

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Council				09/14/93	Flood Dist/Introduction
Division Head:				10/26/93	Flood Dist/Hearing
Dept. Head:				12/14/93	Council
Prosecutor:				1/4/94	Council
Purchasing/Budget:					
Executive:					

**SUBJECT:**

A resolution adopting a funding mechanism for the Whatcom County Flood Control Zone District and authorizing the collection of charges for State and Port-owned properties.

**ATTACHMENTS:**

Letter from DNR dated June 17, 1993  
Resolution

**SUMMARY STATEMENT:**

*Please complete sections of box as appropriate & explain the item below.*

Related County contract #:	Should Clerk schedule a hearing? NO / / YES /xx/ Requested date:
Amount budgeted for this item/project: \$	Is it (or will it be) within budget? YES / / NO / / (Please explain below)
Budget line item number(s):	

The County-wide Flood Control Zone District shall apply a rate structure as a service charge to all State and Port-owned parcels within the unincorporated and incorporated areas of Whatcom County. This resolution sets forth that rate structure.

This service charge is an interim measure only. At the end of a three year term the funding mechanism as set forth in this resolution shall be terminated. It will be the responsibility of the District to establish its permanent funding mechanism.

The Council recognizes the need for a more specific system that levies service charges. Complexities and time requirements of designing and executing such a system is such that a temporary funding mechanism is needed to protect the public welfare and property.

**ORIGINATOR'S RECOMMENDED ACTION:**

Pass

**COMMITTEE ACTION TAKEN:**

**COUNCIL ACTION TAKEN:**

9/14/93: Introduced

10/26/93: Laidlaw moved to refer this matter to the legal staff, and other staff as appropriate, for review of the legal concerns presented by Olsen (DNR), with a response to be brought back to the Council.

12/14/93: Held until 1/4/94 Meeting

1/4/94: Council approved the resolution. 6-1 Brenner opposed  
Res 94-02

**Related File Numbers:**

AB92-106

**Ordinance or Resolution Number (this item only):**

SPONSORED BY: Consent

PROPOSED BY: Council

INTRODUCTION DATE: 9/14/93

*A resolution of the Governing Body  
of the County-wide Flood Control Zone District*

RESOLUTION NO. 94-02

**A RESOLUTION ADOPTING A FUNDING MECHANISM FOR THE  
COUNTY-WIDE FLOOD CONTROL ZONE DISTRICT AND AUTHORIZING  
COLLECTION OF CHARGES ON STATE AND PORT-OWNED PROPERTIES.**

WHEREAS, floods pose threats to public health and safety including loss or endangerment to human life; damage to homes; damage to public roads, highways, bridges, and utilities; interruption of travel, communication, and commerce; damage to private and public property; degradation of water quality; damage to fisheries, fish hatcheries, and fish habitat; harm to livestock; destruction or degradation of environmentally sensitive areas; erosion of soil, stream banks, and beds; and harmful accumulation of soil and debris in the beds of streams or other bodies of water and on public and private lands; and,

WHEREAS, alleviation of flood damage to property and to public health and safety is a matter of public concerns; and,

WHEREAS, many land uses alter the pattern of runoff by decreasing the ability of upstream lands to store waters, thus increasing the rate of runoff and attendant downstream impacts; and,

WHEREAS, prevention of flood damage requires a comprehensive approach, incorporating storm water management and basin-wide flood damage protection planning; and,

WHEREAS, coordination of all regulatory, planning and financing mechanisms available to the County-wide Flood Control Zone District is critical to address the problems of flooding in an equitable and comprehensive manner; and,

WHEREAS, it is the intent of the Board to develop a coordinated and comprehensive policy to address the problems of flooding and minimization of flood damage; and,

1 WHEREAS, the Board finds it in the best interest of the public to enact the  
2 provisions of RCW Chapter 86.15 and RCW 36.89 which allows flood control zone districts  
3 to place a lien and foreclose on properties.

4 NOW, THEREFORE, BE IT RESOLVED by the County-wide Flood Control Zone  
5 District Board that the funding mechanism as set forth in Exhibit "A" attached hereto and  
6 by this reference incorporated herein is adopted.

7 BE IT FURTHER RESOLVED that the funding mechanism established in this  
8 resolution terminates not later than December 31, 1995. During this time it will be the  
9 responsibility of the County-wide Flood Control Zone District to establish its permanent  
10 funding mechanism.

11 BE IT FURTHER RESOLVED that recognizing that their members benefit too  
12 from flood mitigation measures but are not subject to the flood charge the Administration  
13 is requested to request from the Indian Nations an appropriate contribution to the fund  
14 herein.

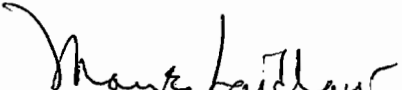
15 BE IT FURTHER RESOLVED that a portion of the funds collected from this  
16 funding mechanism shall be expended on flood control and mitigation for areas within  
17 Whatcom County but outside the Nooksack River basin. The Administration is requested  
18 to work with representatives from such areas to develop an appropriated allocation formula  
19 which may take into consideration contributions and benefits, allocation formulas are to be  
20 approved by the Board.

21 APPROVED this 4th day of January, 1994.

22 COUNTY-WIDE FLOOD CONTROL ZONE  
23 DISTRICT BOARD  
24 WHATCOM COUNTY, WASHINGTON

ATTEST:

25   
26 Ramona Reeves, Council Clerk

  
Marge Laidlaw, Council Chair

27 APPROVED AS TO FORM:

28 \_\_\_\_\_  
29 Civil Deputy Pros. Atty.

1 EXHIBIT "A"

2 FUNDING MECHANISM FOR THE  
3 COUNTY-WIDE FLOOD CONTROL ZONE DISTRICT

4 SECTION 1. Purpose.

5 This mechanism creates a funding methodology which provides resources to plan,  
6 manage, design, construct, maintain, revise, and upgrade the storm drainage and surface  
7 water runoff systems within Whatcom County's drainage basins as specified in and pursuant  
8 to Chapters 36.89, 36.94, 86.12 and 86.15 Revised Code of Washington, Article 11, Section  
9 11 of the Washington State Constitution. This authority is invoked to minimize property  
10 damage, promote and protect the public health, safety and welfare, minimize water quality  
11 degradation by preventing siltation, contamination and erosion of the County's waterways,  
12 protect aquifers, insure the safety of County roads and rights-of-way, assure compliance with  
13 federal and state storm drainage, surface water management, and water quality regulations  
14 and legislation, increase educational and recreational opportunities, encourage the  
15 preservation of natural drainage systems, and foster other beneficial public uses.

16 SECTION 2. Flood Control Zone District Creation and Authority.

17 A County-wide Flood Control Zone District, herein after referred to as District, was  
18 created pursuant to Whatcom County Ordinance No. 91-076. Said District shall be  
19 administered within the Whatcom County Public Works Department under the Engineering  
20 Division. A new distinct section in that Division will be created for the management of  
21 flood control.

22 The District elects to exercise all lawful powers necessary and appropriate for the  
23 construction, acquisition, and condemnation of property rights, maintenance, management,  
24 operations and regulation of storm drainage and surface water runoff systems including,  
25 without limitation, all lawful powers to fix, alter, regulate, and control the charges and  
26 conditions for the use thereof.

27 SECTION 3. Definitions.

28 For the purposes of this resolution the words or phrases below shall have the  
29 following meanings:

30 "Assessed Value" shall be held and construed to mean the aggregate valuation of the  
31 parcel subject to a service charge as placed on the last completed and balanced tax  
32 rolls of the county: *Provided*, That parcels involved in property tax exemption  
33 programs under RCW 84.33, RCW 84.34, and RCW 84.36.381 through 84.36.389 will  
34 be subject to a service charge based on their taxable assessed value.

35 "Board" means the county legislative authority.

36 "County" shall mean Whatcom County, Washington, or as indicated by the context,  
37 may mean the Department of Public Works, Public Works Director, County

1 Engineer, or other official, officer, employee or agent representing the County in the  
2 discharge of his or her duties. For purposes of this resolution, County shall be  
3 construed to also include those incorporated areas located in the county-wide  
4 District.

5 "Parcel" shall mean the smallest plot of land or any real property ownership  
6 interest separately segregated for tax purposes.

7 "Real Property Ownership Interests" shall include but not be limited to  
8 condominiums, marina slips, hangers, development rights, improvements on lands the  
9 fee of which is still vested in the United States or the State of Washington or other  
10 such interests in real property as is defined for property tax purposes.

11 "Service Charge" means the charge levied on parcels in unincorporated and  
12 incorporated areas of the District.

13 "Supervisors" means the board of supervisors, or governing body, of a zone.

14 "Taxable Assessed Value" is the aggregate value used for calculating real property  
15 taxes.

16 SECTION 4. Policy for Service Charges.

17 The District shall apply a rate structure as a service charge to all parcels within the  
18 unincorporated and incorporated areas within Whatcom County.

19 All parcels are subject to a service charge except the following exempt parcels:

- 20 (a) All parcels owned by the federal government  
21 (b) All parcels classified as Indian lands held in trust  
22 (c) All parcels exclusively classified as mineral rights  
23 (d) All parcels with an assessed value less than or equal to \$2500.00

24 The District will allow any contiguous quantity of land in the possession of, owned  
25 by, or recorded as the property of the same claimant, person, or company to be consolidated  
26 into one parcel to keep charges lower: *Provided*, That the parcels are in compatible tax code  
27 districts: *Provided further*, That a one to one relationship is maintained between each  
28 parcel in the Flood Control Zone District roll and each parcel in the real property tax roll:  
29 *Provided further*: That taxes, assessments and charges on the parcels to be consolidated are  
30 not delinquent: *Provided further*, That all established parcel consolidation policies and  
31 procedures are followed. This process must be initiated in the County Assessor's office by  
32 November 10 of any one year for consideration in the following year's roll.

33 SECTION 5. Method of Calculating Service Charges.

34 A temporary service charge schedule is hereby established for Whatcom County to  
35 be assessed annually during the term of this mechanism.

- 1           Group 1:    All parcels with an assessed value less than or equal to \$10,000.00  
2                            but greater than \$2,500.00  
3                            Charge Per Parcel: \$5.00
- 4           Group 2:    All parcels with an assessed value less than or equal to  
5                            \$30,000.00 but greater than \$10,000.00  
6                            Charge Per Parcel: \$7.00
- 7           Group 3:    All parcels with an assessed value less than or equal to  
8                            \$50,000.00 but greater than \$30,000.00  
9                            Charge Per Parcel: \$20.00
- 10          Group 4:    All parcels with an assessed value less than or equal to  
11                           \$75,000.00 but greater than \$50,000.00  
12                            Charge Per Parcel: \$30.00
- 13          Group 5:    All parcels with an assessed value less than or equal to  
14                           \$100,000.00 but greater than \$75,000.00  
15                            Charge Per Parcel: \$40.00
- 16          Group 6:    All parcels with an assessed value less than or equal to  
17                           \$125,000.00 but greater than \$100,000.00  
18                            Charge Per Parcel: \$50.00
- 19          Group 7:    All parcels with an assessed value less than or equal to  
20                           \$150,000.00 but greater than \$125,000.00  
21                            Charge Per Parcel: \$65.00
- 22          Group 8:    All parcels with an assessed value less than or equal to  
23                           \$200,000.00 but greater than \$150,000.00  
24                            Charge Per Parcel: \$80.00
- 25          Group 9:    All parcels with an assessed value less than or equal to  
26                           \$400,000.00 but greater than \$200,000.00  
27                            Charge Per Parcel: \$90.00
- 28          Group 10:   All parcels with an assessed value greater than \$400,000.00  
29                            Charge Per Parcel: \$100.00

30    The District's service charge shall be calculated based on the parcel's assessed value on the  
31    last completed and balanced tax roll of the County. Service charges shall be due and  
32    payable to the Flood Control Zone District on or before April 30 of the respective year and  
33    shall be billed and collected together with real property taxes, if any, and shall be delinquent

1 thereafter: *Provided*, That if real property tax upon the parcel payable in that year exceeds  
2 thirty dollars, and one-half of the tax, together with one-half of the annual service charge  
3 provided by this section are paid on or before April 30 of such year, the remaining one-half  
4 of the annual service charge shall be due and payable on October 31, next following, or at  
5 the time of payment of the remaining tax on the parcel, whichever is earlier, and shall be  
6 delinquent after that date.

7 SECTION 6. County Administrative Support.

8 A. The County Assessor shall provide administrative support services to the  
9 District. The County Assessor shall be responsible for: 1) Accumulation,  
10 coordination and maintenance of data for use in the Flood Control Zone District  
11 roll; 2. Auditing and verifying data base information and rates and charges; 3.  
12 Response to public inquiry and education on Flood Control Zone District funding  
13 mechanism policies and procedures.

14 B. All District funds from service charges, grant funds, or any other revenue  
15 received shall be deposited in the District Fund which will be established by the  
16 Whatcom County Council.

17 SECTION 7. Administrators of the Roll.

18 The Supervisors are hereby declared the Administrators of the Roll for the District.  
19 The Administrators of the Roll shall be responsible for fixing rates and charges.

20 SECTION 8. Treasurer.

21 The County Treasurer is hereby declared the Treasurer of the District. The  
22 Treasurer shall be responsible for collecting rates and charges as established by the  
23 Administrator of the Roll.

24 SECTION 9. Implementation.

25 The Whatcom County Executive, Treasurer and Assessor are hereby authorized and  
26 directed to establish all administrative procedures necessary to implement the provisions of  
27 this resolution.

28 SECTION 10. Lien for delinquent Charges and Foreclosures.

29 A. Pursuant to RCW 36.89.090, Whatcom County shall place a lien, which  
30 attaches to the land, on any parcel with a delinquent service charge, including  
31 interest thereon. Such liens shall be effective and shall be enforced and foreclosed  
32 in the same manner as provided for sewerage liens of cities and towns by RCW  
33 35.67.200 through 35.67.290, except that the service charge lien shall be effective for  
34 a total not to exceed one year's delinquent service charges without the necessity of  
35 any writing or recording of the lien with the county auditor, as provided for in RCW  
36 36.89.093, in lieu of the provisions provided for in RCW 35.67.210. In accordance  
37 with RCW 36.89.094, the County may commence to foreclose a service charge lien

1 after three (3) years from the date flood control zone district charges become  
2 delinquent, in lieu of the provisions provided for in RCW 35.67.230.

3 B. Delinquent service charges shall bear interest provided in RCW 36.89.090,  
4 RCW 36.89.092, and RCW 35.67.200 at the rate of twelve percent (12%) per annum,  
5 or such rate as may hereinafter be authorized by law, computed on a monthly basis  
6 from the date of delinquency until paid.

7 SECTION 11. Overpayment Refund Requests.

8 Any person may request the refund of service charge overpayment(s) by doing so in  
9 writing to the County Treasurer. The basis of the request explaining the nature of the  
10 overpayment should be clearly stated. The Treasurer shall investigate the request and  
11 authorize a refund or credit if an overpayment is determined to have occurred. The  
12 Treasurer will use best efforts to notify the requesting party of his/her decision in writing  
13 within sixty (60) days of receipt of the request. The Treasurer will specify in the written  
14 decision the basis for authorizing or denying the refund request. No refund may be  
15 authorized for overpayment paid or levied more than three (3) years prior to the date the  
16 written request is received.

17 SECTION 12. Administrative Refunds or Adjustments.

18 The County Treasurer may authorize in writing, a refund, credit, or adjustment of any  
19 amounts when it is determined that an error, miscalculation, or mistake has occurred which  
20 affects any ratepayer(s). The nature of the error, miscalculation, or mistake should be  
21 documented together with the steps taken to prevent future occurrences. No refunds,  
22 credits, or service charge adjustments may be authorized pursuant to this section unless  
23 brought to the attention of the Treasurer within three (3) years of the occurrence of the  
24 error, miscalculation or mistake. An annual report of all refunds authorized by the County  
25 Treasurer shall be presented to the Board of the District January of each year.

26 SECTION 13. Amount of Refund Limited.

27 In any instance where a refund or credit is authorized by the Treasurer, the amount shall  
28 include interest at the same rate as authorized in Section 10.

29 SECTION 14. Appeals of Overpayment Refund Decisions.

30 Any decision of the Treasurer made pursuant to overpayment refund requests may  
31 be appealed to the Whatcom County Hearing Examiner upon payment of the disputed  
32 amount and pursuant to the appeal procedures set forth in the Flood Control Zone District  
33 chapter of the Whatcom County Code which will be adopted prior to charging.

34 SECTION 15. Severability.

35 If any section, clause or provision of this Resolution be declared invalid by the courts,  
36 the same shall not affect the validity of the Resolution as a whole or any part thereof, other  
37 than the part declared invalid.