Andrus Award for Community Service
Northwest Senior Services Board
MEMBERSHIP APPLICATION

Please return to: Northwest Regional Council
600 Lakeway Drive, Suite 100
Bellingham, WA 98225
FAX: 360-738-2451

The information you submit in this application will remain confidential. If you need more space for your answers, please feel free to write on the backs of pages or use additional sheets if necessary. Though not required, you are also welcome to attach any statements, materials, or information that may better indicate your interest or qualifications for serving on the NWSSB. Please feel free to make copies of this application if you know someone else who is interested in applying.

Name: Julia Martin

Mailing Address: 101 Creekview Crest
City: Lynden Zip: 98264 County: Whatcom

Phone: 206 227 7453 Fax: __________ 
E-mail (if applicable): martin.julieem@.gmail.com

If your home address is different than your mailing address, please list it here:

Questionnaire

Please list educational background and employment experience for most recent five years of work.

Graduate, BA, University of Washington
Graduate, Certified Aging Services Professional, University of North Texas
Director of Senior Living & Community Services, leading the Washington 2002 - 2013
Nursing Home Administrator in Training, Christian Health Care Center, 2013 - present

If you have any questions, please call
Pat Elwell at the NWRC: 360-676-6749 or 1-800-585-6749.
Please list your membership in organizations, boards of directors, advisory councils, or commissions. Give special attention to affiliations with programs serving ethnic minorities age 55 and older and/or those serving people with functional disabilities over the age of 18.

Seattle King County Aging & Disability Services
Advisory Board (former member)

Kent, WA City Council President & Council Member
(former elected official)

Kent, WA Rotary Club Secretary (former)

Please list any concerns you have about services to older people, minorities, and people with disabilities 18 years and older. Discuss how your participation on the NWSSB might impact these concerns.

The availability of senior services and access to them by those in need is a primary concern. Secondary are the types and nature flexibility of service programs. Advocacy for state, federal, and local dollars is critical. I have familiarity with much of this and expertise in advocacy and types of services available.

If selected to serve, how could your experience and personal interest benefit older people, minorities, and people 18 years and older with a disability? Which population do you feel you can best represent?

I have worked since 2002 with LeadingAge Washington, the trade association representing not for profit long term care & senior service providers. My responsibilities included regulatory & legislative advocacy and analysis. I believe my experience and perspective enable me to serve seniors and those who serve seniors. I am a new resident of Whatcom County and eager to begin volunteering in my community.
Please indicate your willingness to make the time commitment to attend and participate in board meetings, read materials, stay informed about the needs of older people and people with disabilities, and help the board to develop programs to meet those needs. The estimated monthly time commitment is 8-12 hours, including at-home preparation time. Meetings are held on the third Thursday of most months, with exceptions during the summer and holidays, and are usually located in Anacortes, Bellingham or Camano Island.

I would welcome the opportunity, and have permission from my current (and new) employer, Christian Health Care Center in Lynden.

Please list the names and phone numbers of three references:

Paul Montgomery 253 964 8876
Marlita Basada 206 824 4000
Esther Friend 206 652 4444

Feel free to make any additional comments on the reverse or on a separate sheet of paper.
Additional comments and information (optional):

See resume (attached).
The following information is considered confidential. State and Federal governments require that we gather this information to document that the composition of the NWRC Advisory Board reflects the profile of the populations we serve. A summary of the advisory board profile will be documented in the NWRC Area Plan but individual information will not be available. If you have questions, please do not hesitate to contact us.

### Demographic Information

<table>
<thead>
<tr>
<th>Question</th>
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<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age 60 or above?</td>
<td></td>
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<tr>
<td>Gender: Male / Female</td>
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<tr>
<td>Individual income below $1,430* per month or $17,160 per year?</td>
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<tr>
<td>Member of ethnic minority group?</td>
<td></td>
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<td>If yes, please specify:</td>
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<tr>
<td>Elected official?</td>
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<tr>
<td>Functional disability? (Any long-term limitation in activity resulting from a condition or health problem.)</td>
<td></td>
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</tr>
<tr>
<td>Caregiver of a person with a disability?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*40% of State Median Income – considered low income when tracking Title III-B targeting goals.
Julie M. Martin
101 Creekview Crest
Lynden, WA 98166
Phone: 206-227-7653
Email: martin.juliem@gmail.com

OBJEKTIVE:
Utilize my extensive skills in public policy, advocacy, analytical research, and the not-for-profit long term care, senior services and affordable housing environment to further the mission and objectives of a successful, innovative Aging Services organization. I am seeking a challenging, dynamic volunteer opportunity.

EXPERIENCE:

Christian Health Care Center
Nursing Home Administrator in Training – 2013 (current)

LeadingAge Washington
Director of Membership – 2002 to 2003
• Responsible for Provider & Business Affiliate member recruitment & retention efforts, writing and editing of monthly newsletter, oversight and monitoring of Group Retrospective Rating program through the state’s Department of Labor & Industries;
• Event coordinator and fundraiser for two large member conferences, one with a trade show/exhibition annually.

Director of Assisted Living & Senior Housing - 2003 to 2008
Director of Senior Living and Community Services – 2008 to 2013
• Responsible for policy and regulatory analysis of legislation and state and federal rulemaking processes, including skilled nursing, assisted living, adult day services, home health, home care, and retirement living environments. Familiar and comfortable with Medicaid/Medicare issues;
• Experience building and maintaining effective relationships with DSHS Aging and Disability Services Administration, Department of Health, Health Professions Quality Assurance (Nursing Commission), Department of Labor and Industries, Washington State Housing Finance Commission, Housing and Urban Development (HUD), industry stakeholders, lobbyists, legislators and their staffs;
• Comfortable with making public presentations, white papers/public policy statements, regulatory stakeholder work, i.e. writing and editing draft agency rules, grassroots outreach to association members and their residents and Boards of Trustees, association newsletters, and weekly Legislative briefings;
• Experience preparing and executing written and oral testimony before state legislative and regulatory bodies;
• Responsibility for monitoring and communicating concerns or needed efforts to CEO and membership on hundreds of session bills and ongoing regulatory issues;
• Staff to association policy committees, responsible for managing and communicating regulatory and legislative agendas and their implementation, including lobbying state and federal legislators;
• Key staff responsible for writing industry-standard Policy & Procedure Manual for Assisted Living members;
• Home and Community-Based Services program work promoting agenda of senior citizens 'aging in place';
• Registered Washington state lobbyist: 2004-present.

**Elected Official – Councilmember, City of Kent - 2001-2005**
• Elected to serve a four year term as a Councilmember in a city of 80,000;
• Served as Council President: 2004-2005;
• Served on various Council Committees, including Operations ($130 M annual budget), Public Safety (labor negotiations, capital expenditures); Public Works (extensive local, state and federal road projects); Parks & Community Services (recipient of several state grants through effective lobbying);
• Responsible for strategic planning and policy development before and during a time of planned, sustained economic growth, including the revitalization of a 105 year-old downtown core (Kent Station) and securing access to long term water resources;
• Monitored long range land use planning in a time of highly regulated growth management process(es);
• Thorough understanding of policy making from both the ‘elected’ and ‘advocacy’ sides of the table.

**EDUCATION:** Bachelor’s Degree, University of Washington, English
Graduate Work, School of Public Administration, Univ. of Washington
Certified Aging Services Professional, University of North Texas

**AFFILIATIONS:** 2008-2010 King County Appointee, Seattle King County Advisory Council on Aging and Disabilities Services
2002 - 2003 Kiwanis Club
1995 - 2002 Rotary Club, Board Member for two years

**REFERENCES:** Upon request
MEMBERSHIP APPLICATION

Please return to: Northwest Regional Council
600 Lakeway Drive, Suite 100
Bellingham WA 98225
FAX: 360-738-2451

The information you submit in this application will remain confidential. If you need more space for your answers, please feel free to write on the backs of pages or use additional sheets if necessary. Though not required, you are also welcome to attach any statements, materials, or information that may better indicate your interest or qualifications for serving on the NWSSB. Please feel free to make copies of this application if you know someone else who is interested in applying.

Name: Nanette J. Davis
Mailing Address: 215 Rosario Ct.
City: Bellingham, County: Whatcom
Zip: 98225
Phone: 360-671-686 (home) 360-961-2561 (cell)
E-mail: drnanettej@gmail.com

If your home address is different than your mailing address, please list it here:

Questionnaire

Please list educational background and employment experience for most recent five years of work.

Please see attached.

If you have any questions, please call Kim Boon at the NWRC: 360-676-6749 or 1-800-585-6749
**Northwest Senior Services Board**

**MEMBERSHIP APPLICATION**

**Name:** Nanette J. Davis, Ph.D.  
**Date:** May 16, 2014

**Demographic Information:** (Note: State and Federal governments require that we gather this information. It will be held in complete confidence.)

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<tr>
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<td>☐</td>
</tr>
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</table>

NWSSB representation must include:

- At least one representative from each county within the PSA
- Key "senior advocate" groups
- At least one local elective official
- At least one member of a primary racial minority group who is a participant or is eligible to participate in an AAA service program
- At least one member must be a person with a disability who is a participant or is eligible to participate in an AAA service program
- At least 50 percent of persons must be age 60+
- At least one member of a health care provider organization, including providers of veterans’ health care (if appropriate)
- At least one member with leadership experience in the private and voluntary sectors
- At least one member of a supportive services provider organization
- A reasonable male/female mix that matches that for the population served by the AAA
- Older persons in greatest economic or social need
Nanette J. Davis, Ph.D
715 Rosario Ct.
Bellingham, WA 98229
drnanettej@gmail.com; 360-671-1686; cell: 360-961-2561.

Educational Background
St. Cloud State University, B.S., and Teacher Certificate
University of Minnesota, M.A. Sociology
Michigan State University, Ph.D., Sociology
Stanford University, Post-Doctorate, Mental Health and Organizations/Sociology

Most Recent Employment: Portland State University, Retired with Full Professorship/Emeritus; Chapman University; Western Washington University (1997-2007 – Visiting Professor of Sociology).

Organizational Memberships

Steering Committee Member: Developing a Whatcom Village, serving the elderly. This is a new project that focuses on meeting daily non-medical needs for seniors to enable them to age in place.

American Society on Aging, 2014–Present

Concerns for Older People, Minorities, and People with Disabilities, age 18 and over.

I taught gerontology courses at Western Washington University for more than 10 years, as well as presented papers on these topics at professional meetings. Over the last ten years, my primary concern has been focused on long-term caregiving: older, often disabled people who serve and sacrifice their own well-being caring for another disabled or elderly person. To that end, I have written four books on caregiving the elderly, based upon
interviews with 60 women here in Washington State. These books both analyze the caregiving situation, based on these caregivers’ experiences and provide answers to questions caregivers may have.

Book Titles include: Blessed is She, Caregiving Our Loved Ones, ABCs of Caregiving: Words to Inspire You and ABCs of Caregiving, Part 2: Essential Information for You and Your Family. My latest book emphasizes key information for family members as they struggle through the caregiving process and medical system.

My participation on the NWSSB would be to focus on long-term care issues, services and supports for caregivers. I would emphasize the necessity of paying a family member acting as a primary caregiver, wages and additional benefits (e.g., car trips to medical appointments, other out-of-pocket medical, pharmaceutical expenses, respite care, etc.). Advocacy for the elderly remains my major priority.

If Selected To Serve

I was a full-time caregiver for four years for my late husband, Jim Davis, and feel strongly that I can represent caregivers of all ages and social backgrounds. My special concern, of course, would be for low income and minority caregivers, who carry the burden of their loved one, but often with little public support or recognition. My specific concerns include: problems of neglect/abuse of elderly persons; lack of advocates for dealing with hospital visits or medical appointments, especially for the elderly with dementia, and the over-medicalization of services for the dying.

In addition to caring for my late husband, I have been an active caregiver for my sister, Sharon Trexler, who has suffered from serious mental illness for all of her adult life. I am currently serving as legal guardian for my sister, who now resides in an assisted living center for the elderly mentally ill in Portland, Oregon.
Willingness to Serve

I am very familiar with organizational commitments and the necessity to allot necessary time. Since I am no longer serving as board president for WWURA, I can manage quite well with time for this new board. The locations are fine.

References

I have requested that the following persons contact your organization with letters of reference.

Dr. Lynne Masland, 616 Forest St., Bellingham, WA 98225.
Imasland@comcast.net; 360-676-9821.

Dr. Evelyn Wright, 444 South State, #312, Bellingham, WA 98225,
ewright410@comcast.net; 360-676-0227.

Jon Shaughnessy, Bellingham, WA; email address only:
janejon@comcast.net; 360-671-0248.

Additional Comments

I have been an active teacher, advocate, community-minded person throughout my career. I have served on a number of different community boards over the years, with special emphasis on women (e.g., shelters, court interventions for violent families, social service interventions for street women). For a number of years, I served as a consultant for a mental health agency serving Portland, Oregon’s Native American population. I also served as Adjunct Professor of Social Work at Portland State University, with an emphasis on providing services for the mentally ill.

For additional information on my background and written works, please visit nanettejdavis.com.
May 26, 2013

Northwest Regional Area Agency on Aging
600 Lakeway Drive, Suite 100
Bellingham, WA 98225

I am writing in support of Dr. Nanette Davis’ nomination to the board of the Northwest Regional Area Agency on Aging. Dr. Davis is eminently qualified to serve on this board. A professional sociologist who has taught at Portland State University and Western Washington University, she has a thorough background in the issues of aging. She has more than three decades experience as an educator, writer, advocate, researcher and lecturer. Her years of caregiving for her husband before he passed away gave her the practical experience of coping with the various medical and social agencies as well as an intimate knowledge of the emotional and spiritual issues that come with aging and illness. She is the author of three books about caregiving including Caregiving Our Loved Ones and The ABCs of Caregiving.

Dr. Davis has served on the board for directors of Western Washington University’s Retirement Association for two terms and is embarking on her third term of service. She has twice been President of WWURA. Her current interests in the field of aging, in addition to caregiving issues, include questions of “aging in place” and building communities of support for seniors.

Dr. Davis would be a strong addition to the board of the NW Regional Area Agency on Aging. I heartily recommend her for that position.

Should you wish to contact me further, I can be reached by email at: lmasland@comcast.net or by phone at 360-676-9821.

Lynne S. Masland, Ph.D.
Past President, WWU Retirement Association
Dear Council,

As Chairperson of the Steering Committee of “Whatcom Villages”, an Aging In Place program of the Whatcom Council on Aging, I am writing in support of adding Nanette Davis to your Board.

Nanette has been actively involved in the process of starting an Aging In Place “Village” since we began at the Bellingham Senior Activity Center on February 20, 2014. She volunteered to lead the “Partners In Whatcom” Committee and has been actively developing lists of Preferred Partners and Volunteer organizations ever since.

This is important work, identifying organizations in the area that could help seniors age in place as members of “Whatcom Villages”. Her familiarity with many potential partners has been a great asset in this work. Her pro-active enthusiasm and participation in Steering Committee meetings has made the work easier for everyone involved.

I hope you will also benefit from her energy and enthusiasm when you add her to your Board.

Thank you.

Sincerely,

Jon Shaughnessy
Steering Committee Chairperson
“Whatcom Villages”
360-671-0248
444 South State St. Apt 444
Bellingham, WA 98225
May 22, 2014

Northwest Regional Council Area Agency on Aging
600 Lakeway Drive, Suite 100
Bellingham, WA 98225

Re: Qualifications of Dr. Nanette Davis as Board member

I've known Nanette as a friend, writer, teacher and scholar for several years. Her professional knowledge in the field of gerontology, is exemplary, and her recent publications, aimed towards a general audience (rather than towards a narrow scholarly one) demonstrate her commitment to responsible caregiving in our communities.

Nanette is a hard-working and congenial person, well-suited for collaborative work. She will bring scholarship in sociology and experience as a community activist for seniors to the work of the Council. I enthusiastically recommend her as a person whose potential contributions to the Council on Aging are very strong.

Sincerely,

Evelyn Wright

Evelyn Wright

RECEIVED
MAY 27 2014
Northwest Regional Council
### TITLE OF DOCUMENT:

Ordinance regarding installation of stop signs on Northwest Drive at the intersection of Slater Road.

### ATTACHMENTS:

1. Memo to County Executive
2. Ordinance
3. Vicinity Map for intersection of proposed stop sign locations

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

To comply with RCW 46.61.200 and 47.36.110, it is found necessary to modify traffic control signs on Northwest Drive at the intersection of Slater Road.

---

**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).
MEMO TO: The Honorable Jack Louws, County Executive, and Honorable Members of the Whatcom County Council

Through: Frank Abart, Public Works Director

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

DATE: July 22, 2014

Subject: Ordinance to Install Stop Signs on Northwest Drive at Slater Road

Requested Action:
This ordinance will allow for placement of stop signs on Northwest Drive at the intersection of Slater Road.

Background and Purpose:
In order to improve the safety of the road, it is recommended that stop signs be installed at the intersection of Northwest Drive and Slater Road.

Information:
To comply with RCW 46.61.200 and 47.36.110, it is found necessary and expedient to modify traffic control signs at Northwest Drive and Slater Road. This ordinance will allow the installation of stop signs at this intersection in order to improve safety.
ORDINANCE NO._______
INSTALLING STOP SIGNS ON NORTHWEST DRIVE AT SLATER ROAD

WHEREAS, in compliance with RCW 46.61.200 and 47.36.110, it is found necessary and expedient to install traffic control signs on certain County Roads; and

WHEREAS, a traffic study was conducted by the County Engineer’s Office; and

WHEREAS, it is found necessary that the existing intersection of Northwest Drive and Slater Road be modified to an all-way stop.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the following be added to the Whatcom County Code Section 10.16 as follows:

<table>
<thead>
<tr>
<th>Road Name</th>
<th>Direction</th>
<th>Cross Street</th>
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</thead>
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<tr>
<td>Northwest Drive</td>
<td>Stopping</td>
<td>Slater Road</td>
</tr>
<tr>
<td>Northwest Drive</td>
<td>Northbound</td>
<td>Slater Road</td>
</tr>
<tr>
<td>Northwest Drive</td>
<td>Southbound</td>
<td>Slater Road</td>
</tr>
</tbody>
</table>

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to install the appropriate signs and that the Whatcom County Sheriff be notified by a copy of this ordinance.

ADOPTED this ___ day of______________, 2014.

ATTEST:

Dana Brown-Davis, Council Clerk

Carl Weimer, Council Chair

APPROVED AS TO FORM:

( ) Approved  ( ) Denied

Daniel L. Albion
Chief Civil Deputy Prosecutor

Jack Louws, Executive
Date: ______________________

Page 1 of 1
Vicinity Map: Proposed Stop Signs
Slater Rd.

W. Smith Rd.

City of Ferndale

Slater Rd.

Northwest Dr.

City of Bellingham

Proposed Stop Signs
Existing Stop Signs
# WHATCOM COUNTY COUNCIL AGENDA BILL

## CLEARANCES

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<tr>
<th>Originator</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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<td></td>
<td>8/5/2014</td>
<td>Council - Introduction</td>
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## TITLE OF DOCUMENT:

Ordinance regarding installation of stop signs on Airport Drive at the intersection of Airport Way.

## ATTACHMENTS:

1. Memo to County Executive
2. Ordinance
3. Vicinity Map for intersection of proposed stop sign locations

## SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

To comply with RCW 46.61.200 and 47.36.110, it is found necessary to modify traffic control signs on Airport Drive at the intersection of Airport Way.

## COMMITTEE ACTION:

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
MEMO TO: The Honorable Jack Louws, County Executive, and
Honorable Members of the Whatcom County Council

Through: Frank Abart, Public Works Director

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

DATE: July 22, 2014

Subject: Ordinance to Install Stop Signs on Airport Drive at Airport Way

Requested Action:
This ordinance will allow for placement of stop signs on Airport Drive at the intersection of Airport Way.

Background and Purpose:
In order to improve the safety of the road, it is recommended that stop signs be installed at the intersection of Airport Drive at Airport Way.

Information:
To comply with RCW 46.61.200 and 47.36.110, it is found necessary and expedient to modify traffic control signs at Airport Drive and Airport Way. This ordinance will allow the installation of stop signs at this intersection in order to improve safety.
SPONSORED BY: ________________
PROPOSED BY: Public Works - Engineering
INTRODUCTION DATE: 9/16/2014

ORDINANCE NO. ____________
INSTALLING STOP SIGNS ON AIRPORT DRIVE

WHEREAS, in compliance with RCW 46.61.200 and 47.36.110, it is found necessary and expedient to install traffic control signs on certain County Roads, and

WHEREAS, a traffic study was conducted by the County Engineer’s Office; and

WHEREAS, it is found necessary that the existing intersection of Airport Drive and Airport Way be modified to an all-way stop.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the following be added to the Whatcom County Code Section 10.16 as follows:

<table>
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<td>Westbound</td>
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</table>

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to install the appropriate signs and that the Whatcom County Sheriff is notified by a copy of this ordinance.

ADOPTED this ___ day of ____________________, 2014.

ATTEST: __________________________________________
          WHATCOM COUNTY COUNCIL
          WHATCOM COUNTY, WASHINGTON

__________________________          ____________________________
Dana Brown-Davis, Council Clerk          Carl Weimer, Council Chair

APPROVED AS TO FORM: ____________________________
          ( ) Approved   ( ) Denied

__________________________
Chief Civil Deputy Prosecutor

__________________________
Jack Louws, Executive
Date: ____________________

Page 1 of 1
Vicinity Map: Proposed Stop Signs
Airport Dr.

City of Bellingham

Proposed Stop Signs
Existing Stop Signs
**Title of Document:**
Ordinance amending WCC 8.13 Solid Waste Disposal District

**Attachments:**
- Memo
- Solid Waste Ordinance
- Strike out version of WCC 8.13
- Clean version of WCC 8.13

**Summary Statement or Legal Notice Language:**
The purpose of the proposed language amendment to WCC 8.13 - Solid Waste Disposal District is to remove reference to the management of solid waste programs by Whatcom County Public Works department and replace with Health department.

**Committee Action:**

**Council Action:**

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

TO:  
Jack Louws, Whatcom County Executive

FROM:  
Regina A. Delahunt, Health Director

DATE:  
July 24, 2014

RE:  
Ordinance Amending WCC 8.13 Solid Waste Disposal District Language

Requested Action
Attached is an ordinance amending language for Whatcom County Code WCC 8.13, Solid Waste Disposal District for introduction August 5, 2014 followed by public hearing before the County Council in September.

Background and Purpose
The responsibility for Solid Waste Program management has historically been provided within the Public Works Department. Solid waste management needs have changed over the years from local, publically owned and operated disposal sites to privatized waste collection and transport to regional landfills. The responsibilities within the Public Works Department has also evolved and now includes water resource planning which is a complex and time intensive program.

Transferring the Solid Waste Fund and Program to the Health Department with the start of the 2015/2016 budget is appropriate from both an administrative and program oversight perspective as the Health Department has the willingness, capacity and expertise to manage both the fund and all aspects of the program while allowing Public Works to increase attention on the pressing water resource issues that are faced by the county. This change is in the best interest of the public and will generate the best value for the taxpayers.

A language amendment to WCC 8.13 is necessary to remove the reference to Public Works department and replace it with the Health department.

Information
Enclosed are an agenda bill, ordinance, and revised WCC 8.13 both strike-out version and final (clean) version.

Thank you for your consideration. Please call me at extension 50801 if you have any questions.

Encl.
ORDINANCE NO. 2014-_______

AMENDING WHATCOM COUNTY CODE 8.13, TRANSFER SOLID WASTE OPERATIONS MANAGEMENT FROM PUBLIC WORKS TO THE HEALTH DEPARTMENT

WHEREAS, Whatcom County established the Solid Waste District effective May 1, 1990 for the purposes of managing all solid waste streams generated throughout the county; and,

WHEREAS, Whatcom County Public Works is the designated authority for managing solid waste program operations; and,

WHEREAS, Whatcom County Public Works is redirecting staff time and effort to pressing ground and surface water issues in the county; and

WHEREAS, Whatcom County Health Department currently manages all aspects of solid waste compliance enforcement, and has demonstrated staff expertise in solid waste program infrastructure development;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that management of the Solid Waste District operations be transferred from the Whatcom County Public Works Department to the Whatcom County Health Department under the authority of the County Executive and with this ordinance to be codified in Whatcom County Code Chapter 8.13.100, attached hereto as Exhibit A.

ADOPTED this ____ day of ________, 2014.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Royce Buckingham, Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved    ( ) Denied

Date Signed: __________________________
Chapter 8.13
SOLID WASTE DISPOSAL DISTRICT

Sections:
8.13.010 District formed - Findings and determinations.
8.13.020 Definitions.
8.13.030 Excise privilege tax levied.
8.13.040 Tax collection.
8.13.050 Administration by county treasurer.
8.13.060 Failure to make timely payment.
8.13.065 Records required.
8.13.070 Application of tax - Appeal.
8.13.080 Tax exemptions and special conditions.
8.13.090 Penalties for nonpayment of tax.
8.13.100 Management of operations.
8.13.110 Use of revenues.
8.13.120 Effective date.
8.13.130 Severability.
8.13.140 Annual review of tax requirements.

8.13.010 District formed - Findings and determinations.
The Whatcom County solid waste disposal district ("district") is hereby formed to provide a sound financial basis for support of the objectives of the county's updated comprehensive solid waste management plan, including a high level of waste reduction and recycling; to construct transfer stations; to maintain closed solid waste landfills in Whatcom County; to provide such other solid waste disposal systems and services as are in the public interest; and to secure a healthful environment for all citizens of Whatcom County. The district shall include all unincorporated and incorporated areas of Whatcom County. Incorporated areas are included within the district pursuant to interlocal agreements executed with Whatcom County, copies of which are attached to the ordinance codified in this chapter and incorporated herein as Appendix A. The county council in forming the district determines and finds:

A. State and federal law and regulation have placed increased responsibility on local governments to manage solid waste disposal systems in a manner that protects public health and safety;

B. Properly designed, operated, and maintained landfills and other solid waste disposal facilities are essential public utilities serving broad public interests, by protecting public health and safety;

C. Federal and state standards for solid waste disposal, including requirements for recycling and waste reduction, have greatly increased the cost of solid waste disposal systems;

D. The transfer and other handling of solid wastes generated by residents of the district, whether generated at their homes or elsewhere in the district, imposes cost burdens on the district;
E. All residences and businesses within the district receive substantial and essential public service by having the operational availability on a continuing basis healthful, safe and reliable solid waste disposal facilities and systems;

F. In order to safely maintain closed landfills, the county must expend substantial sums of money including the cost of ongoing monitoring, to protect the public health and welfare and to meet regulatory standards;

G. The cost of acquiring, developing, operating, maintaining and closing facilities and providing for long-term compliance with regulatory standards cannot be financed solely on a "fee for service" basis;

H. Repealed by Ord. 97-041;

I. Pursuant to Chapter 8.11, the county concurrently created a solid waste collection district pursuant to RCW Chapter 36.58A for the purpose of imposing mandatory collection in unincorporated areas which will match ordinances in incorporated areas, which enforce mandatory collection;

J. A stable funding program consisting of a district excise tax is required to provide a broad and sound financial basis to provide safe disposal facilities and systems, to meet the objectives of the plan, and to support the management of solid waste programs in compliance with applicable state and federal laws;

K. Waste reduction and recycling measures contemplated by the plan promote the health, safety and welfare of county residents, by reducing the degradation created by incineration and landfill facilities used to dispose of solid wastes;

L. Recycling and waste reduction do not generate sufficient revenues to become self supporting;

M. Imposition of the solid waste excise tax (the "tax") provided for by this chapter will promote the county's ability to meet all the plan's solid waste management objectives.

N. Repealed by Ord. 97-041. (Ord. 97-041 Exh. A; Ord. 90-1 § 1).

8.13.020 Definitions.

As used in this chapter, the following terms shall be defined as follows:

A. "Business or institution" shall include all properties in Whatcom County other than residential dwellings which are served by a certificated or franchised hauler of solid wastes. The tax shall apply whether the business or institution is for profit or nonprofit, public or private.

B. A "certificated hauler" is a garbage and refuse collection company that has obtained a certificate of convenience and necessity from the WUTC pursuant to RCW Chapter 81.77 for a franchise area that includes unincorporated areas of the county.
C. The “executive committee” means the executive committee formed pursuant to the interlocal agreements incorporated in Appendix A of the ordinance codified in this chapter.

D. A “franchised hauler” is a garbage and refuse collection company that has been granted a franchise to provide service within one or more of the cities that have entered interlocal agreements with the county, as shown in Appendix A of the ordinance codified in this chapter.

E. Repealed by Ord. 97-041.

F. Repealed by Ord. 97-041.

G. The “plan” is the county’s comprehensive solid waste management plan, as approved by the Department of Ecology in 1990 and as may be amended thereafter.

H. A “residential dwelling” shall include each single-family house, apartment, houseboat, or other dwelling unit which is separately billed for waste collection service by a franchised or certificated hauler. Forest areas, farms or ranches that elect to use collection service shall be considered as residential dwellings for purposes of this chapter. Residents of apartments, hotels, dormitories, boarding houses, maritime vessels, or other housing units shall not be separately taxed if the landlord or some other party arranges for solid waste collection and pays for solid waste collection and the tax on behalf of tenants or residents.

I. A “solid waste disposal facility” is a landfill, transfer station, incinerator, convenience center, drop box or other solid waste disposal facility which is available for use by persons other than the owner of the facility.

J. The “WUTC” is the Washington Utilities and Transportation Commission or any agency which succeeds to its powers. (Ord. 97-041 Exh. A; Ord. 90-1 § 2).

8.13.030 Excise privilege tax levied.
An excise privilege tax shall be levied upon the charges paid for solid waste collection by each residential dwelling and by each business or institution in the district. This excise privilege tax shall be levied on a per-ton basis and be billed by certificated or franchised haulers of solid waste, all as authorized by RCW 36.58.140.

This tax shall be equal throughout the district, and shall not exceed $8.50 per ton without the approval of all cities and towns in the district. The county council shall set the level of the tax from time to time by ordinance. (Ord. 97-041 Exh. A; Ord. 90-1 § 3).

8.13.040 Tax collection.
To simplify collection of the tax, each certified or franchised hauler shall include the tax in its regular billing cycle for all customers within the district and remit the proceeds collected to the county treasurer by the due date as established by the treasurer. The excise tax provided for pursuant to this chapter shall, for administrative purposes, be billed and collected as nearly as possible in a manner compatible with the
state solid waste tax, RCW Chapter 82.18, and the surcharge, Section 15, Chapter 431, Laws of 1989.
(Ord. 97-041 Exh. A; Ord. 90-1 § 4).

8.13.050 Administration by county treasurer.
The administration and collection of the tax imposed by this chapter, as collected by the certificated and franchised haulers, shall be by the county treasurer pursuant to the terms of this chapter and such rules, regulations and further enactments as may be adopted by the county council or provided by state law. (Ord. 97-041 Exh. A).

8.13.060 Failure to make timely payment.
If full payment of any tax or fee owing under this chapter is not received by the Whatcom County treasurer on or before the date due, there shall be added to the collected amount due a penalty fee as follows:

A. One to 10 days late: Five percent of tax collected.
B. Eleven to 20 days late: 10 percent of tax collected.
C. Twenty-one to 30 days late: 15 percent of tax collected.
D. Thirty-one to 60 days late: 20 percent of tax collected.

Failure to make payment in full of all tax amounts collected, and penalties, within 60 days following the day the tax initially became due shall be deemed a violation of this section and may be collected in accordance with the provisions of this chapter.

Any tax owing and unpaid under this chapter, and all penalties, shall constitute a debt between the certificated hauler and Whatcom County and may be collected by court proceedings the same as any other debt in like amount. This provision shall be in addition to, and not in lieu of, all other existing remedies. (Ord. 97-041 Exh. A).

8.13.065 Records required.
Each certificated and franchised hauler collecting the tax imposed by this chapter shall maintain books and/or records respecting that activity which truly, completely and accurately disclose all information necessary to determine the taxpayer’s tax liability hereunder during each base tax period. Such records shall be kept and maintained for a period of not less than three years.

All books, records, or other items which may hereafter be required to be kept and maintained under this section shall be subject to, and immediately available for, inspection and audit at any time, with or without notice, at the place where such records are kept upon demand by the county treasurer or his/her designee, for the purpose of enforcing the provisions of this chapter.
Where a certificated or franchised hauler does not keep such books, records, or other items so that the county treasurer or an authorized designee may examine them conveniently, the certificated or franchised hauler shall produce all of the required books, records, or items for such inspection within 10 working days following a written request by the treasurer. (Ord. 97-041 Exh. A).

8.13.070 Application of tax – Appeal.
Any party aggrieved in the application of the excise tax provided for herein may appeal the same to the Whatcom County board of equalization. The decision of such board shall be binding on the county. (Ord. 97-041 Exh. A; Ord. 90-1 § 7).

8.13.080 Tax exemptions and special conditions.
Solid waste generated within the district but disposed of outside of Whatcom County pursuant to authorization by the county in compliance with the plan shall be subject to the tax, unless specifically waived by ordinance. Solid waste from the Diablo area disposed of in Skagit County shall not be subject to the tax. (Ord. 97-041 Exh. A; Ord. 90-1 § 8).

8.13.090 Penalties for nonpayment of tax.
If said excise tax is not paid when billed by the hauler, the county may seek payment of the tax and secure liens and execute against the property served for the unpaid tax, penalties and interest, all as provided in RCW 36.58.140. All taxes unpaid for 90 days shall be assessed a penalty of $25.00 plus interest at the rate of one percent per month for each month said tax remains unpaid. (Ord. 97-067; Ord. 97-041 Exh. A; Ord. 90-1 § 9).

8.13.100 Management of operations.
The operations of the district shall be managed by the Whatcom County Health Department, department of public works. (Ord. 97-041 Exh. A; Ord. 90-1 § 10).

8.13.110 Use of revenues.
All taxes or other fees collected pursuant to this chapter shall be deposited to the solid waste utility account, or such other accounts as may be designated pursuant to county ordinance or regulation, and shall be solely for purposes related to solid waste management and disposal, and, as to the excise tax, for those purposes set forth in Section 3 of the interlocal agreements, e.g., construction, operation, maintenance, and closure of any landfill that may be developed in the future; funding of approved recycling programs when recommended by the executive committee; public educational programs related to the management of solid waste; construction, maintenance, and operation of transfer stations, and such other programs as the executive committee may recommend pursuant to the plan; provided, however, that the county treasurer and prosecutor shall be authorized to recover their costs for tax billing and collection activities related to the solid waste excise tax up to a maximum of five percent of the funds collected. (Ord. 98-008; Ord. 97-041 Exh. A; Ord. 90-1 § 11).

8.13.120 Effective date.
This chapter shall take effect on May 1, 1990. The county council shall review the need for the solid waste excise tax, the level of the tax, and the operation of the solid waste system as frequently as may be needed. Such review shall be performed no less frequently than the review of solid waste management plans as required under RCW Chapter 70.95 and as such law may be amended from time to time. (Ord. 97-041 Exh. A; Ord. 90-1 § 12).

8.13.130 Severability.
The invalidity or unenforceability of any provision of this chapter shall not affect the other provisions hereof, and this chapter shall be construed in all respects as if such invalid or unenforceable provision were omitted. (Ord. 97-041 Exh. A; Ord. 90-1 § 13).

8.13.140 Annual review of tax requirements.
The executive committee shall annually review the tax requirements to fund the solid waste disposal programs and advise the county council of their findings. (Ord. 97-041 Exh. A; Ord. 90-1 § 14).
Chapter 8.13
SOLID WASTE DISPOSAL DISTRICT

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The district shall include all unincorporated and incorporated areas of Whatcom County. Incorporated areas are included within the district pursuant to interlocal agreements executed with Whatcom County, copies of which are attached to the ordinance codified in this chapter and incorporated herein as Appendix A. The county council in forming the district determines and finds:

A. State and federal law and regulation have placed increased responsibility on local governments to manage solid waste disposal systems in a manner that protects public health and safety;

B. Properly designed, operated, and maintained landfills and other solid waste disposal facilities are essential public utilities serving broad public interests, by protecting public health and safety;

C. Federal and state standards for solid waste disposal, including requirements for recycling and waste reduction, have greatly increased the cost of solid waste disposal systems;

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C. The “executive committee” means the executive committee formed pursuant to the interlocal agreements incorporated in Appendix A of the ordinance codified in this chapter.

D. A “franchised hauler” is a garbage and refuse collection company that has been granted a franchise to provide service within one or more of the cities that have entered interlocal agreements with the county, as shown in Appendix A of the ordinance codified in this chapter.

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state solid waste tax, RCW Chapter 82.18, and the surcharge, Section 15, Chapter 431, Laws of 1989.
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(Ord. 97-041 Exh. A).

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If full payment of any tax or fee owing under this chapter is not received by the Whatcom County treasurer on or before the date due, there shall be added to the collected amount due a penalty fee as follows:

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C. Twenty-one to 30 days late: 15 percent of tax collected.
D. Thirty-one to 60 days late: 20 percent of tax collected.

Failure to make payment in full of all tax amounts collected, and penalties, within 60 days following the day the tax initially became due shall be deemed a violation of this section and may be collected in accordance with the provisions of this chapter.

Any tax owing and unpaid under this chapter, and all penalties, shall constitute a debt between the certificated hauler and Whatcom County and may be collected by court proceedings the same as any other debt in like amount. This provision shall be in addition to, and not in lieu of, all other existing remedies. (Ord. 97-041 Exh. A).

8.13.065 Records required.
Each certificated and franchised hauler collecting the tax imposed by this chapter shall maintain books and/or records respecting that activity which truly, completely and accurately disclose all information necessary to determine the taxpayer's tax liability hereunder during each base tax period. Such records shall be kept and maintained for a period of not less than three years.

All books, records, or other items which may hereafter be required to be kept and maintained under this section shall be subject to, and immediately available for, inspection and audit at any time, with or without notice, at the place where such records are kept upon demand by the county treasurer or his/her designee, for the purpose of enforcing the provisions of this chapter.

Where a certificated or franchised hauler does not keep such books, records, or other items so that the county treasurer or an authorized designee may examine them conveniently, the certificated or franchised
hauler shall produce all of the required books, records, or items for such inspection within 10 working days following a written request by the treasurer. (Ord. 97-041 Exh. A).

8.13.070 Application of tax – Appeal.
Any party aggrieved in the application of the excise tax provided for herein may appeal the same to the Whatcom County board of equalization. The decision of such board shall be binding on the county. (Ord. 97-041 Exh. A; Ord. 90-1 § 7).

8.13.080 Tax exemptions and special conditions.
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8.13.100 Management of operations.
The operations of the district shall be managed by the Whatcom County Health Department. (Ord. 97-041 Exh. A; Ord. 90-1 § 10).

8.13.110 Use of revenues.
All taxes or other fees collected pursuant to this chapter shall be deposited to the solid waste utility account, or such other accounts as may be designated pursuant to county ordinance or regulation, and shall be solely for purposes related to solid waste management and disposal, and, as to the excise tax, for those purposes set forth in Section 3 of the interlocal agreements, e.g., construction, operation, maintenance, and closure of any landfill that may be developed in the future; funding of approved recycling programs when recommended by the executive committee; public educational programs related to the management of solid waste; construction, maintenance, and operation of transfer stations, and such other programs as the executive committee may recommend pursuant to the plan; provided, however, that the county treasurer and prosecutor shall be authorized to recover their costs for tax billing and collection activities related to the solid waste excise tax up to a maximum of five percent of the funds collected. (Ord. 98-008; Ord. 97-041 Exh. A; Ord. 90-1 § 11).

8.13.120 Effective date.
This chapter shall take effect on May 1, 1990. The county council shall review the need for the solid waste excise tax, the level of the tax, and the operation of the solid waste system as frequently as may be needed. Such review shall be performed no less frequently than the review of solid waste management
plans as required under RCW Chapter 70.95 and as such law may be amended from time to time. (Ord. 97-041 Exh. A; Ord. 90-1 § 12).

8.13.130 Severability.
The invalidity or unenforceability of any provision of this chapter shall not affect the other provisions hereof, and this chapter shall be construed in all respects as if such invalid or unenforceable provision were omitted. (Ord. 97-041 Exh. A; Ord. 90-1 § 13).

8.13.140 Annual review of tax requirements.
The executive committee shall annually review the tax requirements to fund the solid waste disposal programs and advise the county council of their findings. (Ord. 97-041 Exh. A; Ord. 90-1 § 14).