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

4 October 7, 2003  
5

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

9 Present: Absent:  
10 Barbara Brenner None  
11 Laurie Caskey-Schreiber  
12 Sam Crawford  
13 Seth Fleetwood  
14 Sharon Roy  
15 L. Ward Nelson  
16  
17

18 **FLAG SALUTE**  
19

20  
21 **ANNOUNCEMENTS**  
22

23 McShane announced there was **discussion regarding property appraisals**  
24 **for two parcels on the Mt. Baker highway (AB2002-018)** in executive session  
25 during the Committee of the Whole meeting.  
26  
27

28 **SPECIAL PRESENTATION**  
29

30 **1. UPDATE BY ROB POCHERT ON THE ACTIVITIES OF THE ECONOMIC**  
31 **DEVELOPMENT COUNCIL (AB2003-017)**  
32

33 Rob Pochert, Economic Development Council (EDC), stated there are six  
34 active expansion projects and five very active business attraction projects they are  
35 working on. The business development report is coming out very shortly. This is  
36 an updated report. He submitted a copy of the report (*on file*). It is the first of  
37 regular monthly reports that talk about their activities.  
38

39 The EDC did a membership campaign in June. It is the first done in a long  
40 time. They recruited nine new members and six members upgraded their  
41 membership. Last year they did a "Think Bellingham" project, but it will be  
42 postponed until Spring of 2004. At that time, the EDC will partner with Skagit  
43 County and the State Department of Community, Trade, and Economic  
44 Development (CTED) to do a more regional presentation in British Columbia.  
45 Almost all relocation prospects in the last six months have been Canadian. They  
46 are exploring the creation of one stop network of resources to help Canadian  
47 businesses get started in this area. Issues addressed include immigration,

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1 incorporation, taxes, banking, real estate, incentives, workforce, and workforce  
2 development. The EDC would be the point of contact and triage the basic needs of  
3 the Canadian companies.  
4

5 The business plan addresses a new economic development website. They've  
6 gone through a request for proposals (RFP) process. They will use local  
7 consultants. The website will provide up-to-date demographic data, community  
8 profiles of all the communities in Whatcom County, and a geographic information  
9 system-powered searchable database of available commercial and industrial  
10 properties in the county. They also hope to also include information contained in a  
11 recent industrial land survey. They will work with university graduate students to  
12 do some of the data-gathering.  
13

14 Next week the Board will go into a strategic planning session to review the  
15 mission, set goals, and set objectives. From that session, staff will create a work  
16 plan with measurable outcomes and timelines.  
17

18 The EDC has also represented the County's Economic Development Initiative  
19 (EDI) program with County staff. He wrote an article in the Business Journal about  
20 the program. They've posted EDI information and application on the website. To  
21 date, they've made over 12 presentations with local governments, districts,  
22 developers, elected officials, and CTED staff. One application has gone through the  
23 process, and three other applications are in development.  
24

25 The EDC is Working with St. Luke's Foundation Steering Committee on  
26 access to health care issues in Whatcom County. They will do work with the  
27 Community College Business Department to look at business development  
28 curriculums.  
29

30 Nelson thanked Mr. Pochert. He asked if Mr. Pochert has gotten a handle on  
31 the positives and/or negatives of the community by these potential businesses.  
32 Pochert stated the most feedback he's gotten is from existing companies in the  
33 community that want to expand. There is right now a lack of information on the  
34 available processes and tools. The main issues are on workforce training and  
35 workforce development. They have a solid network of providers, but they need to  
36 do more to coordinate some of those activities to make that information more  
37 readily available. He will address that issue as they put together the one-stop  
38 shop for the Canadian companies. The prototype has worked very well.  
39

40 Caskey-Schreiber asked if they are doing any other marketing efforts for the  
41 EDI program. Pochert stated it becomes a component of the program he presents  
42 to business organizations, chambers, and other community associations. It might  
43 be better to make sure the communities understand first how to access it. It will  
44 also be more actively promoted on the new website.  
45

46 Roy stated it's great to have this kind of information. They've been working  
47 very hard. She asked if they are going to be linked to the Chamber of Commerce

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1 and other agencies in the community. Pochert stated there will be links to any  
2 organization that has to do with economic development. In addition, he will link to  
3 state agencies and cultural activities, such as the university and the music festival.  
4

5  
6 **MINUTES CONSENT**

7  
8 ***Nelson moved*** to approve the Minutes Consent items.

9  
10 ***Motion carried unanimously.***

11  
12 **1. REGULAR COUNTY COUNCIL FOR SEPTEMBER 23, 2003**

13  
14 **2. WATER RESOURCES WORK SESSION FOR SEPTEMBER 16, 2003**

15  
16  
17 **OPEN SESSION**

18  
19 The following people spoke:

20  
21 Dave Hanson, Whatcom County Fire Commissioners Association President,  
22 stated there is a **Resolution supporting Proposition 1 – Regular Property Tax**  
23 **Levy for County-Wide EMS (AB2003-027C)**. He thanked the Council for its  
24 hard work on this issue. He also thanked the County Executive and Deputy  
25 Administrator Dewey Desler for their support. He asked the Council to endorse the  
26 levy by approving the resolution this evening.  
27

28 Norma Kirchan, Maple Falls Citizens Association, handed out two resolutions  
29 from Snohomish County regarding methamphetamine labs and other drug use (*on*  
30 *file*). Because of their fight against these activities, Whatcom County has inherited  
31 the problem. Sheriff Elfo has agreed to speak with the Snohomish County Sheriff.  
32 She asked the Council to approve a similar resolution. She would also like to obtain  
33 neighborhood grant monies, and hopes to have help from the County Executive’s  
34 Office. She thanked the County Council and County Executive for the increased  
35 efforts in her neighborhood.  
36

37 Bruce Preszler, 483 Summerland Way, Bellingham, spoke on the **Ordinance**  
38 **Adopting Amendments to the Introduction Chapter of the Whatcom County**  
39 **Comprehensive Plan (AB2003-075A)**. In making long range planning, use the  
40 lowest population growth projection. If they build for more growth, the growth will  
41 come. The County would be taxing the current citizens now for growth that may  
42 not come. If it seems that more will come, they can adjust accordingly at that  
43 time. If they don’t plan for more growth, the higher amount of growth may not  
44 come.  
45

46 Jean Freestone, 3200 Vallette Street, read her letter into the record (*on file*)  
47 and said her letter was written “tongue in cheek” about making development

1 regulations that will foster an elitist community and shut out everyone but those  
2 with the highest incomes.  
3

4 Richard Gantman, Mt. Baker School District Superintendent, spoke on the  
5 **Ordinance Adopting Amendments to the Introduction Chapter of the**  
6 **Whatcom County Comprehensive Plan (AB2003-075A)**. His school district  
7 encompasses 500 square miles in the eastern part of the county, including  
8 Columbia Valley. Many people in the Columbia Valley area consider the census  
9 data to be quite low. The actual population may be higher. Much property in the  
10 Columbia Valley will developed in the near future because the property is very  
11 affordable. The potential population density is large. In the eight proposed  
12 scenarios, he prioritized them by percentage of growth. They don't want to be  
13 surprised, such as the surprise they received when the school built four years ago  
14 for 500 students now has 600 students. They're having to change attendance  
15 patterns to accommodate that surprising population. Whatcom County will be best  
16 served if they don't have any surprises in the future.  
17

18 Nelson asked which projection he recommends to the school board.  
19 Gantman stated they are ready for another self-study. The enrollment projection is  
20 based on year-to-year enrollment. They have 50 students more this year than last  
21 year. In a district of 2,200 students, 50 more students is significant growth. It  
22 causes stress on the schools, overcrowding of the classrooms, and the need to hire  
23 more staff. He is using numbers higher than the census numbers. Kendall School  
24 is already overcrowded. If the three or four percent growth were to continue, they  
25 will need another school. Make sure long-range planning accommodates that future  
26 need.  
27

28 McShane asked how the County-established population projection number is  
29 important to the school district's planning. Gantman stated it seems that if the  
30 growth rate is not acknowledged in some form in formal planning, then planning for  
31 services in the eastern part of the county may not happen in a proactive way.  
32 Formal planning includes school planning, services for the community, health  
33 services, and Whatcom Transportation Authority. Whatcom Transportation  
34 Authority was quite surprised at the ridership when it put in one fixed route in that  
35 area. The ridership is very much over what they projected. All kinds of services  
36 must be planned for.  
37

38 Joan Casey, Bellingham, spoke on the **Ordinance Adopting Amendments**  
39 **to the Introduction Chapter of the Whatcom County Comprehensive Plan**  
40 **(AB2003-075A)**. Defer determining a definitive population projection until the  
41 City of Bellingham has done an analysis that includes infill, topography, zoning, and  
42 environment. This number should be determined with collaboration with the  
43 County, school districts, and transportation districts. There should be a public  
44 hearing.  
45  
46

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1 **CONSENT AGENDA**  
2

3 **Crawford** reported for the Finance and Administrative Services Committee  
4 and **moved** to approve Consent Agenda items one through six. On item four, there  
5 has been some change in the dollar amounts because the taxes on some of the  
6 parcels that would have been foreclosed on have been paid by the owners and were  
7 taken out of foreclosure. He was assured that the only amount spent and divided  
8 would be the amount the Treasurer's Office actually spent on each property.  
9

10 **Motion to approve Consent Agenda items one through six carried**  
11 **unanimously.**  
12

- 13 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
14 **CONTRACT BETWEEN WHATCOM COUNTY PUBLIC WORKS AND THE**  
15 **WASHINGTON STATE DEPARTMENT OF ECOLOGY CONSERVATION**  
16 **CORPS FOR SALMON ENHANCEMENT ACTIVITIES COUNTYWIDE WITH**  
17 **AN EMPHASIS ON THE TEN MILE CREEK AND BERTRAND CREEK**  
18 **WATERSHEDS FOR THE PERIOD OCTOBER 8, 2003 THROUGH**  
19 **JANUARY 31, 2004, IN THE AMOUNT OF \$28,400 (AB2003-334)**  
20
- 21 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
22 **CONTRACT BETWEEN WHATCOM COUNTY AND THE HOME PORT**  
23 **LEARNING CENTER TO PROVIDE ALTERNATIVE EDUCATION TO**  
24 **YOUTH IN THE JUVENILE JUSTICE SYSTEM, IN THE AMOUNT OF**  
25 **\$66,000 (AB2003-335)**  
26
- 27 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
28 **CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND**  
29 **WHATCOM LAND TRUST FOR CONTINUATION OF PARTICIPATION IN**  
30 **THE WHATCOM COUNTY AGRICULTURAL PURCHASE OF**  
31 **DEVELOPMENT RIGHTS PROGRAM, EXTENDING THE CONTRACT TO**  
32 **OCTOBER 31, 2004 (AB2003-336)**  
33
- 34 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**  
35 **AGREEMENT BETWEEN WHATCOM COUNTY AND SUDDEN VALLEY**  
36 **COMMUNITY ASSOCIATION, CITY OF BELLINGHAM, AND WATER**  
37 **DISTRICT 10 TO ASSIST IN THE PURCHASE OF SUDDEN VALLEY**  
38 **PARCELS THROUGH THE 2003 WHATCOM COUNTY TAX FORECLOSURE**  
39 **AUCTION, IN AN AMOUNT OF UP TO \$8,250 (AB2003-337)**  
40
- 41 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
42 **JOINT FUNDING AGREEMENT BETWEEN WHATCOM COUNTY AND THE**  
43 **UNITED STATES GEOLOGICAL SURVEY (USGS) FOR ONGOING**  
44 **STREAM FLOW GAGE NETWORK OPERATION AND MAINTENANCE FOR**  
45 **THE EARLY FLOOD WARNING PROGRAM, IN THE AMOUNT OF**  
46 **\$44,775, OF WHICH \$33,775 WILL BE THE COUNTY'S SHARE AND**  
47 **\$11,000 WILL BE FUNDED BY THE USGS (AB2003-338)**

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- 1  
2 **6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
3 **LEASE AGREEMENT BETWEEN THE WHATCOM COUNTY SHERIFF'S**  
4 **OFFICE AND CASCADE BUSINESS PARK FOR NEIGHBORHOOD OFFICE**  
5 **RENTAL, FOR A TERM OF TWO YEARS IN THE AMOUNT OF \$12,600**  
6 **(AB2003-339)**  
7

8  
9 **OTHER ITEMS**

- 10  
11 **4. RESOLUTION SUPPORTING PROPOSITION 1 – REGULAR PROPERTY**  
12 **TAX LEVY FOR COUNTYWIDE EMS (AB2003-027C)**  
13

14 *Fleetwood moved* approval of the resolution.  
15

16 Brenner stated they need a dedicated fund for this. However, don't go  
17 anywhere near the amount proposed. They don't need it. This County Council  
18 needs to find a way to be careful with the money from the general fund that is  
19 freed up by having a dedicated fund.  
20

21 Caskey-Schreiber stated they set the rate high initially to cover the five-year  
22 expansion of their contract and services. They are adding another service unit.  
23 The whole rate was set with good reasoning. She will support the request as it is,  
24 and hopes the public will also.  
25

26 Nelson stated this is a long time overdue. The Council will be just as  
27 judicious with the public's money as it has in the past by not raising any rates for  
28 seven years. Hopefully the district and public will work closely together in the  
29 future to be more economical for all.  
30

31 McShane stated the County Council will continue to carefully review the  
32 annual budgets and move things in the right direction.  
33

34 Nelson thanked the fire districts, Bellingham Fire Department, and everyone  
35 who worked on this issue.  
36

37 *Motion carried unanimously.*  
38  
39

40 **PUBLIC HEARING**  
41

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

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

4                   Amy Pederson, Planner I, gave a staff report and stated the history of the  
5 issue and the ordinance. She suggested and submitted two amendments to the  
6 ordinance document to add language to section four and to amend section  
7 20.80.735 (2)(d)(9) (*on file*).  
8

9                   Caskey-Schreiber asked if Drayton Harbor is not under the seasonal clearing  
10 provisions. Pederson stated Drayton Harbor is not subject to the seasonal clearing  
11 limitations or the tree retention requirements.  
12

13                   McShane opened the public hearing and the following people spoke:  
14

15                   Paul Isaacson, 204 Shallow Shore Road, stated has been at every meeting  
16 and has been through this draft many times. He is a member of the Forestry  
17 Advisory Forum and other Lake Whatcom panels. He is appalled by the ordinance.  
18 If 90,000 people need a road, the County will condemn and buy the property.  
19 When 90,000 people need water at the expense of a few in Lake Whatcom, the  
20 County will regulate his land and devalue it. If they are going to do this for the  
21 benefit of the people and to help the water, they need to work together. This  
22 ordinance regulates people who haven't done anything yet. All the people who  
23 have homes, live on the lake, and use the boats are where the pollution comes  
24 from. The pollution doesn't come from his timber lands and vacant treed lots. The  
25 ordinance is unfair. Saving the water will be at the expense of his land and value  
26 for others' benefit. There are a lot of places besides Lake Whatcom and Lake  
27 Samish to protect water quality, such as the Nooksack River. Look at all of the  
28 sources. Don't piecemeal this as they go along. This is not good regulation.  
29

30                   Wynne Lee, 2171 Tuttle Lane, Lummi Island, stated she supports the  
31 ordinance. It should apply to more than just the three districts. There is an  
32 aquifer under a lot of this land that needs protection. Water quality and quantity  
33 protection is essential to sustain the County's future for every individual and every  
34 business. The new overlay district is a good first step toward protection.  
35

36                   (*Clerk's Note: End of tape one, side A.*)  
37

38                   Lee continued to state that the ordinance moves in the direction of a long-  
39 term choice for a sustainable future. It is wise public policy. This should be just a  
40 first step. The issues of water quality and quantity and the development rules that  
41 ensure a future for the water is something they cannot gloss over. It will be hard  
42 for some people to make as much profit on their property without watershed  
43 protection.  
44

45                   Bruce Preszler, 483 Summerland Road, Bellingham, stated he supports the  
46 ordinance. It's been a long and good process.  
47

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1 Ken Murray, Sudden Valley, stated he is opposed to the ordinance. He  
2 hasn't seen any data that supports the fact that building in the watershed is  
3 harming the water. The regulations will increase the cost of property for families  
4 who would like to move into the area. The business people want to bring Canadian  
5 businesses into Bellingham, but they can't keep businesses in and people out. The  
6 rules are not necessary. Sediment is not going into the lake from new  
7 construction. Sudden Valley has put in its new sewer system and reduced the  
8 amount of effluents in the soil. Sudden Valley was originally built for 4,500 homes.  
9 There are currently 1,500 with another proposed 1,000 to 1,500 lots. Cutting the  
10 proposed population of Sudden Valley by one-third is implementing rules and  
11 regulations that will be costly. The pollution is not coming from new construction  
12 in Sudden Valley.

13  
14 Ron Reimer, 6595 Northwest Road, stated these regulations are really a  
15 taking. According to a recent article in the Business Pulse, only 700 acres in the  
16 urban growth area (UGA) is developable. Allow a transfer of development rights  
17 that actually makes sense. Give people a reason to cooperate.

18  
19 Stephanie LeBlanc, 112 Ohio Street, #107, Bellingham, stated she and her  
20 husband are in the construction industry. They are currently building affordable  
21 homes in the Sudden Valley area. The Council decision will have an effect. The  
22 critical areas are another term for wetlands. The areas are designated by one  
23 person, Lyn Morgan-Hill. She speaks at the risk of having her permits pushed to  
24 the bottom of the pile. Any contactor in the room will say this happens. Shame on  
25 those who allow it to happen. Ms. Morgan-Hill has told her that she will walk along  
26 an area during an inspection and mark on her personal map whether an area is a  
27 critical area. That makes it hard for a builder to know whether a land just recently  
28 purchased is classified as a critical area. Any property that the County deems as a  
29 critical area should be disclosed so any title search will show this designation.  
30 People have spent money on the preparation of permit processes just to be shut  
31 down or relegated to a five-year process because it wasn't disclosed. This is  
32 wrong. This is another reason why the County needs to take a second look at what  
33 it is attempting to approve before it cleans up what exists today. The County  
34 should know about the excessive liability insurance increases to contractors in the  
35 state. They are faced with a 500 percent increase in some cases. It will force  
36 contractors in this county to leave or quit. It is another obstacle that local  
37 contactors have to deal with. Now they are adding more restrictions. The Council  
38 could be solely responsible for pushing the unemployment rate over the nation's  
39 limit. There are a multitude of reasons that have an effect on the local economy.  
40 Look at all these aspects of business. She and her husband are experts on erosion  
41 control and know there are better ways to accomplish what they are doing.

42  
43 Larry Williams, 2719 Donovan, Bellingham, stated they are in the dark ages  
44 regarding stormwater runoff. They are not really protecting their water. He works  
45 on two developments in King County, where all the soil is compacted, rolled,  
46 hydroseeded, or tarped. There is no loose soil. Street sweepers are constantly  
47 taking up all the mud off the streets in the development. The development here is

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1 spotty. The local practice of treating soil and stormwater runoff is lacking. This  
2 should be a countywide ordinance.  
3

4 Steve Martini, 2149 Northshore Road, stated he owns property on the lake.  
5 Clarifying language was submitted earlier today. He has built houses along the  
6 lake and sold them at a loss. He is in the design and construction process for  
7 buildings in that area. He owns some property along the lake and also across  
8 Northshore Road. It looks like an ordinance with a lot of sticks and no carrots. It  
9 takes a vast area of the county and makes 80 percent of it untouchable. It borders  
10 on a taking without compensation. The ordinance allows alternative permeable  
11 surfaces on driveways, but nothing in the ordinance deems those preferred  
12 alternatives as pervious and removes them from the impervious surface limit.  
13 When the City enacted its ordinance, it included language that allows reduction of  
14 impervious surfaces on an existing property at the credit of other properties owned  
15 by the same person. There was a process of transfer in the City ordinance.  
16 Consider that process for the County. He submitted a letter from Jon Sitkin (*on*  
17 *file*).  
18

19 Chris Weitzel, 66 Sudden Valley, stated he is a realtor, husband, and father.  
20 He is concerned with the ordinance. He wants to keep homes affordable. The  
21 Sudden Valley Community Association has a good architectural control committee  
22 that doesn't allow people to cut down trees without permission. They have strict  
23 requirements regarding site plans. People also have to go through the County also  
24 to get permission to build. The Sudden Valley developer put in 50 miles of roads  
25 and hundreds of miles of green belts and trails that mostly went through wetlands.  
26 There are 15 different parks. The community has done an aggressive density  
27 reduction program. They've consolidated 500 lots. The community association has  
28 eliminated another 700 properties. The 2,500 impervious surface limit on lots is  
29 too much when they've already spent millions to protect water and open space.  
30 They're getting no credit for what they've already done. There have been water  
31 retention systems out there for 15 years. The lots are about 6,000 square feet.  
32 The impervious surface limit restricts what people can build and their value. The  
33 restriction will limit people from building at a reasonable value. Regarding tree  
34 retention regulations, Sudden Valley residents can't cut down trees without Sudden  
35 Valley's permission. Sudden Valley is already dealing with this problem, and has  
36 for many years.  
37

38 Dennis Jones, 1487 Sudden Valley, stated they have been working on this  
39 for many years. The fourteenth amendment has to do with freedom and due  
40 process for property rights. A 1992 joint resolution resolves to sustain Lake  
41 Whatcom water quality. Get on with it. House Bill 1689 deals with stormwater.  
42 The Sudden Valley stormwater system as required has not been completed or  
43 maintained. Sudden Valley is platted for 65 percent growth, which is beyond the  
44 City and the County. A Senate Bill on local control of a municipal water supply was  
45 passed in April. There is good legislation on the books. If the TDR program gets  
46 on the books, there will be compensation. He supports the ordinance.  
47

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1 Terry Unger, 222 Grand Avenue, Suite C, Bellingham, stated this ordinance  
2 places too many restrictions and too much uncertainty on new development but not  
3 on existing development. The uncertainty affects financing and other ramifications  
4 of building a house. Time delays and uncertainty caused by the ordinance would  
5 be increased over what exists today. This ordinance places a significant amount of  
6 correctional measures on new development, not existing development. The  
7 general trend constricts new construction to those with higher levels of income.  
8

9 Craig Ostrom, 2406 Lynn Street, Bellingham, stated he is the Sudden Valley  
10 Community Association Architectural Control Committee Manager. He does plan  
11 review, permitting, site inspection, and erosion control. He submitted a letter from  
12 the Association's general manager, Steve Greiser. In the original Sudden Valley  
13 development, 199 acres of greenbelt were platted. An additional 170 acres have  
14 been taken out through density reduction. Many cluster subdivisions have a lot  
15 size of 12,000 square feet. Twenty percent is 2,900 square feet. He asked the  
16 Council to consider Sudden Valley as a unique area, because Sudden Valley has  
17 put aside a lot of lands and established a lot of greenbelts.  
18

19 Patrick Alesse, 4825 Alderson Road, stated he supports the ordinance.  
20

21 Cal Leenstra, 315 Lakeway Drive, quoted James Madison saying government  
22 is instituted to protect property of every sort. This ordinance, specifically tree  
23 retention, severely impacts private property rights. There is little or no regard for  
24 the consequences. At Lake Samish, there is a different, discriminatory treatment  
25 of property owners on the lake side of the street with no valid reason. This could  
26 open the County to liability. Tree retention is not really applicable to lakeside lots  
27 that were previously denuded of every living thing. The purported reasons for tree  
28 retention are vague. They have no foundation, and they fail to substantially  
29 advance a legitimate government interest, thereby exposing the County to  
30 unnecessary liability for a taking. There is no question that 35 percent retention of  
31 the tree canopy will have an adverse affect on views and values. The Council took  
32 90 percent of his density during a recent Lake Samish downzone. Now the Council  
33 wants to take away the view. The lots are on acreage sloping up from the lake.  
34 Without a view, there is no value. He asked where this will stop. It's not equitable  
35 or fair. The County's action is arbitrary, unreasonable, and discriminatory. It  
36 shouldn't be allowed. He urged the Council to oppose the ordinance. Regarding  
37 bonds, the language is unclear about who is responsible for getting the bond.  
38

39 Scotti Shannon, Remax Realtor and Shannon Construction Vice-President,  
40 thanked the Council for removing the October to May clearing restriction from the  
41 last run at this ordinance. She doesn't know why they are doing this ordinance  
42 without a recent impartial study of the lake to see if there are any negative effects  
43 to the lake's health. If this is about the lake, and not about inhibiting growth, then  
44 make rules to enforce proper erosion control techniques. San Juan County has  
45 used desalination successfully for over four years. There are other alternatives to  
46 maintaining the lake. Think about how to pay for the administrative costs of these  
47 new rules. Increasing the tree canopy will increase the danger of fire. Her

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1 company employs approximately 100 people to build each home. Those people  
2 spend a lot of money in the county. Don't take away their jobs. Develop transfers  
3 of development rights.  
4

5 Bill Querhn, Building Industry Association (BIA) of Whatcom Executive  
6 Officer, stated the BIA expressed concerns over the Title 20 stormwater ordinance,  
7 specifically the proposed ban on clearing from October to May. A land use  
8 stakeholder group was formed and a compromise point system was proposed. It  
9 remains in the present document. The BIA supports the point system. Since then,  
10 the BIA staff and volunteers have expressed concerns over other parts of the  
11 proposed ordinance. The BIA is very concerned about the ordinance. It is filled  
12 with the potential for takings, claims, and other complaints by other present and  
13 future property owners. There will be many lawsuits at taxpayers' expense. The  
14 impact will affect present and future homeowners. The justification of the  
15 ordinance is rescuing Lake Whatcom as a drinking water source. This ordinance  
16 does nothing to stop or reverse the inflow of pollutants that may be entering the  
17 lake from existing sources, including the County's own storm drain system that  
18 flows into the lake, untreated, every day. This ordinance will not make any  
19 improvement at all. It only deals with future construction. Houses that have not  
20 been built yet have not been polluting the lake. Set aside this ordinance until a  
21 formal environmental impact assessment to identify the present flow of pollutants  
22 that may be entering the lake; funding sources are found or created to reduce or  
23 eliminate pollution sources that are document, and; a stakeholder committee  
24 similar to the land use working group is created and completes a review of this  
25 proposed ordinance, weeds out dangerous and frivolous provisions, and replaces  
26 them with a community consensus on erosion control measures and building  
27 standards that will be legal, enforceable, and productive, and won't increase the  
28 cost of housing or diminish the supply of land.  
29

30 Gary Reid, Building Industry Association President, stated the goal is to  
31 protect the water but the concern is about clarity and accuracy. He is concerned  
32 about seasonal clearing, impervious surfaces, tree retention, and Drayton Harbor.  
33 He encouraged the Council to accept the point system for seasonal clearing. It is  
34 based on engineering principles. Engineering systems that are proven to be  
35 workable should be allowed. One intent of the steering committee was to create  
36 incentive for innovation, allow solutions in unanticipated situations, and to create a  
37 higher standard. Allow a 3,000 square foot impervious surface limit. Pure water  
38 runs off roofs. Increasing roof areas doesn't have much impact. If they built the  
39 whole watershed out at 3,000 square feet, including existing houses that have less  
40 than 3,000 square feet, the total acreage is 3.08 percent of the entire watershed.  
41 At ten percent there is an impact. If they increase from 2,500 to 3,000 square  
42 feet, the total increase is .054 percent of the total watershed. The design impacts  
43 are extreme. Reduced areas creates houses that are functionally obsolete when  
44 they are built. The setbacks are reduced because they have to addressed  
45 driveways. Master bedrooms won't be allowed on the main floor, which may be an  
46 Americans with Disabilities Act (ADA) issue. A large portion of the land is forested.  
47 The State Department of Natural Resources reviews every cutting over 5,000

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1 board feet. It has a major impact on design. The cost is as high as \$13,000 for  
2 five acres just to meet the ordinance.  
3

4 Mary Dickinson, Building Industry Association, stated the BIA has  
5 researched the cost of this regulation to a homeowner in each watershed. They've  
6 talked to many professionals. Whatcom County is hurting its own citizens with this  
7 ordinance. Some of the regulations prevent builders to work and support families  
8 and employees. The regulations also hurt individuals in the watershed. The  
9 regulations, specifically the tree retention language, only ensure that people may  
10 not be able to afford to build on their own property. Some restrictions amount to a  
11 taking without just compensation. Individuals will have to plan their whole lives  
12 around the regulations. There is no flexibility for someone who needs added  
13 impervious surfaces for emergency reasons, such as a wheelchair ramp. Drayton  
14 Harbor is actually included in the tree retention regulations. The development  
15 standards allow only 35 percent of the tree canopy to be cut on lots between two  
16 and five acres in Drayton Harbor. The development standards should follow the  
17 Title 20 regulations. Administrative regulations must follow statutes to be valid. It  
18 is not clear. Everyone cares about water quality. Do an environmental impact  
19 study (EIS) and identify the problem so they can diagnose and fix it.  
20

21 Tom Iverson, 2330 Birch Bay-Lynden Road, Custer, stated he is an  
22 excavating contractor. He opposed the ordinance. The regulations are too far-  
23 reaching. He lives in the Drayton Harbor watershed. A few years ago, the Health  
24 Department had grants to fix septic systems. There is less farming in the area.  
25

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

28 Iverson continued to state that the Soil Conservation Service had a water  
29 study mainly on the Nooksack River that said how much better the water quality is  
30 today compared to what they used to have. What they are doing now is good.  
31 There are a few problem areas. They don't need to throw the baby out with the  
32 bathwater. If there are problems with a particular contractor, try to make that  
33 contractor do better. That should happen first.  
34

35 Brenda Iverson, 2326 Birch Bay-Lynden Road, Custer, stated she works with  
36 nine families who are supported by the construction industry. These families are a  
37 vital part of the community, pay their taxes, and make this place better. One  
38 requirement is that a contractor must post a bond or surety to make sure the tree  
39 retention is done correctly. Bonding companies will not bond to a third party, such  
40 as a contractor. They will only bond for the owner. The County is asking an owner  
41 who is trying to build an affordable house to set aside a good amount of money to  
42 make sure all of this is done. She applauds the decision to keep the Drayton  
43 Harbor area out of this requirement. Defer the decision on the rest of the  
44 stormwater issues until they really study the impacts. She's not sure the  
45 councilmembers understand all of the issues.  
46

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1 Nelson asked the average cost for erosion control. Brenda Iverson stated  
2 each house and site will be different, depending on slopes and soils. It could be  
3 \$5,000 to \$7,000, or more. It is a lot of economic strain for a homeowner to come  
4 up with that money when they are trying to build an affordable house.  
5

6 Rob Olson, Olson Construction, Sweetwater Road, Bow, stated he works  
7 exclusively in Sudden Valley. He is concerned with the impervious surface  
8 requirements. He would like to be allowed at least 3,000 square feet of impervious  
9 surfaces. He asked if lawn is considered an impervious surface.

10  
11 McShane stated it is not.  
12

13 Olson stated he is over the limit allowed by building a 1,700 square foot  
14 home, driveway, and sidewalk. He is also concerned about tree retention  
15 requirements. The percentages are confusing. The lots in Sudden Valley are  
16 6,000 square feet. If there is only one tree, and it's in the middle of the lot that  
17 they need to move to locate the house, then that's 100 percent of the trees. That  
18 language needs to be reviewed.  
19

20 Tom Pratum, North Cascades Audubon Society, stated there have been  
21 many opportunities for people to bring up their concerns. Many concerns have  
22 been brought forward. This is at least the third public hearing they've had on this  
23 item. This ordinance is a compromise. The ordinance has been compromised in  
24 many ways to satisfy concerns. A lot of the concerns brought up today are  
25 compromised for the ordinance. Pass the ordinance today. Don't water it down  
26 more. Science would dictate that the ordinance is not enough, but this is a political  
27 process. Many constituencies have to be satisfied. Staff and the Council has done  
28 a lot of work on this. He has been at all of these meetings.  
29

30 Andrew Lohr, 652 Sudden Valley, Bellingham, stated he is an electrical  
31 contractor. This ordinance will have a huge negative impact on building, homes  
32 that average people can buy, and companies in the industry. The ordinance is  
33 more about no growth than clean water. Allowed impervious surfaces should be  
34 changed from 2,500 square feet to 3,000 square feet. The current amount is not  
35 enough. Another 500 square feet will make little difference in the water quality.  
36 However, limiting the amount of impervious surfaces to 2,500 square feet will stop  
37 building. The tree retention requirements goes too far. It is not based on scientific  
38 study. The percentages are picked to limit growth. The ordinance is too open to  
39 interpretation. The regulations will cost too much. It gives too much power to  
40 County employees because it is not well-defined. He asked what this Council has  
41 done about existing problems. Take care of the existing problems. There has not  
42 been a neutral, definitive study of Lake Whatcom. The ones they've had in the  
43 past were put by the wayside because they haven't resulted in what the County  
44 wants to hear. Think about all the detailed consequences. This is really about  
45 limiting growth not protecting water. He wants his grandchildren have the ability  
46 to live at Lake Whatcom. That won't happen with this ordinance.  
47

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1 Richard Gilda, Jensen Road, stated the original critical areas ordinance has  
2 come and gone. He is opposed to the ordinance. He asked who would gain from  
3 the ordinance. Geologists will have to go out and check the soil and slope. Tree  
4 specialists will have to make sure the trees are not dangerous or dying.  
5 Councilmember McShane, as a professional geologist, should step down from this  
6 process or not accept any personal business in the Lake Whatcom watershed.  
7

8 McShane stated he does not currently, and he has not worked at all as a  
9 geologist in Whatcom County since he has been on the County Council.  
10

11 Gilda stated Mr. Mosen is a very frugal Public Works Director. If there is  
12 one person anywhere who can make gravel or fractured rock impervious, then Mr.  
13 Mosen can quit buying oil and concrete for the county roads. They cannot make  
14 gravel and rock impervious once its been fractured. Gravel is not an impervious  
15 surface. The proposed ordinance does not allow silviculture or tree crops permitted  
16 in the watershed. It's a prohibited or conditional use.  
17

18 Roger Almskaar, 3610 Meridian, stated the ordinance is better than the one  
19 passed in June of 2002, but it still has some problems. The law of supply and  
20 demand always works. Every time rules become more excessive and arbitrary  
21 than needed to get the job done, the cost of housing is raised without any  
22 corresponding public benefit. It becomes more difficult for people to create good  
23 paying jobs. He supports water quality in the lakes and watersheds. It is a valid  
24 public purpose. He has concerns with this ordinance. The impervious surface limit  
25 of 2,500 square feet on a rather small lot is too low. There are small lots zoned  
26 five acres now due to the downzone. Someone with a two acre lot in that zone can  
27 have up to 8,600 square feet. A neighbor with a half-acre may only be able to  
28 have 2,500 square feet. Alternative non-pervious surfaces were removed from the  
29 definitions. There are two problems with the tree retention regulations. Item two  
30 requires prioritization of several factors. It doesn't say who will do the  
31 prioritization. It leads to having to hire expensive wetland and geologic  
32 consultants. The tree retention regulations are well intentioned, but the findings  
33 stating the clear public purpose do not support them. Go with the Building  
34 Industry Association's three points.  
35

36 Roger Ellingson, 3033 Alderwood, Bellingham, thanked the Council for  
37 including Drayton Harbor in this ordinance. The future of Blaine lies in the Drayton  
38 Harbor ecosystem. The City will attract tourists and businesses based on what the  
39 city and harbor offers in terms of its natural habitat. These amendments are legal,  
40 proper, and will be easily be defended if challenged. However, they are also the  
41 first step. Alone, they are not enough. The County needs to create a market for  
42 transfers of development rights (TDR's). Don't tweak these regulation right now.  
43 If, in the future, these regulations prove to be too restrictive, they may use TDR's  
44 as a way to obtain a variance. They need to work on an ordinance that will  
45 address retrofitting, of which the building industry is the biggest advocate. He  
46 challenged the building industry to continue its advocacy when it comes time to  
47 actually pass that ordinance. It will be very painful. There needs to be lot

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1 consolidation incentives that encourage people to combine more than one lot. One  
2 way to do that is to ease the regulations adopted tonight. If lots are consolidated,  
3 fewer homes will be built in the watershed. As a consequence, there will be less  
4 impact on the drinking water. They need a comprehensive program to address the  
5 traffic impacts. He thanked the Council for protecting his property rights. His  
6 house is not in the watershed, but it isn't worth a thing without safe drinking  
7 water.

8  
9 Geoff Menzies, 988 W. Laurel Road, asked the Council to retain items that  
10 have to do with temporary sediment and erosion control in Drayton Harbor, phased  
11 clearing, and soil stabilization. A stakeholder group formed in 1990 in the Drayton  
12 Harbor watershed and worked for five years to come up with the Drayton Harbor  
13 watershed plan. These three recommendations came out of that plan. It has been  
14 over eight years since that committee came up with the recommendations. By  
15 adopting the ordinance, the Council is implementing the work of the community.  
16 The stakeholder work was based on detailed technical review and watershed  
17 characterization for Drayton Harbor. This is not overly burdensome. The Puget  
18 Sound Action Team just finished a review called Coastal Urbanization and Microbial  
19 Contamination of Shellfish-Growing Areas. It documents that they begin to see  
20 decreases in safe shellfish harvesting areas as there are increases in the amount of  
21 impervious surfaces. Retain Drayton Harbor as a special stormwater district. The  
22 watershed action plan done in 1995 identifies land conversion and stormwater as  
23 significant sources of pollution affecting water quality in Drayton Harbor. The  
24 requirements are not overly burdensome for Drayton Harbor. He appreciates the  
25 staff implementing the work that has been done by the community for years.  
26 Every time they implement a recommendation from the community, they are one  
27 step closer to restoring the resource for the community.

28  
29 Bob Wiesen, 3314 Douglas Road, Ferndale, stated the problem is not clearly  
30 defined. The result is regulatory overkill. The ordinance creates tremendous  
31 uncertainty for the landowners. The ordinance is unreasonable, subject to various  
32 interpretations, and hard to enforce. Tree retention regulations will create several  
33 unintended consequences, including the creation of dangerous trees and fire  
34 danger. It will be difficult for environmentalists to utilize passive solar energy. It  
35 will be costly to the County and general public. It will take more staff time to  
36 enforce the rules.

37  
38 Cho Lee, Sudden Valley, stated he is a contractor. Ten years ago, he  
39 bought property in Geneva. He waited ten years to develop because of the  
40 moratorium. He finally was forced into bankruptcy and moved to Sudden Valley.  
41 This ordinance is one more obstacle. People who have never paid taxes or carried  
42 the burden of a developer or property owner shouldn't have much say in what goes  
43 on with this issue. They all want to have clean water, but to shut down  
44 construction and growth without valid scientific proof is ridiculous. Construction is  
45 notoriously a feast-and-famine type of business. This will create chaos. They have  
46 a limited number of workers who can't do everything at one time of year. This is a  
47 crisis.

1  
2 John Lee, Coach Corral Site Development Manager, stated the regulations  
3 become more effective the less wordy they are. Sometimes they try to become  
4 too specific. These are performance standards. The efforts have made the  
5 regulations too prescriptive. Tweak the ordinance more toward performance and  
6 less toward prescriptions. That will allow a sense of reason to the regulations. Be  
7 open to any method that would meet the mandated performance standards.  
8 Twenty-five hundred square feet allows a 35 foot by 12 foot driveway, which is a  
9 minimum setback; 900 square feet for parking and a turnout, and; 576 square feet  
10 for a two-car garage. That leaves only 604 square feet for the house. When they  
11 do that, all the homes will be at 35 feet, which reduces sheet flow. It's something  
12 they want to take advantage of.

13  
14 Seth Cole, 1083 Chuckanut Drive, stated there are a lot of special interests  
15 who are speaking tonight. His special interest is his drinking water. He wants to  
16 make sure the drinking water is clean and protected. People can see in the many  
17 urban streams in Bellingham that impervious surfaces cause water to runoff  
18 extremely quickly. Vegetation slows down that water. When it rains, water goes  
19 directly into the stream if there are impervious surfaces. There are not many  
20 systems that are good at slowing that water down. In urban areas, banks along  
21 streams are undercut. Streams are full of silt. The water is not clear. That's not  
22 the kind of water he wants going into Lake Whatcom. He wants the water to be  
23 clean. If they continue to allow development as it is occurring now, Lake Whatcom  
24 is going to continue to degrade. They need to do something about that. This  
25 ordinance is a good compromise. It allows builders to continue developing with  
26 clear guidelines. It is too lenient, but it's a compromise he supports.

27  
28 Jason Reimer, Blaine, stated his family has owned property in the Drayton  
29 Harbor watershed for 50 years. The County Council wasted time and money on  
30 this ordinance that is ridiculous, ludicrous, and foolish. There is no room for  
31 compromise. The councilmembers have not read or misunderstood their oath of  
32 office. The constitution is to protect the individual from the majority. The  
33 impervious surface square footage limit has nothing to do with the individual. He  
34 asked why it's anyone's business if he wants to build a 30,000 square foot home in  
35 Whatcom County. Collectivism has failed. Don't go along with the Building  
36 Industry Association (BIA) all the time. The point system is a compromise based  
37 on the fact that the County is taking away 80 percent of his rights. This isn't about  
38 water. If they are worried about water, then buy a filter. It's not about water or  
39 science. A lot consolidation incentive of 5,000 square feet makes sense, but 3,000  
40 square feet does not.

41  
42 Marian Beddill, 3600 Seeley, Bellingham, stated she supports the ordinance.  
43 They are accused of allowing no growth, but that's not the case. Any analysis will  
44 show that the care and concerns expressed for the watersheds have no influence  
45 on the remainder of the county, where growth is encouraged. Any argument  
46 claiming that the motivation is no growth in the county has no merit.

47

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1 People are complaining about regulations. She challenged anyone with a  
2 relative who died in an automobile accident caused by speed or drunkenness to say  
3 they don't want regulations on speed limits and drinking while driving. Regulations  
4 are for protecting the whole community. That's where they are going with this, in  
5 terms of protecting drinking water quality and the quality of life for the entire  
6 community.

7  
8 Someone cited three percent of the watershed at full build out. The  
9 influence on the watershed is, in reality, to each sub-watershed, including every  
10 creek and tributary. They must measure the percentage impact in each sub-  
11 watershed, not taking the average of the entire watershed.

12  
13 Comments were made about the financial impact to builders and developers.  
14 She proposed the program in 1999, now in effect by the City of Bellingham, to  
15 purchase land in the watershed to hold it in forestry. That is a fair and property  
16 technique, from the standpoint of the landowner. A corollary to that is the transfer  
17 of development rights and land purchasing.

18  
19 Nancy Graham, Sudden Valley, stated this discussion seems to be about a  
20 Lake Whatcom economic development area. However, the ordinance is about the  
21 protection of their drinking water resource. She supports the ordinance. She  
22 appreciates the detail and amount of work that has gone into the compromises the  
23 past two years. No one needs a home any bigger than 1,200 square feet with a  
24 two-car garage and lots of sidewalks. The Sudden Valley Community Association  
25 requires a minimum of 1,400 square feet for a home size. That isn't necessary.  
26 The Sudden Valley Board, as a corporate entity, really does not represent the  
27 people who live in the communities around the lake and who treasure the forested  
28 aspect. The tree canopy is precious to the quality of the drinking water. She's  
29 concerned about staff's proposal to eliminate the bond requirement in favor of  
30 tree-replacement. She's witnessed the clearing practices that the volunteer  
31 architectural control committee allows in Sudden Valley. Beauty bark is scattered  
32 over the land, and small trees are planted at a time of year that may make it  
33 difficult for them to survive. Tree replacement is not effective the way she's seen  
34 it done in her neighborhood. Adopt the ordinance, and further protect the County's  
35 drinking water.

36  
37 Sharon Crosier, Bellingham, stated she's heard a lot of interesting things  
38 tonight from the building industry, and has more compassion for their position.  
39 However, if something is true, it's not more true because 30 people said it.  
40 Something is not less true if only one person says it.

41  
42 *(Clerk's Note: End of tape two, side A.)*

43  
44 Crosier continued to state that the Council should be strong enough to do  
45 what it needs to do. She thanked the Council for the process.

46

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1 Doug Campbell, 1401 Astor Street, stated he is a consulting engineer. The  
2 average cost to a contractor who mistakenly takes out a tree is \$60 for a three-  
3 quarter inch tree, \$3,400 for a 12-inch tree, and a \$8,300 for an 18-inch tree  
4 according to the Western Washington University tree loss program. He's  
5 concerned that there is no information in the ordinance about what the bond will  
6 cost a private property owner. Using Western Washington University's program,  
7 the cost is prohibitive. Reconsider the bonding language. It's very difficult to get a  
8 third-party bond. There's no provision in the ordinance to allow for hazard trees.  
9 There was a question about the cost of stormwater treatment. There are about  
10 four ways to do that. One cost-effective way is to do a bio-swale. It removes  
11 about 50 percent of the loading, but it's the cheapest way to do it. It costs about  
12 \$1,500 to \$2,000. The land has to be taken out of use because it is tied up in the  
13 bio-swale. A second option is some kind of infiltration. The cost to the homeowner  
14 is between \$2,000 and \$4,000. The disadvantage is potential damage to the  
15 aquifer. Another option is a storm filter. Those cost about \$4,500. They only  
16 work in certain cases when there is enough discharge in the system to force the  
17 water through the filter. They cost about \$1,000 per year to maintain. The fourth  
18 option is low-impact development options, which are very expensive now. Treating  
19 stormwater should be done on a local or regional basis, not on an individual basis.  
20 Nothing in the ordinance now promotes that.

21  
22 Hearing no one else, McShane closed the public hearing.

23  
24 ***Nelson moved*** to adopt the ordinance.

25  
26 Pederson suggested the following amendments to Section 4 on page four of  
27 the ordinance document, Council packet page 335, "The Lake Whatcom, Drayton  
28 Harbor, and Lake Samish watersheds are defined as shown in exhibits B, C, and D  
29 respectively."

30  
31 ***Nelson accepted the suggestion as a friendly amendment to his***  
32 ***motion to adopt the ordinance.***

33  
34 Pederson suggestion the following amendment, exhibit A page 18,  
35 subsection 20.80.735(2)(d)(9), "... In the event any trees designated to be  
36 retained are removed, the county shall have the option of enforcing any bond  
37 posted, or require that additional [redacted] trees be [redacted] planted which may be in  
38 excess of [redacted] those previously in existence [redacted]  
39 does not occur, the county may enforce upon any bond posted. Each tree removed  
40 or destroyed shall..."

41  
42 ***Nelson accepted the suggestion as a friendly amendment to his***  
43 ***motion to adopt the ordinance.***

44  
45 ***McShane moved*** to accept a suggestion that staff recommended as an  
46 addition to section 20.97.187, "Alternative surface methods as set forth in WCC  
47 20.71.603 shall not be considered impervious surfaces."

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1  
2       **Nelson accepted the suggestion as a friendly amendment to his**  
3 **motion to adopt the ordinance.**  
4

5       **McShane moved** to accept a suggestion that staff recommended as an  
6 addition to section 20.71.603, Alternative Surface Methods, "...with other applicable  
7 regulations and development standards. Surfaces that comply with this section  
8 shall not be considered an impervious surface under WCC 20.71.300."  
9

10       **Nelson accepted the suggestion as a friendly amendment to his**  
11 **motion to adopt the ordinance.**  
12

13       **Brenner moved** to amend section 20.71.302(1), "For uses in the UR, and  
14 URM, and RR zone districts, at least ~~80~~ 50 percent of the lot or parcel shall be kept  
15 free of structures and impervious surfaces. In the RR zone districts, at least 80  
16 percent of the lot or parcel shall be kept free of structures and impervious  
17 surfaces." For urban residential (UR) and urban residential-mixed (URM) zones, 80  
18 percent is a very high amount. It treats different properties differently. She is fine  
19 with 80 percent in the rural residential zones.  
20

21       Nelson stated there was discussion at one time about 3,000 or 2,500 square  
22 feet of impervious surface requirement. A lot in a UR or URM zone is typically  
23 small. He asked if 50 percent would equate to 2,500 or 3,000 square feet.  
24

25       McShane stated that if the lot is zoned a standard urban residential, three  
26 units per acre (UR-3), 50 percent would equate to 7,500 square feet of impervious  
27 surface.  
28

29       Crawford stated the gentleman from Sudden Valley said 6,000 square feet is  
30 the average lot size of the developable lots that are left. That amendment would  
31 allow 3,000 square feet on a 6,000 square foot lot.  
32

33       McShane stated there would be some variation in the nonconforming lots.  
34

35       Nelson asked if there is language that would tie the two together.  
36

37       **Brenner** stated she would tie them together in another amendment. She  
38 **withdrew her amendment** to do the other amendment first.  
39

40       **Brenner moved** to amend section 20.71.30(3), "For lots or parcels where  
41 the applicable formulas in subsections (1) and (2) would not allow a ~~2,500~~ 3,000  
42 square foot impervious surface area, ~~2,500~~ 3,000 square feet of impervious  
43 surface shall be allowed...."  
44

45       Roy asked why the square footage was changed from 3,000 square feet in  
46 the first place.  
47

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1 Caskey-Schreiber stated the Planning Committee looked at the total effect of  
2 the change to 2,500 square feet. Tom Pratum generated the total additional  
3 acreage of impervious surfaces that would be allowed with 3,000 square feet. It  
4 was a large amount of land. She asked what would happen with the remaining  
5 language in that section, and if there would no longer be an incentive to  
6 consolidate lots.

7  
8 Crawford stated the information on Council packet page 382 answers  
9 Councilmember Roy's question.

10  
11 Nelson stated he would like to support the ordinance. It may take forever to  
12 tweak the ordinance. Public testimony concerns have been about both property  
13 rights and protecting water quality. This ordinance starts a process. They all  
14 realize there will be stormwater protection in some manner. He would rather do  
15 this as a first step. One quote was that 3,000 square feet is a half percent in the  
16 entire watershed. He agreed they need to have good water quality data to base  
17 these requirements on. He preferred to go back to the 3,000 square feet  
18 requirement. It was a Planning Commission recommendation. He's sure  
19 Councilmember Caskey-Schreiber and the other side could put forward good  
20 information. However, he would rather err on the side of helping the public, rather  
21 than saying they need this to be as tight as possible.

22  
23 McShane stated this amount was originally 2,000 square feet when he was  
24 elected to the County Council. The incentive in the last line in section three may  
25 not be great enough. He suggested, as an alternative, to allow an incentive of  
26 4,000 square feet. Otherwise, he'd prefer to stay at the 2,500 square foot  
27 requirement.

28  
29 ***Motion to amend failed 3-4 with Brenner, Nelson, and Crawford in***  
30 ***favor.***

31  
32 ***Brenner moved*** to amend section 20.71.302(1), "For uses in the UR, and  
33 URM, and RR zone districts, at least ~~80~~ 50 percent of the lot or parcel shall be kept  
34 free of structures and impervious surfaces. In the RR zone districts, at least 80  
35 percent of the lot or parcel shall be kept free of structures and impervious  
36 surfaces."

37  
38 ***Motion to amend failed 3-4 with Brenner, Nelson, and Crawford in***  
39 ***favor.***

40  
41 ***McShane moved*** to amend the last sentence in section 20.71.302(3), "...  
42 ~~3,000~~ 4,000 square feet of impervious surface shall be allowed." It's a more  
43 reasonable incentive, given the testimony he heard during public testimony.

44  
45 Nelson asked what the incentive is. Without consolidating, a person would  
46 be allowed 5,000 square feet.

47

1           McShane stated that is correct. A person has a choice of building two small  
2 or one large house.

3  
4           Crawford asked if a lawn is or is not included in the definition of an  
5 impervious surface. Goodwin stated it is cross-referenced to section 20.71.603  
6 regarding alternative surfaces, which includes bark, wood mulch, and turf block. It  
7 does not specifically list a lawn. Other similar materials, including lawn, are not an  
8 impervious surface. Lawn is not specifically mentioned in this draft.

9  
10          Crawford stated it's important to be clear. The County has said for five  
11 years that lawn is an impervious surface. Goodwin stated lawn is currently  
12 enforced as a pervious surface.

13  
14          Brenner stated she would support the motion. It's not much of an incentive,  
15 but it gives someone another option. If they really want people to consolidate lots,  
16 make it more than 4,000 square feet. It's better than it was.

17  
18          McShane stated they may consider other incentives in the future,  
19 particularly with transfers of development rights (TDR's).

20  
21           ***Motion carried unanimously.***

22  
23          ***Brenner moved*** to strike section 20.71.351(3). If they are really serious  
24 about encouraging the retention of more open space in the watershed, they  
25 shouldn't limit the maximum number of lots in a cluster to 16. No one has given  
26 her any scientific basis for limiting the number to 16. Encourage as much  
27 clustering as possible. If developers can make it work, give them that option. It  
28 will provide more open space.

29  
30          McShane stated the limit of 16 had nothing to do with science. It had to do  
31 with consistency with the other rural zoning. The limit was originally a lower  
32 number. It was increased because someone wanted a larger cluster. In rural, one  
33 unit per five acres (R5A) zoning, 80 acres allows 16 housing units.

34  
35          Roy asked about the result if they eliminated that section.

36  
37          McShane stated they want to have consistency with the rural element of the  
38 County Comprehensive Plan. The County was required to establish a cluster limit.

39  
40          Brenner stated they keep saying they want more open space in these areas.  
41 The more they cluster, the more open space they will have.

42  
43          Roy stated they are talking about the Lake Samish and Lake Whatcom  
44 watersheds. It's hard for her to imagine a cluster larger than 16 houses in these  
45 specific areas.

46  
47          Brenner stated it's been brought up.

1  
2 McShane stated the cluster division rules are not applicable to Drayton  
3 Harbor.

4  
5 Nelson asked if tree retention requirements would be applied to the entire  
6 development, not the individual lots in the cluster.

7  
8 McShane stated that is correct.

9  
10 Caskey-Schreiber asked for staff comment on the decision to allow 16 lots in  
11 a cluster. Goodwin stated they wanted consistency with the other section of the  
12 County Code. The agricultural protection overlay specifies 16 lots because the  
13 Growth Management Hearings Board said a cluster with an unlimited size in a rural  
14 area could create a suburban center. If they had a cluster development as large as  
15 Sudden Valley, there might be pressure to make it into an urban growth area. It  
16 doesn't say anywhere how many lots can or cannot be allowed in a cluster. It  
17 could be 16 or it could be 50. The County Council chose 16 lots for the agricultural  
18 protection overlay, based on the number of lots allowed on an 80 acre parcel.

19  
20 Crawford asked if there are areas in the Lake Whatcom watershed larger  
21 than 80 acres zoned R5A or larger than 160 acres zoned rural, one unit per ten  
22 acres. Goodwin stated there aren't many.

23  
24 ***Brenner amended her motion*** to amend section 20.71.351(3), "The  
25 maximum number of lots in a lot cluster shall be ~~16~~ 50."

26  
27 ***Motion failed 1-6 with Brenner in favor.***

28  
29 ***Brenner moved*** to amend section 20.97.187 to delete gravel roads as an  
30 impervious surface and add a sentence at the end of the section, "Gravel road shall  
31 be considered low-grade pervious surface and given twice the limit/credit of  
32 impervious surface." The Council received definitive information from County staff  
33 that showed there is not a lot of difference between lawn and gravel. There is a  
34 huge difference between gravel and pavement. She agreed with the testimony  
35 that gravel is not impervious. She'd rather see gravel than pavement in the  
36 watershed. The Council included this language once, and it was taken out in  
37 committee by a minority of the Council. Put this back the way it was. Give people  
38 extra credit for using gravel instead of pavement.

39  
40 McShane stated he received the same information, and came to a very  
41 different conclusion about the definitiveness of the information from staff.

42  
43 Fleetwood asked if the councilmembers were told that gravel becomes  
44 impervious overtime.

45  
46 Brenner stated they were not. The councilmembers were told that it  
47 becomes less pervious over time. It never becomes impervious. A study shows it

1 is more in line with what lawn does than what pavement does. The Public Works  
2 Department Engineering Manager did a hydrologic analysis of gravel surfaces. It  
3 showed that there is some difference between lawn and gravel, but they are  
4 related more closely than gravel and pavement.  
5

6 Caskey-Schreiber asked if they decided already to give gravel some credit  
7 based on the soil it is on. The Planning Committee weighed this heavily. She  
8 spoke to land planners in King County who consider gravel an impervious surface,  
9 without any credit. Councilmember McShane brought forward a compromise to  
10 give credit based on the hydrology of the soil underneath the gravel. That's why  
11 the Planning Committee adopted what it did.  
12

13 Roy stated she was impressed with the document received by the engineer  
14 who did the various tests. She asked why they wouldn't give that study any  
15 weight.  
16

17 Brenner stated that the total of the required conditions in Councilmember  
18 McShane's compromise leave practically nothing on which to put gravel. On the  
19 surface the proposal looks like it gives a lot of leeway, but the map showing the  
20 different types of soils looked like most of the watershed wouldn't be able to use  
21 the gravel.  
22

23 McShane stated he disagreed. That's not the map he looked at.  
24

25 Fleetwood asked for an explanation of Councilmember McShane's differing  
26 conclusion of the engineer's study report.  
27

28 McShane stated the report says that lawns are not that effective, but the  
29 gravel surfaces are different. There are multiple tables in the report that list runoff  
30 coefficients that vary depending on the storm size event and the amount of rain  
31 they've received over time. As an example, table two is for a six-month storm.  
32 The coefficient for total runoff volume for gravel at a six-month storm in type A  
33 soils is seven. There is no runoff for lawns. For pavement, the coefficient is 82, so  
34 gravel is definitely better. However, with the type D soils, the coefficient for gravel  
35 is up to 42, and pavement is still at 82. The amount of runoff varies depending on  
36 the soil underlying the site. The study is accurate, and the results are similar for a  
37 two-year storm.  
38

39 His proposed compromise reflects the soil types. For A and B soil types,  
40 gravel is okay as long as there is clearance above the groundwater table. It is a  
41 more rational approach based on the study and information from the Soil  
42 Conservation Service (SCS).  
43

44 The councilmembers received a letter from the Building Industry Association  
45 stated that his entire proposal is arbitrary and capricious, he just made it up  
46 himself, and it did not offer any comprehensive study to support it. However, his  
47 proposal is based on the SCS soils and standards scientific design. He is a

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1 practicing Washington State licensed engineering geologist and routinely makes  
2 recommendations regarding stormwater management on a wide variety of  
3 properties in a wide variety of settings. It is his profession. His proposal is a much  
4 more rational approach than ignoring the standard engineering design.  
5

6 Caskey-Schreiber stated the engineer study was based on soils with a two to  
7 eight percent slope. The land around the Lake Whatcom watershed is steeper  
8 sloped than that.  
9

10 Roy stated that in every single circumstance, gravel is significantly better  
11 than concrete. That's her dilemma.  
12

13 McShane stated almost all jurisdictions and in engineering design, gravel is  
14 generally treated as impervious.  
15

16 Roy stated her concern is the study that refutes that.  
17

18 ***Motion carried 4-3 with Fleetwood, Caskey-Schreiber, and McShane***  
19 ***opposed.***  
20

21 McShane asked if the amendment creates a conflict with subsections  
22 20.71.302(8)(a-e).  
23

24 *(Clerk's Note: End of tape two, side B.)*  
25

26 ***Brenner moved*** to amend to strike the current language in section  
27 20.71.302(8) and subsections 20.71.302(8)(a-e) and replace the language in  
28 section 20.71.302(8) "Gravel surfaces shall be given a fifty percent reduction in  
29 impervious surface value."  
30

31 ***Motion carried 6-0 with Nelson out of the room.***  
32

33 ***Brenner*** referenced sections 20.80.634(1)(f)(i) regarding Recreation and  
34 (vi) regarding Education. They are great things to have in the design of  
35 stormwater systems, but they should not be required of someone who is doing a  
36 stormwater system. The County could give incentives for people to make  
37 recreation and education part of a stormwater system design. Don't force people  
38 to do it. It would increase costs of doing good stormwater design. It's more  
39 important to protect water quality.  
40

41 Fleetwood stated these are not mandatory provisions, just examples of  
42 provisions. Recreation and education are just offered as examples of provisions.  
43

44 ***Brenner moved*** to amend Council packet page 352, section  
45 20.80.735(2)(d)(1), "...a cumulative total of 5,000 square feet or 35 50 percent of  
46 the existing...." They might want to add language to make this more  
47 understandable. They talked about the different percentages. The difference in

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1 percentages will not be significant. Changing the percentage to 50 percent will  
2 start them off at a better place. The 35 percent isn't necessary and wasn't based  
3 on science. Some people wanted 65 percent. Fifty percent is a good compromise.  
4

5 McShane stated the percentage was based on science, and was not just a  
6 simple decision.  
7

8 Crawford asked for clarification on the site plan and retention plan. He  
9 asked if they are talking about a survey.  
10

11 McShane stated they are not. They put some effort into making sure that  
12 didn't happen.  
13

14 *(Clerk's Note: End of tape three, beginning of tape four, side A. Tape three*  
15 *contains only a brief portion of the discussion.)*  
16

17 Baumgarten stated that, according to the discussion, a survey wasn't  
18 required. Areas could be marked off by the applicant. There was discussion about  
19 flagging, tape, or anything that was clear to understand. The plan needs to be  
20 drawn to scale by anyone who can measure the area on the ground and draw it to  
21 scale. There is no requirement that it be done by a professional.  
22

23 Crawford asked how the total amount would be determined if someone  
24 wants to clear the maximum amount. Baumgarten stated they are reasonable in  
25 their interpretation. If measuring it out and it looks like it's the correct  
26 percentage, then that's the way it's interpreted. They can't really argue a  
27 difference of a few feet.  
28

29 Nelson stated a question came up about 35 retention on a small lot. He  
30 asked how a person would meet setback requirements if tree retention is centrally  
31 located and the clearing is done around the perimeter of the lot.  
32

33 McShane stated language in section 20.80.735(7) allow for special  
34 circumstances.  
35

36 Baumgarten stated section 20.80.735(7) allows for replanting at a two-to-  
37 one ratio as a mitigating measure, to facilitate the use of the site. The 6,000  
38 square foot Sudden Valley lots are allowed clearing of 5,000 square feet, according  
39 to this ordinance. A 3,000 square foot area of impervious surface allows 2,000  
40 square feet of open space around the house and a 1,000 square feet of tree  
41 retention.  
42

43 ***Motion failed 3-4 with Brenner, Nelson, and Crawford in favor.***  
44

45 ***Brenner moved*** to amend section 20.80.735(2)(d)(9), "...merchantable  
46 timber from any applicant who has had previous significant violations to guarantee  
47 retention...." The language is so onerous. They are punishing people, most of who

1 do a good job. They know who the people are that don't do good jobs, because  
2 they repeatedly don't do good jobs. She doesn't want to require it otherwise.  
3

4 Crawford stated he liked the idea, however the land use regulations should  
5 not talk about individuals.  
6

7 Nelson stated it may be illegal, even though he liked the idea, because they  
8 are applying the law indiscriminately.  
9

10 Crawford stated it would probably be good not to let the blatant violators  
11 even build anymore. It's a matter of degree.  
12

13 Roy stated she is concerned about singling out certain people, determining  
14 who makes the judgment, and what they consider 'significant.' There is still some  
15 discretion allowed in the language because it says the County 'may' require a  
16 bond. It covers the opportunity when you know there is a frequent violator. They  
17 have to assume some reasonableness on the part of everyone involved.  
18

19 Brenner stated the 'may' language is subjective. She gets along with staff,  
20 but there was a comment tonight during testimony that different people can be  
21 treated differently by certain staff. She doesn't like the bond requirement. She  
22 thought her suggestion was fair. She asked if there were any way to make it work.  
23 She amended her motion to amend section 20.80.735(2)(d)(9), "...merchantable  
24 timber **from any applicant who has had previous violations** to guarantee  
25 retention...."  
26

27 Fleetwood stated that the present County language says the County 'may'  
28 require a bond. He asked if it is appropriate to say the County may require a bond  
29 or other security in an amount it deems appropriate. Staff already has the  
30 discretion to require a bond in some cases, but if staff does require a bond, it now  
31 has to be 125 percent. It is doesn't make sense to invest in the administration the  
32 authority to make a discretionary call. Just grant the administration the discretion  
33 to require a bond where they deem it appropriate.  
34

35 Brenner amended her motion to amend section 20.80.735(2)(d)(9), "...in an  
36 amount ~~equal to~~ **not to exceed** 125 percent of the merchantable timber **from any**  
37 **applicant who has had previous violations** to guarantee retention...." The staff  
38 would have discretion dealing with applicants with previous violations.  
39

40 Crawford stated the language requires fines. His question is why they even  
41 need this bond. The person will face a fine of 150 percent in the water resource  
42 protection overlay. Just delete the bond requirement.  
43

44 Fleetwood asked how they would guarantee performance.  
45

46 McShane stated he recently experienced a situation where someone  
47 required by the building permit to leave trees for slope stability reasons removed

1 every single tree. The violators had all sorts of violations, but no ability to pay.  
2 The action was horrific. It closed the road for 80 people.

3  
4 Crawford asked if the person could have gone ahead and moved the trees  
5 without a bond.

6  
7 McShane stated that in this case, the county government - not Whatcom  
8 County - was unable to recover the cost.

9  
10 Crawford stated that in that flagrant situation, the person would have gone  
11 ahead and removed the trees, even without the bond.

12  
13 Brenner stated her motion is a compromise. She amended her motion to  
14 amend section 20.80.735(2)(d)(9), "...in an amount equal to not to exceed 125  
15 percent of the merchantable timber from any applicant who has had previous  
16 violations of this chapter to guarantee retention...."

17  
18 ***Motion to amend failed 3-4 with Brenner, Nelson, and Crawford in***  
19 ***favor.***

20  
21 Nelson asked for an estimate of the actual impact of bonding. He'd heard  
22 it's approximately \$6,000. It shouldn't be that much. If in the wet season, a  
23 person wouldn't be allowed to do it anyway. In the dry season, there shouldn't be  
24 that much of an erosion problem. The bonding is based on what they have to do.  
25 It's erroneous to put both bonding and erosion control measures on a single-family  
26 residence.

27  
28 Roy asked if this is something that would happen every single time.

29  
30 ***Nelson*** stated the language says 'shall,' not 'may.' He ***moved*** to amend  
31 section 20.80.735(e)(1)(b)(v), "The county shall **may** require a bond...."

32  
33 ***Motion carried 6-1 with McShane opposed.***

34  
35 Fleetwood stated there are no criteria for the Planning staff that would  
36 describe how they would exercise that discretion. He asked for an example of a  
37 scenario where the County might not require the bond, or if it is the County's  
38 intention to require the bond in every instance. Baumgarten stated staff has to  
39 look at that, compare it against the Critical Areas Ordinance and other things. He  
40 can think of places where a bond may be required, based on proximity to a water  
41 body. It is a lot of the same criteria they use for the seasonal clearing point  
42 system.

43  
44 Dave Grant, Senior Civil Prosecuting Attorney, stated Councilmember  
45 Fleetwood's concern about giving discretion to staff without guidance is well-  
46 founded. The Council could tie this discretion into those criteria Mr. Baumgarten

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1 just mentioned. It would be prudent to build a reference to the criteria into the  
2 code.

3  
4 Goodwin stated the Critical Areas Ordinance also says 'may' and has no  
5 criteria. Staff may need to write criteria for all.

6  
7 Caskey-Schreiber stated this was discussed in committee. If trees are key  
8 to slope sustainability or there is a history of someone not respecting clearing  
9 rules, a bond may be appropriate.

10  
11 **Brenner moved** to amend section 20.80.735(2)(d)(9), "The county may  
12 require a bond or other security in an amount equal to **not to exceed** 125 percent  
13 of the merchantable timber..." In some instances, staff should be able to require a  
14 smaller bond if appropriate.

15  
16 Caskey-Schreiber stated she would like Ms. Goodwin to develop criteria, and  
17 then figure out what they will base the bond on.

18  
19 Goodwin stated staff agrees with the motion. It allows discretion to require  
20 a bond of less than 125 percent.

21  
22 Pederson stated staff could incorporate similar or the same language as is in  
23 section 20.80.735(2)(e)(1) regarding the point system worksheet as requirement  
24 for a bond.

25  
26 McShane suggested amending language in section 20.80.735(2)(d)(9), "The  
27 county **technical administrator** may require a bond or other security in an amount  
28 equal to 125 percent of the merchantable timber, **based on evaluation of clearing**  
29 **activities established in the seasonal clearing site evaluation worksheet** to  
30 guarantee retention of..."

31  
32 Brenner asked why they have to put it in there if it's already there. It's  
33 what the County will use to evaluate it anyway. Pederson stated one refers to tree  
34 clearing and the other refers to seasonal clearing activities. They are two different  
35 things.

36  
37 **Brenner stated she would accept the suggested language as a**  
38 **friendly amendment to her motion.**

39  
40 *(Clerk's Note: The Council took a break at 10:40 p.m.)*

41  
42 McShane stated staff recommends deferring on coming up with  
43 administrative criteria until they can make a recommendation. **He stated the**  
44 **motion** to amend section 20.80.735(2)(d)(9), "The county may require a bond or  
45 other security in an amount equal to **not to exceed** 125 percent of the  
46 merchantable timber..."

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1 Crawford stated the normal practice for wetland mitigation in the Critical  
2 Areas Ordinance is to require a bond, but there are exceptions occasionally.

3  
4 ***Motion to amend carried unanimously.***  
5

6 Brenner stated she would support the ordinance. She debated back and  
7 forth on it. She's pleased to have gotten the gravel thing, and won't push it. She  
8 hopes this is a starting point, and that the County makes it work better for  
9 everyone. She asked when they are going to start talking about retrofitting in the  
10 watershed. People have a legitimate gripe when all this is being put on the  
11 shoulders of the people who haven't developed yet. If they have problems in the  
12 watershed, they do need to protect them. Treat people more equitably.

13  
14 Nelson thanked the committee for spending time on this item. He hoped  
15 this is a first step. The community should look at it as a step toward providing  
16 quality development standards that help all in the community. They need to  
17 evaluate this carefully as they use this ordinance. He hoped staff will provide  
18 evaluations of how it is working. They still need to get measurements of quantity  
19 and quality from the lake, so they can have a baseline of the lake. He hoped the  
20 Council isn't so strident in making downzones with this ordinance in place. He's  
21 opposed to downzones. He'd like to see the County working with the community  
22 on transfers of development rights and engineering credits. That may be  
23 something to look at in the future.

24  
25 Caskey-Schreiber stated this process has been good evidence that the  
26 Council is willing to work with the Building Industry Association. This ordinance is  
27 a far cry from what the Council passed a year ago. The Council is willing to  
28 continue working on it as needed. The Council has tried as much as possible to  
29 work with everyone on this issue. The ordinance won't make anyone 100 percent  
30 happy. For now, it's the Council's best effort to put the community on a plan that  
31 takes positive steps to protect the watersheds in the area. She thanked everyone  
32 who worked on the process.

33  
34 Fleetwood stated he would support the ordinance. Lake Whatcom is the  
35 largest drinking water source in Western Washington that has much development.  
36 By that standard, the County is immensely permissive. This is one more step.  
37 There will be more steps. He agrees they need to do something about existing  
38 development. He suspects they'll be talking about that in 2004.

39  
40 Roy thanked staff for working on this. Everyone has worked very hard on  
41 this item.

42  
43 McShane stated he appreciated the administration's support.

44  
45 ***Motion to adopt as amended carried 6-1 with Crawford opposed.***  
46  
47

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1 **OTHER ITEMS**

2  
3 **1. DISCUSSION AND FORMULATION OF RECOMMENDATION REGARDING**  
4 **COUNTY PARTICIPATION IN WRIA 3 WATERSHED PLAN IN THE**  
5 **UPPER SAMISH RIVER BASIN (AB2003-327)**

6  
7 Roy reported for the Natural Resources Committee and stated Water  
8 Resources Division Manager Bruce Roll is going to hold a discussion on this at a  
9 later water resources work session.

10  
11 **2. ECONOMIC DEVELOPMENT INVESTMENT PROGRAM APPLICATION**  
12 **AND RECOMMENDATION (AB2003-333)**

13  
14 **Crawford** reported for the Finance and Administrative Services Committee  
15 and stated a new proposal is coming forward. He **moved** approval of this with the  
16 \$167,000 as a grant and the remainder as a loan.

17  
18 ***Motion failed unanimously.***

19  
20 **Crawford moved** to approve the proposal with 100 percent of the request  
21 payable as a loan.

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

24  
25 **3. REQUEST BY WATER DISTRICT 10 TO CHANGE ITS NAME TO LAKE**  
26 **WHATCOM WATER AND SEWER DISTRICT (AB2003-329)**

27  
28 **Nelson moved** approval.

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

31  
32  
33 **COMPREHENSIVE PLAN AMENDMENTS**

34  
35 **1. ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 8 RESOURCE**  
36 **LANDS – FOREST RESOURCE LANDS SECTION OF THE WHATCOM**  
37 **COUNTY COMPREHENSIVE PLAN (AB2003-075C)**

38  
39 **Roy** reported for the Natural Resources Committee and stated committee  
40 recommends holding a public hearing on this item in two weeks. The committee  
41 has made amendments. She **moved** to hold a public hearing on this item.

42  
43 ***Motion carried unanimously.***

44  
45 **2. ORDINANCE ADOPTING AMENDMENTS TO THE INTRODUCTION**  
46 **CHAPTER OF THE WHATCOM COUNTY COMPREHENSIVE PLAN**  
47 **(AB2003-075A)**

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1  
2 Fleetwood reported for the Planning and Development Committee and stated  
3 the Bellingham City Council has asked that this item be held.  
4

5  
6 **INTRODUCTION ITEMS**  
7

8 ***Brenner moved*** to accept the Introduction Items, including the substitute  
9 version of the ordinance amending the 2003 budget, eleventh request.

10  
11 ***McShane withdrew item two.***  
12

13 ***Motion to approve Introduction Items one and three through six***  
14 ***carried unanimously.***  
15

- 16 **1. ORDINANCE CONTINUING THE INTERIM CONDITIONAL USE**  
17 **CRITERIA ADOPTED BY ORDINANCE 2003-027 FOR THE SITING OF**  
18 **MUSHROOM COMPOSTING AS A CONDITIONAL USE WITHIN THE**  
19 **AGRICULTURAL ZONING DISTRICT (AB2003-158A)**  
20  
21 **2. ORDINANCE AMENDING THE 2003 WHATCOM COUNTY BUDGET,**  
22 **ELEVENTH REQUEST (AB2003-340)**  
23

24 McShane stated the supplemental budget request item includes an additional  
25 request regarding \$20,000 for support for the Energy Facility Site Evaluation  
26 Council (EFSEC) process. He won't participate in the discussion or vote on this item  
27 in any way.

28  
29 ***Nelson moved*** approval.  
30

31 ***Motion to amend carried 6-0 with McShane abstaining.***  
32

- 33 **3. ORDINANCE ADOPTING AMENDMENTS TO THE ENVIRONMENT**  
34 **CHAPTER OF THE WHATCOM COUNTY COMPREHENSIVE PLAN**  
35 **(CHAPTER 11) (AB2003-075D)**  
36  
37 **4. ORDINANCE ADOPTING AMENDMENTS TO THE LAND USE CHAPTER**  
38 **OF THE WHATCOM COUNTY COMPREHENSIVE PLAN (CHAPTER 2),**  
39 **WHICH INCLUDES RURAL LANDS (AB2003-075E)**  
40  
41 **5. RESOLUTION ADOPTING THE WHATCOM COUNTY 2004 ANNUAL**  
42 **ROAD CONSTRUCTION PROGRAM (AB2003-332)**  
43  
44 **6. RESOLUTION AUTHORIZING APPLICATION FOR A COMMUNITY**  
45 **DEVELOPMENT BLOCK GRANT, GENERAL PURPOSES GRANT IN THE**  
46 **AMOUNT OF \$1,000,000 (AB2003-341)**  
47

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1  
2 **LETTERS WRITTEN BY COUNCIL**  
3

4 **1. LETTER WRITTEN TO THE PRESIDENT OF THE WASHINGTON STATE**  
5 **ASSOCIATION OF COUNTIES (WSAC) REGARDING WHATCOM**  
6 **COUNTY'S OFFER TO HOST THE 2006 WSAC CONFERENCE (AB2003-**  
7 **164)**  
8

9 **McShane** stated this letter has already been sent. He ***moved*** to approve  
10 sending the letter.

11  
12 ***Motion carried unanimously.***  
13

14  
15 **OTHER BUSINESS**  
16

17 There was no other business.  
18

19  
20 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**  
21

22 Crawford stated San Juan County Commissioner Darcie Nielsen dressed down  
23 the Whatcom County Council when she found out Whatcom County sent that letter.  
24 No one from the Whatcom County Council has attended a single Washington State  
25 Association of Counties (WSAC) meeting.

26  
27 McShane stated Whatcom County is the lowest paid county legislative body  
28 in the state, including Garfield County, with a population of 2,400.  
29

30 Brenner stated the Public Works Committee unanimously voted to ask the full  
31 Council about radio interference in the City of Ferndale. She will work with the  
32 County Prosecutor.  
33

34 *(Clerk's Note: End of tape four, side A.)*  
35

36 **Brenner moved** to send something to the Federal Communication  
37 Commission (FCC) in support of the City of Ferndale.  
38

39 Nelson stated the motion approved in committee was not to support  
40 Ferndale, but to identify the issues of interference that affects Ferndale, the  
41 County, or anyone else.  
42

43 Brenner agreed. The Prosecutor stated the Council needed to come up with  
44 findings that would support the problem.  
45

**DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.**

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1           Crawford asked if the motion was to allow Councilmember Brenner to draft  
2 and send a letter, on behalf of the Council, expressing Whatcom County's concerns  
3 with the radio interference caused by a particular radio station in the Ferndale area.  
4

5           Brenner stated her motion is to only work on the letter.  
6

7           ***Motion carried unanimously.***  
8

9           **ADJOURN**

10           The meeting adjourned at 11:07 p.m.  
11  
12  
13

14           \_\_\_\_\_  
15 Jill Nixon, Minutes Transcription  
16

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

19           ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

20  
21  
22  
23  
24           \_\_\_\_\_  
25 Dana Brown-Davis, Council Clerk

\_\_\_\_\_  
Dan McShane, Council Chair