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1
2
3 WHATCOM COUNTY COUNCIL
4 **Regular County Council**

5
6 February 25, 2003
7

8
9 The meeting was called to order at 7:00 p.m. by Council Chair Dan McShane
10 in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.
11

12
13 Present:

14 Barbara Brenner
15 Laurie Caskey-Schreiber
16 Sam Crawford
17 Seth Fleetwood
18 Sharon Roy
19 L. Ward Nelson
20

Absent:

None
21

22 **FLAG SALUTE**

23
24
25 **ANNOUNCEMENTS**

26
27 McShane announced that the Council had a special presentation during a
28 Committee of the Whole meeting from **Thomas Dorr, Small Business Development**
29 **Center Director for Western Washington University, to present information on**
30 **small business development in Whatcom County (AB2003-099).**
31

32
33 **MINUTES CONSENT**

34
35 **1. REGULAR COUNTY COUNCIL FOR JANUARY 28, 2003**

36
37 ***Crawford moved*** to approve the minutes.

38
39 ***Motion carried unanimously.***
40

41
42 **OPEN SESSION**

43
44 The following people spoke:
45

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1 Leonard Lindstrom, Bellingham resident, stated the best teachers are first
2 grade students who have never seen a battle line. The rest of us are too busy
3 putting down our battle lines.
4

5 Richard Emerson, Building Industry Association of Whatcom County
6 Government Affairs, stated the County Council has on its agenda a report from the
7 Planning and Development Committee about a new stormwater protection overlay
8 plan for the county. The focus of discussion today was about seasonal clearing,
9 trees and tree canopies, and impervious surfaces. Each of these topics is uniquely
10 complex. During the committee meeting, he suggested that each of these three
11 topics be looked at individually. Environmentalists and contractors met for six
12 weeks last fall to work out an agreement for regulation on land clearing. The
13 stormwater overlay management protection plan was initially introduced to this
14 Council six weeks ago. It has been shunted aside for more than a month, during
15 the last two Council and Planning Committee meetings. Today, he learned that
16 staff was directed to gather input and present changes to the County Council in two
17 weeks. While waiting for six weeks for the County to get around to addressing this
18 issue, it will turn out to be what the County Planning Department staff can come up
19 with in two weeks and sell to the Council. He asked what about him. He is tired if
20 having inexperienced, but dedicated, Planning Department staff members working
21 at the direction of an agenda-driven County Council and coming up with ridiculously
22 stringent rules and regulations for builders.
23

24 Frank Eventoff, 7086 Atwood Road, Ferndale, stated there is a **site specific**
25 **rezone requested by Al Jansen (AB2003-104)**. The neighbors are concerned
26 about the proposed item. Most of the neighbors have sent letters to the County
27 Council. Excess stormwater runoff is one of the concerns. There are other issues
28 that will affect the neighborhood.
29

30 Robert Verhoeven, 7098 Atwood Road, Ferndale, stated he is also concerned
31 about the **site specific rezone requested by Al Jansen (AB2003-104)**. He is
32 concerned about his well being contaminated from the runoff. He would like to see
33 a 200-foot barrier around the property. There are several other items of concern.
34

35 Kathy Freeman, 7072 Atwood Road, stated she is also concerned **about site**
36 **specific rezone requested by Al Jansen (AB2003-104)**. One of the big
37 concerns is that the neighbors weren't given any notification. She understood that
38 this would happen in the long-term, not immediately. However, he is already out
39 there working to get stuff done. He doesn't seem as concerned as the neighbors
40 are about the ecological ramifications. Her well is only 20 feet deep. Her children
41 run and play on this road. The development is not needed. The industrial park
42 across the road can't fill their space. All the industrial development is on the west
43 side of the freeway, not the east side. Introducing this on the east side is a silly
44 notion at this point.
45

46 Jo Koss, 4176 Malachite Road, stated she represents the Emerald Lake
47 Homeowners Association. One of the introduction items tonight is **receipt of**

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1 **appeal of a Hearing Examiner's decision filed by Mark Weinberg (AB2003-**
2 **095).** The Homeowners Association is concerned.

3
4 Dave Grant, Senior Civil Deputy Prosecutor, stated the County Council
5 cannot hear an argument on this issue.

6
7 McShane stated that this is a quasi-judicial matter for the Council. Mr. Grant
8 can provide direction on how Ms. Koss can participate in this matter. The County
9 Council cannot take testimony outside of the record it already has or will be created
10 as a part of the process.

11
12
13 **PUBLIC HEARING**

14
15 **1. ORDINANCE AMENDING WHATCOM COUNTY CODE 8.10, SOLID**
16 **WASTE AND RESIDENTIAL RECYCLING COLLECTION (AB2003-093)**

17
18 Jeff Monsen, Public Works Director, gave a staff report and stated the
19 intention is to bring the ordinance current with today's situation. The ordinance will
20 bring the regulations up-to-date, and it transfers some of the language to the solid
21 waste plan to address these kinds of issues.

22
23 McShane opened the public hearing and, hearing no one, closed the public
24 hearing.

25
26 ***Nelson moved*** to adopt the ordinance.

27
28 Brenner asked who Washington Waste Hauling and Recycling is. Monsen
29 stated he did not know, but he would find out for her. There have not been any
30 changes to any service areas, so it must be a name change to a company that is in
31 place and operating today.

32
33 ***Motion to adopt the ordinance carried unanimously.***

34
35
36 **CONSENT AGENDA**

37
38 ***Crawford reported*** for the Finance and Administrative Services Committee
39 and moved approval of Consent agenda items one and two.

40
41 ***Motion to approve Consent Agenda items one and two carried***
42 ***unanimously.***

43
44 **1. RESOLUTION CANCELING UNCOLLECTABLE PERSONAL PROPERTY**
45 **TAXES (AB2003-100)**
46

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- 1 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE ENTER INTO A**
2 **COOPERATIVE AGREEMENT BETWEEN WHATCOM COUNTY AND THE**
3 **ARMY CORPS OF ENGINEERS FOR REPAIR OF A DAMAGED LEVEE**
4 **SEGMENT ON THE NOOKSACK RIVER IN THE AMOUNT OF \$217,000**
5 **(AB2003-101)**
6
7

8 **OTHER ITEMS**
9

- 10 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
11 **INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE**
12 **CITY OF BELLINGHAM TO PROVIDE EMERGENCY MEDICAL SERVICE**
13 **THROUGH THE E.M.S. LEVY (AB2003-047)**
14

15 Crawford reported for the Finance and Administrative Services Committee
16 and stated the administration has not made any progress on this issue. It has been
17 held in committee.
18

- 19 **2. ORDINANCE AMENDING THE 2003 WHATCOM COUNTY BUDGET,**
20 **SECOND REQUEST (AB2003-094)**
21

22 *Crawford* reported for the Finance and Administrative Services Committee
23 and *moved* approval.
24

25 *Motion to adopt carried unanimously.*
26
27

28 **OTHER BUSINESS**
29

30 *Crawford* stated there was a discussion in the Finance Committee regarding
31 the **County's participation in the Public Facilities District (AB2003-44A)**. He
32 *moved* to request the administration to put a priority on developing a parking
33 facility in the Public Facilities District plan.
34

35 *Motion carried unanimously.*
36
37

38 McShane stated the contractor has drilled down 40 feet at the southwest
39 corner of the property. They have not hit bedrock yet. They have now moved the
40 drill rig to the northwest corner of the property.
41

41 **OTHER ITEMS**
42

- 43 **3. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
44 **ORDINANCE, TITLE 20, CHAPTER 20.71 – WATER RESOURCE**
45 **PROTECTION OVERLAY DISTRICT, CHAPTER 20.80 –**
46 **SUPPLEMENTARY REQUIREMENTS (STORMWATER AND CLEARING),**
47 **CHAPTER 20.85 – PLANNED UNIT DEVELOPMENTS, AND CHAPTER**

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1 **20.97 – DEFINITIONS, TO PROVIDE ADDITIONAL REGULATORY**
2 **PROTECTION FOR SENSITIVE WATERSHEDS (AB2002-222B)**
3

4 Fleetwood reported for the Planning and Development Committee and stated
5 this item was held in committee for two weeks.
6

7 **4. ORDINANCE AMENDING WHATCOM COUNTY CODE 3.05.010, TORT**
8 **AND DAMAGE CLAIMS (AB2003-092)**
9

10 *Brenner moved* to adopt the ordinance.
11

12 *Motion carried unanimously.*
13

14 **5. REQUEST CONFIRMATION OF THE EXECUTIVE’S APPOINTMENT OF**
15 **ALAN FRIEDLOB TO THE NORTHWEST SENIOR SERVICES BOARD**
16 **(AB2003-102)**
17

18 *Caskey-Schreiber moved* to appoint Mr. Friedlob
19

20 *Motion carried unanimously.*
21
22

23 **INTRODUCTION ITEMS**
24

25 *Brenner moved* to accept Introduction Items one and two.
26

27 *Motion carried unanimously.*
28

29 **1. RECEIPT OF APPEAL OF HEARING EXAMINER’S DECISION ON APL02-**
30 **0009, FILED BY MARK WEINBERG (AB2003-095)**
31

32 **2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
33 **ORDINANCE, TITLE 20, TO ADD NEW TEXT TO THE RURAL DISTRICT,**
34 **CHAPTER 20.36, TO ALLOW FOR THE TRANSFER OF MULTIFAMILY**
35 **FARM WORKER HOUSING SEPARATE OF THE FARMLAND (AB2003-**
36 **103)**
37

38 **3. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
39 **MAP FROM RURAL (R5A) TO LIGHT IMPACT INDUSTRIAL (LII) FOR**
40 **50.3 ACRES ON ATWOOD ROAD NORTH OF THE I-5/GRANDVIEW**
41 **INTERCHANGE (SITE SPECIFIC REZONE) (AB2003-104)**
42

43 Brenner stated this came before the Council once before with a request to
44 rezone ten acres. The County Council denied it. Now the request is back to rezone
45 50 acres. She is concerned about taking up staff time if the Council is not serious
46 about proceeding with the rezone. The City of Ferndale is opposed to the item at

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1 this time. She assumed the City would not extend services. She asked about the
2 reason item number three is coming back to the Council.
3

4 McShane stated that the last time this was before the Council, the request
5 was to add the ten west acres to the urban growth area. That request was denied.
6 This portion is part of the urban growth area. It is a site specific rezone for the
7 area inside the urban growth area.
8

9 Sylvia Goodwin, Planning Division Manager, stated this is a site-specific
10 rezone that does not need a Comprehensive Plan amendment. It doesn't go to the
11 Planning Commission. It has gone through the Hearing Examiner process.
12

13 Brenner asked if the Council could send it to the Planning Commission.
14 Goodwin stated it could not. The Council can have its own public hearing if it wants
15 to deny it.
16

17 Dave Grant, Senior Civil Deputy Prosecutor, stated there was already a
18 hearing in front of the Hearing Examiner.
19

20 McShane stated the Hearing Examiner has recommended approval. This is
21 the third site-specific rezone that has come to the Council through the Hearing
22 Examiner.
23

24 Fleetwood asked the weight the Council should give to the fact that the City
25 of Ferndale is opposed to the application. Goodwin stated the City has not provided
26 a lot of information in the record. She will notify the City if the Council has a
27 hearing. The City has not been very vocal about its opposition. There might have
28 been something brief in writing, but it did not attend the meeting.
29

30 Fleetwood asked if there is an interlocal agreement that binds the County to
31 agree to annex in this instance. Goodwin stated there is not. In this case, the
32 Public Utility District (PUD) will provide the services. The City doesn't have services
33 out there. The PUD will provide water. Sewer isn't available, and the project
34 doesn't require it at this point.
35

36 Fleetwood asked if the Council could deny the request, even if it is in the
37 urban growth area. He's wondering the legal implications of denying the request.
38 Goodwin stated the area is in a 20-year urban growth area. The intent is to
39 become an urban area within the next 20 years. The County Council has the ability
40 to deny it now if that is what the Council wants. It is designated by the City of
41 Ferndale as an industrial area. That means that in the long-term, it will convert to
42 an industrial area.
43

44 Fleetwood stated a considerable portion of the property has been cleared.
45 He asked by what authority the landowner was able to clear the land. Goodwin
46 stated they are working on a wetland mitigation project that is authorized by the

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1 State Department of Ecology. It is not a County project at this point. The Army
2 Corps of Engineers and State Department of Fish and Wildlife are involved.

3
4 Nelson asked who would provide sewer services in the long-term. Goodwin
5 stated the City would provide sewer if and when it needs sewer.

6
7 Nelson stated the City stated it was not prepared to provide sewer at this
8 time. Goodwin stated that is correct. The Grandview Industrial Park, which is
9 across the freeway from this location, also does not have sewer service. Once it
10 comes to the County Council from the Hearing Examiner, the Council needs to
11 consider it. The Council has to have a public hearing if it wants to deny the
12 request. This is not like a Comprehensive Plan application where the Council has
13 the ability to decide whether or not to docket it. They need to at least send it to
14 committee for discussion.

15
16 **Roy moved** to introduce item three and schedule it in the Planning
17 Committee.

18
19 **Motion carried unanimously.**

20
21
22 **OTHER BUSINESS**

23
24 **RESOLUTION SUPPORTING INCLUSION OF THE KENDALL**
25 **COMMUNITY RESOURCE CENTER AS ONE OF THE TOP THREE**
26 **PROJECTS FOR THE WHATCOM COUNTY WA-CERT PRIORITIZATION**
27 **RANKING (AB2003-106)**

28
29 McShane stated he submitted an amended version since the original was
30 distributed today.

31
32 Brenner read the amended version into the record. **She moved** approval of
33 the amended version.

34
35 **Motion carried unanimously.**

36
37
38 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

39
40 Caskey-Schreiber stated the Northwest Air Pollution Authority (NWAPA) is
41 excited about a pending house bill that would charge a one-time registration fee of
42 \$10, which would be put toward retrofitting school buses to run cleaner diesel.

43
44 Brenner stated the Public Works Committee held two discussions. The first
45 was a **discussion regarding a request by citizens in the Geneva**
46 **neighborhood to have a stop sign installed on Lakeway Drive (AB2003-**

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1 **097).** County Engineer Joe Rutan does not support installing a stop sign, but will
2 bring forward alternatives that might reduce the speed in the area.
3
4

5 The second item in the Public Works Committee was a **discussion**
6 **regarding the Austin Creek Bridge on Lake Whatcom Boulevard in Sudden**
7 **Valley (AB2003-098).** County Engineer Joe Rutan will meet with the folks from
8 Sudden Valley and the administration, and then report back to the committee. Mr.
9 Rutan is very innovative. She is impressed with his new ideas.

10
11 McShane stated the Council owes a debt of gratitude to the County Executive
12 for hiring Joe Rutan.
13

14
15 **ADJOURN**

16
17 The meeting adjourned at 7:36 p.m.
18
19

20
21 _____
22 Jill Nixon, Minutes Transcription

23 These minutes were approved by Council on March 11, 2003.
24

25 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

26
27
28
29
30 _____
31 Dana Brown-Davis, Council Clerk

Dan McShane, Council Chair