

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Public Works Engineering	ERH	5/97	RECEIVED MAY 28 1997 WHATCOM COUNTY COUNCIL	6/3/07	Council
Division Head:	<i>SM</i>	✓			
Dept. Head:	<i>JM</i>	5/22			
Prosecutor:	<i>RW</i>	5/22/97			
Purchasing/Budget:					
Executive:	<i>PK</i>	5-27			

SUBJECT: An Ordinance repealing Ordinance No. 84-059, as amended and re-establishing the provisions of Ordinance No. 84-059 so as to carry out a Flood Control Maintenance Program in accordance with RCW Chapters 36.89, 86.12, 86.15, 86.18, 86.24 and 86.26 and creating Whatcom County Code Chapter 17.20.

1. Cover letter
2. Ordinance
3. Agenda Bill

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

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

SUMMARY: The purpose of this ordinance is to establish that the Flood Control Zone District Fund No. 00169 be known as the Flood Control Maintenance Account in accordance with RCW Chapters 86.12 and 86.26 to finance flood control projects on sites within Whatcom County for which property owners or sponsors shall pay for thirty percent (30%) of the local cost of improvements and benefits requested, unless the County Council approves a different formula for financial participation in a particular project.

ORIGINATOR'S RECOMMENDED ACTION: Adoption of the Ordinance

COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN:

1997 - 210 6/3/97: Introduced
 6/17/97: Adopted 7 - 0. Ord. #97-027

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Related File ~~Number~~ or Resolution Number (this item only):

Ord. 97-027

1 SPONSORED BY: Public Works, Engineering
2 PROPOSED BY: Edwin R. Henken
3 INTRODUCTION DATE: 6/3/97

1 ORDINANCE NO. 97-027

2 AN ORDINANCE REPEALING ORDINANCE NO. 84-059, AS AMENDED
3 AND RE-ESTABLISHING THE PROVISIONS OF ORDINANCE NO. 84-059
4 SO AS TO CARRY OUT A FLOOD CONTROL MAINTENANCE PROGRAM
5 IN ACCORDANCE WITH RCW CHAPTERS 36.89, 86.12,
6 86.15, 86.18, 86.24 AND 86.26 AND CREATING
7 WHATCOM COUNTY CODE CHAPTER 17.20

8 WHEREAS, the Whatcom County Council, on October 22, 1991, adopted Ordinance 91-
9 076 creating a County Wide Flood Control Zone District in Whatcom County, and

10 WHEREAS, on December 1, 1994, the Whatcom County Council in Ordinance 94-073,
11 closed the River Improvement Fund, effective January 1, 1995, and

12 WHEREAS, the maintenance and operation of Flood Control Projects need to be re-
13 established so as to comply with the provisions of RCW 86.12.020, including the control of
14 waters subject to flood conditions from streams, tidal or other bodies of water; to construct,
15 operate and maintain dams, impounding basins and dikes, levees, revetments, bulkheads, riprap,
16 deflectors or other protection; to remove bars, logs, snags, debris from and clear, deepen,
17 widen, straighten, change, relocate, or otherwise improve and maintain stream channels, main
18 or overflow; to acquire any real or personal property or rights and interests therein for the
19 prosecution of such works or to preserve any flood plain or regular or intermittent stream
20 channel from any interference to the free or natural flow of flood or stream water and to
21 construct, operate and maintain any and all other works, structures and improvements necessary
22 for such control; and for any such purpose may purchase, condemn or otherwise acquire land,
23 property or rights, including beds of non-navigable waters and State, County and school lands
24 and property, and may damage any land or other property for any such purpose, and may
25 condemn land and other property and rights and interest therein and damage the same for any
26 other public use after just compensation has been first made or paid into court for the owner in
27 the manner prescribed in Chapter 86.12 RCW, and

28 WHEREAS, all expenses to be incurred in accomplishing the aforesaid objectives shall
29 be paid out of said Flood Control Zone District Fund No. 00169, and

30 WHEREAS, RCW 86.26.070 provides that any municipal corporation, subject to flooding
31 conditions, may establish in its treasury a Flood Control Maintenance Fund, and such fund may
32 be maintained by transferring thereto monies derived from regular or special lawful levys for
33 flood control purposes, monies which may be lawfully transferred to it from any other municipal

1 fund and gifts and contributions received for flood control purposes; and further, that all costs
2 and expenses for flood control maintenance purposes shall be paid out of such Flood Control
3 Maintenance Fund, and

4 WHEREAS, the County Council and Flood Control Zone District Board of Supervisors
5 have previously deemed that the County shall participate with eligible property owners and
6 project sponsors in maintaining and restoring normal and reasonably stable river and stream
7 channel alignment, and normal and reasonably stable river and stream channel capacity for
8 carrying off flood waters, provided such can be done with a minimum of bank erosion,
9 environmental impact, or overflow of adjacent lands and properties.

10 NOW, THEREFORE BE IT ORDAINED, by the County Council as follows:

- 11 1) That the Flood Control Zone District Fund No. 00169 be known as the Flood
12 Control Maintenance Account in accordance with Chapter 86.12 RCW and 86.26
13 RCW.
- 14 2) That an annual amount shall be placed in such account as is necessary or
15 advisable to be used for the purposes established in Chapter 86.12 RCW.
- 16 3) That the County shall participate in the financing, labor or supply of materials for
17 flood control projects authorized under Chapter 86.12 RCW on sites within
18 Whatcom County, subject to fiscal constraints and guidelines established herein
19 for the prioritization of projects; provided that property owners or sponsors shall
20 pay for thirty percent (30%) of the local cost of the improvements and benefits
21 requested, unless the County Council approves a different formula for financial
22 participation in a particular project.
- 23 4) Guidelines for prioritization of projects: All projects involving sponsor financial
24 participation from individuals, groups of individuals, associations or governmental
25 entities shall be prioritized based on an analysis and review of the following
26 factors:
 - 27 a. Damage to existing protection and susceptibility of increased
28 damage to dikes, levees, deflectors or bank protection.
 - 29 b. Criticalness and threat to residences, farmland, commercial or
30 industrial facilities and other improvements.
 - 31 c. Benefits received relative to the cost of the project, together with
32 project criticalness

- 1 d. Any projects approved by the County Council and Flood Zone
2 District Board of Supervisors and the County Executive.

- 3 e. Evidence of efforts at self-help by individuals and entities directly
4 benefitting from the project.

- 5 5) Advisory Committee: In accordance with WCC 2.92.020(C), the Flood Control
6 Zone District Advisory Committee shall select a sub-committee that shall work
7 with the County staff to review all applications and submit recommendations on
8 project priorities to the County Executive.

- 9 6) Public Announcement: The Dept. of Public Works shall annually provide a
10 public announcement in all major Whatcom County news media on the existence
11 of the Flood Control Program provided herein, together with information where
12 land owners and sponsors may apply for County participation in their flood
13 control projects.

- 14 7) Project Agreement: Provided that before any project is undertaken, except in
15 case of an emergency declared by the Executive, an agreement shall be made and
16 entered into by and between the County and the local sponsor(s) setting forth the
17 nature and scope of the respective parties participation. All such payments
18 specified in said agreement shall be due and payable in accordance with the
19 method of payment described in said agreement. When the cost of said project
20 is less than the estimated amount agreed to, the pro-rata share paid by the local
21 sponsor shall be reduced and refunded, if applicable, following completion of the
22 work. In the event the project's cost exceeds the estimate agreed to, the County
23 will notify the local sponsor as the actual costs become known but before being
24 incurred. The pro-rata share of the difference shall be paid by the local sponsor
25 upon completion of said work. In the event that payment is not made upon
26 completion of the work, interest on the delinquent amount shall accrue at the
27 same rate as specified by State law for delinquent property taxes, as allowed by
28 law, and the amount of such payment plus interest shall be a lien upon the
29 property of the local sponsor(s) from the time of completion until the total
30 indebtedness is paid. Said lien shall be enforced by the Director of Public Works
31 in the manner prescribed by law for the foreclosure of mortgages and/or through
32 an action of debt against the owners and/or in such other manner as the law may
33 provide.


34 NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Chapter 17.20
35 of the Whatcom County Code is created as shown in this Ordinance.

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ADOPTED this 17 day of June, 1997.

ATTEST:


WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

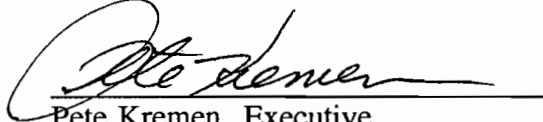

Dana Brown-Davis, Council Clerk


L. Ward Nelson, Council Chair

APPROVED AS TO FORM:

Approved () Denied


Civil Deputy Prosecutor


Pete Kremen, Executive
Date: 6-23-97