



1           Bunny Schneider, 504 Linden Road, Animal Control Advisory Committee,  
2 spoke on the Security Specialists Plus (SSP) Animal control contract. The  
3 committee provided input on the language of the request for proposals (RFP) and  
4 contract. The committee included several recommendations in the contract that  
5 will improve the quality of animal care. She submitted a list of their  
6 recommendations (*on file*). The committee supports the contract.  
7

8           Patrick Alesse, 4825 Alderson Road, Birch Bay, stated he is opposed to the  
9 James Way vacation request. He presented a petition to Council opposing the  
10 request (*on file*). The County should not give any land away in the Birch Bay area.  
11 The County should acquire more land for public access. He asked for an  
12 explanation of how the beach reserve created by the lot line adjustment happened.  
13

14           Pete Huck, 1407 Iris Lane, Bellingham, asked what happened to his citizen's  
15 complaint regarding the death of Deputy Matt Herzog. The accident was not a hit  
16 and run accident. It was a vehicular homicide.  
17

18           McShane stated the Council sent the complaint to the Council's attorney,  
19 Dave Grant, who will take a look at the complaint and the case and provide any  
20 information on an appeal. Since this is a judicial matter, he can't provide any more  
21 information. Huck stated the Sheriff, Prosecutor, Public Defender, and Judge have  
22 lied. It's up to the Council to make sure there is justice. It's a County matter of  
23 how the county is being run.  
24

25           Brenner stated she talked to the Council's attorney. The case is the State's  
26 law, not County law. The Council doesn't have jurisdiction in criminal matters. It  
27 sets policy. Huck stated he addressed the Council, but the Council has not done  
28 anything. They need good protection in the courtroom.  
29

30           Marian Beddill, 3600 Seeley Street, stated she would discuss elections and  
31 voting equipment. A number of citizens have been working on the issue of  
32 watching the conduct of future elections in the state and county. This group wants  
33 to maintain a voter-verified physical, or paper, ballot for all future elections. The  
34 Auditor will seek funding for new voting equipment, since the punch cards must be  
35 eliminated. She requested that, whatever system is purchased, the system include  
36 a method for the voter to see the results of the vote he or she just cast. Keep the  
37 paper trail so a believable audit can be conducted.  
38

39           Brenner stated she would like to assign the well drilling issue to the Natural  
40 Resources Committee. She has concerns about how it affects policy.  
41

42           McShane stated the decision is due in about two weeks. They could have the  
43 issue scheduled in the committee, but it might not be of much benefit to those  
44 involved. He suggested that the Water Resources Division staff look at the issue.  
45 He also suggested that they discuss with the Council's attorney about whether the  
46 Council wants to become engaged.  
47

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1 Brenner stated she would like to have a discussion. This may not be the only  
2 time this will happen. It will change people's ability to get water in Whatcom  
3 County. It's important to work with the State on this issue.

4  
5 Roy stated she has a lot of questions about the issue.  
6  
7

## 8 **PUBLIC HEARING**

### 9 10 **1. ORDINANCE IMPOSING AN INTERIM ZONING MAP FOR THE LAKE** 11 **WHATCOM WATERSHED (AB2003-181A)** 12

13 Sylvia Goodwin, Planning Division Manager, gave a staff report and stated  
14 the Planning Commission has tabled this until the water resource inventory area  
15 (WRIA) planning is done in November. This may not come back until the end of the  
16 year. She doubts that this version of the plan will have detailed modeling on Lake  
17 Whatcom, so it may even be longer.  
18

19 This interim map is different than the previous map in three areas. The  
20 Eagle Ridge area is going back to the rural residential, two units per acre (RR2)  
21 zone, which is what it has been. It incorporates two of the three areas. The third  
22 area is a six-acre parcel near Cain and Reed Lakes. It was zoned commercial  
23 forestry. The owner purchased the property under the assumption that it was  
24 rural. The owner has an application to build a house. They recommend that parcel  
25 go back to rural, one unit per five acres (R5A), which is what the Assessor's map  
26 says it is. This piece was not properly zoned. They should not have commercial  
27 forestry on a six-acre parcel.  
28

29 Fleetwood asked how many additional building units would be allowed in  
30 Eagle Ridge. Goodwin stated the plats are already vested and the lots are already  
31 there. It wouldn't allow any further division. Under the rural zone, the footprint of  
32 impervious surface is limited to ten percent. If it is rezoned to rural residential, the  
33 footprint allows 20 percent of impervious surface, which is consistent with the  
34 surrounding area.  
35

36 Brenner stated the reason they are doing the change with Eagle Ridge is  
37 because it is mostly built. People bought lots thinking they could build similarly  
38 with what is already there. Goodwin stated that is correct. In addition, there are  
39 covenants in the area that prevent two-story houses, and it is more appropriate to  
40 allow the new houses to be built the same as the houses that are already there.  
41

42 McShane opened the public hearing and the following people spoke:  
43

44 Roger Almskaar, 3610 Meridian, stated he represents Hal Arnason. He is  
45 happy to see the Council changing the small parcel in the Agate Bay area, which  
46 would go back to RR2. The Arnason's have a small vacant lot there. They do want  
47 to build a house on the lot, but they are limited to ten percent of impervious

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1 surfaces on the lot. The lot is assessed at over \$300,000. They want to build a  
2 house that is commensurate with the value of the lot. He is in favor of the change  
3 in this ordinance.

4  
5 Tom Pratum, 2241 Northshore Road, stated he supports the downzone. It's  
6 gotten watered down over time. They should proceed with the downzone. There  
7 are some large lots along Northshore that are zoned RR2, but could be downzoned.  
8 He understands the reason for leaving areas as they are. He asked the Council to  
9 try to leave it alone and not make any more removals from the downzone.

10  
11 Hearing no one else, McShane closed the public hearing.

12  
13 ***Caskey-Schreiber moved*** to adopt the ordinance.

14  
15 Fleetwood asked the reason for the southern portion of Northshore. He  
16 asked if that is the area being returned to the RR2 zone. Goodwin stated it is.  
17 Most of those lots between the road and the lake are only a half-acre. If 20  
18 percent of impervious surfaces is allowed, it allows 4,000 square feet for a  
19 footprint. Many existing lots with a driveway and a house are already over 20  
20 percent. The people who don't have houses are neighbored by large houses and  
21 driveways, but they can't build a small house with a driveway under the current  
22 rules.

23  
24 Fleetwood asked how many houses would be subject to the additional  
25 amount. Goodwin stated approximately 50 or 100 lots are in the area, but there  
26 are not more than a dozen that are vacant. Most are already developed.

27  
28 McShane stated there might be constraints in a small area due to an alluvial  
29 fan. Keep the tree buffer along the creek.

30  
31 Goodwin stated there are similar lots up the road, towards the park, that are  
32 in the same situation. They are remaining the same now, but the staff  
33 recommendation was to return those to a zone of RR2, also.

34  
35 Roy asked for a map that includes street names and color-coding, next time  
36 this issue comes up.

37  
38 ***Motion to adopt carried 5-1 with Crawford opposed.***

39  
40 **2. ORDINANCE (INTERIM) AMENDING THE OFFICIAL WHATCOM**  
41 **COUNTY ZONING ORDINANCE, TITLE 20, CHAPTER 20.71 – WATER**  
42 **RESOURCE PROTECTION OVERLAY DISTRICT, CHAPTER 20.80 –**  
43 **SUPPLEMENTARY REQUIREMENTS (STORMWATER AND CLEARING),**  
44 **CHAPTER 20.85 – PLANNED UNIT DEVELOPMENTS, AND CHAPTER**  
45 **20.97 – DEFINITIONS, TO PROVIDE ADDITIONAL REGULATORY**  
46 **PROTECTION FOR SENSITIVE WATERSHEDS (AB2003-181)**  
47

1 McShane opened the public hearing and the following people spoke:  
2

3 Bill Quehrn, Building Industry Association, read a letter into the record (*on*  
4 *file*). He asked for a halt to any more changes and that a stakeholders group to be  
5 formed.  
6

7 Dennis Jones, Sudden Valley resident, stated an additional downzone within  
8 Sudden Valley for 500 lots was just proposed. The cost is five times the cost of  
9 buying Sudden Valley in 1967, when all of Sudden Valley was offered for sale. In  
10 1992, a joint resolution for Lake Whatcom was approved. A plan was presented in  
11 December. This interim ordinance is part of the plan. Building and destruction of  
12 the watershed has occurred since December of 2001. They need this ordinance.  
13 They have goals and a plan. Start working on it.  
14

15 Paul Isaacson, 204 Shallow Shore Road, stated the intent of the overlay is  
16 good. He is concerned with the number of flaws they keep finding in the document.  
17 He requested that they slow down the process a bit. He would like to discuss the  
18 flaws he's found during a work session. Do the work on this properly.  
19

20 Aubrey Stargell, Maple Falls, asked the Council to not adopt the ordinance  
21 due to unintended consequences. This ordinance will ban the creation of pasture  
22 land wherever the overlay provides, by virtue of the tree retention requirements.  
23 Requiring someone to leave 65 percent of trees is unconscionable because they've  
24 already got the critical areas measures in place.  
25

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

28 Stargell continued to state that it adds time and review to a permitting staff  
29 that is already overburden. Permits take longer than they should already. Return  
30 the exemption from a previous draft for lots five acres and larger. If someone has  
31 20 or 40 acres, they are only allowed to remove 35 percent of the trees at any  
32 given time. Don't adopt the ordinance in its current form.  
33

34 Tom Pratum, 2241 Northshore Road, stated this ordinance has been given  
35 due process. The Council has gone out of its way to collect input on this. The  
36 Planning Division staff has done a good job drafting the ordinance. This is based on  
37 science, and there are reasons for doing this. This is definitely necessary. He  
38 asked the water resource value of pastureland. The joint resolution Mr. Jones  
39 mentioned will provide a guide. He encouraged the Council to adopt this ordinance  
40 tonight.  
41

42 Richard Gilda, Jensen Road, asked if its true that a land owner can only  
43 remove 35 to 65 percent of the trees on a piece of property that is being logged.  
44

45 McShane stated that is correct, for certain parcels. A twenty-acre parcel can  
46 be logged. It does not apply to forestry practices. It is in place for building  
47 purposes.

1  
2 Gilda asked if the County is liable if there is an accident due to trees, such as  
3 what happened in Paradise.

4  
5 McShane stated there is language allowing hazard tree removal.

6  
7 Hearing no one else, McShane closed the public hearing.

8  
9 ***Fleetwood moved*** to adopt the ordinance.

10  
11 Caskey-Schreiber stated this would only be in place for two weeks. The  
12 Council will have an opportunity to adopt another version in two weeks. In the  
13 upcoming version, they've removed Drayton Harbor. She asked if the Drayton  
14 Harbor area could be removed tonight. At some point, they need to look at a  
15 specific overlay for the type of estuary area that Drayton Harbor has.

16  
17 Roy stated she would vote for the ordinance because it is a continuation of  
18 the interim ordinance. However, she is concerned that the upcoming version looks  
19 quite different from this. It is the responsibility of the citizens to look at the  
20 language of the permanent ordinance that will be proposed in two weeks, to see  
21 the differences from this interim ordinance.

22  
23 Brenner stated she will support this now because it's important to have  
24 everything in place, but it doesn't have everything she wants. She will bring  
25 forward a lot of amendments in two weeks.

26  
27 ***Motion carried 5-1 with Crawford opposed.***

28  
29 **3. ORDINANCE TEMPORARILY AMENDING THE EXEMPTION**  
30 **PROVISIONS OF TITLE 21, LAND DIVISION REGULATIONS (AB2003-**  
31 **175)**

32  
33 Roland Middleton, Land Use Division Manager, gave a staff report and stated  
34 gift exemptions take more staff time to process than short plats. Since May 15<sup>th</sup>,  
35 they've taken in 60 applications for gift exemptions. They've not taken in any short  
36 plat applications.

37  
38 Brenner asked if, in the end when the house gets built, it matters if it is a  
39 gift exemption or short plat according to County standards. Middleton stated the  
40 standards are different. They both have to meet County standards, but the  
41 standards are different. When a house is built on a short plat, the septic, well,  
42 critical areas issues, access issues, and boundary lines have all been addressed.  
43 They both have to meet the critical areas ordinance, fire marshal standards, and  
44 building permit issues. All those are the same.

45  
46 Brenner stated the difference is when those things are done, but the final  
47 product is the same. Middleton stated that is correct.

1  
2           McShane asked the impacts to staff time. All the standards have to be met  
3 on a gifted lot. He asked if it is more complicated if someone does a short plat of  
4 four units. Middleton stated a short plat process is much more stream lined. The  
5 critical areas review on all four lots will be done at one time. Staff can work with  
6 the developer on clustering or other mitigation that may be required by the critical  
7 areas ordinance. If the land is divided by gift exemption, none of that work has  
8 been done. Instead of one review, staff has to do four reviews, for each gifted lot.  
9 Also, fill and grade permits are required for the gifted lots, which is different than  
10 the road review done through the short plat process. Each gifted lot will have to  
11 have a separate review for the driveway.

12  
13           Dave Grant, Senior Civil Deputy Prosecutor, stated one of the problems with  
14 the gift exemption process being used to divide lots is that they don't go through  
15 the review process, so one may end up with a lot that is virtually unbuildable  
16 because of critical areas or access issues. This can be a consumer protection issue.

17  
18           McShane stated one of the complaints with the short plat process has been  
19 regarding the costs of the road frontage improvement. He asked how that is  
20 different with gift exemptions, and if those improvements occur on gifted lots.  
21 Middleton stated the cost is significant. Sometimes the road improvements cost  
22 more than the lot or lots being created by the short plat. There is no requirement  
23 for road improvements for gift exemptions.

24  
25           McShane asked if there is never any recovery of cost to the County or others  
26 who may be paying into a local fee for road improvement.

27  
28           Roy asked if these happen only to the person who has gifted the property, or  
29 if those issues have to be disclosed to the person who is buying the property.  
30 Middleton stated he couldn't speak to disclosure requirements of real estate law.  
31 However, he's dealt with problems in his division from people who have purchased  
32 the gifted lot, and the lot is extremely expensive to develop because of site  
33 constraints.

34  
35           McShane stated that if an agent is aware of geologic problems on a parcel,  
36 they must reveal the problems.

37  
38           Brenner asked if it takes more staff time to go through the process of a short  
39 plat and then building on the lots, or going through the process of a gift exemption  
40 and then building on those lots. Middleton stated the gift exemptions take more  
41 time.

42  
43           Brenner asked if it doesn't balance out at the end. Middleton stated it is  
44 easier for the person gifting the lots. However, the code still applies, so they have  
45 to discuss and work with each individual person.

46

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1 Brenner asked if that is balanced by the fact that the staff has to work with a  
2 complicated short plat process. Middleton stated the short plat time is not staff  
3 time. Short plats require a survey, wells, septic, road improvements, and road into  
4 the property. All that takes quite a bit of time. A gift exemption is just written up  
5 and is done.

6  
7 Brenner asked if the time a short plat takes to complete is due to the outside  
8 work that must be done, and doesn't have to do with staff time. Middleton stated  
9 they don't take two years of staff time. The process can take a couple of years.

10  
11 McShane opened the public hearing and the following people spoke:

12  
13 Mary Dickinson, Building Industry Association Government Affairs Director,  
14 read and submitted a letter into the record (*on file*). The moratorium on gift  
15 exemptions is unnecessary. Reinstate the five-year development restriction. The  
16 short platting system is broken and should be the County's focus. The proposal  
17 was never presented to the Planning Commission and was never discussed in  
18 committee. The entire short plat process is time-consuming and expensive.

19  
20 Brenner asked if the time a short plat takes is due to staff or all the other  
21 requirements. Dickinson stated it is a combination of different reasons, including  
22 regulations.

23  
24 Linda Zander, 803 E. Main, Everson, stated she is a retired farmer. The right  
25 to gift property to her family members may be the only way to survive as a viable  
26 unit. The findings of fact for eliminating the gift exemptions were written out  
27 before this hearing. This legislative body should not take away their right to gift.  
28 Since the ordinance is already written, it is a legal question of whether the Council  
29 has already made up its mind, before the hearing. That is illegal. Councilmember  
30 McShane stated a concern that people might end up with no right of ingress and  
31 egress. That is already a legal right. Don't use it as an excuse.

32  
33 Patrick Alesse, Alderson Road, Birch Bay, stated he is opposed to the  
34 ordinance. If an area that is gifted is inefficient to service with roads, water,  
35 schools, and other services, it will cost the taxpayers in that service area more.  
36 That is not a gift. That will be a continued expense. Government also regulates  
37 private businesses, such as telephone and electricity, in a service area. In many  
38 areas, those services are subsidized, originally to help some farmer keep the farm.  
39 Determine the true cost of a gift exemption.

40  
41 Richard Gilda, Jensen Road, stated this has been before the Planning  
42 Commission before. He asked what has been done to make regulations better for  
43 citizens and landowners. They have not done anything. This is a case of  
44 "environomics." He is opposed to the ordinance. He asked what problems this has  
45 caused. The property owners have to follow all the County standards. Address the  
46 problems that exist independently.

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1 Linda Tucker, 4371 Bay Road, Blaine, stated she is opposed to the  
2 ordinance. She was gifted land. She pays taxes on it. Whatcom County is going  
3 to far by trying to take that right away. She can understand the five-year  
4 development restriction. Don't eliminate the gift exemption.  
5

6 Tom Pratum, 2241 Northshore Road, stated he is not an expert on gift  
7 exemptions. However, since there have been 60 gift exemptions applications in  
8 four days, this sounds like an emergency. He's heard this process is used to get  
9 around subdivision regulations. There is a reason for gift exemptions and  
10 exemptions in general. However, there appears to be problems. The proposal is  
11 very reasonable. If they announced an intention to study gift exemptions, but  
12 didn't have a moratorium on them, there would still be a run on applications. They  
13 are not saying gift exemptions are gone forever. They are just saying they want to  
14 take a look at this and correct some of the problems with the process. He  
15 encouraged the Council to pass the ordinance.  
16

17 Terry Unger, 4059 Y Road, Bellingham, stated he disagreed with Roland  
18 Middleton. On short plats, they do all the work on all four lots. Many of the gift  
19 deed lots are not always studied because they are not always built upon. This is a  
20 poor ordinance. It's clear to all who have worked on the short plat process that  
21 amateurs can't afford the short plat process.  
22

23 Predictability of the short plat process is limited. One cannot be assured of  
24 getting a short plat before going through all the work the process requires. This  
25 takes away the predictability of the amateur or person who is not a professional  
26 developer.  
27

28 Paul Isaacson, 204 Shallow Shore Road, stated no study is necessary on this  
29 issue. A gifted parcel is not vested. From an environmental standpoint, a gift  
30 exemption is far superior. Gifted parcels are required to have road access. The fee  
31 for a gift exemption is \$550 and takes staff an hour or two to review it. The fee for  
32 a short plat costs a few thousand dollars in fees and takes staff a couple of years to  
33 process. Gift exemptions are superior in terms of costs to the County. The County  
34 makes money on gift exemptions, but loses money on short plats. The gift  
35 exemption must meet the same requirements as a short plat when the lot is  
36 developed.  
37

38 A short plat must build a road for four homes and do all the necessary  
39 development. However, gift exemptions may have no impact to the land because  
40 they are not developed. When they are developed, they will have to be developed  
41 according to the County's standards. Include the five-year restriction to stop any  
42 abuse.  
43

44 Roger Almskaar, 3610 Meridian, stated he agreed with Terry Unger regarding  
45 how expensive, time-consuming, and unpredictable the short plats are. If they  
46 want to remove the abuses of gifted lots, then reinstate the five-year waiting period  
47 on sales. There is not much use in repealing the road frontage exemption because

1 no one is using it. The cost of building a road is very expensive. He's not heard  
2 very much about abuses of the process. The short plat process is not working very  
3 well. Review the system. He suggested having an oversight hearing to allow  
4 people to identify the problems, and then establish a working group to make  
5 suggested amendments.  
6

7 Bob Wiesen, 3314 Douglas Road, Ferndale, stated it's amazing how many  
8 land use emergencies they have. It indicates they've been doing things poorly  
9 previously. It's okay to stop and look at this thing as a whole. However, certain  
10 people in the community want to stop everything that's happening. That's not in  
11 the best interest of the community. They can do different types of planning to fix  
12 things that aren't working. People are coming to Whatcom County. If they don't  
13 plan for these people, they are going to have a mess.  
14

15 Lesa Starkenburg-Kroontje, 115 Front Street, Lynden, stated the five-year  
16 sale restriction on gifted lots was eliminated when they adopted the revisions to  
17 Title 21 two and a half years ago. They also set in place a number of new  
18 requirements for short-plat. Those two actions together set in motion the abuse of  
19 the exemption process. Doing away with the gift exemption process will not fix the  
20 problem. It will only take away one option. The problem with the short plat  
21 process is not with staff and how long it takes staff to look at an application. The  
22 problem is with the regulations that were passed by the County Council, including  
23 the Health Department regulations and interpretation of policies by the Health  
24 Department and Engineering Division. Most people feel that their property could  
25 not economically qualify for short platting. Closing the door on exemptions while  
26 they look at Title 21 will starve the people in the middle. People have had two and  
27 a half years when they could do gift exemptions.  
28

29 *(Clerk's Note: End of tape one, side B.)*  
30

31 Starkenburg-Kroontje continued to state that there aren't that many more  
32 lots out there that can go through the exemption process. If in the rural zone and  
33 subject to the agricultural protection overlay (APO), densities often must be given  
34 up to go through the gift-plat process. People wait to do anything until the County  
35 improves the short plat process. To say that they are going to close the door on  
36 everyone in the middle is unfair. At a minimum, go to the original intention of  
37 gifting, which is to allow people to do the gifting, but with the five-year restriction.  
38 That will relieve the pressure to people who are legitimately attempting to gift. At  
39 the same time, ask the Executive to allow staff time to work on the short plat  
40 process because it is broken.  
41

42 Aubrey Stargell, Maple Falls, stated lots created by gifting don't bypass  
43 review. They still have critical areas and access review. They still have to meet  
44 road standards and Health Department standards. All those things are still done  
45 either up front in the gift deed process or at the building permit stage. The short  
46 plat process takes too long and is too expensive. It's not the job of government to

1 look out for real estate buyers. Anyone who creates and sells an unbuildable lot  
2 deserves a lawsuit. Gift deeds are a legitimate and efficient means of dividing land.

3  
4 Hearing no one else, McShane closed the public hearing.

5  
6 **McShane moved** to adopt the ordinance.

7  
8 Crawford asked the difference between emergency, temporary, interim, and  
9 moratorium ordinances. He asked if some of them require a super-majority.

10  
11 Dave Grant, Senior Civil Deputy Prosecutor, explained the specifics of the  
12 procedures that are established in the Whatcom County Charter (*on file*).

13  
14 Brenner stated any councilmember can bring forward and introduce an  
15 ordinance. Until it was introduced, she heard nothing about the proposal. This is a  
16 process they go through, whether they like the ordinance or not.

17  
18 She is frustrated by the stand that this is a consumer protection issue.  
19 Government cannot protect all people against everything. Government is getting  
20 so expensive because it assumes responsibility for everything and then no one can  
21 do anything. She does not want people to get taken, but they are responsible to  
22 find out problems for themselves.

23  
24 She's heard that it takes a lot of staff time to do short plats. If they weigh  
25 the time needed for short plats and building against gift exemption and building,  
26 the amount of staff time could conceivably be the same either way. There is a  
27 problem with the short plat system. She voted for gift exemptions and for the  
28 change to take out the five-year restriction. She apologizes for that. She thought  
29 it was a good idea at the time, but people misused it. However, the gift exemption  
30 is still important for families.

31  
32 Gift exemptions can't be done in the agricultural zones, so it won't take up a  
33 farm. It cannot create a lot that is any denser than the existing zoning of the area.  
34 It doesn't create more lots. Both gift exemptions and short plats must meet  
35 County standards. The only difference is who is responsible when the house is  
36 built. A gift exemption recipient shouldn't complain about paying those costs  
37 because they usually pay less for the lot. The five-year clause protects against  
38 people circumventing the short plat process. Many are doing gift exemptions to  
39 pass something to their children. If the short plat process doesn't take a bunch of  
40 time, then she doesn't understand why it's a very long process that doesn't work  
41 well. Staff interprets the regulations.

42  
43 Crawford stated he is opposed to the motion. They reached the conclusion  
44 that, for the time being, gift exemptions have a purpose in the land use processes.  
45 He doesn't think too many councilmembers would second-guess reinstating the  
46 five-year restriction. The plea to have staff take a look at this is an issue of funding  
47 and time. The Council needs to talk about the platting process to fix something

1 that has been presented tonight as broken. In the meantime, a five-year limitation  
2 on gift exemptions is what he approves.  
3

4 Fleetwood asked if the problems would be minimized if they did not delete  
5 the gift exemption and reinstated the five-year restriction.  
6

7 Roland Middleton, Land Use Division Manager, stated the problems would be  
8 significantly minimized. In the previous code that included the five-year restriction,  
9 the other five acres was for areas that had road frontage. Those issues were  
10 primarily addressed. They still had critical area, water, and septic issues. As far as  
11 having a gift deed that has a legal access onto the road, the access may go straight  
12 up a hill and through a wetland. Those are not reviewed. He doesn't recall having  
13 a problem with the five-year restriction. During the five years, someone needs an  
14 out from keeping the gift in the family to allow the property to be sold in some way  
15 if money is needed. Previously, a person needed to have it comply with another  
16 exemption or short platted.  
17

18 Regarding staff time, there is a difference between staff time and process  
19 time. The time it takes to move the Mylar around and do the check prints, isn't  
20 that great. The process time is significant because they have to schedule a septic  
21 designer in that area, get the well done, have it surveyed, build the road, and have  
22 everything inspected. The road frontage is a separate issue. The time those things  
23 take adds up to the two years. Land use staff time is not a problem. Complying  
24 with the regulations through the whole process, not staff time, takes two years.  
25 What everyone is saying is true. It's clear that the process is significant and a  
26 tremendous amount needs to be done to have a short plat approved.  
27

28 Caskey-Schreiber stated she approves of the motion. It's time to assess the  
29 costs of development and put the costs on the source of development. People  
30 would be more upset if the County had to raise property taxes to continue to fund  
31 the extra services the Planning Department has to provide. Short plats are  
32 expensive, and the process needs work. Hopefully the Public Works Department  
33 will impose impact traffic fees at some point. Until then, hold back the tide of labor  
34 costs. Staff has to break the bad news to people who have purchased unbuildable  
35 or difficult to build lots. County staff is trying to solve their problems, and it should  
36 be the other way around. Whoever is profiting from the development of the  
37 subdivision should subsidize the cost of trying to make that land buildable, not the  
38 County taxpayers. She supports the motion. She would like to request the  
39 Executive to direct staff to look at improving the short plat process.  
40

41 Brenner asked why the County would have to budget for staff time to do  
42 better short platting process if the time needed is the developer's time to go  
43 through the process. Someone who testified asked that the County prioritize short  
44 plats so the process doesn't take as long. If they are going to free up staff's time  
45 to do that, it must take a long time for staff to work on it.  
46

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1           McShane stated the issue is not so much the staff time to review the short  
2 plat as it is the time for the applicant to make sure everything is taken care of.  
3 He's always impressed that staff's approval time is shorter than the time he takes  
4 to write a report.

5  
6           Brenner stated the time it takes to hire people to do the work has to happen  
7 with both processes. The final product has to meet the same standards.

8  
9           Middleton stated the additional time comes from having one staff member  
10 speaking with one property owner on a development to look at wetland and do  
11 mitigation, and then it's done for the whole short plat. If the twenty acres is  
12 divided into four five-acre lots, each five-acre lot owner goes through that same  
13 process. It becomes four reviews instead of one. Mr. Unger is correct in that it only  
14 happens when they come in for a building permit. When they ask the question of  
15 what the time difference is in the end, the amount of review time from the  
16 beginning to the end of the building permit is the same, but there are more reviews  
17 for exemptions that don't have review up front.

18  
19           Brenner stated it is a balancing act of time and money. If someone gift  
20 exempts four lots, some may not be built upon. All the lots in a short plat will be  
21 built upon to cover up-front costs. In the grand scheme of things, it may even out.  
22 Regarding the issue of raising taxes to fund services that staff provides, people  
23 have to pay that anyway. She asked why they would have to raise taxes to do  
24 that. There are fees in place already. Don't use the scare tactic of raising taxes if  
25 they allow gift exemptions. They are not connected.

26  
27           Fleetwood asked how the Council could reinstate the five-year restriction.

28  
29           Dana Brown-Davis, Clerk of the Council, stated they have to introduce  
30 another ordinance. Doing it tonight will be totally out of the realm of what was  
31 announced in the public notice.

32  
33           Grant stated they don't have the five-year restriction in the notice. It is too  
34 much of a substantive change, unless the Council adopted an emergency  
35 ordinance, which he'd have to write. It would require a super majority of the  
36 Council.

37  
38           Fleetwood stated the councilmembers need sufficient information on a  
39 subject to make good decisions and respond to critics. He can't say he's given  
40 sufficient deliberations on this subject. He agrees with many of the criticisms of the  
41 gift exemption, but he prefers to have more time to dive into the complexities of  
42 Titles 20 and 21 so he is satisfied about knowing precisely what they are doing. He  
43 wants to support the motion, but he doesn't want to see a run on gift exemption  
44 applications.

45  
46           McShane stated ordinances often have written findings of fact, which can be  
47 amended if they choose. They have to have an ordinance in writing beforehand.

1  
2 Caskey-Schreiber asked if the County fees for the planning process are not a  
3 true assessment of the costs of the labor involved in the process.  
4

5 Hal Hart, Planning and Development Services Director, stated it's a moving  
6 target. This year, the fees are covering staff time better than they have in many  
7 years. If they hold those fees constant over time, then they won't cover the staff  
8 time needed. The supplemental he requested was for the building permit process,  
9 which is a different process.

10  
11 Caskey-Schreiber stated the people who come to the department after  
12 receiving a gift exemption want a building permit. King County actually bills for  
13 every single hour of every planner's day. She asked if the fees truly cover the  
14 labor involved in issuing a permit. Middleton stated they do not. The County's fees  
15 do not cover 100 percent of the staff's time, although they are heading that way.  
16 The staff is reviewing the fees to try and get there. There was a significant  
17 increase last year. Fees reimburse the vast majority of the costs. The  
18 supplemental request was for building permit fees, and has nothing to do with  
19 critical area reviews or any other reviews they've been talking about.  
20

21 Hart stated this year the fees are covering 85 percent of the cost of the Land  
22 Use Division.  
23

24 Roy stated land exemptions in 2003 are 71 percent. She asked if that list  
25 includes exemptions other than gift exemptions. Middleton stated the list is all-  
26 inclusive, but most are gift exemptions.  
27

28 Roy stated Whatcom County is charged with doing land use planning. To  
29 have 71 percent come through by exemption seems like a lot. They need to be  
30 flexible, but it is a lot. Middleton stated it is a lot, but not all due to the five-year  
31 restriction issue. The short plat process must be addressed. It is the only means  
32 that people have to subdivide their properties.  
33

34 Roy stated it is clear from testimony is that the intent of the gift exemption  
35 is for people to give family members the gift of their property. That's what they  
36 want to allow. It's interesting that most of the people testifying against this were  
37 talking about the ease and expense of going through the process. Much of the  
38 testimony implied that this is an accepted way of getting around the short plat  
39 process.  
40

41 Brenner stated that if the fees don't cover the costs, she wants to know why.  
42 It's important to have a lot of discussion if they are going to do this at this time of  
43 year. Don't make a change now without something else to make it better. They  
44 can approve the five-year restriction as an emergency. They can keep the  
45 ordinance and approve a five-year restriction clause.  
46

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1 Roy stated she's not sure she would vote for the five-year restriction based  
2 on the testimony she's heard. She asked if there is something they can approve  
3 until the next meeting.  
4

5 McShane stated that two years ago, the committee went through Title 21  
6 and made a lot of compromises. The Technical Advisory Committee recommended  
7 removing gift exemptions entirely. The Planning Commission recommended that  
8 they be left in. The Council's committee approved an amendment to remove the  
9 five-year restriction. He speculates that the reason was because the Council didn't  
10 like the short plat rules, gifting can be done only on five-acre parcels, and it wanted  
11 to allow people to avoid the short plat process. The fact is that Title 21 is  
12 complicated. This Council can make it a little simpler. There are issues with short  
13 platting, particular if doing five-acre parcels.  
14

15 One concerns is the equity of this whole thing. The road frontage issue is  
16 stopping people from doing short plats. It's too expensive. People who gifts  
17 property can avoid the road frontage issue, which is fundamentally unfair.  
18

19 Someone raised a question about the cost and predictability of getting a  
20 short plat, which is a huge issue. If a property owner gifts the land, it passes that  
21 problem down to someone else in the future. Somewhere down the road it will be  
22 a problem. It may even be a bigger problem. Someone with a gifted lot is not  
23 vested under the environmental rules, which are getting tighter and tighter. There  
24 are more and more people, and those people are moving into properties that are  
25 more difficult to develop. The easy stuff has been done.  
26

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

29 McShane continued to state the issue of buyer beware is philosophical that  
30 people will have differences on.  
31

32 They really need to look at the original intention of gift exemptions. He's not  
33 interested in trampling on that intention, but it is not what the gifts are being used  
34 for, even more than the moratorium was removed. It is an issue of financial  
35 planning. That's what people are using it for. In the end, it just passes down a  
36 problem. The intent of this temporary amendment is not to permanently always  
37 get rid of gift exemptions, but to give it a lot of attention and thought. One action  
38 he wants to happen is to review the exemptions in consideration of what the  
39 Comprehensive Plan goals and policies are, and how it relates to the intent of giving  
40 people property rights to gift. He's in favor of gifting as long as it is not abused.  
41 Regarding section 2.B of the ordinance, they are going to find a more equitable way  
42 of funding road improvements to roads that are not up to standard. They also need  
43 to look at the impacts to Title 21 of section 2.C of the ordinance. Regarding section  
44 2.D, they need to solidify that policy.  
45

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1           **McShane moved** to amend the ordinance to add Section 2.E, "E. The short  
2 plat process in creating lots five acres or larger." That's where people make the  
3 choice.  
4

5           Brenner stated she supports the amendment, but not the ordinance. There  
6 are Whereas statements that are not accurate or are misleading.  
7

8           Roy stated these statements are relevant to the people who are purchasing  
9 the gifted property. If family members give land to family members they are not  
10 likely going to lie about the issues. She's concerned about the 71 percent of the  
11 land exemptions, which are turning around to be sold.  
12

13           **Motion to amend carried unanimously.**

14           **Motion to adopt as amended carried 4-2 with Crawford and Brenner**  
15 **opposed.**  
16

17  
18           **4. ORDINANCE CONTINUING A MORATORIUM ON APPLICATIONS FOR**  
19 **CONDITIONAL AND/OR LAND USE PERMITS FOR ELECTRICAL POWER**  
20 **TRANSMISSION LINES OF 115,000 VOLTS OR LESS, DESIGNED TO**  
21 **CARRY 100 MEGAWATTS OR GREATER LOADS, EXCEPT IN THOSE**  
22 **DISTRICTS CLASSIFIED AS INDUSTRIAL (AB2003-196)**  
23

24           McShane opened the public hearing and the following people spoke:  
25

26           Mike Kaufman, 1620 Huntley Road, stated he supported the moratorium.  
27 It's needed so they have an opportunity to openly debate the issue. The changes  
28 are extremely easy to do.  
29

30           Marian Beddill, 3600 Seeley Street, Bellingham, stated she supported the  
31 moratorium. It's the right thing, hurts no one, and provides stability in terms of  
32 the impact of industrial systems in areas that are not industrial.  
33

34           Ray Tryzynka, Puget Sound Energy Manager of Government and Community  
35 Relations, stated the Utility Planning and Advisory Committee (UPAC) has done a  
36 lot of work. The Council needs to concentrate on the issues of public safety and  
37 health, which are the reasons for the moratorium. Draft ordinance language that  
38 reflects the balance of the interests and concerns that were part of the UPAC's  
39 discussions. He provided a chronology of that work (*on file*). The UPAC June 5,  
40 2002 draft does a good job of balancing the interests and concerns expressed  
41 regarding line location and load carrying capacity. He suggested tailoring the  
42 language dated March 5, 2003. His primary concerns have to do with providing a  
43 reliable, safe, and affordable electric service to the residents of Whatcom County.  
44 As they go forward with tailoring the language of the code, they should be able to  
45 deal with emergency situations when the load on a line may increase above the  
46 threshold that was originally identified. Under certain circumstances, such as an  
47 emergency situation or repair work, there may be a temporary time when the

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1 loading in a line may go over that threshold. The language he suggests deals with  
2 average loading.

3  
4 Regarding the language dated December 10, 2002, he has issues under the  
5 obligation to serve. Some of the language would create a situation where they  
6 might be restricted from carrying out state or federal mandates to serve.

7  
8 Another concern is in the category of unintended consequences. There are a  
9 few potential problematic areas. He proposed a vehicle to consider those  
10 unintended consequences as they arise through a meeting with the Council's Public  
11 Works and Capital Projects committee.

12  
13 Crawford asked if Mr. Tryzynka and Puget Sound Energy are asking to  
14 pursue this critical path rather than do the moratorium. Tryzynka stated the main  
15 issue of the moratorium would not come to a head until someone proposes a  
16 project. There aren't any imminent projects. If the moratorium were not there, a  
17 lot of the issues might be covered under the permitting for major projects. Given  
18 the fact that the Council wanted to look closer at the public's concerns, a more  
19 productive way to go would be to approve the moratorium, and then intensify the  
20 work on providing the Council with a comprehensive code that can be a balance.  
21 There is an issue with trying to put forth some intense effort on this.

22  
23 Hearing no one else, McShane closed the public hearing.

24  
25 ***Brenner moved*** to adopt the ordinance. She thanked Councilmember  
26 Caskey-Schreiber for bringing it forward.

27  
28 Caskey-Schreiber stated that in the next three months, the UPAC is going to  
29 meet and will incorporate Mr. Tryzynka's comments.

30  
31 ***Motion to adopt carried unanimously.***

32  
33  
34 **CONSENT AGENDA**

35  
36 ***Crawford*** reported for the Finance and Administrative Services Committee  
37 and ***moved*** to approve Consent Agenda items one through six and ten through  
38 twelve.

39  
40 Brenner withdrew item eleven.

41  
42 ***Motion to approve Consent Agenda items one through six, ten, and***  
43 ***twelve carried unanimously.***

44  
45 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
46 **GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND WHATCOM**  
47 **COUNTY FIRE DISTRICT #5 AS MATCHING FUNDING FOR THE**

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- 1           **COMPLETION OF THE POINT ROBERTS WELLNESS CLINIC, IN THE**  
2           **AMOUNT OF \$25,000. APPROVAL IS CONTINGENT UPON PASSAGE**  
3           **OF SUPPLEMENTAL BUDGET REQUEST #5 (AB2003-199)**  
4
- 5   **2.    REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
6           **CONTRACT FOR ANIMAL CONTROL SERVICES WITH SSP-PREFERRED**  
7           **ANIMAL CARE FOR THE TERM OF JULY 1, 2003 TO JUNE 30, 2006, IN**  
8           **THE AMOUNT OF \$994,630 (AB2003-200)**  
9
- 10   **3.    REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
11           **CONTRACT RENEWAL FOR GOOSEBERRY POINT SECURITY WITH**  
12           **SECURITY-SPECIALIST PLUS, INC.; CONTRACT TO BE EXTENDED**  
13           **FROM JULY 31, 2003, THROUGH JULY 31, 2004, IN THE AMOUNT OF**  
14           **\$55,692, FOR A TOTAL AMENDED CONTRACT AMOUNT OF \$160,832**  
15           **(AB2003-201)**  
16
- 17   **4.    REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
18           **RENTAL AGREEMENT BETWEEN WHATCOM COUNTY PARKS AND**  
19           **RECREATION AND ANNA BETH LEE FOR REAL PROPERTY SITUATED**  
20           **ON THE MAPLE FALLS TO GLACIER TRAIL, GLACIER, WASHINGTON**  
21           **FOR A TERM OF TWENTY (20) YEARS BEGINNING JANUARY 1, 2003,**  
22           **TO DECEMBER 31, 2023 (AB2003-202)**  
23
- 24   **5.    REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
25           **RENTAL AGREEMENT BETWEEN WHATCOM COUNTY AND LOU**  
26           **PIOTROWSKI FOR REAL PROPERTY SITUATED ON THE MAPLE FALLS**  
27           **TO GLACIER TRAIL, GLACIER, WASHINGTON FOR A TERM OF TWENTY**  
28           **(20) YEARS BEGINNING JANUARY 1, 2002, TO DECEMBER 31, 2022**  
29           **(AB2003-203)**  
30
- 31   **6.    REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
32           **LEASE AGREEMENT BETWEEN WHATCOM COUNTY PARKS &**  
33           **RECREATION AND KAREN L. MURPHY FOR THE OPERATION OF A**  
34           **PUBLIC EQUESTRIAN FACILITY AT SUNSET FARM FOR A TERM OF**  
35           **THREE (3) YEARS BEGINNING MAY 22, 2003, AND ENDING MAY 21,**  
36           **2006 (AB2003-204)**  
37
- 38   **10.   REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**  
39           **AGREEMENT BETWEEN WHATCOM COUNTY AND WHATCOM LAND**  
40           **TRUST DEFINING THE TERMS OF THE PARTNERSHIP DEVELOPED TO**  
41           **IMPLEMENT THE CANYON CREEK ALLUVIAL FAN ACQUISITION**  
42           **PROJECT, AND PROVIDING FOR THE TRANSFER OF \$400,000 OF**  
43           **GRANT AND COUNTY FUNDS TOWARDS ACQUISITION OF THE LOGS**  
44           **RESORT (AB2003-207A)**  
45
- 46   **12.   REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
47           **BID AWARD WITH THE BELLINGHAM HERALD TO BE DESIGNATED AS**

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1           **WHATCOM COUNTY’S OFFICIAL NEWSPAPER AND AUTHORIZE THE**  
2           **EXECUTIVE TO SIGN THE CONTRACT WITH THE BELLINGHAM HERALD**  
3           **(AB2003-209)**  
4

5   **11. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
6   **CONTRACT FOR SERVICES AGREEMENT BETWEEN WHATCOM COUNTY**  
7   **AND JESSICA PAIGE, DBA PAIGE CONSULTING, FOR PRIVATE WELL**  
8   **OWNERS CAUCUS SUPPORT FOR THE WRIA 1 WATERSHED**  
9   **MANAGEMENT PROJECT, IN THE AMOUNT OF \$4,000 (AB2003-208)**

10  
11           Brenner stated this is a contract for a consulting company to give support to  
12 the private well owners caucus for the water resource inventory area (WRIA). It’s  
13 very important. The private well owners have not been represented. These are  
14 individuals, not an organized group. What comes out of this process could  
15 dramatically affect their wells. Most people don’t have a clue that it’s going on.  
16 However, the contract doesn’t require any specifics. The professional services  
17 agreement doesn’t say anything. The scope of work isn’t specific enough about  
18 whom the support will be for. She wants to make sure this person does extensive  
19 outreach to the well owners. Clarify the scope of work. She’s concerned that  
20 private well owners have no representation in this process.

21  
22           Bruce Roll, Water Resources Division Manager, stated there is a  
23 representative for the private well owners. This was a recommendation of that  
24 representative. All work for that caucus has to be approved by him in terms of  
25 whether the work meets the intent. There is a policy written by Council that  
26 specified the expenses that are allowable. He gets a statement from each caucus  
27 representative that says they’ve done the intended work per the guidelines, and  
28 that it meets their requirements for their caucus. That’s what he relies on to  
29 determine which expenses are appropriate.

30  
31           Brenner stated she understood there was a different representative in that  
32 role. It’s important that they have a process that works, and not just looks good on  
33 paper. Get some specifics in the contract to ensure that a good portion of private  
34 well owners knows what’s going on.

35  
36           Roy asked if they have to amend the contract or if it is good enough for Mr.  
37 Roll to say he will make sure that happens. Roll stated that is clearly the goal.  
38 There have been mailers, postcards, and events that are aimed at every address  
39 they have. The first event brought in over 300 people. If Council wants to amend  
40 this, he can’t do it. It would have to be renegotiated. To create a mailing list that  
41 identifies every single private well owner in the entire WRIA would be outside the  
42 current budget. He works through what he does have for information.

43  
44           Brenner asked how much it would cost to put together a list of everyone in  
45 the Health Department records. Roll stated he already has that list. It is what they  
46 use for the mailers they send out.

47

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1 Brenner stated she has a private well, and has not received a mailer. Roll  
2 stated she should get a postcard.

3  
4 Brenner stated she has not received a postcard. Roll stated he would add  
5 anyone to the list that is not included.

6  
7 ***Crawford moved*** to approve the request.

8  
9 ***Motion carried unanimously.***

10  
11 **9. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
12 **MITIGATION GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND**  
13 **WASHINGTON STATE MILITARY DEPARTMENT TO PROVIDE STATE**  
14 **AND FEDERAL FUNDING ASSOCIATED WITH THE CANYON CREEK**  
15 **ALLUVIAL FAN ACQUISITION PROJECT, IN THE AMOUNT OF \$999,100**  
16 **(AB2003-207)**

17  
18 ***Crawford moved*** to approve the request. In addition to the  
19 recommendation from the committee, a motion was required to authorize the  
20 Executive to execute the purchase agreements. The committee approved a  
21 separate motion for that.

22  
23 ***Motion carried unanimously.***

24  
25 ***Crawford moved*** to authorize the Executive to execute purchase  
26 agreements and construction contracts for project implementation in accordance  
27 with the grant budget, as long as each individual transaction is within 25% of the  
28 amount budgeted and the total expenditures do not exceed the total project  
29 amount of \$999,100.

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

32  
33 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**  
34 **AMENDMENT TO CONTRACT FOR SERVICES AGREEMENT FOR**  
35 **CLERICAL AND MEETING SUMMARIES SUPPORT FOR WRIA RELATED**  
36 **MEETINGS BETWEEN ANVIL CORPORATION AND WHATCOM COUNTY**  
37 **WATER RESOURCES IN THE AMOUNT OF \$42,450, FOR A TOTAL**  
38 **AMENDED CONTRACT IN THE AMOUNT OF \$204,070 (AB2003-205)**

39  
40 ***Crawford moved*** to approve the request. Councilmember Roy preferred  
41 that these come forward without a recommendation from the committee. Mr. Roll  
42 stated they need an extension through the end of the year.

43  
44 *(Clerk's Note: This item and Consent Agenda item eight were discussed*  
45 *concurrently.)*  
46

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1 Roy stated the reason she wanted this to come before the full Council  
2 without a recommendation is because they've had a lot of discussion about the cost  
3 of the water resource inventory area (WRIA) process. She was uncomfortable with  
4 it being in the consent agenda.  
5

6 Brenner stated everyone is trying to a good job. She doesn't support the  
7 request. A number of caucuses feel that this is moving too fast and their concerns  
8 haven't been addressed. Apparently, some caucuses are feeling intimidated. She  
9 would like to slow down and get those caucuses up to speed so there is a sense of  
10 ownership from more of the participants.  
11

12 McShane stated he is sometimes concerned about the enormity of the  
13 process, but is not ready to stop it, especially considering what they've invested  
14 already.  
15

16 Crawford stated he is concerned that this is a lot of money in this process.  
17 They don't agree on where they want this to go. The Council wants to step back on  
18 this. However, it is inappropriate to cut off the funding at this point and end it  
19 here. Finish the work they are currently doing. There is a need for extra time to  
20 wrap up some things going on with the Planning Unit. It's appropriate to offer the  
21 support through the end of the year.  
22

23 Caskey-Schreiber stated this item and the next item total \$67,000 just to  
24 continue with the meetings. She thought this was supposed to slow down. She  
25 asked what the facilitations services for Planning Unit and committee members are.  
26 They've got 55 billable hours at a rate of \$100 per hour.  
27

28 Bruce Roll, Water Resources Division Manager, stated there was agreement  
29 early on to work on the basis of consensus. They need a professional facilitator  
30 who is welcomed by the Planning Unit and Initiating Governments. Professional  
31 facilitation in any process is costly. It's a very specialized type of skill that costs  
32 money. One of the reasons they've gotten this far in the WRIA process is because  
33 they have professional facilitators who can bring out the issues and leave apart the  
34 positions, so the issues can be weighed and consensus can be reached. In the  
35 absence of facilitators, it becomes a problem, given that diversity of groups.  
36

37 Caskey-Schreiber stated it seems like they are not getting that support or  
38 consensus from some groups, such as Birch Bay. They might be at a juncture  
39 where they need to try a different track. Roll stated he disagrees. This is a venue  
40 where they can achieve consensus. People have that opportunity and are  
41 encouraged to be in that venue. The groups have worked very hard to achieve  
42 consensus at every meeting and work through every issue that they have. That  
43 opportunity has been given to every one of those members. They've often taken a  
44 month or two to address an individual caucus's need before moving on. Some  
45 people feel they want to use other venues for addressing their concerns.  
46

47 *(Clerk's Note: End of tape two, side B.)*

1  
2 Brenner stated her concern is that caucuses have raised concerns. The  
3 County is paying a lot of money for these facilitators. The consensus process lends  
4 itself to creating intimidation. It's up to the facilitators to make sure they can  
5 overcome that, but it's not happening. She doesn't blame the facilitators. The  
6 process is breaking down. She doesn't want to spend more money until the  
7 process feels right to the people involved.

8  
9 Roy stated she's heard from one caucus. She's not ready to blame the whole  
10 process for the problems going on. She will support this item, but it's important to  
11 have this discussion.

12  
13 Crawford asked if it would be appropriate to have a Planning Unit member  
14 tell them about the facilitation and staff support.

15  
16 McShane stated he's been on committees where these facilitators worked to  
17 help a dysfunctional group. He's had great success with them.

18  
19 Marian Beddill, Environmental Caucus alternate member, stated she has  
20 been involved in the process since the very beginning. This is money well spent. If  
21 they didn't have professional facilitation, they would be in a very big mess right  
22 now. To not continue at this critical juncture of coming to closure, it will be a  
23 disaster. She asked the Council to please approve the request.

24  
25 Fleetwood asked what critical juncture they are at now. Beddill stated the  
26 early phases defined the problem and data, and created the technical tools. Much  
27 of the discussion now is redefining the shape and nature of the continuing water  
28 management activity in Whatcom County. They are moving into defining long term  
29 adequate water management to meet all the needs. It is a delicate point in the  
30 process. The facilitators have done a good job with maintaining consensus in  
31 virtually every circumstance.

32  
33 Brenner asked who is the regular Environmental Caucus member. Beddill  
34 stated Carl Weimer is the regular representative for the Environmental Caucus.

35  
36 Brenner stated she has spoken to people from four caucuses who contacted  
37 her. She's heard there are about problems with getting understandable information  
38 from Utah State University. It seems the information was intentionally written only  
39 for technical experts. She's hearing that from all of them. Facilitators are doing a  
40 good job of facilitating, but it's just not working. She would like to get the concerns  
41 back on track before they keep spending more money.

42  
43 Crawford stated he supports the continuation through the end of the year.  
44 However, he also warned against how little Council support there would be for the  
45 beginning in 2004. He asked if Ms. Beddill believed the facilitators' work will be  
46 done at the end of the year. Beddill stated the facilitation is making the  
47 management process for a very diverse group with opposing interests work. The

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1 facilitation process is making the dialog work. They have no responsibility for the  
2 content of the contracts with consultants. That's not their job.

3  
4 Crawford asked if there is a sense that conclusion will be reached at the end  
5 of December, as funding for caucuses and facilitators will end. Beddill stated that is  
6 everyone's intention. The end is close.

7  
8 ***Motion carried 5-1 with Brenner opposed.***

9  
10 **8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
11 **CONTRACT AMENDMENT WITH RESOLUTION SERVICES, LLC, TO**  
12 **PROVIDE FACILITATION SERVICES FOR PLANNING UNIT AND**  
13 **STAKEHOLDER INVOLVEMENT, STAFF TEAM, AND GENERAL PROJECT**  
14 **COORDINATION TO THE WRIA 1 WATERSHED MANAGEMENT**  
15 **PROJECT FOR JULY 1, 2003, THROUGH DECEMBER 31, 2003, IN THE**  
16 **AMOUNT OF \$34,750, FOR A TOTAL AMENDED CONTRACT IN THE**  
17 **AMOUNT OF \$179,150 (AB2003-206)**

18  
19 *(Clerk's Note: See Consent Agenda item seven for discussion of this issue.)*

20  
21 ***Crawford moved*** to approve the request.

22  
23 ***Motion carried 5-1 with Brenner opposed.***

24  
25 **13. RESOLUTION AMENDING WHATCOM COUNTY VANTAGECARE**  
26 **RETIREMENT HEALTH SAVINGS (RHS) PLAN TO PROVIDE TO**  
27 **BARGAINING UNIT EMPLOYEES WHEN SPECIFIED IN WHATCOM**  
28 **COUNTY COLLECTIVE BARGAINING AGREEMENTS, AND REVISE**  
29 **EXISTING NON-HEALTH DISTRIBUTION FEATURES OF THE RHS PLAN**  
30 **IN ACCORDANCE WITH GUIDANCE ICMA-RC HAS RECEIVED FROM**  
31 **THE INTERNAL REVENUE SERVICE (AB2003-210)**

32  
33 This item was withdrawn by the administration.

34  
35  
36 **OTHER ITEMS**

37  
38 **1. OVERVIEW OF WHATCOM COUNTY'S PDR PROGRAM PROGRESS ON**  
39 **ROUND 1 APPLICATIONS (AB2003-198)**

40  
41 Roy reported for the Natural Resources Committee and stated three farms  
42 have been submitted to the United States Department of Agriculture (USDA), for a  
43 total of 210 acres. They will see if they can get matching funds. The appraisals  
44 have been done.

45  
46 As a result of the appraisals, they've learned that agricultural land does not  
47 have much development value above the value of the agricultural value. That's

1 good news in a way because it indicates that zoning and other attempts to keep  
2 agricultural land in an agricultural use have worked.  
3

4 The three recommended properties excellently represent the intent of the  
5 purchase of development rights program. They are going to know in a couple of  
6 months what the situation is. Washington State only received \$1.5 million from the  
7 federal government. They thought they were going to get \$7 million or \$8 million.  
8

9 **2. ORDINANCE AMENDING THE 2003 WHATCOM COUNTY BUDGET,**  
10 **FIFTH REQUEST (AB2003-194)**  
11

12 **Crawford** reported for the Finance and Administrative Services Committee  
13 and **moved** to adopt the ordinance.  
14

15 Brenner stated they all didn't vote for retroactive raises for the elected  
16 officials. This process moves the money into the fund to pay for it. The rest of the  
17 supplemental request is terrific. Staff gave excellent explanations of everything.  
18

19 McShane stated he has a problem with the Prosecutor's request for  
20 increasing an employee's time to full time to handle appeals. He talked with the  
21 Prosecutor about the issue.  
22

23 Crawford stated Mr. McEachran gave the committee a report on the issue.  
24 Mr. McEachran assured the committee that the County gets revenue as a result of  
25 the child support enforcement.  
26

27 McShane stated he has no problem with the request for legal help to work on  
28 child support enforcement. The money for the additional half-time appellate  
29 attorney goes into the general fund as reimbursement to the County for the  
30 services the Prosecutor provides. He is concerned with the number of appeals and  
31 types of appeals. He will support the request, but only because he can recognize  
32 that the Prosecutor has a problem with appeals right now, and needs to address it.  
33 He's concerned about the method of funding, when there may be other  
34 opportunities. He asked the administration for a copy of all the drug fund  
35 expenditures over the last two years. That is a possible source of revenue. He also  
36 asked for a list of all the pending appeal cases, and the related type of charges that  
37 led to those appeals. That information will be useful for him as they work on next  
38 year's budget.  
39

40 Dave Grant, Senior Civil Deputy Prosecutor, stated the request for the list of  
41 appeal cases may be fairly onerous to provide. For every conviction they get, there  
42 is an appeal. The kinds of cases that are appealed are for every kind of conviction.  
43 It is routine to file an appeal.  
44

45 McShane withdrew his request for a list of appeals.  
46

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1 Brenner stated she asked Mr. McEachran if that position would pay for itself.  
2 She was told that it would. The money for both positions would be reimbursed to  
3 the general fund.  
4

5 Roy stated she asked Mr. McEachran if this is a permanent position, and why  
6 it is. There is an increase in cases, but she is uncomfortable adding another  
7 position. Whenever there is stress on a part of an organization that has more  
8 demand, they ask for more staff. No one asks to give up staff when caseloads go  
9 down. The juvenile cases have gone down.  
10

11 ***Motion to adopt carried unanimously.***  
12

13 **3. REQUEST FOR AUTHORIZATION TO ENTER INTO A LAND**  
14 **ACQUISITION – PURCHASE AND SALE AGREEMENT (AB2003-211)**  
15

16 **Crawford** reported for the Finance and Administrative Services Committee  
17 and **moved** approval. This is the purchase of acreage to the east of the soccer  
18 fields on Smith Road.  
19

20 Brenner stated this was presented to the Council in the context that it would  
21 allow for more use by the shop crew and for parking on the weekends. She's not  
22 comfortable with the language that doesn't require the land to be used for those  
23 reasons. The County keeps buying up more property. The Council is told it is for a  
24 good reason, but the paperwork doesn't reflect the purpose. She won't support the  
25 request without specific wording about the intended use.  
26

27 ***Motion carried 5-1 with Brenner opposed.***  
28

29 Crawford reported that the Finance Committee also received a presentation  
30 of the **quarterly report from the Public Facilities District (AB2003-044)**. In  
31 addition, Mr. Desler gave the committee the amended version of the Economic  
32 Development Investment Program.  
33

34 **4. DISCUSSION REGARDING SIGNAGE AT THE LUMMI ISLAND FERRY**  
35 **DOCKS (AB2003-213)**  
36

37 Brenner reported for the Public Works and Capital Projects Committee. The  
38 discussion regarded speed limit signage on the island. The Lummi Island  
39 Transportation Committee will discuss the issue. The County can't pay for any sign  
40 other than a speed limit sign.  
41

42 **5. RESOLUTION ESTABLISHING COUNTY ROAD PROJECT NO. 901002**  
43 **AND THE AWARD OF CONTRACT TO THE LOWEST RESPONSIVE**  
44 **BIDDER, SOTO AND SONS CONSTRUCTION LLC, FOR THE WEST**  
45 **SMITH ROAD IMPROVEMENTS, FERNDALE CITY LIMITS TO**  
46 **NORTHWEST DRIVE, IN THE AMOUNT OF \$1,298,846.28 (AB2003-**  
47 **190)**

1  
2       ***Crawford moved*** to approve the resolution.  
3

4       Brenner stated she appreciated that staff gave her some time on this project.  
5 She visited the site and had conversations with the engineers. The planning  
6 director suggested that she contact someone on the transportation committee to  
7 see if they would be interested in looking at it. A transportation committee  
8 member looked at the site and had concerns about it. The transportation  
9 committee is interested in working to develop a compromise that would serve the  
10 needs of what they need to do. They are talking about 50 feet of concrete and  
11 asphalt. One of his concerns was that it would entice people to speed. Another  
12 concern is environmental. She would like to see a recommendation from the  
13 transportation committee. Once this is done, it is forever. It will cost a lot of  
14 money. They have to protect the sense of place.  
15

16       McShane apologized to Mr. Rutan for letting the discussion of this issue at the  
17 previous Council meeting become contentious.  
18

19       Fleetwood stated he visited the site and listened to Councilmember Brenner's  
20 thoughts on the issue. During the last Council meeting, the Council discussed the  
21 need to create policy guidelines on this question of what to do regarding sidewalks  
22 in the county. On this particular issue, they are deciding whether this was a  
23 sufficiently close call to go back to the drawing board. After looking at the site,  
24 given the densities that exist and given that state of the roads at either end of this  
25 stretch of the road, he believes that all the County is doing is conforming to what  
26 already exists. The density is similar to densities in urban areas. He will support  
27 the project.  
28

29       Brenner stated it's an extra \$60,000. They are putting sidewalks in an area  
30 that is not an urban growth area. There are pockets of urbanization there. There  
31 are also bigger areas with a rural density. If they are going to spend that kind of  
32 money, taking two more weeks to allow someone to come up with a plan, will not  
33 make much difference.  
34

35       ***Motion carried 5-1 with Brenner opposed.***  
36

37       **6. ORDINANCE AMENDING WCC 2.54.010 TO REFLECT THE CURRENT**  
38       **OFFICE HOURS OF THE LICENSING DEPARTMENT IN THE AUDITOR'S**  
39       **OFFICE (AB2003-195)**  
40

41       ***Fleetwood moved*** to adopt the ordinance.  
42

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

45       **7. APPOINTMENT TO WHATCOM COUNTY UTILITIES PLANNING AND**  
46       **ADVISORY COMMITTEE, DISTRICT 3 POSITION, APPLICANT: FRED**  
47       **W. SCHUHMACHER (AB2003-197)**

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1  
2 ***Brenner moved*** to appoint Fred Schuhmacher.  
3

4 ***Motion carried unanimously.***  
5

6 **8. APPOINTMENT TO WHATCOM COUNTY PLANNING COMMISSION,**  
7 **DISTRICT 2 POSITION, APPLICANTS: JOHN BELISLE, CRAIG DAVIS**  
8 **(AB2003-159)**  
9

10 ***Caskey-Schreiber moved*** to appoint John Belisle.  
11

12 ***Motion carried unanimously.***  
13  
14

15 **INTRODUCTION ITEMS**  
16

17 ***Crawford moved*** to accept the Introduction Items.  
18

19 ***Motion carried unanimously.***  
20

21 **1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**  
22 **ORDINANCE, TITLE 20, CHAPTER 20.71 – WATER RESOURCE**  
23 **PROTECTION OVERLAY DISTRICT, CHAPTER 20.80 –**  
24 **SUPPLEMENTARY REQUIREMENTS (STORMWATER AND CLEARING),**  
25 **CHAPTER 20.85 – PLANNED UNIT DEVELOPMENTS, AND CHAPTER**  
26 **20.97 – DEFINITIONS, TO PROVIDE ADDITIONAL REGULATORY**  
27 **PROTECTION FOR SENSITIVE WATERSHEDS (AB2002-222B)**  
28

29 **2. ORDINANCE INCREASING THE PARKS AND RECREATION**  
30 **DEPARTMENT’S PETTY CASH REVOLVING FUND (AB2003-212)**  
31  
32

33 **OTHER BUSINESS**  
34

35 There was no other business.  
36  
37

38 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**  
39

40 Caskey-Schreiber reported that she misrepresented the facts during the  
41 previous Council meeting when they discussed the length of the minutes of a  
42 Planning Commission meeting. The minutes she referenced were nine pages total.  
43 The portion she was interested in was two and a half pages. She apologized for the  
44 misstatement.  
45

46 Caskey-Schreiber also reported that the Northwest Air Pollution Authority  
47 (NWAPA) approved the funding mechanism for an upgrade of diesel school buses.

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1 They've imposed a fee that will create revenue for a rescue tugboat on the Hood  
2 Canal, and upgrade of diesel school buses, and to air pollution authorities around  
3 the state.

4  
5 Roy stated she visited the oil spill response boats, owned by the local oil  
6 companies. She watched how they would respond to an oil spill. It was very  
7 interesting.

8  
9

10 **ADJOURN**

11  
12 The meeting adjourned at 11:00 p.m.

13  
14  
15

16 \_\_\_\_\_  
17 Jill Nixon, Minutes Transcription

18 These minutes were approved by Council on June 17, 2003.

19

20 ATTEST: WHATCOM COUNTY COUNCIL  
21 WHATCOM COUNTY, WASHINGTON

22  
23  
24

25 \_\_\_\_\_  
26 Dana Brown-Davis, Council Clerk

27 \_\_\_\_\_  
28 Dan McShane, Council Chair