

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Jeffrey M. Monsen	Jm	11/18/98	RECEIVED NOV 18 1998 WHATCOM COUNTY COUNCIL	11/24/98	Introduction
Division Head:				12/08/98	Hearing
Dept. Head: Jeffrey M. Monsen	Jm	11/18/98			
Prosecutor Daniel L. Gibson	DG	11/17/98			
Purchasing/Budget:					
Executive: PK		11-18			

SUBJECT:

Resolution Modifying Current Whatcom County Flood Control Zone District (FCZD) Funding Mechanism and Clarifying Governing and Administrative Structure of the District.

ATTACHMENTS:

Resolution
Cover memorandum

Related County Contract #:

Should Clerk schedule a hearing: NO / / YES / / Requested Date:

SUMMARY STATEMENT:

This resolution clarifies governing and administrative structure of the WC FCZD and proposes an increase in flood assessments for 1999.

Ordinance & Resolution Distribution Request
To keep down our copying costs, indicate only those who **must** receive a copy after Council action. List names to the right.

ADS Facilities Management	
ADS Finance	
ADS Human Resources	
ADS Info Services	
Assessor	
Auditor	
Cooperative Extension	
District Court	
Executive	
Health	
Hearing Examiner	
Jail	
Juvenile	
Parks	
Planning	
Prosecutor	
Public Works	Jeff Monsen
Sheriff	
Superior Court	
Treasurer	
Other	

RECOMMENDED ACTION:

Approval by Council

COUNCIL ACTION TAKEN:

1998 - 409 11/24/98: Introduced
12/8/98: Amended and Approved 4-3, Brown, Brenner, Hoag
Opposed - Res. #98-078

Re.

Ordinance or Resolution Number
(this item): **RES # 98-078**

SPONSORED BY: CONSENT

PROPOSED BY: STAFF

INTRODUCTION DATE: 11/24/98

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

RESOLUTION NO. 98-078

A RESOLUTION MODIFYING THE CURRENT
WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT FUNDING MECHANISM
AND CLARIFYING THE GOVERNING AND ADMINISTRATIVE STRUCTURE OF THE
DISTRICT

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

WHEREAS, the governing and administrative structure of the District is now being modified and clarified by an amending ordinance of the Whatcom County Council,

WHEREAS, in concert with the changes adopted by the Whatcom County Council it is appropriate to address the relationship between the District and the County pertaining to the staffing of work needed to be performed in order to fulfill the purposes of the District; and

WHEREAS, Whatcom County Resolution 97-076 addressed the matter of the administration of the District but did so in a way that now needs to be redone to achieve greater clarity for the nature of the relationship between District and County; and

WHEREAS, Whatcom County Resolution 97-076 was enacted to provide continued funding for the activities of the WCFCZD; and

WHEREAS, the funding mechanism currently in place will not generate sufficient funds to enable the District to fulfill its purposes and responsibilities; and

WHEREAS, restoring the service charge for each parcel to an amount two times its current amount will generate an amount of money adequate for the District to perform its responsibilities; and

WHEREAS, addressing issues of water quality related to storm drainage and surface water runoff is integrally related to the powers granted to the District, and is a necessary aspect of salmon recovery plans that are being developed in response to a proposed listing of various salmon subspecies under the federal Endangered Species Act; and


NOW, THEREFORE, BE IT RESOLVED by the WCFCZD Board of Supervisors that the funding mechanism adopted by Whatcom County Resolution 97-076, Section 5, be amended to raise the service charge through December 31, 1999, unless further amended; that Section 2 be amended to clarify the nature of the relationship between the District and the Whatcom County Public Works Department; and that Section 3 be amended to reflect the changes contained in the amending ordinance; all amendments are set forth in Exhibit A attached hereto and by this reference incorporated herein.

BE IT FURTHER RESOLVED that the increase in the service charges for 1999 be dedicated to the Whatcom County Comprehensive Water Resources Plan.


BE IT FINALLY RESOLVED that the revised assessment formula described in Exhibit A is to be applied beginning January 1, 1999.

APPROVED this 8 day of December, 1998.

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT
BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

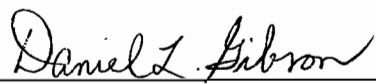


Bob Imhof, Council Chair

ATTEST:


Dana Brown-Davis, Council Clerk

APPROVED AS TO FORM:



Daniel L. Gibson
Whatcom County Deputy Pros. Atty.

EXHIBIT "A"

FUNDING MECHANISM FOR THE COUNTY-WIDE FLOOD CONTROL ZONE DISTRICT

SECTION 1. Purpose.

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

SECTION 2. Flood Control Zone District Creation and Authority.

A County-wide Flood Control Zone District, hereinafter referred to as District, was created pursuant to Whatcom County Ordinance No. 91-076. Said District shall be administered pursuant to RCW 86.15.060, by the county engineer, who for the purposes of this resolution is the Whatcom County Public Works Director. The District shall contract with Whatcom County for the provision of necessary staff and administrative support from the Whatcom County Public Works Department. Additionally, the District may make funding available in cooperative arrangements with the County and/or other qualifying parties for work to fulfill the purposes of the District.

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

SECTION 3. Definitions.

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

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

"Board" means the county legislative authority.

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

"Department of Natural Resources Designated Forestlands (DNRDF)" shall mean lands under the trusteeship or ownership of the Washington State Department of Natural Resources. The use of these properties shall be consistent with the Washington State Legislature's statutorily defined intentions to preserve lands for the protection of natural habitat or to preserve lands for the growth and harvest of commercial timber as defined in RCW Chapters 84.33 and 84.34.

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

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

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

"Supervisors" means the board of supervisors, or governing body, of a zone which, shall be comprised of the members of the Whatcom County Council and the Whatcom County Executive. The authority and duties of the Council members and the Executive as Supervisors shall be apportioned and exercised in accordance with the division of authority and responsibility provided in the Whatcom County Home Rule Charter.

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

SECTION 4. Policy for Service Charges.

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

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

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

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

SECTION 5. Method of Calculating Service Charges.

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

- Group 1: A parcels with an assessed value less than or equal to \$10,000.00 but greater than \$2,500.00
Charge Per Parcel: \$5.00.
- Group 2: All parcels with an assessed value less than or equal to \$30,000.00 but greater than \$10,000.00
Charge Per Parcel: \$7.00
- Group 3: All parcels with an assessed value less than or equal to \$50,000.00 but greater than \$30,000.00
Charge Per Parcel: \$20.00
- Group 4: All parcels with an assessed value less than or equal to \$75,000.00 but greater than \$50,000.00
Charge Per Parcel: \$30.00
- Group 5: All parcels with an assessed value less than or equal to \$100,000.00 but greater than \$75,000.00
Charge Per Parcel: \$40.00
- Group 6: All parcels with an assessed value less than or equal to \$125,000.00 but greater than \$100,000.00
Charge Per Parcel: \$50.00
- Group 7: All parcels with an assessed value less than or equal to \$150,000.00 but greater than \$125,000.00
Charge Per Parcel: \$65.00

- Group 8: All parcels with an assessed value less than or equal to \$200,000.00 but greater than \$150,000.00
Charge Per Parcel: \$80.00
- Group 9: All parcels with an assessed value less than or equal to \$400,000.00 but greater than \$200,000.00
Charge Per Parcel: \$90.00
- Group 10: All parcels with an assessed value greater than \$400,000.00
Charge Per Parcel: \$100.00

The District's service charge shall be calculated based on the parcel's assessed value on the last completed and balanced tax roll of the County except in the case of Department of Natural Resources Designated Forestlands. The District's service charge for Department of Natural Resource Designated Forestlands shall be calculated on a parcel's assessed valuation substituting the designated parcel's timberland acreage assessed value with a calculation of the designated parcel's timberland acreage multiplied by 95% of the assessment year ending average per acre assessed value of all acreage in Whatcom County participating in the Washington State Forestland Property Tax Exemption Program (RCW 84.33).

Service charges shall be due and payable to the Flood Control Zone District on or before April 30 of the respective year and shall be billed and collected together with real property taxes, if any, and shall be delinquent thereafter: *Provided,*

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

SECTION 6. County Administrative Support.

- A. The County Assessor shall provide administrative support services to the District. The County Assessor shall be responsible for: 1) Accumulation, coordination and maintenance of data for use in the Flood Control Zone District roll; 2) Auditing and verifying data base information and rates and charges; 3) Response to public inquiry and education on Flood Control Zone District funding mechanism policies and procedures.
- B. All District funds from service charges, grant funds, or any other revenue received shall be deposited in the District Fund which will be established by the Whatcom County Council.

SECTION 7. Administrators of the Roll.

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

SECTION 8. Treasurer.

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

SECTION 9. Implementation.

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

SECTION 10. Lien for Delinquent Charges and Foreclosures.

A. Pursuant to RCW 36.89.090, Whatcom County shall place a lien, which attaches to the land, on any parcel with a delinquent service charge, including interest thereon. Such liens shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290, except that the service charge lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor, as provided for in RCW 36.89.093, in lieu of the provisions provided for in RCW 35.67.210. In accordance with RCW 36.89.094, the County may commence to foreclose a service charge lien after three (3) years from the date flood control zone district charges become delinquent, in lieu of the provisions provided for in RCW 35.67.230.

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

SECTION 11. Overpayment Refund Requests.

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

SECTION 12. Administrative Refunds or Adjustments.

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

refunds authorized by the County Treasurer shall be presented to the Board of the District in January of each year.

SECTION 13. Amount of Refund Limited.

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

SECTION 14. Adjustments to the Roll

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

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

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

Properties requested by Washington State Department of Natural Resources to be designated or removed as DNRDF shall be submitted to the Whatcom County Department of Public Works by September 1 of each year. The Department of Public Works, together with the Assessor, shall review the request to determine ownership and land use qualification. DNRDF property designation or removal shall be made by the Whatcom County Flood Control Zone District Board of Supervisors. Transfer of ownership or trusteeship of property from the Department of Natural Resources shall remove said property from DNRDF.

SECTION 15. Severability.

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