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2
3
4 WHATCOM COUNTY COUNCIL
5 **Regular County Council**
6

7 November 27, 2001
8
9

10 The meeting was called to order at 7:00 p.m. by Council Chair L. Ward
11 Nelson in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.
12

13 Also Present:

14 Dan McShane
15 Marlene Dawson
16 Connie Hoag
17 Sam Crawford
18 Robert Imhof
19

Absent:

Barbara Brenner
20

21 **ANNOUNCEMENTS**
22

23 Nelson announced that there was **discussion regarding current collective**
24 **bargaining agreement negotiations (AB2001-390)** and **discussion with**
25 **Whatcom County Prosecutor Dave McEachran regarding pending litigation**
26 **(AB2001-018)** in executive session during the Committee of the Whole meeting.
27

28 McShane moved to allow councilmembers to contact the Lummi Tribe to
29 discuss issues regarding Portage Island. Following that contact, the County may
30 contact the IEC and encourage resolution of some of the issues out there.
31

32 Motion carried unanimously.
33
34

35 **APPROVAL OF MINUTES**
36

37 **COMMITTEE OF THE WHOLE FOR OCTOBER 23 AND NOVEMBER 13,**
38 **2001; REGULAR COUNTY COUNCIL FOR OCTOBER 9 AND 23, AND**
39 **NOVEMBER 13, 2001; WATER RESOURCES WORK SESSION FOR**
40 **OCTOBER 16, 2001**
41

42 Dawson moved to approve the minutes, including the amendments that were
43 distributed to the Council.
44

45 Motion carried unanimously.
46
47

48 **SPECIAL PRESENTATION**
49

1 **SPECIAL PRESENTATION BY REPRESENTATIVE DOUG ERICKSEN**
2 **REGARDING THE 2002 WASHINGTON STATE BUDGET (AB2001-017)**
3

4 Doug Ericksen, State Representative, thanked out-going councilmembers
5 Imhof, Hoag, and Dawson for their service to the county on the County Council.
6 They have helped guide the county through difficult issues over the last few years.
7 They have left the county a better place.
8

9 He would discuss three things: the State's general fund budget, the
10 Washington State transportation budget, and some issues that the County Council
11 and State government need to work on.
12

13 First of all, Washington State has a \$1.2 billion budget shortfall right now.
14 That estimate could rise in February. The top priority for the upcoming session is
15 law enforcement and protection of the citizens. He will make sure he can find funds
16 for Whatcom County for law enforcement. He urged the County and State to work
17 together on federal funding for border issues. There will be additional revenue from
18 the federal government for security issues. As a border community, they need to
19 make sure their voice is heard clearly at the federal level.
20

21 Cuts will be made in the State budget. A \$1.2 billion shortfall means that
22 they could cut the entire Departments of Natural Resources (DNR), Ecology (DOE),
23 Agriculture, and still have a \$600 million budget shortfall. It is a huge hole they
24 have to fill. The State has three options. They can reform government, cut
25 services, or raise taxes. He prefers to reform government. He asked the County
26 Council to contact the Washington State Association of Counties to urge them to
27 bring forward to the legislature a list of regulations, rules, and unfunded mandates
28 that the State sends to the County. They always talk about unfunded mandates
29 and those issues. As a legislator, he never sees the counties come forward with a
30 very clear effort to identify and eliminate those things. Every rule and regulation in
31 Olympia has a constituency. Whenever they begin to repeal those rules, those
32 constituents always appear. He is looking for assistance from county leaders
33 throughout the state to help the legislature in that effort.
34

35 Second, Washington State will work on the transportation package in the
36 upcoming session. He believed the tax will go to a vote of the people regardless of
37 what the State legislature does. It is incumbent upon the State legislature to
38 approve a package that the people will support. It only requires 98,000 signatures
39 to place a referendum on any law they approve. That is not many signatures. It is
40 half of the amount required for an initiative. The people of Washington will have a
41 referendum on any tax package they pass.
42

43 Whatcom County and the Council of Governments is doing a good job getting
44 Whatcom County back onto the radar map on the transportation committees. They
45 need to continue those efforts.
46

47 Third, he has been working to get funding for the sewer system for the Birch
48 Bay Water and Sewer District. He is working with the federal government and the
49 State to find additional revenue sources and ways to get that accomplished. His

1 philosophy is that they need to provide infrastructure development in the county to
2 grow well.

3
4 Another issue is regarding the placement of sexual predators in Whatcom
5 County. The legislature passed a bill requiring that sexual predators be returned to
6 the counties of origin. If a county sent five sexual predators to the special
7 commitment center at the McNeil Island Penitentiary, the county had to take them
8 back when they were done with their sentencing. That is due to a 1990 law. This
9 last year, the legislature fixed the sentencing guidelines. Now, they can keep these
10 people locked up forever if need be. Unfortunately, the people who were sentenced
11 under the prior law have to be sent to work release and other programs, even if
12 they are determined to be likely to re-offend. It is a terrible thing for the
13 community. It is legislation that the courts required. They need to deal with the
14 situation for the next ten years.

15
16 Hoag stated she understood that the sexual predator must be allowed to do
17 work release. She questioned whether there is some place they can all be put, and
18 make their work release be some job that needs to get done while still protecting
19 the communities. Putting these people all over the state puts a tremendous burden
20 on a lot of communities. Ericksen stated they could put them in one place, but they
21 still must be given the ability to go out and get jobs. Understandably, no
22 community wanted all of them in one place.

23
24 Nelson asked if there is bipartisan support for the programs this year.
25 Ericksen stated the Republican Party has slipped into the minority in Olympia.
26 These are the issues that the Republican Party will put forward. He expects
27 successful bipartisanship in terms of law enforcement. Whenever they get into a
28 time of crisis, they have to go back to fundamentals. A time of crisis also provides
29 opportunities to change how they do things. It is a golden opportunity to repeal
30 unfunded mandates to the counties.

31
32
33 **OPEN SESSION**

34
35 The following people spoke:

36
37 Kerry Chappell, 1121 Roland Street, brought forward a concurrent resolution
38 dated November 14, 2001 from the U.S. House of Representatives and Senate
39 establishing a National Day of Reconciliation to take place on Tuesday, December 4,
40 2001. On that day, elected representatives will pause to seek forgiveness,
41 reconciliation, unity, and charity for the blessings of providence, on behalf of all
42 people of the United States. She asked the County Council to recognize this day,
43 write a proclamation to the citizens of the county about this resolution, and allow
44 the people who so desire to assemble in the courthouse rotunda for the
45 intercessory National Day.

46
47 Hoag moved to approve the proclamation in section number one of Ms.
48 Chappell's letter, and requested the County Executive to come forward with a
49 proclamation for section number two.

1
2 Motion carried 5-1 with McShane opposed.
3

4 Leonard Lindstrom, Bellingham, stated God took him home in 1955, and he
5 has been with God ever since. He is not an alcoholic. He can cure and prevent
6 alcoholism with God's help. He is not a Christian. He will not defile his earthly
7 creators.
8

9 Bob Wiesen, 3314 Douglas Road, stated the Endangered Species Act does
10 not require the County to do what it plans to do. Be very careful about how the
11 County approaches it.
12

13 Some time ago, he went to a seminar on Lake Whatcom where experts from
14 Seattle presented information. The County hired them to do a study on Lake
15 Whatcom. He has never seen the report. That report should be publicized before
16 they have a moratorium.
17

18 Alex Cummings, resident, thanked the Council for allowing the public to be
19 involved with the governmental process. She also thanked the County Council for
20 being in contact with the public. That is a problem in the City right now. She
21 thanked the County Council for looking at the moratorium seriously. It is a
22 wonderful opportunity to look at protecting the health of the lake and the citizens.
23 She runs a nonprofit agency called the Environmental Exposure Network. She and
24 her husband are nurses. They are doing a countywide health survey. Anyone is
25 invited to participate.
26

27 Marian Beddill, 3600 Seeley Street, distributed proposed alternatives to the
28 language for the moratorium in the Lake Whatcom watershed (*on file*). On an
29 unrelated issue, appointments are scheduled to the Whatcom County Planning
30 Commission. She is in favor of applicant Wynne Lee from Lummi Island.
31

32 Nelson stated the Planning Commission appointments have been withdrawn
33 from the agenda.
34

35 Kim Scott, 3450 Sheridan Trail, stated that when the County Council
36 considers the moratorium in the Lake Whatcom watershed, they should fairly
37 compensate the property owners in the watershed if their development rights are
38 taken away. His property would not be affected, but to take away something,
39 without compensation, that the owners have purchased would be the ethical
40 equivalent of stealing.
41

42
43 **PUBLIC HEARING**
44

- 45 **1. ORDINANCE AMENDING AND UPDATING THE 1990 POINT ROBERTS**
46 **SUBAREA COMPREHENSIVE PLAN, THE OFFICIAL WHATCOM COUNTY**
47 **ZONING MAP, THE OFFICIAL COMPREHENSIVE PLAN MAP, AND**
48 **AMENDING THE TEXT OF THE OFFICIAL WHATCOM COUNTY**
49 **COMPREHENSIVE PLAN (AB2001-310E)**

1
2 Sylvia Goodwin, Planning Division Manager, introduced the consultant that
3 has been working on this project, Rick Sepler. They have been working for over a
4 year now with a committee in Point Roberts. They have a recommendation from
5 the Planning and Development Committee for a few amendments.
6

7 Rick Seplar, Madrona Planning, stated there are key issues and
8 recommended solutions in the draft plan. One issue that is controversial is
9 transitional zoning. The Planning and Development Committee recommendation is
10 for approval, with some modifications to the Planning Commission draft.
11

12 Point Roberts is a unique area that contains many special qualities. Those
13 qualities have led to much speculative platting of the area. In addition, commercial
14 development in Point Roberts has not been coordinated and is somewhat
15 haphazard. That doesn't diminish the quality of commercial development. It
16 means that the sum of the parts is less than what could be achieved if they are in
17 closer proximity. These efforts have created a supply of lots that can anticipate and
18 meet the needs of growth for Point Roberts for many years into the future. The
19 lack of community focus for commercial development has created a lack of
20 opportunity to create a sense of community identity.
21

22 In looking at the key issues as identified by the steering committee, the
23 challenge of the preexisting lots is difficult. Many have stated that those
24 preexisting lots are undesirable, however few people are willing to consolidate
25 those lots or consider them to not be legal lots of record. The challenge is how to
26 accommodate a desire for additional development in a manner that would be
27 consistent with the countywide planning process and the Comprehensive Plan, while
28 preserving many of the special qualities of the area. A proposed solution is
29 transitional zoning, which is a means that would allow additional lots to be created,
30 but that must reach a higher threshold of quality. Specifically, the lots would be
31 established in transitional areas at one dwelling unit per five acres. If an owner
32 provides all three of the following provisions, a lower density could be
33 accommodated and a yield of higher lots could result:

- 34 **1.** An offsite or step system could be accommodated. Should an offsite
35 system be available at some point, it would be easy to connect to.
- 36 **2.** There be a clustered design. The amenities of Point Roberts include open
37 spaces, uninterrupted views, and the preservation of mature foliage.
38 While not compromising the potential yield for a property owner, there
39 are ways of configuring a development to accommodate open space and a
40 yield that would be consistent with the current zoning.
- 41 **3.** Open Space. An important element of Point Roberts is the undivided
42 spaces that are available for light, air, and view.
43

44 The second major thrust of the plan was to deal with the focusing of
45 development into a core area. The steering committee recommended directing that
46 growth, with some enhancements, into a centralized area. Judicious infrastructure
47 improvements would provide incentive to encourage growth in those areas.
48

1 In addition, this project has been reviewed and discussed by the community
2 on a number of occasions. The steering committee meetings were well attended.
3 Public comment was received. Recommendations were forwarded to the Planning
4 Commission, many residents of Point Roberts, and people who have property
5 interests there. Residents attended the Planning Commission meeting and
6 commented extensively. A recommendation was forwarded to the County Council's
7 Planning and Development Committee from the Planning Commission. The
8 committee made modifications to the Planning Commission recommendation,
9 outlined in a memorandum dated November 20, 2001 from the County Planning
10 staff.

11
12 The Planning Commission recommends allowing transitional zoning and
13 existing zoning. The two-tiered system was more appropriate and manageable to
14 administer over time. The bulk of the changes addressed in the memorandum
15 address those issues specifically. It reverts back to the steering committee's
16 recommendation.

17
18 There were minor changes that address the build out totals and minor
19 changes to the land use map.

20
21 Sylvia Goodwin, Planning Division Manager, stated the map on Council
22 packet page 430 is the correct map that should be attached to the ordinance. It is
23 version 5.0. The map on page 435 has the earlier version, 4.0. Make sure that the
24 correct map is attached to the ordinance.

25
26 Crawford asked how many people attended the October 9 and October 23
27 subcommittee meetings, how many people are on the subcommittee, whether all
28 the subcommittee members attended, and what the votes were on the transitional
29 zoning. Goodwin stated that was for the Planning and Development Committee. It
30 was misnamed the subcommittee in the memo.

31
32 Seplar stated several properties were included within the agricultural
33 protection overlay, although the likelihood of them ever sustaining agriculture is
34 very unlikely. Because of that, the recommendation is that the overlay be removed
35 from property in Point Roberts. There is no historical use for agriculture on the land
36 so designated. The lands were solely designated because of their soil type. It is
37 unlikely that they will ever accommodate agriculture.

38
39 Dawson asked the value of the small lots. Seplar stated there are a number
40 of lots that could not sustain development because of their size. They are
41 inadequate in size. He imagined that the value is nil, individually, until the
42 community sewer is available, if ever. They are lots that do pay taxes and are legal
43 lots of record. They would be deficient if created by current standards.

44
45 Nelson opened the public hearing and the following people spoke:

46
47 Fritz Mueller, Edwards Drive, Point Roberts, stated he has a problem with the
48 idea of leaving the five-acre parcels as is, without giving them any chance to
49 develop at a density other than one house per five acres. The potential total is

1 approximately 7,700 dwellings for Point Roberts, subject to the availability of public
2 water and sewer. The R5A zoning for those lots allows only 132 houses, out of
3 7,700. If these people were allowed transitional zoning, they would only add 400
4 houses. Because the consultant can't stand the idea of having another six percent
5 of housing in Point Roberts in the next 50 years, he is condemning many people to
6 be stuck with a zone of one house per five acres. The Council has an opportunity to
7 insist on cluster development. If it does, green space will be retained. If every
8 parcel was required to do cluster development, they would retain 50 to 60 percent
9 of green space. Point Roberts is only 2.5 miles square. If they compare that to any
10 other rural area, there is more green space that is preserved forever. Amend to
11 give transitional zoning to all the properties, not just a select few.
12

13 Dean Imbeau, Georgia Way, thanked the Planning and Development
14 Committee, specifically Dan McShane, for its accessibility and recommendations on
15 changing the zoning on Georgia Way to RR2. It is reflected on version 5 of the
16 map.
17

18 John Lesow, 317 Madrona Place, stated he has lived there for ten years. The
19 only property that he owns is on 1.5 acre. Don't make the decision tonight. Defer
20 the decision until after the new councilmembers takes office. He read from the All
21 Point Bulletin from 1989, prior to the passage of the Point Roberts subarea plan.
22 The outrage at that time was that they were going to be downzoning Point Roberts
23 by doing the subarea plan. Ten years later, the subarea plan has served Point
24 Roberts well. They've had a 30 percent increase in growth, which is twice the
25 growth of Whatcom County. There has been construction of high-end housing. Of
26 all of the projects on the implementation schedule of the subarea plan, only one
27 has to do with sewers. The Taxpayers' Association supports that project.
28

29 Point Roberts is never going to be a magnet for industry and family-wage
30 jobs.
31

32 *(Clerk's Note: End of tape one, side A.)*
33

34 Ruby White, 1783 Edwards Drive, Point Roberts, stated that the Council
35 should adopt this ordinance tonight. This has been ongoing for a very long time.
36 She thanked the Planning Commission for the work it did. For 21 years, she's
37 owned a commercial building at the entrance to Point Roberts. It has been zoned
38 urban residential, three units per acre (UR-3). No one has ever lived there or ever
39 will. Having the UR-3 zone wasn't going to make the building go away. They are
40 being legitimized.
41

42 Greg Heppner, 1728 Edwards Drive, Point Roberts, stated the unserved,
43 interior, wooded lots on Point Roberts have a value of between \$10,000 and
44 \$15,000. To service them, it costs \$3,000 to \$15,000. He is concerned about the
45 transitional zoning. Some of the largest demand is for either waterfront or view
46 property. The property that is proposed to be zoned R5A and borders Marine Drive
47 by Lighthouse Park should be transitional zoning. It can have a larger density to
48 facilitate the demand for property in those areas.
49

1 McShane stated an air park has been set up in that area.

2
3 Tom Hullett, 380 W. Bluff Road, Point Roberts, stated there has been a thrust
4 to have a big pipe sewer system. Most people are against it, including the Voters'
5 Association, the Taxpayers' Association, and the water district directors. They
6 brought in companies that make systems to accommodate one home or a cluster of
7 homes and businesses. The user must pay. The whole Point should not subsidize a
8 sewer system for four or five big developers.

9
10 Many of the people on the Point came there because they like it the way it is.
11 He is trying to preserve the integrity of the Point, while recognizing the fact that
12 they need development in the recreational and commercial district. Long-time
13 large property owners should be able to capitalize on that, without sacrificing what
14 the majority of the people on the Point want. They've been thinking about what
15 they want the Point to look like in 30 years. Develop properties that allow for view
16 corridors. Anyone who agrees to this could be allowed to put in higher density
17 housing on the 50 percent of the property.

18
19 They are also talking about preserving the views of homes that have them
20 now. Prevent existing views from being blocked by new development.

21
22 McShane questioned whether large homes that block views are generally
23 near the shoreline. Hullett stated a home on his street is being built right on the
24 bluff. It replaces a smaller house. That house, when it will be done, will be
25 approximately 40 feet wide and as tall as one story, plus a roof. Before, the house
26 was lower. That home is obliterating the view of a number of people across the
27 street. The people who own the bluff property should be allowed to build, but not
28 to the detriment of the people across the street.

29
30
31 Patricia Coombs, Point Roberts, stated she recently bought a small house on
32 Georgia Way. The cul de sac is very quiet. It was listed as commercial property,
33 so she believed that in the future it might yield a better price when she sells it.
34 Being rezoned to rural residential will devalue her property. Don't turn the area
35 into rural residential zoning. Next to her is a rental property.

36
37 Richard Craddock, 481 Georgia Way, Point Roberts, asked the Council to
38 reconsider adopting the amendment for Georgia Way. In the last three years, he
39 built a garage facility on Georgia Way. He rents out the garages. He bought two
40 lots there, and consolidated them. He found a use that didn't require sewer or any
41 utility. The facility has no impact on the neighborhood. It is not a repair garage.
42 It is just a garage for people to put their vehicles and boats. It is a logical,
43 reasonable use in the downtown core area. There is very little commercial property
44 in Point Roberts. A commercial painter is next door to him, and Mrs. Coombs is
45 interested in retaining the commercial value of her lot also. This is the highest and
46 best use of this property because it is low, and it doesn't drain.

47
48 Jack Swanson, 900 Dupont, Bellingham, stated he represents Mr. Craddock
49 and Ms. Coombs. The proposal of concern is about changing the optimum land use

1 map, version 4.0 from resort commercial to rural residential, two dwelling units per
2 acre (RR2). The original proposal recommended by the consultant and approved by
3 the steering committee and Planning Committee was to rezone this property to
4 small town commercial. The proposal affects few people. Three of the property
5 owners within that cul de sac have testified on this subject. This property is a short
6 distance from the commercial center of Point Roberts. The proposal gives some
7 depth to the commercial area. That depth has value because it is more likely to
8 have utilities. There is more incentive to get a sewer in there because the land
9 values will support it. The character of the area is commercial. No justification has
10 been offered about why there should be a deviation from the recommendation that
11 began at the beginning of the process and worked its way through the process to
12 the Planning Committee.

13
14 One of the factors that may have influenced this decision is the dispute
15 between Mr. Craddock and the County staff about the interpretation of the zoning
16 code. The proposal to zone small town commercial would resolve the dispute. It is
17 a dispute about the definition of a garage and the uses that are allowed. Mr.
18 Craddock has a legitimate dispute. They may have to litigate the dispute. It is still
19 in litigation at this time. Planning is supposed to deal with properties, not
20 personalities. Based upon the testimony of Mr. Imbeau at previous meetings, this
21 decision was made to change the recommendation of the Planning Commission and
22 punish Mr. Craddock by zoning his property RR2. That would make his business a
23 nonconforming business.

24
25 Hoag stated Mr. Swanson testified that the proposal was to rezone the area
26 to small town commercial. The two people who testified before Mr. Swanson said
27 that the property is already zoned commercial. She questioned what the current
28 zoning is. Swanson stated the current zoning is resort commercial.

29
30 Gordon Nielson, 1797 Cliff Road, Point Roberts, stated he has lived on Point
31 Roberts for 24 years. He's operated a business there for 22 years. He is a U.S.
32 citizen. He asked the Council to adopt the revised plan. This debate can go on
33 forever if they allow certain little groups in areas to apply pressure tactics.

34
35 Michael Rosser, Point Roberts, stated he was on the subcommittee that
36 drafted the plan. He is also a board member of the Point Roberts Taxpayers'
37 Association. He submitted a letter to the Council regarding the Planning
38 Commission's changes. The Taxpayers' Association prefers the document that was
39 designed by the subcommittee.

40
41 The transitional zoning is a laudable way to deal with some of the issues in
42 Point Roberts, specifically the fact that there are many more lots in Point Roberts
43 that can be developed at its present rate of growth. The question was how to deal
44 with the issue of allowing people to develop more lots. The solution was the
45 transitional zoning. That would allow someone with a large parcel to develop at one
46 house per acre, provided they did certain things to create better quality lots.

47
48 Public sewers are not a popular idea because of the costs involved.
49 Transitional zoning allows clustering of the infrastructure, so sewer would be

1 cheaper if it ever comes. The Taxpayers' Association supports sewers for Gulf
2 Road. That area is going to be the genesis that helps Point Roberts. No one has
3 said that sewers for Gulf Road are a bad idea.
4

5 Syd Wallace, 528 South Beach Road, Point Roberts, stated he was a member
6 of the steering committee. He disagreed with a lot of things in the plan developed
7 by the steering committee. The plan was not based on data, the growth of Point
8 Roberts, its types of business, its trade balance, or its cash flows. It wasn't based
9 on economics or to establish a community where people can live and work. The
10 only businesses that are successful at Point Roberts are niche businesses that
11 depend on the business of the Vancouver region. The Post Office and shipping
12 facilities do about \$1 million of business per year. There are two banks for a
13 population of 1,300 people. Those banks survive because of U.S. accounts held by
14 Canadians. Real estate has been good. The building industry has been good.
15 Apart from that, there isn't any other business. The retail businesses barely
16 survive. When they talk about a vibrant town center, all the retail businesses in
17 that location have closed. There are not any attractions to bring in tourists. There
18 is a lot of dreaming going on here. The possibility of a village only happens when
19 the economics are there. Economics are determined by successful businesses.
20

21 Some of the things provided for in the plan are nonsense, including a
22 centralized drainage system. It won't work. They have a very good drainage
23 system that is well engineered. The Engineering Division is faced with some very
24 complicated drainage problems due to new State regulations.
25

26 Hearing no one else, Nelson closed the public hearing.
27

28 McShane moved to adopt the ordinance as amended by the Council Planning
29 and Development Committee.
30

31 Hoag moved to amend Council packet page 426, section 4.6, to say, "Under
32 this concept, parcels deemed **designated** transitional...." That change was made
33 under section B of the Executive Summary. Goodwin stated she noticed that word.
34 The more appropriate word would be "designated."
35

36 Motion carried unanimously.
37

38 Hoag reminded the Council to adopt map version 5.0 when they adopt the
39 final ordinance.
40

41 Nelson questioned whether there were any map changes other than what is
42 on version 5.0.
43

44 McShane stated the changes made by the Planning Committee are included
45 on map version 5.0.
46

47 Hoag stated the committee also recommended removing the third option and
48 the agricultural protection overlay language. Those changes are all in the memo
49 from Ms. Goodwin dated November 20, 2001, beginning on Council packet page

1 425. She moved to adopt the Point Roberts subarea plan, as amended by the
2 Planning Committee, which is reflected in the memo dated November 20, 2001
3 from Sylvia Goodwin.
4

5 Nelson stated one property owner testified that he didn't want the property
6 on Georgia Way to be zoned commercial. Goodwin stated that is correct. Two
7 other property owners testified that they want the properties to remain commercial
8 zoning.
9

10 Nelson moved to change the zone of properties on Georgia Way to the resort
11 commercial zone to commercial zone.
12

13 Hoag stated there was quite a bit of discussion regarding this at the Planning
14 Committee. She asked staff to share their insight on it. There was mention in
15 tonight's testimony of a garage. It is not a garage. It is a mini-storage facility. It
16 is illegal. The neighbors have complained. One neighbor provided photographs of
17 the parking problem. One of the persons who testified for the area to be
18 commercial said that it is a very quiet street. However, a very quiet street with
19 houses is not an area they would want to change to commercial.
20

21 Goodwin stated the zone is resort commercial. Resort commercial allows
22 garages. When Mr. Craddock built the property, he asked whether a garage would
23 be an acceptable use. The Planning Department made it clear that the intent was a
24 parking garage to park in, and a mini-storage would not be allowed. Mr. Craddock
25 built the facility as a garage. Since then, he's rented out each garage unit
26 individually, operating as a mini-storage and having garage sales that operate as
27 commercial. There are photographs that show it has been an ongoing compliance
28 case. Rezoning the area to small town commercial would solve Mr. Craddock's
29 problem because one could have a mini-storage in that zone. Before the garage
30 came in, the area was residential. It was zoned resort commercial, but the
31 predominant use was residential before the garage was built.
32

33 Nelson questioned whether the rest of the properties on the street are used
34 as residential. Goodwin stated the rest of the neighborhood is built with houses.
35 That doesn't mean the owners intend to use the properties as houses. One person
36 testified earlier that she bought the house intending to convert it to a business
37 because the zone is resort commercial. The area other than the garage is a
38 residential use now.
39

40 McShane stated he's driven down that street. It is a narrow residential
41 street. It is in no way designed to handle a small town commercial zone at the end
42 of it. It is inappropriate to have it zoned that way. The Planning Committee held
43 its hearing on September 11, and not many people were able to come and speak on
44 the enforcement issues for this property and their frustration of how long it took to
45 do the enforcement on this. The owner stands to benefit enormously to go from an
46 illegal activity to becoming legal. The street is not designed for it. The pictures
47 don't do justice showing how narrow the street is. It is not meant for that kind of
48 commercial traffic that is going on there now. Leave the zoning that the committee
49 recommended.

1
2 Crawford agreed with Councilmember McShane. The code specifically allows
3 parking lots or garages. The intent is clear. He questioned the basis of the owner's
4 litigation. There is nothing that allows any storage rentals. The other permitted
5 use in the code is one storage building per lot, provided that the storage building
6 shall not exceed 120 square feet in floor area, and shall only be used for personal
7 storage and not for habitation or business, and provided further that the storage
8 building shall contain no indoor plumbing, but may be served with electrical power
9 for lighting. He questioned whether there is something else in the code that would
10 allow this use. Goodwin stated no. The owner built it as a parking garage. He
11 came in asking for an administrative interpretation. The Planning Department
12 specified allowed parking lots or garages. The intent was to be a garage to park in.
13 The owner pushed the envelope to make it multiple garages that he would rent out
14 strictly for parking. The basis for his building permit was that it would be for
15 parking, not for mini-storage. The Planning Department didn't intend to allow
16 someone to build multiple garages on one piece, and rent them out. The owner
17 pushed the definition, which doesn't say that they are not for rental. There is not a
18 definition of a garage. However, a garage is somewhere one would typically park a
19 car, not park kitchen appliances. The owner built the garage knowing that was not
20 the interpretation the Planning Department made of the County code.

21
22 Nelson questioned what came out of the steering committee. Goodwin
23 stated the original committee recommendation was to zone it small town
24 commercial. The committee put all the properties that used to be resort
25 commercial into small town commercial. At that point, there was not discussion or
26 intent to legalize this particular use.

27
28 Hoag stated the photographs that the Planning Committee was shown were
29 clear that this facility is a mini-storage.

30
31 Nelson withdrew his motion to amend. He is concerned about the facility
32 being at the end of a cul de sac. He questioned why the Roof House on Marine
33 Drive was removed from the commercial zone. Goodwin stated the Roof House
34 Restaurant has never been zoned commercial. It has always been a nonconforming
35 use in a residential zone. It is remaining that way. The use would be
36 grandfathered in. The owner would like to be rezoned to commercial so he can
37 expand or convert to a different use. He would have to submit a rezone
38 application. The property is not contiguous with other commercial properties. It
39 would have to be a spot zone or a long strip of commercial zoning to get out to that
40 area.

41
42 Crawford moved to reinsert the Planning Commission's third option where
43 appropriate. The sentence that says, "...development to the highest density not
44 allowed until implementation..." is unclear. What it means is that development can
45 only go to the provisions in the previous paragraph until the implementation of
46 public or private sewer. He would leave it to staff to make the wording clear, but
47 that is the intent of his motion. If they don't implement this, it would be the
48 biggest downzone that has occurred since he has been on the County Council. The
49 Point Roberts subarea plan has required a considerable amount of review on a

1 number of issues. In that time of review, he has not been persuaded that the
2 existing levels of zoning are going to be a detriment to the quality of life or financial
3 opportunities in Point Roberts.
4

5 Hoag stated the deletion of the third option was recommended by the
6 Planning Committee to be consistent with the results of the committee that met on
7 Point Roberts. The consultant and committee said that all of the people and
8 everyone on the committee agreed that they want to preserve open space and rural
9 character. They came to a compromise to allow this transitional zoning to keep
10 open space as parkland, and still have more lots for development. If they add the
11 third option, they've taken away that compromise. This is the compromise that the
12 community came up with. Everyone who spoke to the Planning Committee and this
13 Council have said they don't like the third option.
14

15 *(Clerk's Note: End of tape one, side B.)*
16

17 Hoag continued to state that they should keep it the way the committee has
18 it. The third option is not appropriate.
19

20 McShane stated one of the issues is the tracking and administrating of the
21 third option. It will be a mess for the County to keep any sort of record on this
22 issue. The Planning Committee spent an hour and a half getting educated on the
23 transitional zone and the third option. It was so complicated that he never
24 understood it. The two choices now are clear and understandable. It makes sense
25 and is what the community wanted. A large group worked hard on the plan. It is a
26 great compromise. Just because it reduces the total number of potential buildable
27 lots, it's like a horrible, poison pill that they fear. The County Council has never
28 done a downzone since he and Councilmember Crawford have been on the Council.
29 It wouldn't be the largest downzone; it would be the only time that they've thought
30 about it. He doesn't consider it a downzone anyway. They are creating an
31 opportunity for people to be flexible and develop their property in the short term in
32 a much more sensible approach than what is currently out there.
33

34 Nelson questioned whether sewer and water would have to be required
35 before using the UR-3 or UR-4 zoning. Goodwin stated that under the current zone,
36 the property is held at one unit per five acres unless they have public water and
37 sewer.
38

39 Nelson stated that if they don't get public water and sewer, all the property
40 gets is one unit per five acres. Goodwin stated that is correct. Under the proposal
41 with the transitional zoning, an owner could go for one unit per acre if they do a
42 step system. They are actually getting five times the density they have if sewer
43 doesn't go in. They are losing the potential of developing at UR-3 or UR-4 if sewer
44 is ever available.
45

46 Nelson stated he didn't know when they can get sewer up there. It has been
47 an ongoing issue for years.
48

49 Dawson stated it sounds like they don't want it.

1
2 Nelson stated they probably don't want it. He questioned what happens to
3 these properties if someone puts in a sewer. Goodwin stated that if someone put in
4 sewer, a property could have one unit per acre if clustered, and develop those lots.
5 That would provide a lot of lots for Point Roberts. If they wanted to develop at
6 three units per acre with sewer, they would eventually run out of water because
7 there isn't enough water capacity to serve 10,000 lots. If they had a UR-3
8 development with sewer, there would be about a 100-year supply of lots at the
9 current development rate, and there wouldn't be any water to service them. It
10 preserves the speculative land value, but the reality is that there isn't the water or
11 projected population to fill up all those three unit per acre lots, and it likely wouldn't
12 happen.
13

14 Nelson stated that if someone still wanted to speculate, he or she could
15 request a rezone. Goodwin stated he or she could if the population grows, the
16 border situation is resolved, the jobs are there, and the water is increased. Those
17 reserve tracts that would be left over after the transitional zoning would be ideal for
18 a future subdivision if there is a demand.
19

20 Hoag stated Councilmember Crawford said it would be the biggest downzone
21 he ever saw. On pages 70 and 71 of the subarea plan, it has an analysis of
22 available lots under current zoning and under the proposed zoning. There is very
23 little difference. Under the proposed zoning, more lots would be available for
24 development if there were public water but no sewer. The compromise was that
25 they allowed more lots to be developed under the proposed zoning if they did this
26 cluster development. The current zoning allows a total build out of 11,079 if there
27 is public water and sewer. The proposed zoning allows a total build out of 10,878
28 units. Without sewer being available, the proposed zoning allows 2,337 units and
29 the current zoning allows 1,796 units.
30

31 Crawford stated the Planning and Development Committee did not get a lot
32 of public comment from the property owners who would be affected because they
33 submitted their comments in writing. There are many letters from concerned
34 property owners who are opposed to this.
35

36 Regarding tracking this, if there is any question about what the zoning was
37 and that the Planning Department has a problem tracking, he would be glad to
38 donate the mayonnaise jar to put this map in, so that down the road, they can pull
39 it out and see what the zoning was. He stated that he is being flippant.
40

41 McShane stated that is not the issue.
42

43 Crawford stated he is being flip, and intentionally so. The tracking issues can
44 be resolved in spite of clustering and all those other things they could look at.
45 Every subdivision is going to be subject to a whole layer of regulation and review.
46 Those issues can easily be resolved in the future.
47

48 Motion failed 1-5 with Crawford in favor.
49

1 Nelson moved to forward the ordinance as amended, including the version
2 5.0 map, to the concurrency hearing.

3
4 Motion carried 5-1 with Crawford opposed.

5
6 **2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY**
7 **COMPREHENSIVE PLAN MAP TO BRING CONSISTENCY TO THE**
8 **NORTHERN UGA BOUNDARY FOR FERNDAL AND THE COUNTY**
9 **(AB2001-310D)**

10
11 Elizabeth Olsen, Planner II, gave a staff report and stated the section line
12 was followed rather than the owner's property line when the urban growth area
13 (UGA) boundary was drawn on the map. This is the only process to change the
14 error. The City of Ferndale has amended its maps. The entire applicant's parcel is
15 currently in the City of Ferndale urban growth area (UGA). Whatcom County must
16 amend it's UGA to take into account the ten acres. The staff's recommendation is
17 for approval. Although it is in use as an agricultural area, it will be one of the areas
18 that should be made ready for the possibility for industrial development when
19 utilities are installed because it is at the intersection of the Grandview Road and
20 Interstate 5 interchange. The photo slides show the location of the ten-acre parcel
21 and 40-acre parcel belonging to the proponent; an aerial photo of the area and
22 surrounding land uses; and the actual location.

23
24 The objective for the Ferndale UGA is to add the ten acres that should have
25 been part and parcel of the complete property of the applicant.

26
27 Heather Whalen, representing the applicant, stated there were several
28 questions about the location of the property during the previous hearing. She
29 showed photographs of the area. The owner purchased this parcel in 1970. It
30 became part of Ferndale's urban growth area in 1996. The corner section line was
31 followed when the mapping line was drawn. Once it is submitted to the State, the
32 only way to change it is to go through the entire process, which they are doing.
33 They went through the process with the City of Ferndale. They held a public
34 hearing. The neighbors attended. The City incorporated that area into the UGA.

35
36 Olsen showed the section line and property line on the zoning map.
37 Dwellings on Atwood Road are zoned rural, one dwelling unit per five acres (R5A).

38
39 Imhof questioned whether Atwood is a private road. Olsen stated part of it
40 is, and part of it isn't.

41
42 Whalen stated there aren't any neighbors that are directly adjacent to the
43 property except one at the northwest end.

44
45 Hoag questioned whether any of the maps show the location of California
46 Creek. Whalen showed the location on her map. By any technical standards she's
47 researched, it has been designated as a drainage ditch. It has never been defined
48 as California Creek, which is on the other side of Interstate 5 and Portal Way. It
49 does feed into California Creek after it goes through a culvert, across Interstate 5.

1
2 Crawford questioned where the water comes from and that goes through the
3 property. Whalen stated it comes from the ditch along Portal Way. After it flows in
4 the ditch along Portal Way, it flows around a bioswale at the AM/PM, runs along
5 Grandview Road, goes through a culvert under Grandview, and goes through a
6 culvert under Interstate 5 to a catch basin under the County frontage road, and
7 enters a property along a ditch.
8

9 Crawford questioned whether California Creek eventually goes back under I-5
10 to the west. Whalen stated California Creek is west of I-5. This ditch feeds into the
11 creek.
12

13 Hoag questioned whether it would be more appropriate to call it a tributary,
14 or if this is where California Creek begins. Whalen stated California Creek begins,
15 by definition, on the other side.
16

17 Crawford stated these are ditches in the California Creek drainage. Whalen
18 stated none of this is on the Fisheries maps.
19

20 Nelson opened the public hearing and the following people spoke:
21

22 Brian Likkel, 7104 Atwood Road, stated he is opposed to the proposal. He
23 has a small farm in the area. All of the area is zoned R5A. He was always under
24 the assumption that there would be homes going in at that location. He had no
25 idea that it would be brought into the urban growth area. He's lived there 13
26 years. There is a thriving community back there.
27

28 Jim Stevens, 7080 Atwood Road, stated he is opposed the project. However,
29 the owner has a right to develop his property. The neighbors are concerned. He is
30 concerned about drainage causing flooding on his property and the neighbors to the
31 side.
32

33 Frank Eventoff, 7086 Atwood Road, stated that 14 families live in that area.
34 All the families except one are opposed to the proposal. None of those families
35 were notified in 1996 that the urban development was being considered. He saw
36 salmon swimming in the creek four to six years ago. There is a lot of flooding. The
37 land does not drain very well. There are wildlife concerns. This application is not in
38 compliance with the Department of Fish and Wildlife. Bob Warner told him that
39 there are issues around this creek. He feels that Councilmember Imhof may have a
40 conflict of interest on this issue because of a possible relative. This is a tranquil
41 and peaceful area. There are many children. They are concerned about traffic.
42 They are concerned about the oil runoff from asphalt. There are issues that are not
43 appropriate for this ten acres that will come up later. The ten acres is a concern of
44 the neighbors because it represents the tranquility in the neighborhood.
45

46 Greg Ebe, 2212 Birch Bay-Lynden Road, stated he owns 20 acres adjacent to
47 the subject property, directly to the east. He also owns 20 acres to the north of the
48 property, and 100 acres to the northwest of the property. He is in favor of the
49 amendment. He was aware of the commercial zoning of the property when he

1 purchased his property. This type of development should occur in areas close to
2 the interchange. There are two state highways, Portal Way and Grandview, in close
3 proximity. The railroad and Interstate 5 is nearby. To the northeast is the
4 Bonneville Power Administration (BPA) major power transmission lines. There is
5 also Public Utility District (PUD) water service available for potable water and fire
6 protection services. There is also Atwood Road, a frontage road, that was built with
7 Interstate 5 in 1961. This amendment will not adversely affect his property. It is a
8 logical place for this development to occur, which is essential to the economic
9 health of the county.

10
11 Kathy Freeman, 7072 Atwood Road, stated there is a lake in the area that
12 has bluegill and bass. Geese and ducks come every year. When the owner showed
13 the neighbors the plan for his property, he proposed putting a catch basin in the
14 area for runoff. There would be no lining of any sort. The entire area is very
15 sandy. The water table is very high. Any petroleum products used there would
16 immediately go into the ground. It is absorbed immediately. She works in the
17 business park that Mr. Jansen owned. Mr. Jansen builds the roads, subdivides the
18 parcel and sells the lots. He has no say in what businesses go into the park. The
19 businesses in the other park used dangerous petroleum products. Things like this
20 went on in Mr. Jansen's other business park across the freeway. Her children do
21 after school sports. Where Mr. Jansen proposes to put his access will only be
22 developed if the person who owns that property will provide a right-of-way.
23 Otherwise, his access will be near where the children meet their school bus.
24 Neighbors asked him to move the pond to another location, but they haven't heard
25 whether or not he will. The trees at the north end of the property were just
26 planted. They are brand new trees. All of the land has been farmed. The wildlife
27 comes in and out of there. Children ride their bikes and go into the woods to play.
28 She would prefer that homes were built in the ten acres.

29
30 Boyd Kiel, 7012 Atwood Road, stated he is close to the ten acres. There is a
31 lake there. If the subject property is changed to industrial land, the industrial
32 property will be 50 feet from the lake. His place and other homes are on the lake.
33 The subject property is ideal for residential property. Residents would be able to
34 enjoy the lake.

35
36 Brad Freeman, 7072 Atwood Road, stated he is opposed.

37
38 Glen DeVore, 5938 Pearl Lane, Ferndale, stated he is a property owner to the
39 east of the applicant's property. He is in favor of the application. Many different
40 things make property unique. One of those things includes location. The
41 intersections and the proximity to Interstate 5, Grandview, and those things make
42 this property a natural for light industrial use and commercial use. It seems as if
43 this narrow strip was inadvertently left out of the boundary. This is a good use of
44 this land. The ideas of the ditch staying as they have been will be dealt with when
45 the permits are approved. The neighbors' concerns are related to the status quo,
46 as opposed to what would be the end result after the project is completed. He
47 recommended approval of the application.

1 Me'la MacVetti, 7086 Atwood Road, stated she is opposed to the application.
2 Mr. Ebe does own land in the area, but he doesn't live there. He farms his
3 property. That is a business for him. He also works for Al Jansen, and has farmed
4 all of his property so that all the water would go out and do all this. The neighbors
5 were not informed and none of them knew this had taken place. They did not know
6 of the urban growth area. The neighbor's property values will go down, their taxes
7 will go up, pollution is involved, and there will be a complete disruption of their
8 lives. It feels like the they are being dominated by an overlord. It is a terrible
9 feeling.

10
11 David MacVetti, 7086 Atwood Road, stated he is opposed to the development
12 of this into an industrial area. Ecologically, any runoff will go into the residential
13 property or into the lakes that are there. It will affect the wildlife. He didn't
14 understand how that could be avoided. Anyone can put a business in there. If
15 there was a requirement for a non-toxic use, it could be a compromise. The land
16 value will decrease, and the taxes will shift.

17
18 *(Clerk's Note: End of tape two, side A.)*
19

20 David MacVetti continued to state there are vacancies at other industrial
21 parks. Putting another park in here is redundant. This one urban growth boundary
22 area juts out like a finger out of the urban growth area boundary. He is opposed to
23 seeing this developed as industrial land.

24
25 Renee Cheesman, 7094 Atwood Road, stated she lives north of the property.
26 She is opposed because of the size and scope of the proposed development. It will
27 infringe upon the integrity of the neighborhood. She can't see a demonstrable
28 need, given the vacancy rate across the freeway. Mr. Jansen's vacancy may be at
29 an 80 percent capacity rate, but the light industrial property is not even at 50
30 percent. There are a lot of vacant buildings. Then ten acres that is up for
31 consideration tonight floods with five days of rain. There have been several times
32 every winter where they have a flooding issue at that corner. The owner is
33 proposing to excavate a ditch to take on that capacity of water. There are
34 additional flooding issues out there. Most of the water that hits that road has to go
35 through the drainage ditch. There is flooding on the road, down the road, and onto
36 the peoples' property. One year it was at a point where they couldn't even drive
37 out of the area. The ditch that is proposed for the ten acres will be a considerable
38 increase in the flooding problem.

39
40 Hearing no one else, Nelson closed the public hearing.

41
42 McShane stated the Planning Committee recommended denial with a vote of
43 2 to 0.

44
45 Nelson moved to adopt the ordinance.

46
47 Dawson questioned whether there was an evaluation for the need for this
48 zoning. Olsen stated the City of Ferndale does not have the acreage it needs for
49 light impact industrial zoning. Most of the light industrial area is in the southern

1 part of the area. There is still a fair amount of capacity left at the northern end. At
2 the moment, the utilities are not in for parts of the northern area.

3
4 Dawson questioned whether the State Department of Health is the agency
5 that ensures that a development protects its wells. Olsen stated it would be the
6 Whatcom County Health Department and the Whatcom County development
7 standards.

8
9 McShane stated this area, except for the ten acres, is already in the urban
10 growth area. The owner is in the process of asking for a rezone of the portion of
11 the parcel that is in the urban growth area. They already have the ability to put in
12 a light impact industrial park on the main parcel. The question is whether or not it
13 is going to be ten acres larger. That ten-acre parcel has a lake and a creek. He
14 opposes this change. During the Planning and Development Committee work
15 session, he never received an answer about why they need the additional ten acres.
16 He questioned what the fundamental purpose that ten acres serves to increase the
17 amount of industrial development that can be done there. All he heard was
18 something about possibly moving the creek. He didn't see the need for it. The
19 property probably meets the criteria and will be rezoned to light impact industrial.
20 The owner can still put in an industrial park there. The County Council is not
21 stopping industrial development on the vast majority of the parcel. It is a ten-acre
22 sliver on one side that is already constrained by a creek and a lake. There is no
23 reason to expand to that area.

24
25 Crawford questioned whether the runoff from any development that occurs
26 here be considered as part of the development and whether the flooding issue
27 would potentially be addressed. Olsen stated the possibility of a site-specific
28 rezone for that parcel of land would be the way to address those specific problems.
29 No one said a word about the flooding of that particular time in the Planning
30 Commission's public hearing. Out of bad things come good. The lake was a pit
31 used to build Interstate 5. Things can be done well if they have the right
32 regulations.

33
34 Hoag stated this area juts out from the UGA. It is a peninsula of light impact
35 industrial (LII) that is proposed, and is surrounded by rural zoning. It is
36 incompatible with the rural development around it. It would create an island or
37 peninsula of LII. The neighbors have spoken about the fact that there is not a
38 shortage of LII in that area. The same developer that is proposing this has not
39 done a good job across the way. The two people who spoke in favor of the
40 application tonight had just purchased their properties recently. They would benefit
41 from this property becoming LII, and have a vested interest in seeing it rezoned.
42 The people who have spoken in opposition of this are existing neighbors who have
43 been there a long time. If someone lives in their home, it is their single largest
44 investment. The County Council has a greater right to protect an existing neighbor
45 than they do to enable a new use that will cause a problem to that existing
46 neighbor. Turning the ten acres into LII is not justice for the neighbors.

47
48 Nelson stated the flooding issue is a concern. He questioned whether the
49 California Creek/ditch is at the eastern boundary of the ten acres.

1
2 McShane stated it is more to the west.

3
4 Nelson questioned what would be the buffer required by the critical areas
5 ordinance. Olsen stated she believed it is 100 feet on both sides.

6
7 Nelson stated part of that ten acres would be taken out for buffering.
8 Another question is about access. He questioned where the current proposed
9 access is located. Olsen showed on the map the present access for agricultural use.

10
11 Imhof stated the property can be accessed by Grandview Road.

12
13 Olsen stated that is a proposed access.

14
15 Hoag questioned whether the property actually touches, or is just near to
16 Grandview Road. Olsen stated the property just touches Grandview Road.

17
18 Dawson questioned whether sewer is available. Olsen stated not on that
19 site.

20
21 Imhof stated the motion would be to move it forward to the concurrency
22 hearing.

23
24 Motion failed 2-4 with Imhof and Crawford in favor.

25
26 *(Clerk's Note: Council took a ten-minute break at 9:45 p.m. Councilmember*
27 *Imhof left the meeting at 9:55 p.m. Beginning of tape three, side A.)*

28
29 **3. RESOLUTION ADOPTING THE WHATCOM COUNTY 2002 ANNUAL**
30 **ROAD CONSTRUCTION PROGRAM (AB2001-368)**

31
32 Bruce Mills, Assistant Director of Engineering, gave a staff report and stated
33 the Council adopted the six-year road construction program in July. This is the first
34 year of that program with the addition of alternate projects at the end of the list.

35
36 Nelson opened the public hearing and hearing no one, closed the public
37 hearing.

38
39 Nelson stated the Council talked about the footbridge at Sudden Valley being
40 tied in with the project on Lake Whatcom Boulevard. Mills stated that is correct. It
41 has been moved onto the alternate list, as number 16.

42
43 Nelson stated the Council has had this on the list for eight years. In the
44 watershed, they want to encourage pedestrian use. He asked how to get it moved
45 up. Mills stated that if the Council gives the staff direction to make that project a
46 priority, then that is what they will do. It is lower on the list due to the
47 environmental issues in the watershed. How they are going to build some of the
48 projects in the watershed has not yet been decided. They've been waiting for word
49 from the Water Resources Division and the watershed planning efforts. Widening

1 the bridge doesn't take care of any pedestrian access out there. From the bridge to
2 the commercial area, there are no shoulders on the road. It would be a
3 reconstruction of that entire area, including the bridge.
4

5 Nelson moved to move the Lake Whatcom Boulevard 2, Rocky Ridge to Lake
6 Louise Road, project from the alternate list on Council packet page 447 to the
7 bottom of the annual construction list as number 27. He questioned whether all of
8 the projects would be done this year. Mills stated that at this point, moving it to 27
9 would begin the process of design and permitting, but not construction.
10

11 Nelson stated that many children who catch the school bus have to walk
12 around the bridge. There isn't a pathway along there, and it is right next to the
13 road. Mills stated the shoulder is about two feet wide.
14

15 Hoag questioned why items 24, 25, and 26 on the annual list are a lower
16 priority on the six-year road program. Mills stated they are items that are not site-
17 specific. Lake Louise was moved up from 29 to 22 on this list because Sudden
18 Valley is now moving forward on its sewer project. The County has been waiting to
19 do reconstruction on Lake Louise for years.
20

21 McShane stated the motion is a good idea, and may be more appropriate.
22 There will be work going on at the Lake Louise Road. He's heard from quite a few
23 people about this. This move will get the project on the radar screen.
24

25 Dawson stated the Sudden Valley folks have paid a lot into the County road
26 fund, and this is a way to offset the benefit it has not received from the County.
27

28 Hoag asked what else is involved in addition to the bridge. Mills stated they
29 would widen the road from the project they left off at three years ago to beyond the
30 gate and to the commercial area of Sudden Valley. They would add extra shoulder
31 width and widen the lanes. There is a site distance problem near the fire station
32 that they would fix.
33

34 Hoag questioned the length of the road. Mills stated the length of the project
35 would be 1.65 miles.
36

37 Motion to amend carried 5-0.
38

39 Hoag questioned whether the gravel conversions go from gravel to asphalt.
40 Mills stated it goes from gravel to either asphalt or chip seal.
41

42 Hoag moved to remove item 14 from the alternate list. She lives in that
43 area, and the road is just fine. The only problem there is that the through traffic
44 can take the corner or go straight. It creates confusion and a hazard. This project
45 doesn't propose to fix that problem. Mills stated they've improved Van Buren Road
46 up to Hampton Road. This would continue the improvement to Badger Road. It
47 serves much of the traffic for the Nooksack schools. They would like to get rid of
48 some of the tight corners. The road shoulder is very small.
49

1 Hoag stated it is a nice wide road with a good surface and a good site
2 distance. Every road out there is used by the school district, and there are roads
3 that are much worse. Mills stated the lanes are about 8.5 to 9 feet wide, with two-
4 foot gravel shoulders. The road is substandard in width.
5

6 Dawson stated she doesn't want to second-guess the staff on something like
7 this.
8

9 Hoag stated it is being proposed to upgrade, because they want the gravel
10 trucks to be able to travel in all weather.
11

12 Motion failed 1-4 with Hoag in favor.
13

14 Hoag moved to remove the Lake Whatcom connector route study, project
15 number 17, from the alternate list. It should be removed until the outcome of the
16 moratorium. It is not a wise use of taxpayer funds, and the public has spoken
17 repeatedly against it.
18

19 Motion failed 2-3 with McShane and Hoag in favor.
20

21 Nelson moved to approve the resolution, as amended.
22

23 Motion to approve the resolution as amended carried 5-0.
24

25 **4. ORDINANCE AMENDING CHAPTER 24 OF THE WHATCOM COUNTY**
26 **CODE TO INCLUDE MINIMUM REQUIREMENTS FOR AN ADEQUATE**
27 **WATER SUPPLY AND MINIMUM REQUIREMENTS FOR THE SELLER TO**
28 **PROVIDE INFORMATION TO THE BUYER CONCERNING THE WATER**
29 **SOURCE WHEN SELLING DEVELOPED PROPERTY (AB2001-369)**
30

31 Paul Chudek, Environmental Health Supervisor, gave a staff report and
32 stated the Public Health Advisory Board's drinking water subcommittee met several
33 times in 1999 to examine the need for a drinking water ordinance for Whatcom
34 County. Subsequently, the Public Health Advisory Board, acting on
35 recommendations from the subcommittee, directed the Health and Human Services
36 staff to draft a drinking water ordinance for the county. Two previous drafts of that
37 ordinance were presented to the Board of Health. Following the April Board of
38 Health meeting, the draft ordinance was distributed to stakeholders for their
39 comments. A new draft was prepared and presented to the Board of Health in
40 June. At the June meeting, the Board of Health directed staff to seek State
41 Environmental Protection Act (SEPA) review and prepare a draft for a public
42 hearing. A declaration of non-significance (DNS) was issued on the draft ordinance.
43

44 The ordinance before the Council includes three major topic areas. First is
45 the codification of the 1993 interim policy and procedures for governing water
46 availability for building permits. Second is adoption by reference of the group B
47 public water supply regulations, which include enforcement. Third is a water supply
48 disclosure requirement for the sale of developed property.
49

1 Most of the procedures defined in the ordinance for water availability are
2 either in the existing interim guidelines, or reflect existing Health and Human
3 Services Department policies. However, there are significant changes to the
4 existing interim policy. These changes include requiring development of a group B
5 water system instead of two-party wells under certain circumstances. That would
6 be consistent with Title 21, the land division rules.
7

8 Another change would require a connection to an existing public water supply
9 instead of a private well under specific circumstances. That would include vested
10 lots. Well site inspections would be required prior to approval for water sources
11 used to serve subdivisions, for spring sources, surface water sources, and for two-
12 party wells. A declaration of covenant will be required for wells in new subdivisions
13 for spring and two-party wells. Water quantity verification, including dry season
14 pump testing for wells that produce one gallon per minute or less would be
15 required.
16

17 Under the area of disclosure, there is a supplemental disclosure form adopted
18 by the subcommittee. It must be presented to the buyer from the seller. It is in
19 addition to information on water, which is contained in the existing required
20 disclosure forms.
21

22 The ordinance adopts the group B public water rules by reference. The
23 Health and Human Services Department responsibilities to group B rules are
24 defined in a contract called a joint plan of operation with the Washington State
25 Department of Health. Enforcement of those rules would be done using existing
26 formats and options that are listed in Whatcom County Code chapter 24.07.
27

28 Nelson opened the public hearing and, hearing no one, closed the public
29 hearing.
30

31 Hoag moved to refer to the Public Works Committee.
32

33 McShane stated the reference is to the maximum contaminant level (MCL) of
34 arsenic set by the State Department of Health. He questioned whether those
35 arsenic standards that the Environmental Protection Agency (EPA) adopted would
36 be adopted for water systems. He understood it would take seven years. Chudek
37 stated he understood that also. It would take a policy decision to decide if and
38 when they want to apply that same standard to private wells.
39

40 McShane questioned whether it could be as much as seven years for some
41 wells before the arsenic standards would apply. Chudek stated that is the proposal
42 as he understood it.
43

44 Nelson questioned whether the arsenic standards apply to single-family
45 wells. Chudek stated part of the ordinance deals with water supplies that would
46 exceed a maximum contamination level for one of the primary inorganics, of which
47 arsenic is. A new request for water availability would fall under the same arsenic
48 standards. The current practice since 1990 is to include treatment if a well exceeds
49 an MCL for one of the primaries.

1
2 McShane stated his concern is that they are approving water sources that will
3 have to begin treatment in five, six, or seven years down the road. There is a fiscal
4 impact to someone after the well is installed. Chudek stated those that are created
5 after the arsenic standard is changed would have to meet the new arsenic
6 standards.
7

8 Hoag asked if an existing water supply has seven years to comply, but a new
9 well would have to comply with the MCL immediately. Chudek stated that is his
10 understanding. They are talking about existing public water supplies. They may
11 have as long as six to seven years to comply. However a new public water supply
12 would have to comply prior to getting approval.
13

14 Crawford stated the ordinance says there has to be a signed and recorded
15 no-protest agreement in relation to the installation of a public water system. The
16 agreement states that the applicant will connect to a public water system and not
17 protest the formation or installation of a public water system, which would service
18 the area. He can understand not protesting the formation. He asked if that has to
19 go hand-in-hand with connecting. Chudek stated that has been required since the
20 early 1990's. It is the policy now. The Health and Human Services Department
21 originally did not feel comfortable with the use of a contaminated water source for a
22 house. Treatment will work as long as someone maintains it. Treatment systems
23 for public supplies are difficult to maintain. Treatment systems for private supplies
24 can be done, but it is a difficult thing to do. As a compromise, the treatment option
25 came into play. Along with the treatment option came the no-protest agreement
26 with a requirement to hook up when public water became available. The intent was
27 clearly to use the contaminated water source only as an interim measure until a
28 public water source became available.
29

30 McShane stated it should go to the Planning and Development Committee.
31

32 Nelson stated the Planning and Development Committee docket is full.
33

34 Hoag agreed.
35

36 Motion to refer to the Planning and Development Committee carried 5-0.
37

38 **5. ORDINANCE ESTABLISHING THE WHATCOM COUNTY TAX REFUND**
39 **FUND (AB2001-372)**
40

41 Nelson opened the public hearing and, hearing no one, closed the public
42 hearing.
43

44 Dawson moved to adopt the ordinance.
45

46 Motion carried unanimously.
47
48

1 **CONSENT AGENDA**

2
3 Crawford reported for the Finance and Administrative Services Committee
4 and moved approval of Consent Agenda items one through ten.

5
6 Hoag withdrew item three.

7
8 Motion to approve Consent Agenda items one, two, and four through ten
9 carried unanimously.

- 10
11 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #01-**
12 **102 TO THE APPROPRIATE VENDOR FROM THE IDENTIFIED BIDDERS,**
13 **BASED ON EQUIPMENT AVAILABILITY AND SUITABILITY, WITH**
14 **PREFERENCE TO LOW BIDDERS, WITH THE POSSIBILITY THAT MORE**
15 **THAN \$35,000 COULD BE SPENT WITH A SINGLE VENDOR (AB2001-**
16 **378)**
17
18 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #01-**
19 **130 TO THE LOWEST RESPONSIVE BIDDER, KENWORTH NORTHWEST**
20 **INC., FOR A BLADE TRUCK IN THE AMOUNT OF \$119,862.87**
21 **(AB2001-379)**
22
23 **3. RESOLUTION SETTING HEARING DATE AND NOTICE OF HEARING ON**
24 **SALE OF COUNTY TAX TITLE PROPERTY, REQUEST NO. 05-01**
25 **(AB2001-380)**

26
27 Nelson moved to approve the resolution.

28
29 Hoag stated this is a piece of property that is currently Whatcom County
30 Parks property. There is limited information in the packet. It doesn't make sense
31 to give away a block of Parks property. The only explanation she was given was
32 that it is to enable an adjoining property owner to put in a drain field. An easement
33 may be more appropriate than selling a piece of property out of the middle of the
34 Parks property. She would like to get more information on this issue. She moved
35 to refer back to the Finance Committee.

36
37 Motion carried 5-0.

- 38
39 **4. RESOLUTION SETTING HEARING DATE AND NOTICE OF HEARING ON**
40 **SALE OF COUNTY TAX TITLE PROPERTY, REQUEST NO. 06-01**
41 **(AB2001-381)**
42
43 **5. RESOLUTION ORDERING THE CANCELLATION OF WARRANTS MORE**
44 **THAN A YEAR OLD (AB2001-382)**
45
46 **6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
47 **JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT (JAIBG)**
48 **CONTRACT BETWEEN WHATCOM COUNTY AND THE DEPARTMENT OF**
49 **SOCIAL AND HEALTH SERVICES (DSHS) TO PROVIDE FOR**

1 **ADDITIONAL COURT COMMISSIONER AND DEPUTY COURT CLERK**
2 **STAFFING TO EXPEDITE JUVENILE OFFENDER CASE PROCESSING, IN**
3 **THE AMOUNT OF \$58,923 (AB2001-383)**

4
5 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
6 **CONTRACT BETWEEN WHATCOM COUNTY HEALTH AND HUMAN**
7 **SERVICES DEPARTMENT AND THE DEPARTMENT OF SOCIAL AND**
8 **HEALTH SERVICES (DSHS) DEPARTMENT OF ALCOHOL AND**
9 **SUBSTANCE ABUSE (DASA) TO PROVIDE REVENUE FOR OUTPATIENT**
10 **SUBSTANCE ABUSE SERVICES, IN THE CONTRACT AMOUNT OF**
11 **\$2,415,551 (AB2001-384)**

12
13 **8. REQUEST AUTHORIZATION FOR THE EXECUTIVE, ON BEHALF OF**
14 **WRIA 1, TO ENTER INTO A LEAD ENTITY GRANT BETWEEN WHATCOM**
15 **COUNTY AND THE WASHINGTON STATE DEPARTMENT OF FISH AND**
16 **WILDLIFE TO FUND CORE SALMON RECOVERY FUNCTIONS, IN THE**
17 **AMOUNT OF \$65,000 (AB2001-385)**

18
19 **9. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
20 **AGREEMENT AMENDMENT BETWEEN WHATCOM COUNTY PUBLIC**
21 **WORKS AND NORTHWEST SURVEYING & GPS (NWS) FOR**
22 **FORESEEABLE SURVEYING SERVICES FOR RIVER AND FLOOD**
23 **DIVISION PROJECTS THROUGH THE END OF 2002, IN THE AMENDED**
24 **AMOUNT OF \$75,000, FOR A TOTAL AMENDED AMOUNT OF \$150,000**
25 **(AB2001-386)**

26
27 **10. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
28 **AGREEMENT AMENDMENT BETWEEN WHATCOM COUNTY PUBLIC**
29 **WORKS AND PACIFIC SURVEYING & ENGINEERING SERVICES, INC.**
30 **(PSE) FOR FORESEEABLE SURVEYING SERVICES FOR RIVER AND**
31 **FLOOD DIVISION PROJECTS THROUGH THE END OF 2002, IN THE**
32 **AMENDED AMOUNT OF \$75,00, FOR A TOTAL AMENDED AMOUNT OF**
33 **\$150,000 (AB2001-387)**

34
35
36 **OTHER ITEMS**

37
38 **1. REPORT ON COMMITTEE DISCUSSION REGARDING THE ORDINANCE**
39 **AMENDING THE WHATCOM COUNTY COMPREHENSIVE PLAN**
40 **RELATING TO THREATENED AND ENDANGERED SPECIES (AB2001-**
41 **310A)**

42
43 McShane reported for the Natural Resources Committee and stated the
44 committee completed its amendments. The substitute ordinance will be introduced
45 tonight. There will be a public hearing in two weeks.

46
47 **2. ORDINANCE AMENDING THE 2001 BUDGET, REQUEST # 11 (AB2001-**
48 **374)**

1 Crawford reported for the Finance and Administrative Services Committee
2 and stated the committee recommends approval with the removal of \$24,000 for
3 the Auditor for election expenses. The Auditor has stated that she can work within
4 her own budget.

5
6 Crawford moved to adopt the ordinance.

7
8 Crawford moved to amend the ordinance to remove \$24,000 for the Auditor.

9
10 Motion to adopt carried 5-0.

11
12 **3. ORDINANCE AMENDING WHATCOM COUNTY CODE 2.02, COUNTY**
13 **COUNCIL (AB2001-352)**

14
15 Crawford reported for the Finance and Administrative Services Committee
16 and moved to adopt. This is a code scrub that the Clerk of the Council did to clear
17 up current terminology, Council procedures, and the Council's order of business.
18 Other than that, there are no substantive changes.

19
20 Motion to adopt carried 5-0.

21
22 **4. BACKGROUND REPORT AND RECOMMENDATIONS FROM THE UTILITY**
23 **PLANNING AND ADVISORY COMMITTEE REGARDING TRANSMISSION**
24 **PIPELINES (AB2001-338)**

25
26 Dawson reported for the Public Works and Capital Projects Committee and
27 stated it was a very informational meeting. The Advisory Committee answered
28 many questions, and did a very good job. The result is a resolution the Council will
29 present to the Planning Department regarding an emergency Comprehensive Plan
30 amendment. It will be put on the Planning Commission docket for December 13.

31
32 **5. RESOLUTION INITIATING EMERGENCY COMPREHENSIVE PLAN**
33 **AMENDMENT RELATING TO UTILITIES AND TRANSMISSION**
34 **PIPELINES (AB2001-388)**

35
36 Dawson reported for the Public Works and Capital Projects Committee and
37 moved to approve and forward to the Planning Commission.

38
39 Hoag stated the committee suggested a few changes to be submitted to the
40 Planning Commission.

41
42 Crawford stated that this resolution gets this on the Planning Commission
43 agenda, so the Planning Commission can look at it. The Council will get it back
44 sometime in January or February.

45
46 Hoag stated that when the Council docket issues, it will often provide
47 direction to the Planning Commission about what it wants reviewed.

1 Dawson stated the committee made amendments, but this will all come back
2 to the Council.

3
4 Crawford stated that the amendments have to be approved by the Council to
5 send them to the Planning Commission.

6
7 Hoag moved to strike policy 5A-6 on Council packet page 185. The County
8 should expedite only the appropriate and desirable projects, not all possible
9 projects that are brought forward. Staff recommended striking the language
10 completely.

11
12 Crawford stated they are talking about eliminating a portion of the original
13 Comprehensive Plan, rather than the committee's work on the new stuff that the
14 Utilities Committee proposed.

15
16 Hoag stated the Utilities Committee recommended changes to the
17 Comprehensive Plan. This language didn't fit in.

18
19 Crawford questioned whether the Utilities Committee recommended striking
20 policy 5A-6.

21
22 Hoag stated no.

23
24 Nelson stated the goal is to specify a clear process for determining an
25 appropriate location for future needed facilities. He questioned why the County
26 would not expedite a project if the corridors have already been identified.

27
28 Hoag stated it would make sense if they identified an appropriate corridor,
29 but that is not what this says. The language says a "possible" corridor or facility
30 site. Anytime someone proposes any kind of pipeline, the County will expedite the
31 process because a possible site has been proposed.

32
33 McShane stated one reason the committee removed the language is because
34 the approach was to have pre-existing corridors identified. In the Utilities
35 Committee report, they found that some of the pre-existing corridors might not be
36 the best places to run additional pipelines. It would be a new proposed corridor
37 with a new pipeline route. Initially, the idea was to encourage new pipelines in
38 perfect, existing corridors. It turns out that they don't have perfect corridors.

39
40 Motion carried 3-2 with Crawford and Nelson opposed.

41
42 Hoag moved to amend goal 5E on Council packet page 188 to insert
43 language, "...future unnecessary obstacles...."

44
45 McShane stated this is in reference to building activity near a pipeline, not
46 the pipelines themselves.

47
48 Motion to amend carried 4-1 with Crawford opposed.

49

1 Hoag stated the way policy 5E-1 read, it was unclear about what kind of
2 comments they were trying to solicit from the utility operators and for what reason.
3 She moved to amend policy 5E-1 on Council packet page 188 to change language,
4 "...concerning land use development applications adjacent to existing major utility
5 facilities, and will take comments..." The purpose of that policy was to notify the
6 utility of any land use development proposed near a pipeline, and take the utility
7 operator's comments under advisement during the review process.

8
9 Motion to amend carried 4-1 with McShane opposed.

10
11 Hoag moved to amend policy 5A-1 on Council packet page 185 to change
12 language, "...evaluate and determine suitable suitability of proposed locations..."

13
14 Motion carried 5-0.

15
16 Motion to forward to Planning Commission as amended carried 5-0.

17
18 Crawford stated he thought the purpose of the Utility Committee was to
19 determine now where the utility corridors are.

20
21 Hoag stated the approval criteria talk about what areas would be better or
22 worse to locate in.

23
24 Crawford stated he had thought that the Utility Committee would create a
25 map of corridors.

26
27 Hoag stated that didn't work. They talked about that change during the
28 committee meeting today.

29
30 Crawford asked if the Utility Committee changed that purpose.

31
32 Hoag stated that is correct.

33
34 Nelson stated the committee alluded to the fact that some of the corridors
35 aren't in the best locations.

36
37 McShane stated two of the pipeline corridors run right by Lake Samish.

38
39 Dawson stated the Utility Committee found out that property values didn't
40 decrease much from the presence of pipelines.

41
42 Crawford questioned what is the result of the Utility Committee.

43
44 McShane stated the most useful product will be a policy for the County to
45 intervene on Federal Energy Regulatory Commission (FERC) or Energy Facility Site
46 Evaluation Council (EFSEC) proceedings.

47
48 Crawford questioned whether there will be a corridor map of where new
49 power lines can go.

1
2 Hoag stated the power lines aren't covered in this report.

3
4 *(Clerks Note: End of tape three, side A.)*

5
6 Hoag continued to state that the report only dealt with pipelines. When the
7 Council formed the Utilities Committee, it asked the committee to take up the
8 pipeline issue now.

9
10 McShane stated the Utilities Committee is looking at the report at their
11 meeting tomorrow night. They will look at threshold criteria for pipeline diameter
12 and pressure.

13
14 **6. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
15 **ORDINANCE, SECTIONS 20.71.400 – BUILDING SETBACK/BUFFER**
16 **AREAS AND 20.80.210 – MINIMUM SETBACKS TO ADDRESS**
17 **BUILDING SETBACKS IN THE WATER RESOURCE PROTECTION**
18 **OVERLAY DISTRICT (AB2001-370)**

19
20 McShane reported for the Planning and Development Committee and moved
21 to adopt.

22
23 Motion to adopt carried 5-0.

24
25 **7. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
26 **ORDINANCE TO EXCLUDE SUBMERGED AQUATIC LANDS FROM**
27 **PARCEL AREA CALCULATIONS FOR IMPERVIOUS SURFACE, GROSS**
28 **DENSITY, OPEN SPACE, MINIMUM LOT SIZE AND LOT COVERAGE**
29 **(AB200-371)**

30
31 McShane reported for the Planning and Development Committee and moved
32 to adopt.

33
34 Crawford stated this changes the Open Space definition for all areas of the
35 county, not just the Water Resource Protection Overlay area. For example, this will
36 affect Wiser Lake.

37
38 Motion to adopt carried 5-0.

39
40 **8. ORDINANCE AMENDING ORDINANCE 2000-014 TO EXTEND THE**
41 **PROVISIONAL SHORT TERM PLANNING AREA FOR THE DRAYTON**
42 **HARBOR AREA OF THE BLAINE URBAN GROWTH AREA FOR AN**
43 **ADDITIONAL TWO YEARS AS PROVIDED IN ORDINANCE 99-071**
44 **(AB2001-373)**

45
46 McShane reported for the Planning and Development Committee and stated
47 the committee recommended denial of the extension.

48
49 Crawford moved to approve the extension.

1
2 McShane stated he is concerned because they don't have a full, seven-
3 member Council present. He recommended delaying the vote.
4

5 Nelson asked the reason for the denial.
6

7 McShane stated he believed this area is just waiting for whether or not the
8 sewer line will be run through. They are creating some false expectations. There
9 are concerns about impacts to those who would have to pay for the sewer line, but
10 who may not want it in the area, even though the Council tried to avoid that
11 burden. If the sewer line is run through the area, it would be easy to designate the
12 area again as a short-term planning area at that time. It won't be resolved in two
13 years.
14

15 Hoag stated she voted against the extension in committee because some of
16 the residents in the area found out that the cost would be higher than they
17 originally anticipated. Also, the Council said that they would grant the designation
18 for two years. Now, they are proposing to make it longer. Apparently, this hinges
19 on whether or not the Blaine sewage treatment plant is able to extend a line
20 through the area. They don't anticipate that happening for two or three years, if at
21 all. Calling the area a provisional short term planning area creates false
22 expectations because they don't have the sewer facility available. If the sewer line
23 is built, the residents can request re-designation of the area as a short-term
24 planning area.
25

26 Crawford questioned whether Ms. Terry recalled the Council saying that this
27 would revert back to its original designation after two years or that the approval
28 would include a clause to extend the designation for two years.
29

30 Muriel Terry, Drayton Harbor, stated she recalled that the Council said it
31 would allow at least one two-year extension.
32

33 Crawford questioned whether Ms. Terry recalled whether most of the
34 property owners who felt that the cost was extraordinary were removed from the
35 original proposal. Terry stated they were removed. The one property owner that
36 was most vocal about not wanting the sewer was Mr. Burke, who owns all the
37 property on the north side of Lincoln Road, between Shintaffer Road and
38 Harborview Road. That area was deleted. In addition, 87 percent of the property
39 owners in that area said that they would pay for the sewer themselves.
40

41 McShane moved to postpone this item to the next meeting on December 11,
42 2001 because there is not a full Council present.
43

44 Hoag stated the people who objected to the cost are people who originally
45 asked for it to be brought in. They have since contacted the Council and said that
46 the cost is far higher than the estimates that were provided. She questioned the
47 reason for allowing a two-year extension. She believed it was allowed only for
48 hardship.
49

1 Sylvia Goodwin, Planning Division Manager, stated the reasons for allowing
2 an extension include whether substantial progress has been made towards the final
3 adoption of a local improvement district (LID) or other financing program. Evidence
4 of the progress must be provided by the affected land owners and corroborated by
5 the Birch Bay Water and Sewer District. There is a letter from Muriel Terry that
6 states the residents have been working with the district, and that the City of Blaine
7 is considering a regional treatment plant.

8
9 Nelson stated the siting was held up due to the Lummi Tribe issue.

10
11 Goodwin stated that is common knowledge. There is not a letter from the
12 district, but she is aware of it, and it has been in the newspaper. There has been a
13 lot of publicity about it. Senator Erickson spoke about it earlier. It is an expensive
14 proposition and will require a regional facility to get that done. It will take more
15 than two years.

16
17 Motion carried unanimously.

18
19 **9. RESOLUTION ADOPTING RECOMMENDATIONS FOR OPEN**
20 **SPACE/OPEN SPACE, OPEN SPACE/FARM AND AGRICULTURE**
21 **CONSERVATION AND OPEN SPACE TIMBER APPLICATIONS (AB2001-**
22 **389)**

23
24 McShane reported for the Planning and Development Committee and stated
25 the committee recommended the Planning Commission recommendations.

26
27 Hoag moved to withdraw the Kim Scott proposal.

28
29 Motion to approve all of the Planning Commission recommendations except
30 for the Scott application carried 5-0.

31
32 Nelson moved to approve the Scott application.

33
34 Hoag stated there are six applications from Mr. Scott. He is in the process of
35 splitting up his land into six parcels, each 6.67 acres. The proposal is to clear cut
36 the parcels. It is in the Lake Whatcom watershed, at the top of the hill. This
37 gentleman testified that the Council should not have a moratorium in the Lake
38 Whatcom watershed because the Council would remove people's ability to develop,
39 and they should be compensated. When one asks for an open space designation,
40 he or she is asking for reduced taxation because the property provides a public
41 benefit. This just looks like a subdivision. It doesn't look like there is a public
42 benefit, given the fact that the owner will clear cut in the watershed, and is
43 opposed to the building moratorium. The owner is in the process of subdividing
44 into six parcels. The harvest plan is for a clear cut. Between the harvest plan and
45 the fact that he is subdividing the property, there isn't a public benefit. If the
46 owner is going to subdivide the parcels for development, he should pay the
47 appropriate taxes.

48
49 Nelson questioned the zone.

1
2 Sylvia Goodwin, Planning Division Manager, stated the zone is rural, one
3 dwelling per five acres (R5A). The reason the owner needs to convert from
4 designated forest to open space/timber is because the subdivided parcels sizes
5 would be too small to qualify for the designated forest classification. The land was
6 a designated forest in an R5A zone. One can do that if the parcel is over 20 acres.
7 Once the land is subdivided, the individual parcel sizes would be smaller than 20
8 acres. The owner has to remove it from the designated forest classification. Part of
9 the open space/timber program is to provide a forest management plan. The
10 owner's harvest method in the future is a clear cut.

11
12 Hoag stated the harvest plans in the Lake Whatcom watershed have typically
13 been selective logging to protect the watershed. She doesn't mind the owner
14 subdividing to five-acre parcels in five-acre zoning, but he needs to pay the
15 appropriate tax.

16
17 Nelson asked the benefit to the owner to maintain forestry practices if he
18 doesn't have the open space tax benefit.

19
20 Hoag stated clear cutting is not maintaining forestry practices. It is clearing
21 the land for development.

22
23 McShane stated the owner has to replant.

24
25 Motion to approve the Scott application carried 4-1 with Hoag opposed.

26
27 **10. YEAR END APPOINTMENTS TO VARIOUS BOARDS AND COMMISSION**
28 **IN PREPARATION FOR THE YEAR 2002, FOR BOARD OF**
29 **EQUALIZATION, PLANNING COMMISSION, OPEN SPACE ADVISORY**
30 **BOARD, AND WATER CONSERVANCY BOARD (AB2001-313)**
31

32 Hoag stated that the Planning Commission appointments are delayed until
33 the December 11, 2001 meeting.

34
35 Board of Equalization

36
37 Nelson moved to appoint David Parsons.

38
39 Motion carried unanimously.

40
41 Open Space Advisory Committee

42
43 Nelson stated there are three vacancies, and two applicants. He moved to
44 appoint the two applicants, Joe Burton and David Parsons.

45
46 Motion carried unanimously.

47
48 Water Conservancy Board
49

1 Nelson stated there is one vacancy and one applicant, who is the incumbent.
2 He moved to appoint Ed Henken.

3
4 Motion carried unanimously.

5
6 Dawson moved to hold the Planning Commission appointments for two weeks
7 because the two County Council representatives from District 3 are absent.

8
9 Motion carried unanimously.

10
11 **11. NOTIFICATION TO THE COUNCIL BY THE EXECUTIVE OF THE**
12 **DESIGNATED REPRESENTATIVE FROM THE SMALL CITIES CAUCUS TO**
13 **THE ESSENTIAL PUBLIC FACILITIES ADVISORY COMMITTEE, MAYOR**
14 **DIETER SCHUGT OF BLAINE (AB2001-391)**

15
16 Dawson moved to approve.

17
18 Hoag questioned whether this is a new board.

19
20 Dewey Desler, Deputy Administrator, stated it is a new board. It is required
21 under the Growth Management Act to have this kind of board set criteria for Council
22 review on where they might site essential public facilities in the future. The Council
23 approved the formation of the board three or four months ago.

24
25 Motion carried unanimously.

26
27 **12. REQUEST FOR CONFIRMATION FOR THE EXECUTIVE'S CONCURRENT**
28 **APPOINTMENT WITH THE CITY OF BELLINGHAM, OF MAYNARD SVOR**
29 **AND JOY KEENAN TO THE BELLINGHAM WHATCOM COUNTY HOUSING**
30 **AUTHORITIES BOARD OF COMMISSIONERS (AB2001-392)**

31
32 Dawson moved to confirm the appointments.

33
34 Motion carried unanimously.

35
36
37 **INTRODUCTION ITEMS**

38
39 Dawson moved to accept the Introduction Items.

40
41 Motion carried unanimously.

42
43 **1. RESOLUTION TO SURPLUS COUNTY OWNED PROPERTY, REQUEST NO.**
44 **05-01 (AB2001-380A) (HEARING TO BE SCHEDULED)**

45
46 **2. RESOLUTION TO SELL TAX-TITLE PROPERTY BY NEGOTIATION,**
47 **REQUEST #06-01 (AB2001-381A) (HEARING TO BE SCHEDULED)**
48

- 1 3. RESOLUTION VACATING ALL OF RAILROAD DRIVE RIGHT-OF-WAY AS
2 PLATTED IN SOUTH BLAINE FIVE ACRE TRACTS (AB2001-393)
3 (HEARING TO BE SCHEDULED)
4
- 5 4. RESOLUTION ADOPTING THE 2002 SIX-YEAR PHYSICAL PLANT AND
6 FACILITIES CAPITAL PROGRAM RELATING TO BUILDINGS AND
7 FACILITIES FOR WHATCOM COUNTY, WASHINGTON (AB2001-394)
8 (HEARING TO BE SCHEDULED)
9
- 10 5. ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTER 10.34
11 FERRY RATES, CHAPTER 10.36 VEHICULAR FERRY PASSES (AB2001-
12 395) (HEARING TO BE SCHEDULED)
13
- 14 6. ORDINANCE AMENDING THE 2001 UNIFIED FEE SCHEDULE (AB2001-
15 396) (HEARING TO BE SCHEDULED)
16
- 17 7. ORDINANCE IMPOSING A MORATORIUM ON THE ACCEPTANCE OF
18 NEW APPLICATIONS FOR SUBDIVISIONS OF LAND INTO PARCELS
19 SMALLER THAN FIVE ACRES WITHIN THE LAKE WHATCOM
20 WATERSHED (AB2001-377A)
21
- 22 8. ORDINANCE AMENDING THE 2001 BUDGET, REQUEST #12 (AB2001-
23 397)
24
- 25 9. ORDINANCE PROPOSING AN AMENDMENT TO THE WHATCOM
26 COUNTY HOME RULE CHARTER, TO BE SUBMITTED TO THE PEOPLE,
27 REGARDING ELECTION BY DISTRICT (AB2001-399)
28
- 29 10. ORDINANCE AMENDING THE COMPREHENSIVE PLAN RELATING TO
30 THREATENED AND ENDANGERED SPECIES (AB3001-310A)
31

32 OTHER BUSINESS

34 There was no other business.
35
36
37

38 REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

39
40 Hoag stated the Farm Bureau approved a resolution opposing Sumas Energy
41 2 (SE2).
42

43 Crawford stated the Governor has asked all the state agencies to cut 15
44 percent of their budgets. The State Department of Social and Health Services
45 (DSHS) has sorted out its programs, and their proposal to the Governor includes a
46 cut of 30 percent in day programs for developmental disabilities folks. That is a
47 significant cut, and includes all of those work programs. There is much concern
48 from the community, which relies on these services. The Developmental Disabilities

1 Advisory Committee is drafting a letter to send to the State. He will sign it as the
2 Council's representative.

3
4

5 **ADJOURN**

6
7
8
9

The meeting adjourned at 11:09 p.m.

10
11

Jill Nixon, Minutes Transcription

12
13
14

These minutes were approved by Council on December 11, 2001.

15
16

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

17
18
19
20

21
22
23

Dana Brown-Davis, Council Clerk

L. Ward Nelson, Council Chair