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WHATCOM COUNTY COUNCIL
Regular County Council

January 27, 2004

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

Present:

Barbara Brenner
Laurie Caskey-Schreiber
Sam Crawford
Seth Fleetwood
Sharon Roy
L. Ward Nelson

Absent:

None

FLAG SALUTE

ANNOUNCEMENTS

McShane announced that there was **discussion regarding legal aspects of the draft Instream Flow Action Plan (AB2004-084)** in executive session during the Committee of the Whole meeting.

OPEN SESSION

The following people spoke:

Michael Waters, 1016 Coronado Avenue, Lake Whatcom, stated a lot of people on Whatcom County enjoy a lot of types of recreation. One type of recreation that people enjoy is responsible motor boating on the lake. A lot of people in the community don't like motorboats. The science says motor boating is not a big impact on the lake. There are some who would like to get rid of motorboats on the lake because of the water quality, but they don't have any science to back it up. He asked the Council to consider the science and not make decisions that would forward the interests of one group over the interests of another group. He doesn't want a community that caters to one particular group, idea, or interest. Have a variety of interests and opportunities.

Dennis Jones, 1487 Sudden Valley, stated he is a member of www.prowhatcom.org. He agrees with Chris Spens that recreational uses have probably less impact than forestry or housing on the lake. The science will prove

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1 the problems on that issue. He lives in Sudden Valley, where less than ten or 15
2 percent of the people vote. On February 7, they have an opportunity to deal with
3 the republican and democratic platforms. Make Sudden Valley a community, but
4 not a city. He lives in a watershed that can be a model for sustainable housing,
5 forestry, and recreation. He is familiar with other areas in the country that are
6 sustainable. Study the Comprehensive Plan and watershed plans that are online.
7 There was a debate on whether they can maintain Lake Whatcom water quality.
8 The downside was from the extremely cynical environmentalists, not the builders.
9 They can make this watershed a model for the state of Washington.

10
11 Ben Hinkle, 2582 North Shore Road, Bellingham, stated he presented a
12 statement to the councilmembers before the meeting regarding the United Nations.
13 The people of the United States are under two, different sovereign laws, the U.S.
14 Constitution and United Nations' Charter. One will overrule the other unless they
15 do something about it. The excuse is that this is not a local issue, but that's not
16 true. The nation was founded with the idea that the citizens are in control. The
17 government closest to the citizens is the county government. The federal
18 government isn't going to take action until the pressure comes from the citizens.
19 He asked each councilmember to vote on their position on House Bill (HB)1146
20 regarding getting out of the United Nations.

21
22 Roy stated she did not support the House Bill.

23
24 Nelson stated he did not support the House Bill.

25
26 McShane stated he did not support the House Bill.

27
28 Caskey-Schreiber stated she does not support the House Bill. The United
29 Nations is a good thing to participate in.

30
31 Crawford stated he chooses not to answer the question.

32
33 Brenner stated she did not support the House Bill.

34
35 Fleetwood stated he did not support the House Bill.

36
37 Hinkle stated the councilmembers have taken an oath to uphold and defend
38 the U.S. Constitution, and they choose to support the United Nations charter
39 instead.

40
41 Evan Schweder, 2400 Huron Street, Bellingham, stated he is working on his
42 Boy Scout merit badge. He asked what councilmembers do for their jobs.

43
44 McShane suggested that Mr. Schweder call the councilmembers individually
45 to get that information.

46

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1 Patrick Alesse, 4825 Alderson Road, stated he has concerns about Consent
2 Agenda item six. The County needs this money for other things. If the Port really
3 wants to stimulate the economy, sell off their property holdings. The County does
4 wonderful things backwards. People start small businesses all over the county. It's
5 a great incubator for small businesses. When they move to town, they have to find
6 tax money. They're talking about taking private property out of the tax base to
7 build a jail when the Port property would have been an excellent place to put a jail.
8

9 Crawford stated the money is a loan. It's being paid back with interest. The
10 Port already owns the property. The source of the money didn't come out of the
11 general fund or property taxes, but from the State of Washington as a rebate on
12 sales tax. The State has a narrowly defined scope for what the County can use
13 these monies. The County set up a program through which people can apply to
14 borrow this money. The Port has applied. Alesse stated they shouldn't spend
15 money just because it's from the federal government.
16

17 Chris Dillard, 2216 G Street, Bellingham, stated there was a comment earlier
18 that there was no science to support a ban on motorboats on Lake Whatcom. In
19 fact, they all know that there is measurable benzene in all the drinking water, and
20 the benzene goes up in the summer when there are boats. The question is how
21 much benzene they are comfortable with drinking.
22

23 The boat issue isn't the biggest threat to the lake, which is residential
24 development. He encouraged and supported the transfer of development rights
25 (TDR) program. It's exciting to see it coming together. There's been a lot of talk
26 about receiving areas. Think of other ways to creatively make more demand for
27 the purchase of development rights. Anytime a poor planning decision is allowed,
28 they should see if there is a way to require that person to participate in the
29 program so the community gets something back from that poor planning decision.
30

31 He heard about the successful purchase of development rights from the
32 watershed. He has also learned that those six development rights may not have
33 existed in the first place. They may have just spent \$12,000 and set the first
34 precedent of purchasing non-existent development rights. Correct that problem so
35 it doesn't happen again in the future, and find a way to get their money back. It's
36 a horrible precedent to set.
37

38 McShane stated the Council will address in a future meeting an amendment
39 to the TDR program that will take care of that issue. The problem is a flaw in the
40 text of the code that has already been rewritten.
41

42 Marian Beddill, 3600 Seeley, stated she supports comments spoken by Chris
43 Dillard. Next, paper ballots for elections are needed. When the time comes to
44 purchase the expansion of the Whatcom County voting system, be sure that a
45 paper ballot viewed by the voter in the booth is essential to maintain the integrity
46 of the vote count. They are a certain and reliable method of verifying the votes.
47

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1 Larry Quimbleton: 2327 North Shore Road, Bellingham, stated he tested
2 water in the lake a few days ago. The water tested great for drinking water. As a
3 homeowner, he's concerned about his property values. He moved to Lake
4 Whatcom to have a dock and a boat. If he thought his boat would create health
5 problems, he'd gladly give it up. Water quality does fluctuate during the summer.
6 Cars and runoff are greater issues. There is an alternative to move the water
7 intake to the diversion dam or to Basin three. That would enhance the water
8 quality. He draws directly out of the lake. He tests his water periodically through
9 the summer, and it comes back great. He treats it with an ultraviolet system. If
10 motorboats are banned from the lake, there will be property value and quality of
11 life issues. The main source of drinking water for Sacramento, California is Fulsom
12 Lake, which has 2 million boats. There was never an issue. He asked the Council
13 to take a hard look at moving the intake.
14

15 Ken Bell, 4019 E. Maryland, Bellingham, stated the water quality facts can be
16 debated back and forth. When there are problems like this, the solution always
17 seems to be to take something away. There are big problems that can be solved
18 without creating divisiveness in the community. There are ways to divert traffic
19 from the lake and keep impacts out of the lake. There are ways to enhance the
20 oxygen level or to keep it from degrading any further. If they take all the boats off
21 the lake tomorrow, the quality would still deteriorate. The councilmembers should
22 use their positions to say this is what they're going to do proactively to help the
23 Mayor, County Executive, and Water District 10 to work together positively. Look
24 at positive solutions that don't cause divisiveness.
25

26 **CONSENT AGENDA**

27
28
29 ***Crawford*** reported for the Finance and Administrative Services Committee
30 and ***moved*** approval of Consent Agenda items one through ten.
31

32 ***McShane withdrew*** Consent Agenda items six and eight.
33

34 ***Motion to approve Consent Agenda items one through five, seven,***
35 ***nine, and ten carried unanimously.***
36

- 37 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
38 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
39 **WHATCOM COUNSELING AND PSYCHIATRIC CLINIC TO PROVIDE A**
40 **VARIETY OF MENTAL HEALTH SERVICES INCLUDING JAIL CASE**
41 **MANAGEMENT PROGRAM, ELDER-GATEKEEPER SERVICES,**
42 **SUPPORTED LIVING, ACTIVITY CENTER (RAINBOW CENTER), AND**
43 **PEER COUNSELOR OUTREACH PROJECT, IN THE AMOUNT OF**
44 **\$206,622 (AB2004-068)**
45
46 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
47 **PROFESSIONAL SERVICE CONTRACT BETWEEN WHATCOM COUNTY**

1 **AND CATHOLIC COMMUNITY SERVICES OF WESTERN WASHINGTON –**
2 **NORTHWEST TO PROVIDE FAMILY RESPITE, OUTPATIENT MENTAL**
3 **HEALTH AND SUBSTANCE ABUSE SERVICES, AND PSYCHIATRIC**
4 **CONSULTATION FOR CHILDREN AND THEIR FAMILIES, IN THE**
5 **AMOUNT OF \$30,958 (AB2004-069)**
6

7 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
8 **AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN**
9 **WHATCOM COUNTY AND WESTCOAST COUNSELING AND TREATMENT**
10 **CENTER FOR OUTREACH AND ENGAGEMENT SERVICES TO PEOPLE**
11 **WITH SEVERE SUBSTANCE ABUSE PROBLEMS IN CRISIS, IN THE**
12 **AMOUNT OF \$60,000 FOR A TOTAL AMENDED CONTRACT IN THE**
13 **AMOUNT OF \$107,500 (AB2004-070)**
14

15 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
16 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND SUN**
17 **COMMUNITY SERVICES TO PROVIDE SHORT-TERM TRANSITIONAL**
18 **HOUSING SERVICES TO WHATCOM COUNTY CONSUMERS WITH**
19 **MENTAL ILLNESS, IN THE AMOUNT OF \$93,302 (AB2004-071)**
20

21 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
22 **CLEAN WATER ACT SECTION 319 NONPOINT SOURCE FUND GRANT**
23 **AGREEMENT BETWEEN WHATCOM COUNTY AND THE WASHINGTON**
24 **DEPARTMENT OF ECOLOGY TO PROVIDE FOR REIMBURSEMENT OF**
25 **75% OF THE COUNTY’S COSTS FOR CONTINUING IMPLEMENTATION**
26 **OF THE RIPARIAN REVEGETATION PROGRAM, IN THE AMOUNT OF**
27 **\$666,667 (AB2004-072)**
28

29 **6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
30 **ECONOMIC DEVELOPMENT INVESTMENT PROGRAM INTERLOCAL**
31 **LOAN AGREEMENT BETWEEN WHATCOM COUNTY AND THE PORT OF**
32 **BELLINGHAM, IN THE AMOUNT OF \$500,000 (AB2004-073)**
33

34 McShane stated he’s been sitting on the fence regarding this item. He would
35 vote for it. The case was made that there could be some real benefit to this. It is a
36 loan, but it takes away other opportunities to use the money. He is leery of some
37 of the things the Port may use the money for that goes beyond benefiting
38 Woodstone. This decision was a close call. It is a very advantageous loan because
39 the interest rate is very low. These are good-paying jobs with a company that will
40 hopefully stay in Whatcom County.

41
42 ***Crawford moved*** to approve the request.

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

45
46 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE**
47 **PURCHASE OF THREE POLICE PURSUIT VEHICLES USING THE**

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1 **WASHINGTON STATE CONTRACT, FROM FRONTIER FORD FOR A**
2 **TOTAL PURCHASE PRICE OF \$67,697.35 (AB2004-074)**

3
4 **8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE**
5 **PURCHASE OF FOUR REPLACEMENT VEHICLES USING THE**
6 **WASHINGTON STATE CONTRACT, FROM COLUMBIA FORD FOR A**
7 **TOTAL PURCHASE PRICE OF \$110,454.72 (AB2004-075)**

8
9 McShane asked if there was any discussion about these large vehicles
10 replacing smaller vehicles.

11
12 Crawford stated they will replace a mix of sport utility vehicles and Crowne
13 Victoria's with four sport utility vehicles that are not pursuit vehicles, but they are
14 all-weather vehicles.

15
16 Brenner stated that if this request came from anyone else, she wouldn't
17 support it. However, she trusts the Sheriff's Office request. They've been pretty
18 frugal with their requests. She would support the motion. These guys operate
19 under a lot of pressure and in a lot of danger. She's willing to do whatever the
20 Council can do to help them protect the community.

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

23
24 ***Motion carried 6-1 with McShane opposed.***

25
26 **9. RESOLUTION CANCELING UNCOLLECTIBLE PERSONAL PROPERTY**
27 **TAXES (AB2004-076)**

28
29 **10. RESOLUTION ACCEPTING THE TREASURER'S LIST OF PROPERTY TAX**
30 **REFUNDS (AB2004-077)**

31
32
33 **PUBLIC HEARING**

34
35 **1. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
36 **REQUEST #09-03 (AB2003-412A)**

37
38 McShane stated the public hearing has remained opened since the January
39 13, 2004 County Council Meeting to receive language regarding covenants that
40 would go with those lands in Sudden Valley. That language is not yet in the
41 resolutions. The Council will continue the public hearing. The Council would
42 address all ten public hearing items regarding tax title properties concurrently. The
43 following people spoke:

44
45 Phillip Damon, citizen, spoke regarding Public Hearing item number four, the
46 **resolution to sell tax-title property by public auction, request #12-03**
47 **(AB2003- 415A)**. This property is contiguous to his property. When he applied

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1 to bid on this property, the restrictive covenant concept wasn't in play. Now it is.
2 If this property has the restrictive covenant, he questions the propriety of his bid.
3 He prefers to have the property protected. He doesn't necessarily need to buy it to
4 protect the property, given the covenant.

5
6 McShane stated this property would have the restrictive covenant. The
7 property will be up for bid, but the restriction will go with the property.

8
9 Damon asked if the covenant will be against any kind of building on the
10 property.

11
12 McShane stated that's what he understands.

13
14 Damon asked why anyone other than himself would do that.

15
16 McShane stated Sudden Valley, Whatcom County, the City of Bellingham,
17 and Water District 10 has an agreement to reduce the number of potential building
18 sites in Sudden Valley. These lots are part of that agreement. Other lots have
19 been sold in Sudden Valley are not included with restrictive covenants. If they
20 don't want to buy a property that has a restrictive covenant, they shouldn't buy it.
21 They should buy it if there is an advantage.

22
23 Bruce Roll, Water Resources Division Manager, stated they haven't received
24 the formal documents from Sudden Valley and Water District 10. When they have,
25 the County will file these covenants on the lots. The intent of the agreement was
26 to purchase these lots if they are available, that would then transfer these
27 covenants to the Sudden Valley Community Association. Sudden Valley would
28 make sure that covenant is adhered to. If Mr. Damon and no one else bids on it, it
29 would go to Sudden Valley with the covenant. If someone does bid on it, the
30 covenant is still applicable.

31
32 Damon asked if the covenant is engraved in stone, or if the community
33 association could change its mind.

34
35 Caskey-Schreiber stated the community association may swap the lot with a
36 more desirable lot.

37
38 Roll stated Mr. Damon needs to talk to the community association, which has
39 certain rights. The rights don't include building out the lots, but they do include
40 shifting certain lots to other activities.

41
42 Damon asked if he can still withdraw his application.

43
44 McShane stated Mr. Damon needs to talk to staff who are very familiar with
45 the process.

46
47 Hearing no one else, McShane closed the public hearing

- 1
2 **2. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
3 **REQUEST #10-03 (AB2003-413A)**
4
5 See Public Hearing item one.
6
- 7 **3. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
8 **REQUEST #11-03 (AB2003-414 A)**
9
10 See Public Hearing item one.
11
- 12 **4. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
13 **REQUEST #12-03 (AB2003-415A)**
14
15 See Public Hearing item one.
16
- 17 **5. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
18 **REQUEST #13-03 (AB2003-416A)**
19
20 See Public Hearing item one.
21
- 22 **6. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
23 **REQUEST #14-03 (AB2003-417A)**
24
25 See Public Hearing item one.
26
- 27 **7. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
28 **REQUEST #15-03 (AB2003-418A)**
29
30 See Public Hearing item one.
31
- 32 **8. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
33 **REQUEST #16-03 (AB2003-419A)**
34
35 See Public Hearing item one.
36
- 37 **9. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
38 **REQUEST #17-03 (AB2003-420A)**
39
40 See Public Hearing item one.
41
- 42 **10. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION,**
43 **REQUEST #18-03 (AB2003-421A)**
44
45 See Public Hearing item one.
46

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1 **11. ORDINANCE ADOPTING AMENDMENTS TO THE ENVIRONMENT**
2 **CHAPTER OF THE WHATCOM COUNTY COMPREHENSIVE PLAN**
3 **(CHAPTER 11) (AB2003-075D)**
4

5 Jeff Chalfant, Senior Planner, gave a staff report and stated there is a
6 substitute version of Chapter 11 that includes the most recent revisions made by
7 the Natural Resources Committee. He discussed the changes to chapter 11.
8

9 McShane stated that due to substantive changes to the ordinance that
10 wasn't in the Council packet, the hearing will be held open to February 10.
11

12 *(Clerk's Note: End of tape one, side A)*
13

14 The following people spoke:
15

16 Mary Dickinson, Building Industry Association Governmental Affairs Director,
17 stated she wanted to defer speaking on the subject until the next meeting so that
18 she has time to review the new version of the document.
19

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

22 **12. ORDINANCE PROPOSING A REVISION TO WHATCOM COUNTY CODE**
23 **24.06, SOLID WASTE RULES AND REGULATIONS – STANDARDS AND**
24 **PERMITS, AND REPEALING WHATCOM COUNTY CODE 24.08,**
25 **DEMOLITION AND INERT LANDFILL REGULATIONS (COUNCIL**
26 **ACTING AS THE HEALTH BOARD) (AB2004-061)**
27

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

31 ***Crawford moved*** to adopt the ordinance.
32

33 ***Motion carried unanimously.***
34

35 **13. ORDINANCE AMENDING WHATCOM COUNTY CODE 3.20 BY IMPOSING**
36 **AN ADDITIONAL ONE QUARTER PERCENT REAL ESTATE EXCISE TAX**
37 **UPON THE SALE OF REAL PROPERTY IN THE UNINCORPORATED**
38 **AREAS OF THE COUNTY AND ALTERING SUBSECTION 3.20.050B TO**
39 **REFLECT STATE LEGISLATIVE RESTRICTIONS UPON THE**
40 **EXPENDITURE OF EXISTING COUNTY REAL ESTATE EXCISE TAX**
41 **REVENUES (AB2004-066)**

42 McShane opened the public hearing, and the following people spoke:
43
44

45 Dennis Jones, 1487 Sudden Valley, stated he is a member of www.Pro-
46 Whatcom.org. The Real Estate Excise Tax (REET) increase is preferred over a

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1 property tax increase, which can impact seniors and people on limited incomes.
2 They need the money for the trails, parks, and green spaces. Washington State is
3 one of the largest states that doesn't have a State income tax. They rely on other
4 taxes, including property taxes. Support the REET increase. Another way would be
5 to do a levy according to the Revised Code of Washington (RCW) 36.69.
6

7 Patrick Alesse, Alderson Road, Birch Bay, stated he supports the tax, but the
8 money should be spent in the area where it is collected.
9

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

12 **Caskey-Schreiber moved** to adopt the ordinance. This is one tool they
13 have to deal with problems that are the result of a growing community. The
14 increase will provide upgrades to stormwater systems and park maintenance. The
15 increase will free up \$250,000 or more in the general fund right away. Every
16 county in the state with a population over 50,000 in unincorporated areas, except
17 Yakima and Whatcom counties, already have this tax in place to the maximum
18 amount. It's like an impact fee that can offset the negative impacts of growth.
19 They can enhance the community's quality of life and be better off in the long run.
20

21 Crawford stated he would support the increase, but he has reservations.
22 One concern is about passing a tax increase without specifically saying what it's for.
23 The State legislature essentially already passed this tax, which the county can
24 ratify. Housing affordability is another concern. In the long run, the significant
25 land use decisions will have a lot more to do with housing affordability than
26 whether or not the Real Estate Excise Tax is .25 percent or .5 percent. The County
27 is going to need an additional one-tenth of one percent property tax increase for
28 criminal justice. He hoped the public is clear about how the Council is designating
29 taxes, and that the Council is being perceived as operating with a sense of justice
30 and good stewardship over tax dollars. These are not frivolously made decisions.
31 He likes the idea of an excise tax that is affected every time a real estate
32 transaction occurs.
33

34 He doesn't look on this as an impact fee, which is assessed against new
35 construction. Many of the new homes constructed in Whatcom County are
36 purchased by move-up buyers, such as empty-nesters. They have to pay an
37 impact fee. In the meantime, the entry level buyer who is buying the older home
38 has kids, is not paying an impact fee, and is dumping more kids into the school
39 system. He has advocated to eliminate impact fees in the State of Washington,
40 and replace them with legislatively approved increases in real estate excise taxes.
41 The excise taxes would be spread out equally. That legislation was not approved.
42 He liked the idea that they're not hitting the seniors with this tax.
43

44 Brenner stated she supported the REET increase with reservations. There
45 are some people who are merely trading places, who are not building anything
46 new, and who are not dumping children anywhere. They're still going to pay fees.
47 It takes money away from people. However, it's a fairer tax. They're asking

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1 people to pay money at a time when they have it rather than asking people to pay
2 property taxes just because. When they're doing a transaction, it's generally
3 understood that money is involved and money may be available. That doesn't take
4 into account the people who are losing money on their houses.
5

6 This will help a lot with infrastructure on new construction and houses that
7 are in developments. If they can, keep the work that gets done as close to the
8 place where the tax is collected.
9

10 Roy stated this money is restricted to capital facilities and capital projects.
11 The Finance Committee saw a list of projects that the County could fund. There is
12 a real need for the additional income. This is a one-time charge, during the
13 transaction. There seems to be a very direct connection between the people
14 paying the taxes and the services that are needed. The tax is for infrastructure
15 and public facilities. The additional population is driving the County's need for this
16 kind of infrastructure. There is a direct correlation between the tax and the
17 impacts that those who pay the tax create. In Whatcom County, only Sumas and
18 the unincorporated areas don't collect this tax. The other cities in the county
19 already collect this tax. Right now, it's cheaper to move to unincorporated areas in
20 the county than the cities. In some ways, they are not subsidizing the growth as
21 much as they were before.
22

23 Fleetwood stated he supports the increase. It will mitigate the impacts of
24 explosive growth.
25

26 Nelson stated he is against the tax. There is over \$9 million in the road
27 fund. The flood tax provides money for flood projects. Mr. Monsen provided a list
28 of potential future projects. Regarding the list, the Council has already had battles
29 with the public about not spending money on some of those projects. Other
30 projects he has not seen at all. The issue deserves more discussion. He's not
31 opposed to the tax. It's fair. He's not convinced that the money needs to be
32 drawn from the public now.
33

34 McShane stated he is in favor of the increase. He's been frustrated in the
35 past about not having money available for some capital projects that would have
36 prevented harm to the County's investments, particularly in parks. The money in
37 the general fund isn't there. There are many other demands, especially with
38 criminal justice and basic County services. He has received complaints about what
39 the County is doing with its park facilities. In the future, look at the stormwater
40 issues that parts of the county will face. They are significant. He's leery about
41 funding those with a local improvement district charge or annual taxes the County
42 might have to implement. He agreed that there isn't a specific list of projects this
43 money would go to. At the same time, their hands aren't tied. The Council can set
44 policy that would be appropriate. They should have a healthy discussion about just
45 how this money would be used in the future. It's a pressing need. This is an
46 opportunity to come up with something that is fair and more progressive than all
47 the potential revenue sources they could use.

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1
2 Caskey-Schreiber stated the ordinance won't take effect for 60 days. It will
3 take awhile before the County has collected enough money to do something
4 constructive with some of the big projects that were on the list. The Council will
5 have a lengthy process to determine the best use of the money.
6

7 **McShane moved** to amend the ordinance to add, "BE IT FURTHER
8 **ORDAINED that the collection of the real estate excise tax will be implemented 60**
9 **days after the passage of this ordinance."** This amendment gives some time to the
10 treasurer's office to get the word out to those who would actually collect the tax
11 through closing transactions.
12

13 ***Motion to amend carried unanimously.***

14
15 ***Motion to adopt as amended carried 6-1 with Nelson oppose.***
16
17

18 **OTHER ITEMS**

19 20 **1. RESOLUTION APPROVING A MINERAL RESOURCE STUDY FOR** 21 **WHATCOM COUNTY, RECENTLY COMPLETED BY GEO-ENGINEERS** 22 **(AB2003-391)** 23

24 **Roy** reported for the Natural Resources Committee and ***moved*** to approve
25 the resolution.
26

27 McShane stated he is in favor of the resolution. He thanked all the
28 councilmembers, who all played a role in making sure this report is a good one.
29 The Council gave the administration direction on the scope of work for this project.
30 The result is well-thought out. It is a very well done report.
31

32 Roy stated the report has recommendations for the future. The next step is
33 to create the resource overlays for the map.
34

35 Nelson stated the Surface Mining Advisory Committee reviewed the study.
36 He asked if the Council has to reinstate the advisory committee. The Council
37 recently put the advisory committee on hold until this report was done.
38

39 Roy stated the assumption was that the advisory committee would work with
40 staff to make recommendations. A representative of the advisory committee
41 attended the Natural Resources Committee.
42

43 Sylvia Goodwin, Planning Division Manager, stated that if the Council needs
44 to reinstate the advisory committee, she will bring a resolution forward to the
45 Council that does that. She doesn't think it's necessary right now.
46

47 ***Motion carried unanimously.***

1
2 **2. DISCUSSION REGARDING THE DRAFT INTERLOCAL AGREEMENT**
3 **BETWEEN THE LUMMI NATION, NOOKSACK TRIBE, WASHINGTON**
4 **STATE DEPARTMENT OF FISH AND WILDLIFE, WHATCOM COUNTY**
5 **AND THE CITIES OF BELLINGHAM, BLAINE, EVERSON, FERNDALE,**
6 **LYNDEN, NOOKSACK, AND SUMAS (AB2004-083)**
7

8 Roy reported for the Natural Resources Committee and stated this item was
9 for discussion only. No action is necessary at this time.

10
11 **3. ORDINANCE REVISING WHATCOM COUNTY CODE 24.01,**
12 **PUBLIC HEALTH ADVISORY BOARD (COUNCIL ACTING AS**
13 **THE HEALTH BOARD) (AB2004-062)**
14

15 Crawford reported for the Finance and Administrative Services Committee
16 and stated this was not a Finance Committee issue.

17
18 ***Crawford moved*** to adopt the ordinance.
19

20 McShane stated he was concerned about changing a position to allow anyone
21 that is in an ethnic minority. He preferred to keep the position open exclusively for
22 a tribal member. The tribes have health entities that should always be able to be
23 included.
24

25 Nelson stated the tribes always have a position available to them as an
26 ethnic minority member. They need to recognize other resources in the
27 community. At this time, there is not a lot of interest in the advisory board by the
28 tribes. The County has not been able to fill the tribal position. He hoped they
29 would have better luck filling the position.
30

31 McShane stated adding a position for ethnic minorities is great, but keep a
32 position open specifically for the tribes.
33

34 ***McShane moved*** to add an item to Whatcom County Code (WCC) section
35 24.01.051(B), "(9) One tribal member."
36

37 Brenner stated she would support the amendment. The reason the position
38 was broadened was because the advisory board didn't have the participation to
39 have a quorum at the meetings.
40

41 Caskey-Schreiber asked if they need an odd number of board members.
42

43 Regina Delahunt, Health Department Director, stated it isn't necessary.
44 They'd have to put a provision in the by-laws for a tie-breaker. She preferred to
45 have an odd number of board members.
46

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1 Nelson suggested including members of the Mental Health Advisory Board or
2 Substance Abuse Advisory Board. However, adding more members makes it more
3 difficult to get a quorum.
4

5 Delahunt stated she wouldn't support a change in the quorum level. She will
6 continue to try to get a tribal member to participate.
7

8 **Roy suggested a friendly amendment** to amend Whatcom County Code
9 (WCC) section 24.01.051(B)(5), "One tribal member representing an ethnic
10 minority."
11

12 **McShane accepted the friendly amendment.**
13

14 Brenner stated she'd rather leave the language as it is so they can have a
15 quorum, which is the problem. If the tribes show an interest, the Council can
16 revisit the issue.
17

18 **Nelson suggested a friendly amendment** to amend Whatcom County
19 Code (WCC) section 24.01.051(B)(5), "One tribal member or representing a
20 representative from an ethnic minority."
21

22 **McShane accepted** the friendly amendment.
23

24 **Motion to amend carried unanimously.**
25

26 Caskey-Schreiber asked if the Health Department has tried to recruit a tribal
27 member. Delahunt stated she has. It's a matter of time. They don't have the staff
28 and time to participate.
29

30 **Motion to adopt the ordinance as amended carried unanimously.**
31

32 **4. ORDINANCE AMENDING THE 2004 WHATCOM COUNTY BUDGET,**
33 **FIRST REQUEST (AB2004-063)**
34

35 **Crawford** reported for the Finance and Administrative Services Committee
36 and moved approval.
37

38 **Motion to adopt carried unanimously.**
39

40 **6. REQUEST AUTHORIZATION TO RENEW WHATCOM COUNTY'S**
41 **PROPERTY INSURANCE POLICY (AB2004-067)**
42

43 **Crawford** reported for the Finance and Administrative Services Committee
44 and stated this item is held until the administration receives all the quotes.
45

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1 **5. ORDINANCE AMENDING WHATCOM COUNTY CODE 2.02.150,**
2 **REGARDING WHATCOM COUNTY COUNCIL STANDING COMMITTEES**
3 **(AB2004-028)**
4

5 Crawford reported for the Finance and Administrative Services Committee
6 and stated this item was referred to the Public Works Committee.
7

8 **Brenner** reported for the Public Works and Capital Projects Committee and
9 **moved** to adopt the ordinance.

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

12
13 **7. COMMITTEE DISCUSSION REGARDING THE POSSIBLE DRAFTING OF**
14 **A PROPOSAL TO CHANGE THE PROCEDURES FOR SCHEDULING**
15 **AGENDA ITEMS FOR THE 2004 JOINT LAKE MANAGEMENT**
16 **COMMITTEE MEETINGS (AB2004-064)**
17

18 Brenner reported for the Public Works and Capital Projects Committee and
19 stated this item was discussed.
20

21 Caskey-Schreiber asked to find out if these meetings are appropriate for
22 public comment. The whole meeting could be taken up by public comments. If the
23 public expects that these won't include public comment, and it's more appropriate
24 to go directly to the councils, they won't have to deal with their angst about it.
25 Come up with a policy about handling public comments. The last couple of
26 meetings have been handled badly.
27

28 Brenner stated the policy already exists. They are required to allow public
29 comment at these meetings. The meetings need to be run more formally.
30

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

33 Nelson stated the interlocal agreement specifies the items to be on the
34 agenda of these meetings. If they adhere to the interlocal agreement, they
35 wouldn't have any problems. He's not against public comment. He just wants
36 some structure so they can be productive.
37

38 **8. DISCUSSION REGARDING WHATCOM COUNTY SOLID WASTE**
39 **ADVISORY COMMITTEE'S REQUEST FOR DIRECTION REGARDING THE**
40 **DRAFTING OF PROPOSED REVISIONS TO THE MANDATORY**
41 **COLLECTION ORDINANCE (AB2004-085)**
42

43 Brenner reported for the Public Works and Capital Projects Committee and
44 stated this item is held in committee for two weeks. The committee wants to get a
45 substantial amount of more information.
46

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1 McShane stated the Solid Waste Advisory Committee is looking to the
2 Council for guidance on whether or not it should begin working on this item. He's
3 on the committee, which meets in two days.
4

5 Brenner stated she personally is interested in doing that, as long as the Solid
6 Waste Advisory Committee presents a menu of ideas to choose from, but will
7 choose to respect the Public Works Committee's desire for more information before
8 making a decision.
9

10 Crawford stated he didn't understand the problem. He'd like more
11 information on where they come up with the numbers and what they're doing. He
12 asked if they're looking for things to do.
13

14 McShane stated the committee believes that the exemptions from mandatory
15 garbage service create a couple of problems that are in the letter. One problem is
16 that there is no ability to track how many people do not have their garbage
17 collected. They have no idea whether those people are handing their garbage
18 correctly. They don't know how many people are exempted. That has an impact
19 on the percent recycled.
20

21 Crawford stated he prefers to look at this issue a little more.
22

23 Nelson stated it doesn't hurt to look at the ordinance further. He would like
24 to understand the current process better. They find out from recycling centers and
25 drop off locations if there is a change in the amount being brought in.
26

27 Roy stated she preferred to respect the wishes of the Public Works
28 Committee, and wait to get the information it needs. The letter from the Solid
29 Waste Advisory Committee was clear.
30

31 Caskey-Schreiber asked how they mandate garbage collection to those who
32 say they can't afford it. She asked how they get a garbage collector to collect for
33 those who don't pay their bill.
34

35 McShane stated that is one of the problems that the County faces, versus the
36 cities. Part of the solid waste agreement with the cities is that there is mandatory
37 collection in the cities. A person has to pay for it. There is a variety of tools to
38 make someone pay for collection.
39

40 Brenner asked if there is a provision for hardship.
41

42 McShane stated that issue would have to be taken up by the Solid Waste
43 Advisory Committee.
44

45 **COMPREHENSIVE PLAN AMENDMENTS**
46

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1 **2. ORDINANCE AMENDING THE LAND USE CHAPTER OF THE WHATCOM**
2 **COUNTY COMPREHENSIVE PLAN (CHAPTER 2), WHICH INCLUDES**
3 **RURAL LANDS (AB2003-075E)**
4

5 Fleetwood reported for the Planning Committee and stated this item was
6 amended and approved for a public hearing in two weeks.
7

8
9 **OTHER ITEMS**

10
11 **9. ORDINANCE AMENDING THE WHATCOM COUNTY ZONING**
12 **ORDINANCE, CHAPTERS 20.22 (URM) AND 20.24 (URMX) (AB2004-**
13 **060)**
14

15 Fleetwood reported for the Planning and Development Committee.
16

17 Troy Holbrook, TDR/PDR Coordinator, stated this ordinance implements the
18 Comprehensive Plan amendments that are before the Council. He recommended
19 that the Council postpone adoption until the Comprehensive Plan amendments are
20 adopted at the concurrency meeting.
21

22 Fleetwood stated the committee did a few, unsubstantial amendments to the
23 ordinance.
24

25 **10. DISCUSSION REGARDING A POSSIBLE CHANGE TO THE SCHEDULE**
26 **FOR COUNCIL COMMITTEE OF THE WHOLE MEETINGS (AB2004-**
27 **022A)**
28

29 McShane stated he would like more flexibility in scheduling Committee of the
30 Whole meetings, particularly if there's an item they need to spend time on. He
31 asked to allow the Council Chair leniency on scheduling Committee of the Whole
32 meetings at different times during the day or on the Tuesdays when regular
33 meetings are not scheduled. Also, if meetings are held during the day, staff won't
34 have to stay late. It saves costs for the County.
35

36 Brenner stated it's an excellent idea. Try to schedule the Committee of the
37 Whole meetings on Tuesdays when there aren't regularly scheduled Council and
38 committee meetings. However, some things come up at the last minute. There is
39 also sometimes a tight timeframe when they have to be done. Reducing the
40 number of topics would also be useful. She supports the request.
41

42 Roy stated she supports the request, with the promise of keeping them to a
43 minimum. She fears that they will begin scheduling a Committee of the Whole
44 meeting, whether they need to or not, on Tuesdays that aren't regular meeting
45 days. Make sure the meetings are necessary.
46

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1 Nelson stated the County Council used to meet regularly every Tuesday.
2 There were times the Council spent the entire day working on the Comprehensive
3 Plan. He recognizes the need to have time available to meet constituents.
4

5 Caskey-Schreiber stated she supports the request, when necessary. Leave
6 enough time for lunch.
7

8 Crawford stated he's not excited about filling up the alternate Tuesdays with
9 meetings. He appreciates the historical perspective, but it's not his perspective.
10 He asked if the Council could, with the theoretically reduced workload of the water
11 resource inventory area (WRIA) process, shorten the work sessions to a two-hour
12 meeting instead of three hours, and then fit in one hour of Committee of the Whole
13 if needed.
14

15 McShane stated that is an option.
16

17 Brenner stated she would love to have two-hour WRIA meetings, but the
18 Council still may need the longer work sessions. Don't cut back the WRIA meeting
19 to the point where they can't discuss issues.
20

21 The Council concurred with the request to have a flexible Committee of the
22 Whole meeting schedule.
23

24 **11. REQUEST CONFIRMATION OF THE EXECUTIVE'S APPOINTMENT OF**
25 **DEREK HOLZL TO SERVE HIS FIRST TERM ON THE DEVELOPMENT**
26 **STANDARDS TECHNICAL ADVISORY COMMITTEE (TAC) (AB2004-**
27 **079)**

28 *Nelson moved* to confirm the appointment.
29
30

31 *Motion carried unanimously.*
32

33 **12. REQUEST CONFIRMATION OF THE EXECUTIVE'S APPOINTMENT OF**
34 **DALE BRANDLAND TO THE WHATCOM COUNTY MENTAL HEALTH**
35 **ADVISORY BOARD (AB2004-080)**

36 *Nelson moved* to confirm the appointment. It's amazing that a senator is
37 willing to participate locally on a mental health issue. He's worked on health care
38 issues in the community.
39
40

41 *Motion carried unanimously.*
42
43

44 **COMPREHENSIVE PLAN AMENDMENTS**
45

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1 **1. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY**
2 **COMPREHENSIVE PLAN AND ZONING ORDINANCE RELATING TO**
3 **ESSENTIAL PUBLIC FACILITIES (AB2003-075B)**
4

5 Brenner reported for the Public Works Committee and stated this item was
6 held in committee.
7

8 **3. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
9 **PLAN, URBAN FRINGE SUBAREA PLAN - GENERAL, URM AND URMX**
10 **POLICIES (AB2003-075G)**
11

12 **Fleetwood** reported for the Planning Committee and **moved** to forward the
13 amendment to the concurrency hearing.
14

15 Crawford asked if the zoning amendments as proposed require the purchase
16 of transfers of development rights (TDR's) to develop properties in the urban fringe
17 zoning.
18

19 Troy Holbrook, TDR/PDR Coordinator, stated they do not. A person can
20 develop at the current zoning level. In increase the density, a TDR is required.
21

22 Crawford asked about issue of requiring the purchase TDR's in the city of
23 Bellingham. Holbrook stated the City of Bellingham's policy is to not extend utilities
24 until TDR's are purchased.
25

26 Crawford stated that's not addressed in the Comprehensive Plan or County
27 zoning. It's a policy of the City of Bellingham. Holbrook stated it is a City of
28 Bellingham policy. There is also a policy statement in the general policies. The
29 urban fringe subarea plan is also a County policy, policy 1.12.
30

31 Crawford asked if the only purpose of policy 1.12 is to be consistent with the
32 City. Holbrook stated it is a joint effort between the City and County. The City
33 asked the County to include this policy to be consistent with the City's adopted
34 policies.
35

36 **Crawford moved** to delete policy 1.12 from Exhibit A on Council packet
37 page 436, and to hold this issue over for a public hearing. It's not based on the
38 merits of whether or not people should purchase TDR's from Lake Whatcom. He is
39 concerned about requiring folks who want to do any work on their land to purchase
40 TDR's if it's within current zoning. That's not a good route for government to take.
41 He questions the future of that City policy.
42

43 Caskey-Schreiber stated that's how TDR programs work everywhere. They
44 have to have some kind of rules, otherwise people will always opt out of
45 participating. King County and other places in the country do this. This is a
46 common practice. To make a program work, they have to have mandatory
47 elements. If the City is going to make the investment of water and sewer, they

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1 have to have something in return. That's what this is. She won't support the
2 motion to amend.

3
4 Brenner stated she won't support the motion to amend. This has to do with
5 process. This has been in committee. There was a long discussion. She
6 appreciates that not all councilmembers can come to the committee meetings, but
7 it's up to councilmembers who can't make the committee meetings to share their
8 issues. The City of Bellingham planner was at the committee meeting. The planner
9 helped alleviate her concerns. This item came through the City of Bellingham
10 Planning Commission, City Council, and County Planning Commission. Unless
11 there's something that is really onerous, they should discuss it in committee. Major
12 tweaks will have to go back through the whole process. She wants to get this TDR
13 program started. If an amendment is important, get it to the committee and the
14 City.

15
16 Nelson stated the TDR program needs to get off the ground. However, he
17 doesn't know the steps the City and other communities are taking to participate.
18 He's concerned about setting a precedent. They're going to force all TDR's into
19 urban growth areas (UGA's).

20
21 McShane stated it is focused on a limited area at this time. It's not UGA-
22 wide, but only in the area of map 13. The point is well-taken. Be creative about
23 TDR's in other areas, including rural areas. The mechanisms for those TDR's may
24 be markedly different.

25
26 Brenner stated it was brought up in the committee meeting. The Bellingham
27 planner assured the committee that the City would come up with standards that
28 regulate areas in the city.

29
30 Roy stated the concept of a TDR is that people have to give up something to
31 get something. The City is extending to people water and sewer. It's an exchange.
32 A lot of the successful programs are the ones with these kinds of requirements. If
33 they want growth where they want growth, and don't want sprawl or growth around
34 the lake, they need to shepherd folks into the appropriate areas. She doesn't
35 support the motion.

36
37 When she first came on the Council, there was a lot of discussion about the
38 historical bad feelings between the City and County. This program is wonderful.
39 She's impressed that the two departments area working together.

40
41 Brenner stated it's very important to give up something to get something.
42 These are going to be developer-driven. Through the interlocal, have the developer
43 pay for the extension of water and sewer services to the development and be able
44 to collect latecomer's fees rather than create local improvement districts (LID's).

45
46 ***Motion to amend failed 1-6 with Crawford in favor.***

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1 ***Motion to forward to the concurrency hearing carried 6-1 with***
2 ***Crawford opposed.***

3
4 **4. **ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE****
5 ****PLAN, URBAN FRINGE SUBAREA PLAN, MAP 13 MAP, AND TEXT****
6 ****(AB2003-075H)****

7
8 ***Fleetwood*** reported for the Planning Committee and ***moved*** to forward the
9 amendment to the concurrency hearing.

10
11 Crawford asked if there is a reference about the requirement to purchase
12 transfers of development rights (TDR's). He asked if this portion of the subarea
13 plan refers to the TDR purchase requirement.

14
15 Troy Holbrook, TDR/PDR Coordinator, stated the rezone was a petition
16 submitted by the property owners. Everyone affected by the rezone either signed
17 the petition or concurred to be included in the rezone. They can still develop their
18 property at the existing zoning.

19
20 Sylvia Goodwin, Planning Division Manager, stated the policy is not stated in
21 this ordinance. In this area, the City already approved a utility extension area,
22 prior to having that policy.

23
24 ***Motion carried unanimously.***

25
26
27 **INTRODUCTION ITEMS**

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

30
31 ***McShane moved*** to accept the Introduction Items.

32
33 ***Motion carried unanimously.***

34
35 **1. **ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY****
36 ****ZONING ORDINANCE (TITLE 20) CHAPTER 20.85 PLANNED UNIT****
37 ****DEVELOPMENT, CHAPTER 20.89 DENSITY TRANSFER PROCEDURE,****
38 ****CHAPTER 20.90 AMENDMENTS, AND CHAPTER 20.71 WATER****
39 ****RESOURCES PROTECTION OVERLAY DISTRICT (AB2004-081)****

40
41 **2. **RESOLUTION INITIATING PROPOSED AMENDMENTS TO THE****
42 ****WHATCOM COUNTY COMPREHENSIVE PLAN AND ASSOCIATED****
43 ****AMENDMENTS TO THE ZONING ORDINANCE THAT ARE TO BE****
44 ****CONSIDERED FOR INITIATION THIS YEAR (AB2004-082)****

45
46 **ADDENDA:**

47

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1 **3. RESOLUTION SUPPORTING THE LAKE WHATCOM LANDSCAPE PLAN**
2 **AS RECOMMENDED BY THE LAKE WHATCOM LANDSCAPE PLANNING**
3 **COMMITTEE (AB2004-087)**

4
5 **4. RESOLUTION ESTABLISHING THE LAKE WHATCOM WATERSHED**
6 **FORESTRY ADVISORY FORUM AS THE INTERJURISDICTIONAL**
7 **COMMITTEE UNDER THE LAKE WHATCOM MANAGEMENT COMMITTEE**
8 **(AB2004-086)**

9
10
11 **OTHER BUSINESS**

12
13 There was no other business.

14
15
16 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

17
18 Crawford thanked Mr. Desler and the administration for providing the
19 information sheet on the real estate excise tax (REET) with short notice.

20
21 Crawford stated there is not a person in Whatcom County who hasn't been
22 impacted by the mark Pat Jones left on the county, whether they know who he is or
23 not. He worked on many developments over the years. He was involved in politics,
24 the legislative process, and the County Technical Advisory Committee. The
25 community lost a great citizen. Remember all the good things Pat Jones has done.

26
27 Fleetwood agreed with Councilmember Crawford regarding Pat Jones.

28
29 Nelson stated he also agreed with Councilmember Crawford.

30
31 Crawford stated there is a public memorial for Pat Jones at noon at Cornwall
32 Park Church on Friday, January 30, 2004.

33
34 Nelson stated Mr. Jones served avidly on many issues. The Council could
35 send some sort of memorial.

36
37 Brenner stated Pat Jones did everything in excess. The most excessive thing
38 he did was work. One didn't have to agree with his position. He would argue his
39 point to the end, and then be friendly.

40
41 McShane stated Pat Jones was a help to the Council many times. He found
42 that he and Mr. Jones agreed on some very controversial environmental issues. He
43 really understood land use extremely well.

44
45 The Council concurred that he will be missed.

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1 **ADJOURN**

2
3 The meeting adjourned at 9:27 p.m.
4
5

6
7 _____
8 Jill Nixon, Minutes Transcription

9 The Council approved these minutes on February 10, 2004.

10
11 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

12
13
14
15
16
17 _____
18 Dana Brown-Davis, Council Clerk

Dan McShane, Council Chair