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WHATCOM COUNTY COUNCIL
Regular County Council

April 8, 2003

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

Present:

Barbara Brenner
Laurie Caskey-Schreiber
Sam Crawford
Seth Fleetwood
Sharon Roy

Absent:

L. Ward Nelson

FLAG SALUTE

ANNOUNCEMENTS

McShane announced that there was **discussion with the Administration regarding a possible land acquisition (AB2003-018)** in executive session and **discussion regarding the Council's letter writing policy (AB2003-157)** during the Committee of the Whole meeting. The Council decided that in the future, letters that were approved by a majority of the Council and sent out, but not discussed during a Council meeting, would be published in the following Council packet. Along with the letter, the Council will include in its packet an explanation of the urgency of sending out the letter before discussion during a Council meeting.

SPECIAL PRESENTATION

1. PRESENTATION BY THE CITY OF LYNDEN REGARDING THE PROPOSED PDR TARGET AREA PROGRAM (AB2003-143)

Jack Louws, City of Lynden Mayor, read a letter into the record (*on file*) explaining the process the City went through in developing its proposed boundaries for the purchase of development rights (PDR) program.

Bill Verwolf, City of Lynden Administrator, stated the proposal is meant as a compromise that reflects a future need for commercial and residential growth in Lynden. The PDR process is a permanent process. This is not a request to change any zoning rules or Comprehensive Plan boundaries.

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2 The city population forecast to 2067 shows a potential of about 40,000
3 people. The build out of the current urban growth area (UGA) at six units per acre
4 would allow a population of about 19,000. The City requests that the County not
5 target an area to the north of the city, as shown on his map. They are trying to
6 reserve the area for long-term consideration. If that area to the north were
7 developed, it would allow a population of about 33,000 at a density of six units per
8 acre.

9
10 They considered certain constrictions and conditions when the City
11 developed the proposal. The possibilities for expansion to the south are limited
12 because of the Nooksack River and flood plain. There are wetlands, critical areas,
13 and habitat conservation areas that restrict expansion to the east of the city. The
14 Badger Road is a natural barrier north of the city. In the long-term future, the City
15 would look at the ability to go north of the Badger Road for development of
16 agricultural enhancing industries. To the west is the area with the biggest
17 potential for long-term development in the city.

18
19 The areas the City of Lynden requests be removed from the PDR target
20 areas are identified as the piece of target area ten between the Guide and
21 Berthusen Road and south of Badger Road, and in target areas eleven and twelve,
22 they've identified the first 1,320 feet north of Badger Road to accommodate the
23 potential for future agricultural related business.

24
25 Crawford asked if there will be recommended PDR purchases coming up,
26 and if any are in these areas.

27
28 Kraig Olason, Senior Planner, stated they did not include these areas in
29 round one of the program. The applications they have are vested if the County
30 rearranges the PDR target areas. There aren't any inside these areas.

31
32 Roy asked when the second round begins. Olason stated staff agreed to put
33 off the second round until there was some decision on removing these areas.

34
35 Roy asked if no action by the Council would mean that the original
36 boundaries would remain. The Council removed these areas for the first round
37 only. Olason stated that may have been the intent. The guidelines document
38 included a map of the target areas. It was amended and adopted, with the
39 statement that the first round wouldn't include those areas and the Council would
40 look at and decide upon those areas later. The Council would have to make a
41 decision to amend the map.

42
43 **2. PRESENTATION OF THE NATIONAL ASSOCIATION OF HOUSING AND**
44 **REDEVELOPMENT OFFICIALS (NAHRO) AWARD OF EXCELLENCE FOR**
45 **AFFORDABLE HOUSING WITH AMENITIES FOR SENIORS (AB2003-**
46 **151)**
47

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1 John Harmon, Whatcom County Housing Authority Executive Director, stated
2 the Bellingham Housing Authority and Whatcom County Housing Authority are two
3 different agencies, with a common staff and administration. The members of the
4 boards are on both housing authorities, which works very well. Tonight they are
5 talking about an elderly housing development in the City of Lynden. The County's
6 role is the creator of the Whatcom County Housing Authority. The County was one
7 partner who put this project together.

8
9 He gave a photo presentation of the development. Downtown Lynden is
10 nearby. They keep the development landscaped and well maintained. There are
11 views of ponds, the river valley, and Mount Baker. There are several amenities in
12 the units. He presented a plaque to the Executive and the County Council for the
13 River House project.

14
15 Pete Kremen, County Executive, accepted the plaque. The real credit goes
16 to the Housing Authority and local community organizations that have worked to
17 address the issue of affordable housing in Whatcom County.

18
19 Brenner asked if there is an elevator in this development, since it is for
20 seniors. Harmon stated there are elevators.

21
22 Caskey-Schreiber thanked Mr. Harmon for building attractive stormwater
23 retention ponds in the development. Harmon stated most of the land is in the
24 flood plain. The building is two feet above the flood plain.

25
26
27 **MINUTES CONSENT**

28
29 ***Roy moved*** to approve Consent Agenda items one through four.

30
31 ***Motion carried unanimously.***

32
33 **1. WATER RESOURCES WORK SESSION FOR MARCH 18, 2003**

34
35 **2. COMMITTEE OF THE WHOLE FOR MARCH 25, 2003**

36
37 **3. REGULAR COUNTY COUNCIL FOR MARCH 25, 2003**

38
39 **4. BOARD OF HEALTH FOR APRIL 1, 2003**

40
41
42 **OPEN SESSION (20 MINUTES)**

43
44 The following people spoke:

45
46 Charles Antholt, Whatcom County Agricultural Advisory Committee Chair,
47 stated he wanted to speak about Lynden's Purchase of Development Rights (PDR)

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1 proposal. **Presentation by the City of Lynden regarding the proposed PDR**
2 **Target Area Program (AB2003-143).** The letter from the Agricultural Advisory
3 Committee speaks for itself. The committee agrees with the City of Lynden. Their
4 projections are dubious, at best. A problem with Lynden's long-term growth
5 projection is that there is a profound demographic change going on in the country.
6 The long-term U.S. fertility rate is at two, just below the replacement level. It will
7 continue to decline. That means that by 2030 or 2040, the U.S. population will
8 begin to decline.

9
10 The problem is that growth will occur. They can argue about the rate.
11 Whatever the rate, Whatcom County can accommodate the growth without using
12 up prime farmland. That is the appropriate thing to do. Let the farmers in the
13 disputed PDR areas have a choice. Put those areas back into the PDR program.

14
15 Mike Kaufman, 1620 Huntley Road, stated the electric moratorium is coming
16 up in the middle of June. Start moving forward with solving the problem before
17 that date arrives and they have to have another moratorium. He will provide a
18 handout of the new changes.

19
20 Ray Tryzynka, Puget Sound Energy Local Government and Community
21 Relations Manager, stated he agreed with Mr. Kaufman. He provided the Council
22 and Executive the latest executive summary of Puget Sound Energy's least cost
23 plan. It is part of their overall larger resource planning strategy. They are in the
24 midst of taking public comment to the Utilities Commission for a ten and twenty
25 year horizon for resource planning. At Puget Sound Energy, they will try to
26 maintain and enhance a balanced portfolio that consists of conservation and energy
27 efficiency measures. Those measures will double what they have done over the last
28 ten-year period of the previous least cost plan. They will also look at renewables,
29 which they are actively pursuing. They want to have about ten percent of the load
30 covered by renewables during the next ten-year planning period. They are looking
31 at five percent of the load coming from wind power resources. They are also
32 looking at thermal power and long-term purchase power agreements. The full
33 report is available on the Puget Sound Energy website. The forecast is for a 1.4
34 percent average growth over the next ten to twenty years. The issue is the change
35 in the ability of the resource mix to cover that growth. Typical long-term contracts
36 will be coming off. They can renegotiate those contracts, but they also have to look
37 at other resources that may be available.

38
39 Brenner asked if the five percent wind power is in addition to the ten percent
40 renewable. Tryzynka stated it is.

41
42 Mark Marshall, Lummi Island Transportation Committee, stated he supports
43 the parking proposal for Gooseberry Point. **Request authorization for the**
44 **Executive to enter into a Use of Premises agreement with Lummi**
45 **Commercial Company for Lummi island ferry parking area at Gooseberry**
46 **Point, in the amount of \$35,227 (AB2003-144).** The Lummi Island
47 Transportation Committee (LITC) has been working closely with the County and

1 Lummi Nation to improve the system during a time of limited resources. This
2 parking area is critical. Many more people are walking.
3

4 Sylvia Thorpe, 5079 Everson-Goshen Road, stated the animal control
5 contract is up for bid. She submitted a letter earlier in the day (*on file*). Whatcom
6 County has a growing population of both animals and shelters. They need two
7 shelters to provide animal control. More animals are now euthanized at the
8 Humane Society and more animals receive homes through Security Specialists Plus
9 (SSP)-Preferred Animal Care, which is different from what people feared. She is
10 encouraged by what SSP and the Humane Society do. Both agencies work with the
11 public, educational institutions, and guide dogs and medical service dogs.
12 Classrooms are working with SSP. A lot of things need to be considered by the
13 decision makers. It is about more than just how people feel. She presented the
14 facts and figures for both SSP and the Humane Society. Both agencies must
15 continue to operate.
16

17 John Sarich, Ferndale, stated he would talk about urban growth areas and
18 the Hearing Examiner. The State of Washington developed urban growth areas as
19 part of the Growth Management Act. They are very confusing in terms of who has
20 control of them. The City of Sedro-Woolley voted two weeks ago to eliminate its
21 urban growth area. Skagit County was allowing development without services. In
22 Whatcom County, another confusion is that a development in the urban growth
23 area must go through the hearing examiner process for a rezone. They are
24 frustrated with the system. The Council can't get input about an issue unless it's
25 through letters sent in the quasi-judicial process.
26

27 (*Clerk's Note: End of tape one, side A.*)
28

29 Sarich continued to state that some facts were never brought out. Mistakes
30 of the Planning Department and opinions of the City of Ferndale were never brought
31 before the Council.
32

33 John Steensma, 9295 Axling Road, Lynden, stated he is a dairy farmer.
34 **Presentation by the City of Lynden regarding the proposed PDR Target**
35 **Area Program (AB2003-143).** Recent trends show that the average dairy herd
36 in the State of Washington doubles every 15 years. If he is to be ecologically
37 correct and maintain a small farm atmosphere, he will need one acre per cow, or
38 3,200 acres in 60 years. He asked the Council to establish a no-build zone of five-
39 square miles for him to accommodate his 60-year growth projection. This zone
40 would extend to the south and east of his farm, toward Lynden, since there are
41 wetlands and critical areas to the north and west of his farm. This should ensure
42 him an adequate land supply for affordable grazing. Landowners in the zone may
43 be allowed to continue living in the zone as long as they don't build more housing.
44 This will save him the need of buying their improvements and removing them later.
45 When he needs the land, he would pay those landowners the full agricultural value.
46

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1 This request could encompass the entire Whatcom County herd of dairy
2 cattle, approximately 60,000 cows today. In the next 60 years, it will grow to
3 960,000 cows. They will need almost a million acres in the county just for dairy.
4

5 He asked if this proposal is any more outlandish than the City of Lynden's
6 proposal to block farmers free use of their land because someday the City might
7 need it for future growth. It is not. The real issue is a question of property rights.
8 The question is whether the City of Lynden should be allowed to dictate what a
9 farmer can do with his or her land outside of the city limits and outside the urban
10 growth area. These farmers cannot even vote for those on the City Council who
11 control their fate. Let the farmers decide what is best for their lands. Deny the
12 Lynden proposal.
13

14 John Belisle, 231 Ten Mile Road, stated he is an apple farmer. **Presentation**
15 **by the City of Lynden regarding the proposed PDR Target Area Program**
16 **(AB2003-143).** The document the City of Lynden wrote is fiction. He asked what
17 gives the City of Lynden the right to say what should be done to other landowners.
18 The Agricultural Advisory Committee, Lummi Nation, Agricultural Preservation
19 Committee, Purchase of Development Rights Committee, and numerous citizens
20 want this to stop. Stop spending resources on this project. Growth may come to
21 Whatcom County, but it needs to go to the right place. Lynden may just be in the
22 wrong place.
23

24 Robert Verhoeven, 7098 Atwood Road, gave his time to John Sarich.
25

26 Sarich stated he would speak about economics and income tax. He prepares
27 tax statements for people. It is disturbing that Canadian businesses use Whatcom
28 County to get around Canada's environmental and minimum wage laws. By doing
29 that, a lot of jobs that come here are minimum wage jobs.
30

31 He's been to many meetings at the County lately. He complimented County
32 staff persons Peter Sim, Martha Blakely, John Guenther, and Carole Magner who
33 have been very helpful. The Hearing Examiner and many of the planning people
34 who are stakeholders in development are not quite as receptive. The City of
35 Ferndale and Washington State Department of Fish and Wildlife have also been very
36 helpful.
37

38 Frank Eventoff, 7086 Atwood Road, Ferndale, stated the Growth
39 Management Act and Comprehensive Plan disallow unsightly or continuous
40 development along a major transportation corridor. The County Council is the
41 aesthetic police.
42

43 Nelda Stite, 9005 Benson Road, Lynden, stated she owns a dairy farm that
44 has been in the family nearly 100 years. **Presentation by the City of Lynden**
45 **regarding the proposed PDR Target Area Program (AB2003-143).** She was
46 very surprised by Lynden's PDR program proposal. She attended three meetings
47 with the City of Lynden. At all three, 90 percent of those who attended were

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1 against the proposal. The City did not listen to the people. Lynden has enough
2 land to accommodate 30,000 people. If Lynden wants development rights, it
3 should buy them, like the County has proposed. Lynden should not have the power
4 to deny sale of anyone's development rights.
5

6 Ten years ago, the City had a proposal to annex 80 acres north of the
7 Badger Road and into the city limits. The long range planning commission voted
8 unanimously against it. The City Council also voted against it. At that time, the
9 East Badger Road was the development boundary. With the increase in traffic, she
10 can't imagine the City of Lynden wanting the East Badger Road to run through it in
11 the future. She urged the County Council to not accept the proposal from the City
12 of Lynden.
13

14 Rod Erickson, 6343 Church Road, Ferndale, stated he is a dairy farmer.
15 **Presentation by the City of Lynden regarding the proposed PDR Target**
16 **Area Program (AB2003-143).** He is the Purchase of Development Rights
17 Committee Chair. He is opposed to the City of Lynden's PDR proposal. They need
18 more time to study it. It has not come to his committee, which is trying to
19 negotiate with interested farmers. They are just beginning to work with an
20 appraiser on costs. He has lived in the county for over 60 years. The farm has
21 been in his family for 100 years. He has no intention of giving up farming. The
22 growth from Ferndale is at his southern boundary. He is in the Ferndale urban
23 growth area, and he cannot sell his development rights. He is strongly against the
24 City of Lynden crossing the Badger Road.
25

26 Sherm Polinder, 670 Polinder Road, Lynden, stated he is a dairyman and a
27 former member of the Agricultural Advisory Committee. **Presentation by the City**
28 **of Lynden regarding the proposed PDR Target Area Program (AB2003-**
29 **143).** His family has been farming here since 1901. Whatcom County is blessed
30 with a variety of excellent farmland, adaptable to many crops. There are
31 misconceptions and myths tossed around the last couple of months.
32

33 The first myth is that the County has boxed Lynden in and prevents the city
34 from expanding. They have already excluded the farmland south of the Badger
35 Road, between Benson Road and the Guide Meridian. That is about 500 acres. The
36 area east of the Guide Meridian, south of the Badger Road, and west of the
37 Northwood Road can fit about 30,000 people without excessive density. Lynden's
38 vision statement is to maintain a small town atmosphere and its agricultural roots.
39

40 The second myth is that the City of Lynden needs more room for industry.
41 Lynden has industry, the agricultural industry, which brings in an excess of \$200
42 million each year. Save that industry.
43

44 The third myth is that agriculture is dying in Whatcom County. He does not
45 know of one farmable acre that is going to waste. There is a tremendous demand
46 and competition for farmland. There are new crops coming into the county.
47 Organic farming compliments dairy farming.

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1
2 The fourth myth is that PDR's are not the way to go. It is one of the best
3 tools they have. The best tool is a strong County Council that has a backbone.
4

5 Saving farmland is not an exact science. The farmers need the County's
6 help. Washington State has already covered up thousands of acres of farmland, a
7 non-renewable natural resource. Have the courage and foresight to keep
8 agriculture viable in Whatcom County.
9

10 Russell Simonson, 1191 E. Smith Road, spoke on the **Presentation by the**
11 **City of Lynden regarding the proposed PDR Target Area Program (AB2003-**
12 **143)**. He is an old Dutchman. If they were in Holland, the PDR program would be
13 in effect up to the main street of Lynden.
14

15 Karen Steensma, 9295 Axling Road, Lynden, stated she is a third generation
16 farmer and teaches college biology. **Presentation by the City of Lynden**
17 **regarding the proposed PDR Target Area Program (AB2003-143)**. She
18 would discuss the area west of the Guide Meridian, an area of about 800 acres.
19 This area is outside the city limits and the urban growth area. That land has
20 amazing soil. The food produced there includes dairy products, potatoes, and
21 raspberries, which are the top three agricultural commodities from Whatcom
22 County. This climate and these soils produce these foods more efficiently than any
23 other place in the world. The top dairy herd in the county is located in this area.
24 Berthusen Park, the only remaining example of an old growth forest in lower
25 Whatcom County, is also in this area. This parks size and habitat make it a refuge
26 and island for wildlife.
27

28 There are salmon in Bertrand Creek. The park and Bertrand Creek are
29 havens for wildlife because they are not urbanized, and are surrounded by
30 farmland. The area also makes Lynden and Whatcom County a desirable place to
31 live. Progress is inevitable, but it is not progress when they waste prime food
32 producing soils in a world that is losing these soils to urban sprawl and erosion
33 while people are hungry in the world. The soils are a finite resource that must be
34 protected. The City of Lynden proposal is the situation the PDR program was
35 designed to prevent. Let farmers decide what is best for their farms.
36

37 Jeff Canaan, 9706 Depot Road, Lynden, **Presentation by the City of**
38 **Lynden regarding the proposed PDR Target Area Program (AB2003-143)**.
39 He has a small organic fruit and vegetable farm. He is opposed to Lynden's PDR
40 proposal. This is really affecting farmers. His father-in-law sold his land to pay off
41 debts because his land had been removed from the PDR area. The last couple of
42 years haven't been good. The PDR program would have given him the capital to
43 continue farming and protected his land from what is going on in Lynden. There is
44 a new housing development going in across Badger Road. If the land is removed,
45 farmers will no longer have the choice. His father would have applied for the first
46 round.
47

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1 Robin Dexter, 3726 Broad Street, Bellingham, stated he agreed with most of
2 the speakers about keeping land in the PDR program. **Presentation by the City**
3 **of Lynden regarding the proposed PDR Target Area Program (AB2003-**
4 **143).** His concern is connected with two years of updates they have coming on the
5 growth management documents. He reminded the Council that there are growth
6 management goals that need to be addressed. All County planning documents
7 from the past ten years call out for the preservation of agriculture. Two primary
8 statewide goals are to reduce sprawl and encourage fish and transportation are not
9 being addressed by Lynden's request. Efficient transportation isn't rationalized until
10 there is a density of ten per acre. Lynden is at 1950 levels. It is difficult to
11 imagine a scenario for Lynden's growth that can't be accommodated by an increase
12 in density. If they can't insist on that, where the reward is the preservation of
13 farmland, then the question is how Bellingham would contain itself. He is
14 concerned about how they are going to update the urban growth areas.
15

16 Roger Van Dyken, 145 East Cedar Drive, Lynden. **Presentation by the City**
17 **of Lynden regarding the proposed PDR Target Area Program (AB2003-**
18 **143).** He encouraged the Council to stay on the PDR program course, and allow
19 farmers to volunteer for the program. This has been a good process. The City of
20 Lynden has raised some good questions. He suggested they honor the questions
21 that Lynden has raised. They do have needs for people to live, yet the agricultural
22 lands are an important commodity. The City of Lynden focused the agricultural
23 community and residents' thoughts on who the people of Lynden are and what they
24 want to become.
25

26 He is probably one of the first of all his ancestors, going back to Holland, to
27 move off the land. He suggested it is time to build some dikes around the precious
28 resources in Whatcom County. Don't cover over the farmland with asphalt and
29 cement because it will be permanent.
30

31 32 **CONSENT AGENDA**

33
34 **Crawford** reported for the Finance and Administrative Services Committee
35 and **moved** to approve Consent Agenda items one through five. Item one was
36 recommended for approval with a substitute contract.
37

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

- 40 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
41 **USE OF PREMISES AGREEMENT WITH LUMMI COMMERCIAL COMPANY**
42 **FOR LUMMI ISLAND FERRY PARKING AREA AT GOOSEBERRY POINT,**
43 **IN THE AMOUNT OF \$35,227 (AB2003-144)**
44
- 45 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
46 **AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN WHATCOM**
47 **COUNTY AND PUBLIC UTILITY DISTRICT NO. 1 REGARDING**

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1 **CONTRACT ADMINISTRATION AND PROJECT OVERSIGHT FOR THE**
2 **WRIA 1 WATERSHED MANAGEMENT PROJECT, IN THE AMOUNT OF**
3 **\$38,500 (AB2003-145)**

4 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
5 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND REGION 3**
6 **AIDS SERVICE NETWORK TO PROVIDE HIV/AIDS PREVENTION**
7 **ACTIVITIES, INCLUDING COUNSELING AND TESTING, OUTREACH,**
8 **VOLUNTEER SERVICES, CASE MANAGEMENT AND EDUCATION, IN**
9 **THE AMOUNT OF \$132,940 (AB2003-146)**

10
11 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
12 **LEASE AGREEMENT BETWEEN WHATCOM COUNTY AND THE BIRCH**
13 **BAY LIONS CLUB TO OPERATE A HOSTEL FACILITY AT BAY HORIZON**
14 **PARK, AS A RESULT OF RFP #03-07 (AB2003-147)**

15
16 **5. RESOLUTION AMENDING COUNTY ROAD PROJECT (CRP) NO. 900905,**
17 **"LUMMI VIEW DRIVE" TO INCLUDE CONSTRUCTION FUNDING OF**
18 **\$1,000,000 (AB2003-148)**

19
20
21 **OTHER ITEMS**

22
23 **1. DISCUSSION OF THE LUMMI ISLAND FERRY OPERATION AND**
24 **COMPLETION OF THE 20-YEAR FERRY PLAN (AB2003-149)**

25
26 Brenner reported for the Public Works and Capital Projects Committee and
27 stated the Public Works Department is working with the Lummi Island
28 Transportation Committee to finalize the draft plan. The County purchased
29 property to put in parking areas. There were some concerns raised by the
30 neighbors, and the administration looked at other properties. However, the
31 administration decided that there is no better property for a parking area. The
32 parking area may not be developed this year because of the permits that are
33 needed, but the project is moving forward.

34
35 **2. RESOLUTION DECLARING INTENT TO VACATE A PORTION OF LUMMI**
36 **VIEW DRIVE/LUMMI SHORE ROAD (AB2003-150)**

37
38 Brenner reported for the Public Works and Capital Projects Committee and
39 stated this resolution is an approval for the Engineering Division to go ahead with
40 studying the possibility of a road vacation. It is not to actually vacate the road yet.

41
42 ***Brenner moved*** to approve the resolution.

43
44 ***Motion carried unanimously.***

1 **3. DISCUSSION REGARDING THE POSSIBLE INSTALLATION OF CITY-**
2 **LEVEL SERVICES (SIDEWALKS) ON COUNTY ROADS (AB2003-155)**
3

4 Brenner reported for the Public Works and Capital Projects Committee and
5 stated she is more concerned than she was before this discussion. The County
6 Road Standards Manual is in conflict with the Growth Management Act. Outside of
7 an urban growth area, the County is going to widen West Smith Road and install
8 wide road shoulders and sidewalks. The location is near a school, but it is a lot of
9 concrete. It will take a lot of money to maintain drainage. The Road Standards
10 Manual says that they can put in sidewalks anywhere there is a density of one
11 house per acre or more. That is too extravagant. It's too late to do anything about
12 this project, but the Council should review the road standards and other regulations
13 to make sure they are consistent with the Growth Management Act.
14

15 **4. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
16 **MAP FROM RURAL (R5A) TO LIGHT IMPACT INDUSTRIAL (LII) FOR**
17 **50.3 ACRES ON ATWOOD ROAD NORTH OF THE I-5/GRANDVIEW**
18 **INTERCHANGE (SITE SPECIFIC REZONE) (AB2003-104)**
19 **(PAPERWORK INCLUDES DECISION ON REMAND FROM COUNCIL**
20 **FILE AB2003-104B)**
21

22 McShane asked if any councilmember had any communication outside the
23 record and, if so, that councilmember must place on the record the substance of
24 any such communication so other interested parties may have a right at this
25 hearing to rebut the substance of that communication.
26

27 Roy disclosed that she had a conversation with a fellow councilmember
28 regarding a communication that councilmember received.
29

30 Dave Grant, Senior Civil Deputy Prosecutor, stated that any disclosures
31 made at previous meetings should also be made at this meeting.
32

33 Brenner disclosed that she had conversation with several opponents and
34 proponents who called her. She told them she couldn't discuss it with them
35 because it was ex parte' communication. She mentioned that the issues were
36 environmental and regarding buffers. Since the first time it was remanded, she
37 received another phone call from someone who was upset about urban growth
38 areas overall. That person bought light industrial zoning, and felt that this is anti-
39 competitive for someone to get a rezone this way. She can be fair and impartial in
40 making her decision.
41

42 Roy disclosed that she received two phone calls from proponents, which she
43 reported last time.
44

45 Brenner disclosed that she received a phone call from the developer, and
46 spent some time talking to him before she found out this is a quasi-judicial matter.

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1 The substance of the conversation was an invitation by the developer to give her a
2 tour of the proposal, which she didn't do.

3
4 Roy disclosed that the substance of the phone calls she received was a
5 request that she approve the request. The proponent gave reasons to vote in
6 favor of the proposal, and wanted to know what she thought about it.

7
8 *(Clerk's Note: End of tape one, side B.)*
9

10 Roy continued to disclose that the reasons proposed were that they needed
11 that business opportunity in the county. There was access to the freeway. She
12 can be fair and impartial in her consideration of the decision.

13
14 McShane stated he received and read a number of emails from opponents
15 and proponents. Those emails went into the record. He can be fair and impartial
16 in his consideration of the decision.

17
18 Fleetwood disclosed that he read everything in the record and everything
19 presented to the councilmembers. He hasn't had any contact that he hasn't
20 already reported. There was communication with neighbors who are opponents.
21 He met with them before he understood the substance of the proposal. He can be
22 fair and impartial in his consideration of the decision.

23
24 Caskey-Schreiber disclosed that she had discussion with a Ferndale City
25 Council Member regarding whether or not the City of Ferndale supported the
26 request. The Ferndale Council Member felt that it is premature because there were
27 no infrastructure services yet. She emailed another person and suggested that the
28 person come to the Council and testify, not knowing it is a quasi-judicial matter.
29 She recently had a conversation with Councilmember Roy about an email regarding
30 Mr. Jansen moving a creek that affected a property owner. She can still make a
31 fair and impartial decision.

32
33 Crawford stated he had no disclosures.

34
35 McShane stated that any parties who wanted to rebut the statements made
36 in the councilmembers' disclosures could do so. *(Clerk's Note: No rebuttal*
37 *comments were offered.)*

38
39 **Fleetwood moved** to go into executive session for approximately ten
40 minutes to have substantive discussion regarding legal issues.

41
42 **Motion carried unanimously.**

43
44 *(Clerk's Note: The Council went into executive session from 8:40 p.m. to*
45 *8:53 p.m.)*
46

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1 **Crawford moved** to approve the Hearing Examiner’s decision based on the
2 Hearing Examiner’s original summary, findings of fact, and conclusions, including
3 the remanded requirements and additional modified conditions.
4

5 **Motion to adopt carried 5-1-0 with Fleetwood opposed and Nelson**
6 **absent.**
7

8 Caskey-Schreiber stated she only voted in favor of the ordinance because it
9 is an urban growth area. It was a mistake to ever put the area in an urban growth
10 area, but the County is bound by that action.
11

12 McShane stated this was a very confusing and frustrating issue. The civil
13 manner in which the residents of the area conducted themselves is very admirable.
14 He understood that people may not be happy with the decision process.
15

16 Caskey-Schreiber stated one of the comments has prompted her to try and
17 draft legislation to increase the notification area to 1,000 feet for anyone who is
18 going for a conditional use, variance, rezone, or Comprehensive Plan amendment.
19

20 Brenner stated she really appreciated the information the Council received.
21 It wasn’t a comfortable resolution for anyone. She felt that the Council was in a
22 legal position with little flexibility, which is why she voted in favor of the ordinance.
23

24 25 **INTRODUCTION ITEMS**

26
27 **McShane moved** to accept the Introduction Items.
28

29 Fleetwood withdrew item one.
30

31 **Motion to accept items two through five carried unanimously.**
32

33 *(Clerk’s Note: Continued below.)*
34

- 35 **1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
36 **ORDINANCE, TITLE 20, CHAPTER 20.71 – WATER RESOURCE**
37 **PROTECTION OVERLAY DISTRICT, CHAPTER 20.80 –**
38 **SUPPLEMENTARY REQUIREMENTS (STORMWATER AND CLEARING),**
39 **CHAPTER 20.85 – PLANNED UNIT DEVELOPMENTS, AND CHAPTER**
40 **20.97 – DEFINITIONS, TO PROVIDE ADDITIONAL REGULATORY**
41 **PROTECTION FOR SENSITIVE WATERSHEDS (AB2002-222B)**
42
43 **2. ORDINANCE AMENDING THE 2003 WHATCOM COUNTY BUDGET,**
44 **FOURTH REQUEST (AB2003-152)**
45
46 **3. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
47 **TEXT, CHAPTER 20.40, AGRICULTURE DISTRICT (AB2003-153)**

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1
2 **4. RESOLUTION REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT**
3 **APPLICATION FOR PLANNING OF THE KENDALL COMMUNITY**
4 **RESOURCE CENTER IN WHATCOM COUNTY (AB2003-154)**
5

6 **5. ORDINANCE AUTHORIZING THE ISSUANCE OF LIMITED TAX**
7 **GENERAL OBLIGATION REFUNDING BONDS (AB2003-156)**
8
9

10 **OTHER BUSINESS and REPORTS AND OTHER ITEMS FROM**
11 **COUNCILMEMBERS**
12

13 McShane stated the Council approved sending a letter to the State Health
14 Board this evening, during the Committee of the Whole meeting. Because of the
15 short timeframe, the letter will be included in the next Council packet, according to
16 the new letter-sending policy.
17

18 Brenner stated there would be a workshop at the Skagit County Public Utility
19 District regarding farmers versus salmon, and whether they can save both. She is
20 going.
21

22 Roy stated she testified before the Natural Resources Committee in Olympia
23 about grizzly bears, and showed her photographs from her camping trip at McNeil
24 River in Alaska. It was rewarding to talk with people who had the scientific
25 information.
26

27 Crawford stated the County Council has been invited to attend a workshop
28 series on visioning for an area that is a candidate for being included in the
29 Bellingham urban growth area. The Mayor of Bellingham will be the keynote
30 speaker for the workshop series. He recently got a letter from someone who
31 questioned whether it is appropriate for the County Council to participate in a
32 workshop to do visioning for a development that could occur in an urban growth
33 area when it will be in the position of deciding whether or not it should be an urban
34 growth area in the first place. He asked for some guidance on the issue.
35

36 Pete Kremen, County Executive, asked who is paying for the workshops.
37

38 Roy stated Caitec is paying for it.
39

40 Crawford stated the developer who is making the application to get the area
41 into the urban growth area is paying for it.
42

43 Brenner stated it is disturbing because the workshop panelists include City of
44 Bellingham staff. It's like doing an end run around the public process. She told Pat
45 Jones she was uncomfortable.
46

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1 Crawford stated he wants to be a part of the visioning process if that is
2 where they are headed. Until he got the letter questioning the appropriateness of
3 the Council's attendance at the workshop, he didn't realize that they may have the
4 cart before the horse.
5

6 Dave Grant, Senior Civil Deputy Prosecutor, stated this is not a quasi-judicial
7 matter. It is a legislative matter. He's concerned about a quorum of the Council
8 participating in the workshop. They may have to put out a notice of a public
9 meeting, but the people hosting the workshops may not want to turn it into an
10 open public meeting. He will discuss it further with the councilmembers.
11

12 Crawford stated it doesn't sound like there is a quorum of councilmembers
13 who are interested in attending. He would like to know whether it would be
14 appropriate for an individual councilmember to attend, when they have to make the
15 decision on the urban growth area.
16

17 **INTRODUCTION ITEMS**

18 **5. ORDINANCE AUTHORIZING THE ISSUANCE OF LIMITED TAX** 19 **GENERAL OBLIGATION REFUNDING BONDS (AB2003-156)**

20
21
22
23 *(Clerk's Note: Continued from above.)*
24

25 **McShane moved** to pull the acceptance of Introduction Item five. The
26 Council has not received any paperwork on it yet.
27

28 ***Motion carried unanimously.***
29
30

31 **ADJOURN**

32
33 The meeting adjourned at 9:05 p.m.
34
35

36
37 _____
38 Jill Nixon, Minutes Transcription

39 These minutes were approved by Council on April 22, 2003.
40

41 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

42
43
44
45
46
47 _____
Dana Brown-Davis, Council Clerk

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1
2