

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda Date	Assigned To:
Originator-Executive	SVZ		RECEIVED FEB 05 1992 WHATCOM COUNTY COUNCIL	2/11/92	Council - Intro
Division Head-				2/25/92	PS/Council
Department Head-					
Prosecutor Review-	RTW	2/3			
Purchasing/Budget Dir.-					
Executive-	J. [Signature]	2/4/92			

SUBJECT:

Ordinance providing a process by which objections to lake management district rates may be made and by which they will be reviewed

ATTACHMENTS:

Ordinance

Public Hearing Needed? Yes//No/

SUMMARY STATEMENT:

The Whatcom County Lake Management District No. 1 was created by Ordinance 92-006 on January 28, 1992. The District has proposed rates and charges for two projects and a process is required by which an objection to the rates and charges may be made. Chapter 36.61.130 RCW authorizes the Whatcom County Council to appoint an officer to hear objections to lake management district rates and charges or special assessments.

If this ordinance is adopted the Hearing Examiner will be an appointed officer to hear objections to lake management district rates and charges or special assessments and will make recommendations to the County Council. This ordinance also sets up the process for handling objections as well as sets forth interest and penalties for rates and charges or special assessments.

ORIGINATOR'S RECOMMENDED ACTION:

Pass

COMMITTEE ACTION (including dates):

COUNCIL ACTION (including dates):

2/25/92: Ordinance adopted .7-0

SPONSORED BY: Consent

PROPOSED BY: Executive

INTRODUCTION DATE: 2/11/92

ORDINANCE NO. 92-010

PROVIDING A PROCESS BY WHICH OBJECTIONS TO
LAKE MANAGEMENT DISTRICT RATES MAY BE MADE AND BY WHICH
THEY WILL BE REVIEWED

WHEREAS, Lake Management District No. 1 was created by the adoption of Ordinance 92-006 on January 28, 1992; and,

WHEREAS, establishing rates and charges or special assessments for lake management districts requires a public hearing process to consider objections; and,

WHEREAS, Chapter 36.61.130 RCW authorizes the Whatcom County Council to appoint an officer to hear objections to lake management district rates and charges or special assessments, act as a board of equalization, and make recommendations to the Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the following guidelines shall apply to lake management districts:

1. Purpose. The purpose of this section is to establish an objection process for lake management district rates and charges or special assessments; to grant authority to the Whatcom County Hearing Examiner for hearing appeals and making recommendations to the Whatcom County Council; and to establish interest and penalties.

2. Authority Delegated. The Whatcom County Council hereby authorizes the Whatcom County Hearing Examiner to hear objections to the lake management district rates and charges or special assessments, act as a board of equalization, and make recommendations to the Whatcom County Council.

3. Cooperation of County Officials. The Hearing Examiner may request and shall receive so far as may be necessary in the discharge of the duties, the assistance and cooperation of the officials of the County.

1 **4. Powers designated--Appellate function.** A. The Hearing Examiner shall have
2 the power and jurisdiction to act as a board of equalization and hear objections to lake
3 management district rates and charges or special assessment roll.

4 B. Any person aggrieved by a rate or charge or special assessment proposed to
5 be imposed on their property may obtain a review thereof by filing an objection with the
6 Whatcom County Council at least ten (10) days before the public hearing as provided in
7 Section 7. The objection will be initiated by filing a written objection with the Clerk of
8 the Council. Notice of objection shall be on a form provided by the Clerk of the Council
9 and shall include at a minimum the following information: name, address and telephone
10 number of objector; location and parcel number of property being assessed; and clearly
11 stated grounds for objection. The objection will be heard at the time, date and place
12 fixed for a public hearing.

13
14 **5. Record and findings on objections.** All hearings on objections before the
15 Hearing Examiner shall be open to the public and a verbatim record of each hearing
16 shall be kept by electric or mechanical means. Each recommendation of the Hearing
17 Examiner shall be in writing and shall include findings and conclusions, based upon the
18 record to support the recommendation. All parties to the objection shall be notified of
19 the Hearing Examiner's recommendation by the delivery of a copy of said decision to the
20 party either in person or by mail. Each recommendation of the Hearing Examiner,
21 unless a longer period is mutually agreed to in writing by the objector and the Hearing
22 Examiner, shall be rendered within ten (10) working days following the conclusion of all
23 testimony and hearings. A copy of the record, or any part thereof, shall be transcribed
4 and furnished to any person upon request therefor and payment of reasonable costs for
25 preparation thereof.

26
27 **6. Scope of Review.** In exercising the powers granted herein, the Hearing
28 Examiner, in conformity with RCW 36.61, may correct, revise, raise, lower, change, or
29 modify the rates and charges roll or any part thereof, set the proposed rates and charges
30 or special assessments aside and order a new proposed rates and charges or special
31 assessment roll to be prepared and make recommendations to the Whatcom County
32 Council.

33 Provided, if proposed rates and charges or special assessments are amended to
34 raise any rate and charge appearing thereon or to include omitted property, a new public
35 hearing shall be held and shall be limited to considering the increased rates and charges
36 or special assessments on omitted property. Owners or reputed owners will be notified.

37 Provided further, if a rate and charge or special assessment on any lot, tract,
38 parcel of land, or other property is increased beyond one hundred ten percent (110%) of
39 the proposed rate and charge or special assessment as provided in the resolution adopted
40 according to RCW 36.61.070, the creation of a lake management district must be
41 approved under another mailed ballot election that reflects the weighted voting arising
42 from such increases.

1 **7. Records--Notice of hearings.** A. Notice of the original public hearing on
2 the proposed rates and charges, and any public hearing held as a result of raising rates
3 and charges or special assessments or including omitted property, shall be published and
4 mailed as provided in RCW 36.61.140.

5 B. Notice shall also be posted in the County Courthouse of any and all hearings
6 and meetings at least ten days in advance of such hearings or meetings except as
7 hereinbefore provided.

8 C. The Hearing Examiner shall maintain records and minutes of all meetings,
9 hearings, and of any actions taken. Such records shall be kept in a file open to the
10 public in the office of the County Council and for such time period as may be required
11 by law.

12
13 **8. Appeal to County Council.** The objector, any party of record or the
14 executive's office may appeal any recommendation of the Hearing Examiner to the
15 Whatcom County Council. The appellant shall file a written notice of the appeal with
16 the County Council Office within ten (10) calendar days after the postmark date of the
17 letter of notification. The appellant shall file a statement containing the appellant's basis
18 for appeal and argument with the Whatcom County Council. Within two working days
19 after receipt of the appellant's written argument, the Council Office shall send copies of
20 that argument to any party of record and to the executive's office. Any argument or
21 response by any person or entity opposing the appeal must be filed in writing within ten
22 (10) calendar days after the postmark date the appellant's argument was mailed by the
23 Council Office. The decision of the County Council shall be based solely upon the
24 record and the written argument that has been submitted by the parties, and shall be
25 restricted to clearly erroneous applications of law. Oral argument may be scheduled at
26 the discretion of the County Council.

27
28 **9. Confirmation.** The Whatcom County Council, upon recommendation
29 by the Hearing Examiner, may approve the rates and charges or special assessment roll
30 by resolution, modify and approve the rates and charges roll as a result of hearing
31 appeals, or reject the rates and charges roll and return it to the Hearing Examiner for
32 further work and recommendations. No objection to the decision of the Whatcom
33 County Council approving the rates and charges roll may be considered by a court unless
34 an objection has been timely filed by that party with the Whatcom County Council as
35 provided in Section 4.

36
37 **10. Interest and Penalties.** All lake management districts shall have a lien
38 for delinquent rates and charges or special assessments for district activities together with
39 interest at eight (8) percent per annum from the date due until paid. Penalties of ten
40 (10) percent of the amount will be imposed in case of failure to pay the charges at the
41 times fixed by resolution. The lien shall be for all charges, interest, and penalties and
42 shall attach to the premises to which the services were available. The lien shall be

1 superior to all other liens and encumbrances, except general taxes and local and special
2 assessments of Whatcom County. Upon expiration of sixty days after the attachment of
3 the lien, Whatcom County may bring suit in foreclosure by civil action in the superior
4 court of the county where the property is located. The court may allow the county a
5 reasonable attorney's fee in addition to other allowable costs and disbursements. The
6 lien shall be foreclosed in the same manner as the foreclosure of real property tax liens.

7
8 11. Limitation on rates and charges or special assessment funds.

9 All funds generated by lake management district rates and charges or special assessments
10 must be spent within the district for the projects proposed or maintenance of those
11 projects and cannot be used for any other purpose. If all funds have not been expended
12 when the lake management district is dissolved they shall be refunded on a prorated
13 basis.

14
15
16
17
18 ADOPTED this 25th day of February 1992.

19
20
21 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

22
23
24 Ramona Reeves
25 Ramona Reeves, Council Clerk

Daniel M. Warner
Daniel M. Warner, Chairman

26
27
28 APPROVED AS TO FORM:

Approved Denied

29
30
31 Randall J. Watts
32 Civil Deputy Prosecutor

Shirley Van Zanten
Shirley Van Zanten, Executive
Date: 2-26-92