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1 jurisdiction is questioned. A threat to shut down a public hearing does not meet
2 the public hearing requirement, and is a violation of the Open Public Meeting Act.
3

4 Lake Whatcom is owned by the public. Navigable waters are held in trust
5 for the public. It is not under the jurisdiction by the county or the city. It is
6 owned by the citizens of the United States. He gave a history of ownership and
7 administration of waterways and shore lands. The right to navigate rests with the
8 people in the country, not a county or a city.
9

10 Navigation is a way in which the general public uses its bodies of water. It
11 is not limited to any particular type of boating or boat. Ownership of the shoreline,
12 deeded by State of Washington, is a property right and an interest that cannot be
13 taken away. The only agency that can draft and impose water quality statutes is
14 the Department of Ecology. The Council does not have the authority or jurisdiction
15 to write water quality statutes.
16

17 The City of Bellingham's drawing water from the lake is considered a private
18 use. It does not gain any ownership by drawing water from the lake. The Lake
19 Tahoe basin is governed by a federal agency that bans the discharge of gas from
20 two-cycle engines, not the use of two-cycle engines. Regarding the jet ski
21 nuisance issue in San Juan County, the use was banned.
22

23 *(Clerk's Note: End of tape one, side A.)*
24

25 Magnusson continued to state that San Juan County jet skis were banned as
26 a public safety issue due to harassment of the whales and shoreline habitat that
27 could not be controlled because of the island's geography.
28

29 Doug Williams, 1410 Northshore Drive, stated they should focus on other
30 issues such as water runoff. Vote down both of the ordinances.
31

32 John Wenger, 521 E. North Street, stated the right to navigate is not the
33 same as the right to run a gasoline motor. A promoter is a compound that
34 amplifies carcinogens, but are not measured. The risk of carcinogens are
35 cumulative. Carcinogens may happen at the interaction of different things.
36 Science underestimates the risk. EPA budgets have been cut, so they
37 underestimate the risk.
38

39 Gerald Simmons, Bellingham, stated he is against the boat ban issue, but
40 feels strongly about protecting the environment. There are no facts that boats
41 cause harm to the environment.
42

43 Kristin Baker, 9 Strawberry Point, stated she is opposed to a boat ban.
44 Boating is great family fun that family members can enjoy together.
45

46 Betsy Brinson, 1811 C Street, stated she is opposed to a boat ban.
47 Motorized watercraft does not affect water quality. The EPA will phase out two-

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1 stroke engines because of air quality, not water quality. There is no scientific
2 evidence to support the notion that watercraft harms water quality.
3

4 Bob Harriman, Borderline Bass and Contenders, stated he is opposed to a
5 boat ban or partial ban. He sent the Council an email earlier, and read the email
6 into the file. The EPA's 2006 and 2008 phase out is adequate.
7

8 Norm Chamberlain, 2532 Lake Whatcom Boulevard, asked to provide
9 testimony on both ordinances. He is opposed to any sort of ban. There is no
10 scientific evidence to support the ban.
11

12 Ron Pattern, 2409 Fir Street, Bellingham, stated he supports a boat ban
13 because of the benzene. He asked the Council to take all necessary steps to
14 preserve their water.
15

16 Gordon Stevens, 2723 Lake Whatcom Boulevard, stated he does not support
17 a boat ban because they don't have the support for what they're trying to do.
18

19 Edward King, 2347 Northshore Drive, asked to provide testimony on both
20 ordinances. He submitted his testimony in writing (*on file, Exhibit B*). He is
21 opposed to any boat ban because there isn't science to support a ban.
22

23 Carolyn Wilhite, 3155 Sylvan Street, stated she is in favor of a boat ban.
24 The EPA and DOE have changed their standards in the last three years. Navigable
25 waterways refers to waterways where there is a tide. There is no tide on Lake
26 Whatcom.
27

28 Michael Spinale, 3700 Alabama #212, stated he is in favor of a boat ban
29 because the water quality has gone down over the last ten to 20 years, and they
30 have to take steps to stop that. Do everything they can to have clean drinking
31 water.
32

33 Mark Polin, 2125 Michigan Street, stated he is in favor of a boat ban
34 because boats increase the level of benzene in the water. Address the exhaust
35 from cars and the water runoff.
36

37 Tim Paxton, 2120 Ellis Street, Bellingham, stated he is a proponent of the
38 Boats Off! Initiative and is in favor of a boat ban. He explained what the ordinance
39 would and would not do. It is within the legal authority of the County to enact the
40 ordinance. It addresses health problems. Motorboats discharge pollutants from
41 two-stroke engines into the lake. The main chemicals of concern are hydrocarbons
42 and polycyclic aromatic hydrocarbons (PAH's). Toxicologists say that PAH's are
43 more of a problem than the benzene because they are very carcinogenic. The
44 levels are five to ten times the standard. Studies show that accumulations of
45 PAH's are from motorboats.
46

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

1
2 Paxton continued to state that carcinogens are cumulative. The PAH's are
3 phototoxic to humans and aquatic wildlife. This ordinance is to protect public
4 health, which is one of the County Council's prime duties. The San Juan County
5 commissioners had the authority to regulate the activities as a police power. That
6 was held up by the Supreme Court. Robin Matthews said that the lake can't stand
7 the current level of development at the lake. Restricting motorboats is done all
8 the time under the power of county legislators. It is in the County Council's
9 jurisdiction. Look at the data, including the 303(d) listing and information from Dr.
10 Matthews. Flushing from the diversion fixes things. Look at all the contaminants
11 in one group, because they interact together. Bring in the experts to look at the
12 situation. Begin the process of cleaning up the lake.
13

14 Sharon Crozier, Bellingham, stated she is in favor of a boat ban. The
15 problem in the lake is with the boats and the runoff. PAH's will make Lake
16 Whatcom an unsuitable drinking water source. Combustion byproducts will only
17 add to this level. The State laws prohibit the discharge of any pollution in the
18 waters of the state. The health officer of any municipality or county must enforce
19 health offenses.
20

21 Many accidents involve personal watercraft. The cleanest motorboat
22 discharges four to six ounces into the environment. It doesn't all evaporate.
23 Some of it gets into the intake.
24

25 On the petition, she's getting an 80 percent signature rate in the city and a
26 70 percent signature rate in the county. Taking two-stroke engines off the lake in
27 five years won't help. Lake Whatcom is the only non-river washed reservoir in
28 Washington that allows boats on the reservoir. If the Council won't approve this
29 ban, then it should put the ban on the ballot and let the people vote on it.
30

31 *(Clerk's Note: The Council took a ten-minute break at 8:00 p.m.)*
32

33 Ryan Ferris, 1401 E. Victor, Bellingham, submitted his testimony for the
34 record (*on file, Exhibit D*). He supports a boat ban because benzene is well known
35 to cause leukemia and acute lymphoblast leukemia (ALL) in children. Motor
36 boating is risky. Patrolling the lake takes a large amount of time from the Sheriff's
37 Office.
38

39 Ellen Murphy, Forest Street, Bellingham, stated she is in favor of a boat ban.
40 She asked what the would lake say if the lake had a voice.
41

42 Jan Resick, 617-14th Street, stated she is in favor of a boat ban. She grew
43 up in Rhode Island where the one body of water used as a reservoir was
44 surrounded by trees. Take care of the water.
45

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1 Suann Baker, 9 Strawberry Point, stated she is not in favor of a boat ban.
2 She lives on the lake and is concerned about water quality but doesn't believe that
3 boats are the problem.

4
5 Lisa Cardarelli, Bellingham, stated she is in favor of a boat ban.
6 Carcinogens are in the water. She and others have been threatened. There are
7 health risks from motorboats. There is noise pollution from the jet skis.

8
9 Larry Leeper, 5712 Lawrence Road, Everson, stated he is not in favor of a
10 boat ban. They need to use common sense. Houses exist along the lake, and
11 boats use the lake. There are roads around the lake. Boating on the lake supports
12 the boating industry. Upcoming legislation on combustion engines will make them
13 much cleaner by 2008.

14
15 Linda Zander, 803 E. Main Street, Everson, stated the issues are
16 contamination and health. The county is responsible for leachate coming down the
17 creek from the Y Road Landfill. Mercury and tin is coming down the creek, federal
18 law requires that runoff from the streets be treated.

19
20 *(Clerk's Note: End of tape two, side A.)*

21
22 Zander continued to state that they need to clean up the dump and the
23 runoff. Come into compliance with federal and state law.

24
25 Ken Tarr, 2603 Woburn Street, stated he is in favor of a boat ban. Charge a
26 fee to anyone using the lake and use the fees to fund the Sheriff's Office for
27 enforcing violations. The City should convert all storm drains around the lake so
28 they go through a treatment system before being released into the streams and
29 rivers.

30
31 Jeremy Brown, 3217 Greenwood Avenue, asked to provide testimony on
32 both ordinances. He supports a boat ban on all motorized watercraft. They
33 shouldn't be on the drinking water. It is within the Council's power to regulate this
34 use. The waters will remain navigable.

35
36 Matt Mullett, 2897 Lake Whatcom Boulevard, asked to provide testimony on
37 both ordinances. He is opposed to a boat ban. Motor boating is a family activity.
38 There is a lot more to deal with than boats on the lake. Put a comprehensive plan
39 together.

40
41 Riggs Nelson, 1722 Euclid Avenue, stated he opposes any boat ban on Lake
42 Whatcom. There is no evidence it would improve the water quality of Lake
43 Whatcom or improve the safety and health of the citizens.

44
45 Dan Sturtz, 2006 Alvarado Drive, stated he is opposed to a boat ban.
46 Manage risk by choosing wisely. They rely on government to look at facts and

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1 make sound, reasonable decisions for the citizens. Be sure there is just cause to
2 remove boats from the lake and remove people's recreational rights.

3
4 Dan Dahlgren, 2502 Northshore Road, stated he is opposed to boat ban. He
5 agreed with the previous speaker's comments. The benzene level the City tests
6 for is below the detection level.

7
8 Breck Anderson, 3611 Haggin Road, stated he is opposed to a boat ban.
9 They need to put some money behind the problem to fix other problems and come
10 up with informed proposals. Use common sense.

11
12 Gretchen Anderson, 3611 Haggin Road, stated she is opposed to both
13 proposals before the Council tonight. She lives in the watershed and is a good
14 steward of the lake. There is no evidence that motorboats cause any problems
15 with Lake Whatcom water quality.

16
17 Kris Ungern, 2095 Northshore Road, stated he is not in favor of a boat ban.
18 Boat use has decreased, and water quality has increased. A boat ban is not
19 supported by science. The real issue behind the boating controversy is the noise
20 and wakes associated with personal watercraft. The ban is not logical.

21
22 Mark Jeseritz, 990 Lake Whatcom Boulevard, stated he is opposed to a boat
23 ban. His business, Wildwood Resort, takes many cautions to protect the lake.
24 Many jobs are supported by tourism and outdoor resources. It is contrary to the
25 Lake Whatcom Subarea Plan, Comprehensive Park and Recreation Open Space
26 Plan, County Comprehensive Plan, and the Growth Management Act. Make a
27 decision based on sound judgement.

28
29 Linda Tucker, 4371 Bay Road, stated she is opposed to a boat ban because
30 they are not the sole source of contamination. Look further for water than Lake
31 Whatcom.

32
33 Dennis Jones, 1487 Sudden Valley, stated he is not taking a stand on the
34 issue but wanted to clarify some statements made earlier. The Entranco study was
35 not made public. Dr. Robin Matthews study has been available for years. Look at
36 the real issues. The lake's entropic state is declining.

37
38 Bob Fitzsimmons, 2935 King Street, stated he is in favor of a boat ban.
39 Lake Padden is protected from houses circling it and there are only non-motorized
40 boats on it. Not any one thing is polluting Lake Whatcom, but everything is,
41 including the motor boats, houses, fertilizers, roads, cars, and other things.

42
43 Danial Fitzpatrick, stated he loves to boat, water ski, and drink clean water.
44 He is not taking a firm stand on either issue. Start looking at some sort of
45 restrictions, or a ban that will preserve their water quality.

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1 Sheila Pferffer, 2919 Cowgill Avenue, stated she is in favor of a boat ban.
2 Bellingham has the highest incidents of breast cancer than any other county in the
3 state. They put more emphasis on having fun than on taking care of the
4 children's' health and the environment.
5

6 Ron Eriksen, 2171 Dellesta Drive, stated he is opposed to a boat ban
7 because the benzene scare is bogus. He does surveillance for benzene, and has
8 never seen a trace of it.
9

10 Kristi Gruett, 1802 Lakeside Avenue, stated she is opposed to a boat ban.
11 Water runoff is the problem. Look at all the options first. There are sewage
12 problems on Academy Hill.
13

14 Larry Freeman, 218 Viewcrest, stated science tell them that there is a
15 problem. Look at the process. If the Council votes for the boat ban, it is just the
16 beginning of the process of addressing all the issues, including runoff.
17

18 Duane Dodson, 2577 Northshore Road, stated he is opposed to the boat
19 ban. He draws unfiltered, untreated water from the lake, and his family has been
20 healthy.
21

22 *(Clerk's Note: End of tape two, side B.)*
23

24 Kent Heuer, 3122 Laurelwood, stated protecting health and safety is a
25 primary function of government. Avoid crisis management. Take action now, not
26 in the future when things will be more expensive to deal with. Look at the big
27 picture.
28

29 Patti Mahboobzadeh, 206 Sudden Valley, stated she would like to testify on
30 both ordinances. She doesn't support a total ban, but a ban on boats that pollute.
31 Benzene is not good for them. The Council should base its decision on science.
32

33 Barry Ulman, 1424 ½ Grant Street, stated boats are a problem, but they are
34 not the only problem. Development is a bigger problem. Logging in the hills
35 above the lake is another problem. If there is a boat ban, also ban development
36 around the lake and logging in the hills.
37

38 Brett Moleski, 1723 Euclid Street, stated he is opposed to a boat ban. Boats
39 are not the problem. There are other issues. If there is a boat ban on Lake
40 Whatcom they will go to Lake Samish.
41

42 John Horner, 1116 37th Street, stated he supports the boat ban. Lake
43 Whatcom's water is eventually going to get too bad to drink. If they create a boat
44 engine that cuts pollution by half, they've still lost ground if population increases
45 by three times. Talk about all causes of pollution, not just motorboats.
46

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1 Judy Russi, stated she supports a boat ban. Some people in the audience
2 advocate dumping Councilmember Fleetwood, but he has nothing to do with this.
3 Citizens brought this forward. There are a lot of places to boat. Don't boat on
4 their drinking water.
5

6 Dave Paulson, 1515 I Street, stated he is in favor of a boat ban. The
7 problem is not just the benzene. Banning boats from the water supply is a good
8 first step. They need to start weaning society from oil products.
9

10 Hugh Beattie, 2104 Mackenzie, stated he supports a boat ban. There are
11 other places to use them. Divert traffic from the south end of the lake onto Lake
12 Louise Road, to keep them off Lake Whatcom Boulevard. Put up a sign indicating
13 the direction of Sudden Valley, to divert traffic off Lake Whatcom Boulevard.
14

15 Hearing no one else, McShane closed the public hearing.
16

17 McShane stated this motion is before the Council through the mini-initiative.
18 A motion from a councilmember isn't necessary.
19

20 ***Fleetwood moved*** to submit the written comment submitted from the City
21 of Bellingham regarding the Watercraft Advisory Committee into the record for
22 both ordinances.
23

24 ***Motion carried 6-0 with Brenner abstaining.***
25

26 Brenner stated she hadn't received the information from the City of
27 Bellingham and, therefore, has not read it.
28

29 Caskey-Schreiber stated she's not in favor of a total boat ban. She hopes
30 that the upcoming technologies will make boating compatible with water quality
31 standards. It's the Sharon Crozier's of the world who have pushed for higher
32 standards for clean engines. She thanked Ms. Crozier.
33

34 ***Motion to adopt the ordinance failed unanimously.***
35

36 *(Clerk's Note: The Council took a five-minute break at 9:45 p.m.)*
37

38 **2. ORDINANCE AMENDING WHATCOM COUNTY CODE 11.32, BOATING**
39 **AND SWIMMING, SPECIAL RESTRICTIONS (AB2004-265)**
40

41 ***McShane moved*** to enter into the record all comments from the previous
42 ordinance to be applied to this ordinance.
43

44 ***Motion carried unanimously.***
45

46 McShane opened the public hearing and the following people spoke:
47

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1 Steve Hood, Washington State Department of Ecology, stated he would
2 speak for Richard Grout. He would summarize a letter sent earlier that day.
3 Water quality regulations require the Council to protect water quality. If the
4 Council reaches a criteria, it indicates the local jurisdiction failed in that duty.
5 That's when the State steps in.
6

7 The State hasn't taken action yet because criteria have not been violated.
8 This is when it's important for local jurisdictions to decide how they make sure
9 those criteria aren't violated in the future.
10

11 There is confusion about the criteria for benzene. Five parts per billion
12 (ppb) is for drinking water. Often, the criteria for drinking water is higher than for
13 surface water. Drinking water criteria are set based on the technology available to
14 remove a contaminant once it's in the water. Five ppb is a good balance of risk
15 and expense. If the State does a total maximum daily load (TMDL) study for
16 benzene, the criteria would be 1.2 ppb, which is a one in one million cancer risk, as
17 set by the Environmental Protection Agency (EPA).
18

19 The EPA has set a goal of zero for benzene. This process envisions how
20 close they want to get to zero. This is the process to go through.
21

22 Wendy Eickmeyer, 2319 Northshore Road, stated the City of Bellingham has
23 never detected PAH's in the drinking water. There is a cost to implementing this
24 ordinance. It would cost \$60,000 to retrofit the sheriff boats to meet new
25 requirements.
26

27 Craig Magnusson, Bellevue, Washington, asked that his previous comments
28 be submitted in this record. Responded to Steve Hood's comments. Mr. Grout's
29 letter refers to RCW 90.48.080, which is the clean water statute. He read the
30 statute. The State Department of Ecology (DOE) interprets the statute in a way
31 that references to a "person" includes any political or government agency. DOE
32 says that the County violates the statute when it allows the discharge. That
33 interpretation is wrong. This statute pre-dates the Clean Water Act, and
34 references direct dumping of pollutants. The statute holds the polluter
35 responsible, not the County. The County does not have authority to draft and
36 impose clean water regulations. That does not mean phasing out two-stroke
37 engines is not good planning, in cooperation with the State. He read RCW
38 90.48.035. The County's procedure to direct water quality standards and controls
39 is to work with the Department of Ecology. Lake Whatcom is unique. Lake
40 Whatcom is listed by the State as both a recreational lake, which includes
41 navigation and boating, and as a water supply. Make a proposal through the
42 administrative rule making process, which would apply good science to enact rules
43 and regulations.
44

45 Edwin Simmers, 2036 Donovan, stated tonight he decided he won't use his
46 two-stroke engine on lake Whatcom anymore.
47

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1 Linda Young, 810 39th Place, stated she is not in favor of a boat ban. Using
2 their SeaDoo on the lake is the best thing that has happened to her family. There
3 are different kinds of two-stroke engines. The fuel-injected engines are not the
4 same. Banning two-stroke engines and motor boats in general won't make a
5 difference.

6
7 *(Clerk's Note: End of tape three, side A.)*
8

9 Seth Cool, 711 Gladstone Street, submitted information *(on file, Exhibit F)*.
10 He supports the ordinance. Handed in a chart showing benzene levels in Lake
11 Whatcom. Benzene is a hazardous carcinogen. The treatment system can't
12 remove this chemical efficiently. Benzene levels go up during the summer when
13 it's not raining, so it's not from runoff.

14
15 Kris Ungern, 2095 Northshore Road, submitted information *(on file, Exhibit*
16 *G)*. He is opposed to the ordinance. His earlier comments apply. The ordinance
17 goes further than the citizen advisory committee report. There is no rationale for
18 the ban. The recommendations of the citizens advisory committee report are not
19 included. A properly maintained engine shouldn't be a problem. Most of the
20 emissions go into the air, not the water.

21
22 Larry Leeper, submitted information *(on file, Exhibit H)*. He is opposed to
23 the ordinance. There is no EPA ban on two-stroke engines, only a phase-out of
24 carbureted engines. Two-stroke engines emission statistic of 25 percent applies to
25 the original engines. It doesn't apply today. Allow the manufactures, regulators,
26 and dealers to develop and implement the new technology.

27
28 John Wenger, 521 E. North Street, stated he supports the ordinance. New
29 technology will not save them. The car industry took 40 years to respond to clean
30 air regulations. Population is increasing beyond the increased efficiencies of the
31 engines. Newer technology costs a lot. Don't put carcinogens in the drinking
32 water.

33
34 *(Clerk's Note: Councilmember Nelson left the meeting at 10:26 p.m.)*
35

36 Betsy Brinson, 1811 C Street, stated she is opposed to the ordinance. There
37 is no science that connects the discharge of outboard watercraft with pollution and
38 water quality. The DOE must raise these regulations. The geese pollute the lake
39 with e-coli. If they regulate the boats, then regulate the geese.

40
41 Bob Harriman, Borderline Bass Contenders, 2284 E. Hemmi Road, stated he
42 is opposed to the ordinance. Remove two or three of the Whereas statements
43 because they reference the advisory committee. Public funds were used on the
44 advisory committee. When that happens, they have to have representation from
45 all views on the committee. There weren't any fishermen, water skiers, or jet
46 skiers on the advisory committee.
47

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1 David Langley, 1404 Northshore Drive, stated he is opposed to the
2 ordinance. Deal with the geese problem. Two-stroke engines don't add that much
3 pollution. The lake self-cleans. They can move the intake to basin three. The
4 science is questionable.

5
6 Norm Chamberlin, 2532 Lake Whatcom Boulevard, stated this issue will
7 divide the community.

8
9 Fred Boettner, 53 Strawberry Point, stated he is opposed to the ordinance
10 because there are worse issues they need to deal with, including the geese.
11 Extend the north shore sewer to get the septic tanks off the lake. Have a runoff
12 system. There is benzene during the winter.

13
14 Ed Brinson, 7 Strawberry Point, stated he is opposed to the ordinance
15 because the EPA decided that the engines don't pollute the water enough to
16 warrant regulation. Motor boats protect public safety by quickly getting to people
17 who have fallen into the lake.

18
19 Annie Brinson, 7 Strawberry Point, stated she is opposed to the ordinance
20 because this is something kids do to hang out. Being on the lake is a healthy
21 family activity. The water is fine.

22
23 Eddie Brinson, 7 Strawberry Point, stated he is opposed to the ordinance
24 because he enjoys jet skiing. He has used the jet ski to rescue a man.

25
26 Edward King, 2347 Northshore Road, stated the peaks in the benzene levels
27 are going down, as shown in the chart distributed by an earlier speaker.

28
29 Max Legg, 3844 South Bay Drive, Sedro Woolley, stated he is opposed to
30 the ordinance. The citizens advisory committee members did not have a science
31 background. They were supported by good staff from the City of Bellingham, but
32 those staff were all environmental folks. The report says no studies to date have
33 quantified the contamination.

34
35 Dennis Jones, 1487 Sudden Valley, stated he supports the ordinance. Have
36 a comprehensive plan for Lake Whatcom. They know how other lakes work. Save
37 this lake while they can.

38
39 Gary Lysne, 2472 Northshore Road, stated he is opposed to the ordinance.
40 The citizen's advisory committee did not release the names of its members. The
41 report has no credibility. The use of personal watercraft has been reinstated in the
42 National parks.

43
44 Marion Beddill, 3600 Seeley Street, stated she is in favor of the ordinance so
45 they can protect the public health and safety.

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1 Chuck Rameau, 184 E. Kellogg Road, stated he is opposed to the ordinance
2 because there is no benzene problem in the lake.

3
4 *(Clerk's Note: End of tape three, side B.)*

5
6 Rameau continued to state that the real problem with the lake is the level of
7 dissolved oxygen.

8
9 Sherie Rego, 689 Cherry Lane, read a statement from her son Thomas
10 Rego-Brounstein, who is opposed to the ordinance because they are not being sold
11 anymore and they will phase out naturally. He supports removing all car traffic,
12 which won't happen, because it causes more harm to the lake.

13
14 Loi Walton, resident, stated she is opposed to the ordinance because the
15 real issue is the stormwater runoff, dumpsite, and geese.

16
17 Mark Jeseritz, 990 Lake Whatcom Boulevard, stated he is opposed to the
18 ordinance because the sheriff couldn't enforce it. Many other reservoirs in the
19 nation allow motorboats.

20
21 Marilyn Houser, 321 N. Section, Burlington, stated she is opposed to the
22 ordinance. Work with people to implement the new technology.

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

25
26 **McShane moved** to keep the written record open until noon on July 27,
27 2004.

28
29 Roy stated she is against the motion. These people who have testified
30 would like the Council to make a decision. There has been a lot of opportunity for
31 people to contact the Council.

32
33 Brenner stated she is ready to vote, except Councilmember Nelson is absent
34 due to his military service. They should respect his desire to vote on the
35 ordinance.

36
37 Caskey-Schreiber stated she is in favor of voting tonight. They have heard
38 both sides of the argument and know their position. Vote now.

39
40 **Motion to hold the record open failed 2-4 with Brenner and McShane**
41 **in favor.**

42
43 **McShane moved** to adopt the ordinance and read the portion of the
44 ordinance that amends the Whatcom County Code.

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1 **McShane moved** to amend the eighth Whereas statement, "...demonstrated
2 that two-cycle ~~carbureted~~ outboard engines...." That amendment makes the
3 language more consistent with the language in Exhibit A.

4
5 **Motion carried 5-1 with Brenner opposed and Nelson absent.**

6
7 **McShane moved** to amend the tenth Whereas statement, "...demonstrated
8 the negative impacts of ~~carbureted~~ two-stroke engines..." for the same reason as
9 the previous motion.

10
11 **Motion carried 5-1 with Brenner opposed and Nelson absent.**

12
13 **McShane moved** to amend the 12th Whereas statement, "...eventual phase
14 out of ~~carbureted~~ two-stroke engines **that emit a large percentage of unburned**
15 **fuel**; and"

16
17 **Motion carried 4-2 with Brenner and Crawford opposed and Nelson**
18 **absent.**

19
20 **McShane moved** to amend the last Whereas statement, "...and
21 recommended the ~~eventual~~ phase out...."

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

24
25 **McShane moved** to amend the Now Therefore statement, "...the use of
26 ~~certain types of carbureted~~ two-stroke motorized watercraft **that do not meet the**
27 **U.S. EPA 2006 emission standards for two-stroke engines, as specified in Title 40,**
28 **Code of Federal Regulations Part 91,** on Lake Whatcom shall be banned as
29 indicated...."

30
31 **Motion carried 6-0 with Nelson absent.**

32
33 **Brenner moved** to strike the 12th Whereas statement. The Lake Whatcom
34 Motorized Watercraft Advisory Committee did not consist of a balanced group of
35 interests. She could not get the list of names. It did not include fishermen, people
36 with modern motorized boats, or jet skiers.

37
38 Roy stated she did not support the motion. All the statement says that the
39 advisory committee came up with that statement, which is true.

40
41 Brenner stated that the language indirectly supports the structure of the
42 committee membership.

43
44 **Motion failed 1-5 with Brenner in favor.**

45
46 **Brenner moved** to strike the 14th Whereas statement for the same reason
47 as the previous motion.

1
2 ***Motion failed 1-5 with Brenner in favor.***
3

4 Caskey-Schreiber stated she is in favor of the ordinance. The Department
5 of Ecology recognizes the County's responsibility to protect the drinking water
6 source. Two-stroke engines contribute 25 to 35 percent of their fuel, according to
7 Richard Grout. A two-stroke engine running for seven hours creates as much
8 pollution as a car that has run 100,000 miles, according to Boat Notes. She talked
9 to Dr. Robin Matthews and a toxicologist at Western Washington University. The
10 fact that benzene is showing up near the intake is alarming to them. That's the
11 only place the City tests for benzene. Benzene is an aromatic hydrocarbon, and is
12 typically on the surface and evaporates. Given the fact that it shows up deeper in
13 the lake signifies that the amount is greater in other areas. The boat launch area
14 doesn't get tested at all. She is concerned about the people who swim at Bloedel
15 Donovan park. The City does not treat for benzene. It would be quite an expense
16 to remove it from the drinking water. Any benzene in the water goes straight to
17 the consumer. In this case, prevention is better than a cure. Benzene is a
18 carcinogen. As the Board of Health, the Council is responsible to reduce
19 carcinogens wherever they can, especially in drinking water. The Council is not
20 picking on boaters. They can make boating and drinking water compatible. She is
21 in favor of having a fueling station at a boat launch. The Council is also working
22 on development standards, limits on impervious surfaces, tree retention, and has
23 advocated for sustainable logging to prevent erosion. The number of people who
24 are ready to abandon this reservoir for another alternative is troubling. That
25 would be very expensive. Half the county does not use Lake Whatcom for its
26 water source. The cost of finding a new source would be on the half that does use
27 the lake's water. It would take multi-millions of dollars. Lake Whatcom is their
28 natural resource for the county. As an elected official, she can make sure that the
29 things that make this county great are viable for generations to come. This
30 ordinance has been revised and is fair. Boat owners will have either five or ten
31 years to make the change. That's ample time.
32

33 Crawford agreed with the gentleman who spoke tonight who said this is a
34 solution looking for a problem. They have not identified a problem with carbureted
35 two-stroke engines in Lake Whatcom. Government's role is to balance the risk to
36 public health and safety against the benefit of the activity the public participates
37 in. Speed limits are an example. These folks are not a special interest group.
38 They are a good cross-section of Whatcom County's population. Their message is
39 strong. This ordinance tilts the scale out of balance. He is not in favor of the
40 ordinance.
41

42 Brenner stated she made a motion months ago at a Water Resources work
43 session to deal with stormwater detention, and no one on the Council voted for it.
44 Now they are proposing this ordinance. They're looking at the cheapest way to
45 show people they care about Lake Whatcom. The least expensive way to go is not
46 necessarily the healthiest way to go. Dr. Robin Matthews told the Council that

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1 boats are not a problem, but stormwater detention is a problem. She is against
2 the motion.

3
4 Roy stated the letter from the Department of Ecology said benzene is a
5 carcinogen, and any increase above zero represents an increased risk of cancer.
6 That is a strong, clear statement. It may not be a big risk to some. As a member
7 of the Board of Health, she's not willing to say a little is okay. There's nothing
8 scientific about these levels. It's a political decision that considers many factors,
9 including how much consumers are willing to pay, how much they think might
10 cause a problem, and how much the industries can afford to remediate. The
11 County was told for years by the EPA that certain levels of arsenic are fine in the
12 drinking water. They know now that's not okay. For many years, women were
13 told it was okay to take hormone therapy. They know now it's not okay. Setting
14 these levels is not an exact science. She is in favor of the ordinance.

15
16 McShane stated there is science supporting this ordinance. Drinking water
17 standards are set as policy. There hasn't been a lot of data and studies, but those
18 being done say it's there. The question is the fair, reasonable way to deal with it.
19 Deciding whether or not this is a good or bad idea is tough. They don't want to
20 have a continued pattern to have benzene show up just at the drinking water
21 intake. That means the levels are high elsewhere. He's not keen on spending a
22 lot of money so people can be sure of themselves because they have data from
23 other lakes with similar settings. Don't disparage studies done elsewhere, and
24 think they have this unique lake that will act completely different. This ordinance
25 allows people five years to make plans for new boats. Boating recreation on Lake
26 Whatcom is critical. He's worried about the positions that others will take that are
27 beyond the Council's control. He's worried about the Council, as the Board of
28 Health, taking no action. The science on the new technology engines and the four-
29 stroke engines is very positive. He sees no reason to ban boats in general, based
30 on that science. It's clear which types of engines are causing the problems, and
31 deal just with that. Give credit to those who are using cleaner engines.

32
33 Fleetwood stated he introduced this ordinance. He's heard many people
34 accuse him of introducing the ordinance for political reasons. That's not the case.
35 He thought the Council should have something before it that is more consistent
36 with some of the recommendations from the advisory committee, the positions of
37 the councilmembers, and because it is a reasonable compromise. He wasn't
38 prepared to go as far as a complete boat ban. A compromised version is because
39 they can and have identified dirtier and cleaner boat engines. Distinguish between
40 the two. They have given consideration to those who are worried about having
41 their boats taken away immediately by phasing in the restriction over a number of
42 years. People are correct in saying there are bigger issues with Lake Whatcom.
43 The Council has addressed those things, and will address stormwater and density
44 reduction. This is a smaller act that they have reasonable control over. It is a
45 carcinogen. He supports dealing with big and small pollution. Today, they are
46 checking off this small pollution, and hopes they will deal with bigger issues in the
47 future.

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1
2 Crawford stated the question of caring is not the issue. They all care that
3 there is a small amount of pollution. The EPA did not change its mind over
4 arsenic. That was a political decision. They're talking about risk evaluation. There
5 is no one testifying on behalf of the Whatcom County Health Department, which is
6 responsible to come forward to the Council with any concern. The Health
7 Department understands there is risk in everything they do. They need to
8 understand where the real risks are, and address them. They are deciding to
9 magnify one risk to affect a huge segment of the population, which is wrong.

10
11 McShane stated it has been said the Council isn't addressing other issues.
12 Any issue of note regarding Lake Whatcom, the people who are opposed filled the
13 Council Chambers. When the Council wanted to reduce the stormwater impacts
14 and development impacts to the lake, people opposed showed up in large
15 numbers. When the Council wanted to set better development standards so new
16 development wouldn't cause harm to the lake, the Council Chambers was filled
17 even more than it is now with people who were opposed. There is loud, intense
18 opposition every time the Council tries to do anything to protect the lake. Those
19 who say the Council hasn't taken on those issues need to understand that it has.

20
21 *(Clerk's Note: End of tape four, side A.)*
22

23 McShane continued to state that the County has been studying the landfill
24 very intensely. It's spent a lot of money on those landfills. The County has no
25 authority to move the intake.
26

27 Caskey-Schreiber stated it's fair to let people know the Council is going to
28 phase out these engines. The market will be flooded with these engines when that
29 happens. She's heard it takes 50 years to get rid of those engines. There are
30 4,000 undeveloped lots in Sudden Valley. If they estimate that half will want to
31 boat on the lake, it would be irresponsible of the Council to not put those people
32 on notice that they are moving away from that type of engine.
33

34 Roy stated they have done the biggest downzone in the state to protect the
35 lake. They have worked in partnership to acquire land and development rights to
36 keep areas of the watershed forested. She never intended to say she cared more
37 than others on the Council. This is about evaluating risk. Her willingness to take a
38 risk is different than other's willingness. It's a risk she's not willing to take as a
39 County Council and Board of Health member.
40

41 ***Motion to adopt as amended carried 4-2 with Brenner and Crawford***
42 ***opposed and Nelson absent.***
43

44
45 **ADJOURN**
46

47 The meeting adjourned at 11:45 p.m.

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Jill Nixon, Minutes Transcription

The Council approved these minutes on September 14, 2004.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Dan McShane, Council Chair