

| CLEARANCES                    | Initial | Date   | Date Received in Council Office:   | Agenda date | Assigned to:                    |
|-------------------------------|---------|--------|--|-------------|---------------------------------|
| Originator: Jeffrey M. Monsen | JM      | 5/1/95 | <b>RECEIVED</b><br><br><b>MAY 03 1995</b><br><br><b>WHATCOM COUNTY COUNCIL</b> | May 9, 1995 | Council - WCFCZD Advisory Board |
| Division Head: Ed Henken      |         |        |  | 6/20/95     | Council hearing                 |
| Dept. Head:                   |         |        |  | 7/18/95     | Council-WCFCZD Adv. Brd.        |
| Prosecutor:                   | DSW     | 5/1/95 |  | 9/5/95      | Council-WCFCZD Adv. Brd         |
| Purchasing/Budget:            |         |        |  | 9/19/95     | Council-WCFCZD Adv. Brd.        |
| Executive:                    |         |        |  |             |                                 |

**SUBJECT:**

**A Resolution Extending the Current Whatcom County Flood Control Zone District Funding Mechanism and Reauthorizing Collection of Charges**

**ATTACHMENTS:**

**Resolution** FCZD Advisory Committee letter dated April 18, 1995  
**Exhibit "A"**

**SUMMARY STATEMENT:** *Please complete sections of box as appropriate & explain the item below*

|  |  |
|--|--|
| Related County contract #: N/A         | Should Clerk schedule a hearing? NO / <input type="checkbox"/> / YES / <input checked="" type="checkbox"/> / Requested date: June 20, 1995 |
| Amount budgeted for this item/project: | Is it (or will it be) within budget? YES / <input type="checkbox"/> / NO / <input type="checkbox"/> (Please explain below)                 |
| Budget line item number(s):            |  |

**Convene Flood Control Zone District Board of Supervisors to consider proposed resolution that supersedes earlier Resolution 92-027 and 94-02 for the purpose of extending and modifying current funding mechanism and re-authorizing collection of charges. Resolution introduced on May 9 to be followed by public hearing notice mailed to state agencies.**

**ORIGINATOR'S RECOMMENDED ACTION:**

**Approval by the Council**

**COMMITTEE ACTION TAKEN:**

**COUNCIL ACTION TAKEN:**

- 5/9/95: Introduction
- 6/20/95: Held for Work Session on 6/27. Written record held open until 6/23/95.
- 6/27/95: Council made amendments to Resolution. Council waiting for amendments from John Matzinger.
- 7/18/95: Council as Whatcom County Flood Control Zone Advisory Board. Held to 9/5/95 to receive staff report and 9/19/95 to take action on resolution.
- 9/5/95: See AB file 95-222A
- 9/19/95: Adopted as Amended 5-1

**Related File Numbers:**

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

1 SPONSORED BY: CONSENT

2 PROPOSED BY: STAFF

3  
4 INTRODUCTION DATE: 5/9/95

5 *A Resolution by the Governing Body*  
6 *of the County-wide Flood Control Zone District*  
7 *hereinafter referred to as the*  
8 *Whatcom County Flood Control Zone District (WCFCZD)*

9 RESOLUTION NO. 95-061

10 A RESOLUTION EXTENDING AND MODIFYING THE CURRENT  
11 WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT FUNDING MECHANISM  
12 AND RE-AUTHORIZING COLLECTION OF CHARGES.

13 WHEREAS, the WCFCZD was duly created by Whatcom County Ordinance 91-076 to  
14 provide an organization and structure to address flood damage reduction in Whatcom County;  
15 and,

16 WHEREAS, Whatcom County Resolutions 92-027 and 94-02 were enacted to provide  
17 initial funding for the activities of the WCFCZD; and,

18 WHEREAS, the WCFCZD Board of Supervisors upon the recommendations of its  
19 Advisory Committee recognized the need to develop a Comprehensive Flood Hazard  
20 Management Plan (CFHMP) identifying appropriate and achievable flood hazard reduction  
21 management strategy, policy, and capitol projects; and,

22 WHEREAS, the CFHMP for the Lower Nooksack River was authorized by Whatcom  
23 County Contract 9310013, said contract having an estimated completion in late 1996; and,

24 WHEREAS, steady progress has been made in development of the CFHMP, including  
25 the initial work on a permanent funding mechanism and a capitol projects program; and,

26 WHEREAS, the need to provide and maintain adequate funding to complete and  
27 implement the CFHMP is recognized; and,

28 WHEREAS, the Funding Mechanism authorized by Whatcom County Ordinances 92-  
29 027 and 94-02 are due to expire December 31, 1995, prior to the development of a permanent  
30 funding mechanism and the CFHMP; and,

1           WHEREAS, the existing Funding Mechanism is effective.

2           NOW, THEREFORE, BE IT RESOLVED by the WCFCZD Board of Supervisors that  
3 the funding mechanism adopted by Whatcom County Resolutions 92-027 and 94-02 as set forth  
4 in Exhibit "A" attached hereto and by this reference incorporated herein be extended through  
5 the period beginning January 1, 1996 to December 31, 1997.

6           BE IT FURTHER RESOLVED that the WCFCZD continue to explore the  
7 development of a plan for establishing sub-flood control zones. The proposed sub-flood  
8 control zones should link local flood management improvements and activities to specific  
9 geographic zones to insure a close tie between the expended costs and the level of service to  
10 the property owners.

11           BE IT FURTHER RESOLVED that the following criteria be adopted for expenditure  
12 of funds collected by the WCFCZD:

13           A.     Projects eligible for expenditure of WCFCZD funds include those projects that  
14 meet the purposes established in Exhibit A, Section 1. Higher emphasis will be placed on  
15 those projects that perform flood damage repairs, maintenance and improvements, and which  
16 minimize future flood damage through prevention and control measures on the Nooksack  
17 River, its watershed and other watersheds within Whatcom County.

18           B.     Prior to the allocation of funds to cities, the governing body of said city and  
19 Whatcom County Flood Control Zone District shall enter into an inter-local agreement  
20 detailing the terms and conditions for allocation of said funds in accordance with the criteria  
21 set forth in paragraph A.

22           BE IT FURTHER RESOLVED that WCFCZD funds be transferred annually to the  
23 Whatcom County Current Expense Fund in order to reimburse the expenditure of funds by the  
24 County Assessor for the administration of the Roll and the County Treasurer for the collection  
25 of rates and charges. The amount of funds to be transferred annually is to be based upon the  
26 ratio of the WCFCZD funds to total funds managed by each the Assessor's and Treasurer's  
27 offices.


1 BE IT FURTHER RESOLVED that this new resolution supersedes both Whatcom  
2 County Resolutions No. 92-027 and 94-02.

3 APPROVED this 19 day of September 1995

4 WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT  
5 BOARD OF SUPERVISORS  
6 WHATCOM COUNTY, WASHINGTON

7   
8 Robert Imhof, Chairman

9 ATTEST:

10   
11 Dana Brown-Davis, Council Clerk

12 APPROVED AS TO FORM:

13 Daniel L. Gibson  
14 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 water  
7 runoff system within Whatcom County's drainage basins as specified in and pursuant to Chapters  
8 36.89, 36.94, 86.12 and 86.15 Revised Code of Washington, Article 11, Section 11 of the  
9 Washington State Constitution. This authority is invoked to minimize property damage, promote  
10 and protect the public health, safety and welfare, minimize water quality degradation by  
11 preventing siltation, contamination and erosion of the County's waterways, protect aquifers,  
12 insure the safety of County roads and rights-of-way, assure compliance with federal and state  
13 storm drainage, surface water management, and water quality regulations and legislation,  
14 increase educational and recreational opportunities, encourage the preservation of natural  
15 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 administered  
19 within the Whatcom County Public Works Department under the Engineering Division. A new  
20 distinct section in that Division will be created for the management of flood control.

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

26 SECTION 3. Definitions.

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

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

34 "Board" means the county legislative authority.

1 "County" shall mean Whatcom County, Washington, or as indicated by the contest, may  
2 mean the Department of Public Works, Public Works Director, County engineer, or  
3 other official, officer, employee or agent representing the County in the discharge of his  
4 or her duties. For purposes of this resolution, County shall be construed to also include  
5 those incorporated areas located in the county-wide District.

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

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

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

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

15 "Taxable Assessed Value" is the aggregate value used for calculating real property 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 by,  
25 or recorded as the property of the same claimant, person, or company to be consolidated into  
26 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 parcel in  
28 the Flood Control Zone District roll and each parcel in the real property tax roll: *Provided*  
29 *further*: That taxes, assessments and charges on the parcels to be consolidated are not delinquent:  
30 *Provided further*, That all established parcels consolidation policies and procedures are followed.  
31 This process must be initiated in the County Assessor's office by November 10 of any one year  
32 for consideration in the following year's roll.

1     SECTION 5.            Method of Calculating Service Charges.

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

4            Group 1:        A parcels with an assessed value less than or equal to \$10,000.00 but  
5                            greater than \$2,500.00  
6                            Charge Per Parcel: \$2.50

7            Group 2:        All parcels with an assessed value less than or equal to \$30,000.00 but  
8                            greater than \$10,000.00  
9                            Charge Per Parcel: \$3.50

10           Group 3:        All parcels with an assessed value less than or equal to \$50,000.00 but  
11                            greater than \$30,000.00  
12                            Charge Per Parcel: \$10.00

13           Group 4:        All parcels with an assessed value less than or equal to \$75,000.00 but  
14                            greater than \$50,000.00  
15                            Charge Per Parcel: \$15.00

16           Group 5:        All parcels with an assessed value less than or equal to \$100,000.00 but  
17                            greater than \$75,000.00  
18                            Charge Per Parcel: \$20.00

19           Group 6:        All parcels with an assessed value less than or equal to \$125,000.00 but  
20                            greater than \$100,000.00  
21                            Charge Per Parcel: \$25.00

22           Group 7:        All parcels with an assessed value less than or equal to \$150,000.00 but  
23                            greater than \$125,000.00  
24                            Charge Per Parcel: \$32.50

25           Group 8:        All parcels with an assessed value less than or equal to \$200,000.00 but  
26                            greater than \$150,000.00  
27                            Charge Per Parcel: \$40.00

28           Group 9:        All parcels with an assessed value less than or equal to \$400,000.00 but  
29                            greater than \$200,000.00  
30                            Charge Per Parcel: \$45.00

31           Group 10:       All parcels with an assessed value greater than \$400,000.00  
32                            Charge Per Parcel: \$50.00

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

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

10 SECTION 6. County Administrative Support.

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

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

19 SECTION 7. Administrators of the Roll.

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

22 SECTION 8. Treasurer.

23 The County Treasurer is hereby declared the Treasurer of the district. The Treasurer  
24 shall be responsible for collecting rates and charges as established by the Administrator of the  
25 Roll.

26 SECTION 9. Implementation.

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

30 SECTION 10. Lien for Delinquent Charges and Foreclosures.

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

1 provided for in RCW 35.67.210. In accordance with RCW 36.89.094, the County may  
2 commence to foreclose a service charge lien after three (3) years from the date flood  
3 control zone district charges become delinquent, in lieu of the provisions provided for  
4 in RCW 35.67.230.

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

9 SECTION 11. Overpayment Refund Requests.

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

18 SECTION 12. Administrative Refunds or Adjustments.

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

27 SECTION 13. Amount of Refund Limited.

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

30 SECTION 14. Adjustments to the Roll

31 Any person may request an adjustment in the Roll by doing so in writing to the  
32 Administrators of the Roll. The request shall clearly describe the property or properties  
33 proposed for review including the current ownership and service charges associated with each  
34 parcel. The request shall also state the desired adjustment in the Roll and justification for such  
35 action.

1           The Administrators of the Roll may consider any information available to them in  
2 reaching their decision on any request before them. All final decisions shall be forwarded to  
3 the Assessor and the Treasurer. Should the decision be to approve an amendment to the Roll,  
4 an effective date for the adjustment shall be included.

5           From time to time, the Treasurer may submit requests to the Administrators of the Roll  
6 to declare certain service charges as being uncollectible and to have the associated parcels  
7 removed from the Roll and any unpaid service charges forgiven.

8       SECTION 15.           Severability.

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