

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda Date	Assigned To:
Originator- Council staff	BR			1/28/92	Finance/Council
Division Head-				2/11/92	Council/Intro of ords.
Department Head-				2/25/92	PS*/Council-hearing
Prosecutor Review-					
Purchasing/Budget Dir.-					
Executive-					

SUBJECT:

Status of Whatcom County Noxious Weed Control Board

**Although items are not normally referred to Committee prior to the hearing, this item was referred to Public Services at Chairman Dan Warner's request. -RR*

ATTACHED OR ON FILE:

- Memo from Bob Woods, Council Budget & Program Analyst, to Council, dated 1/27/92 (on file)
- Memo from Woods to Laidlaw/Warner dated 1/28/92 (on file)
- Four ordinances, related press release

Public Hearing Needed? Yes/xx/No/_/_/

SUMMARY STATEMENT: Whatcom County Code 2.27.130 automatically terminated the Whatcom County Noxious Weed Control Board on 12/31/91, unless the Council takes action to the contrary. State law requires a hearing to deactivate the board, which is at odds with this section of the Code. The Council may adopt one of the four ordinances presented after the public hearing is closed. Each ordinance proposes a slightly different approach to the problem:

- One would deactivate the board;
- *ok* ● Another would delete the Code section including the sunset clause, preserving the board;
- *ok* ● A third would change the Code to preserve the board and incorporate procedures, powers and authorities conferred upon weed board by state law; and
- A fourth would change the Code to preserve the board, incorporate state law, but also limit the weed board's authority to control only certain weeds (in other words, it's more restrictive than is state law).

ORIGINATOR'S RECOMMENDED ACTION:

- 1/28: Woods recommends that the Council have a hearing February 25 to consider deactivating the board.
- 2/25: Following the public hearing, the Council may adopt one of the four ordinances presented.

COMMITTEE ACTION (including dates):

2/25/92:

COUNCIL ACTION (including dates):

- 1/28/92: Council scheduled a hearing on Feb. 25.
- 2/25/92: Council approved 2 of the 4 ordinances—#2 to delete WC Code Section 2.27.130 passed 7-0. #3 to amend WCC 2.27.130 passed 6-1, Laidlaw against.

Related File Numbers: _____

Ordinance or Resolution Number: 092-008 & 092-009

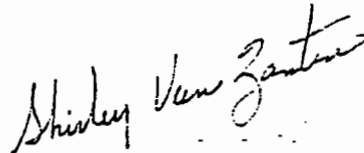
Whatcom County Executive Office

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**Shirley Van Zanten
County Executive**

**MEMO TO: Daniel Warner, Council Chair
and County Councilmembers**

FROM: Shirley Van Zanten, County Executive



DATE: March 11, 1992

SUBJECT: Ordinances 92-008 and 92-009 Concerning the Noxious Weed Control Board

I am returning Ordinances 92-008 and 92-009 to you unsigned. One deletes Whatcom County Code 2.27.130, and the other amends Whatcom County Code 2.27, Noxious Weed Control Board.

As the chief executive officer for Whatcom County, I have serious reservations about Ordinance 92-009. Since the adoption of 92-008 is related, I am also returning it unsigned.

Before I summarize my problems with the ordinance, let me first say clearly that I support continuing the Noxious Weed Control Board, just as I supported its original establishment and have supported it through its years of existence. However, I firmly believe Whatcom County should decide for itself the extent of activity and jurisdiction given to the Board and keep the Board under County administrative direction and control. Ordinance 92-009 does not do that.

Ordinance 92-009 adopted by the Council on February 25 voluntarily adopts a broad and potentially expensive state mandate. By this adoption, any possibility of seeking state funding for the state mandate on this program is lost.

The Ordinance establishes an independent organization funded by the County that potentially can greatly expand a service with its accompanying increase in cost. This is done at the same time we are telling County departments we must hold the line because of a potential decline in revenues.

The Ordinance sets up a fully independent Board not subject to County administrative supervision or policy (Section 2.27.140). The Council appoints the Board, receives an annual report, or may require other reports. Beyond that, the Board has broad independent powers. Among these are:

- may employ a weed coordinator and any other persons it feels are necessary
- may purchase, lease, rent equipment, facilities and products
- maintains its own records
- establishes policy; adopts rules and regulations
- may classify lands; may impose various requirements on property owners
- forest lands may be subject to Board regulations, as may subdivisions, school grounds, playgrounds, parks and rights of way.

Memorandum to Daniel Warner and Whatcom County Councilmembers
Page Two
March 11, 1992

- the Board has authority to enter into contracts with landowners, to obtain court warrants to enter on private property, and to declare misdemeanors and civil infractions (although the ordinance sets no fines or penalties for these charges). It has power to take control actions and then place liens on property for payment.

In all of these activities, the Board is independent through the authorization of this ordinance, but because it is a creation of Whatcom County, the County will be liable for any claims or legal actions that arise. (See Section 2.27.170, RCW 4.96, and RCW 4.08.120.)

The Board is authorized to operate and conduct its own business per RCW 17.10.050; therefore, it is not under County administrative direction or policy. Making the weed coordinator a county employee with the attendant privileges and responsibilities, but keeping all other elements of the agency independent or under state law, creates an administrative morass.

The ordinance has implications for added tasks in Cooperative Extension, the Treasurer's Office, Auditor's Office and potentially for a great extent in the Civil Division of the Prosecuting Attorney's Office if the civil prosecutors will be expected to do the legal work that may arise. Has a fiscal analysis been done for the Council on these potential costs? Have those departments had a chance to evaluate their required roles?

Let me say again, I support the continuation of the Noxious Weed Control Board, but in a more limited form and under County control. It is not a matter of trust in current Weed Board members. It is a matter of administrative clearness, County liability and cost to the County. In a few years there will be new Board members and new County elected officials. The law that will govern will be the ordinance as written, not the good intentions of someone in 1992.

As the County's chief administrator, I cannot support this ordinance, but since all seven members of the Council do support it, I feel it is futile to veto it, and I am returning it unsigned.

SZ/pal
cc: File
Tom Sutberry
SVZ

SPONSORED BY: Consent

PROPOSED BY: STAFF

INTRODUCTION DATE: 2/11/92

ORDINANCE NO. 92-008

DELETING WHATCOM COUNTY CODE SECTION 2.27.130

WHEREAS, Section 2.27.130 of the Whatcom County Code specifies that the Noxious Weed Control Board was to terminate on December 31, 1991, and;

WHEREAS, RCW 17.10.890 specifies that in order to deactivate any weed control board the county legislative authority must first hold a hearing on the matter, and;

WHEREAS, the provisions of the Whatcom County Code in this matter are in conflict with the requirements of state law;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Section 2.27.130 Termination of the board, as shown below, is deleted in its entirety.

~~2.27.130 Termination of the board. The Whatcom County noxious weed control board shall terminate on December 31, 1991, unless specifically reauthorized by the county council prior thereto.~~

ADOPTED this 25th day of February 1992.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Ramona Reeves, Council Clerk



Daniel M. Warner, Chairman

APPROVED AS TO FORM:

() Approved () Denied

Civil Deputy Prosecutor

Shirley Van Zanten, Executive

Date: _____

Not signed by Executive (see memo to Dan Warner dated 3/11/92). Ordinance takes effect March 6, 1992, pursuant to Whatcom County Home Rule Charter Section 2.30.

RR