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**WHATCOM COUNTY COUNCIL  
Regular County Council**

April 6, 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

Absent:

L. Ward Nelson

**FLAG SALUTE**

**ANNOUNCEMENTS**

McShane announced there was **discussion with Senior Deputy Prosecutor David Grant regarding BP (AB2004-018)** in executive session during the Committee of the Whole meeting. He was absent during the discussion.

*(Clerk's Note: The Council continued discussion of and action on this item at the end of the meeting under Other Business.)*

McShane also announced there was **discussion with Public Works Director Jeff Mosen regarding a possible land acquisition (AB2004-018)** in executive session during the Committee of the Whole meeting.

**MINUTES CONSENT**

***Brenner moved*** to approve the Minutes Consent items, including the two substitute pages.

***Motion carried unanimously.***

- 1. SPECIAL COUNTY COUNCIL (MASTER FACILITIES PLAN) FOR MARCH 9, 2004**
- 2. WATER RESOURCES WORK SESSION FOR MARCH 16, 2004**

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1 **3. SPECIAL COUNTY COUNCIL (MASTER FACILITIES PLAN) FOR MARCH**  
2 **16, 2004**

3  
4 **4. SPECIAL COUNTY COUNCIL (BIRCH BAY SUBAREA PLAN HEARING)**  
5 **FOR MARCH 16, 2004**

6  
7 **5. COMMITTEE OF THE WHOLE FOR MARCH 23, 2004**

8  
9 **6. REGULAR COUNTY COUNCIL FOR MARCH 23, 2004**

10  
11 **7. SPECIAL COMMITTEE OF THE WHOLE FOR MARCH 30, 2004**

12  
13  
14 **OPEN SESSION**

15  
16 The following people spoke:

17  
18 Dennis Jones, 1487 Sudden Valley, thanked those who represented the  
19 community at the State Department of Natural Resources (DNR) Board of Natural  
20 Resources meeting today. They have an opportunity for sustainable forestry in the  
21 watershed. Private logging in the watershed is a disaster, including areas at Agate  
22 Bay, Glenhaven, and Lake Louise Road at gate 13 of Sudden Valley. Consider a  
23 third alternative from the City regarding a public utility.

24  
25 Gary Lysne, 2472 Northshore Road, stated he attended a City County Lake  
26 Whatcom Watershed and Land Acquisition Citizen Advisory Board Meeting. Patricia  
27 Hernandez from the City gave a short report regarding land acquisition. He has the  
28 following questions for her. He asked the County Council to look into these  
29 questions on his behalf. He filled out a public disclosure form requesting this  
30 information from the City.

31  
32 The City has been purchasing property in the county, taking it off their tax  
33 roles. He asked for information about short- and long-term goals and a mission  
34 statement; the number of acres purchased in both the city and county; the amount  
35 of money that has been spent, and; the amount of County tax and revenue that is  
36 being lost by property being purchased by the City. The City is buying property in  
37 Sudden Valley, which is in the county. The watershed has 29,000 to 33,000 acres.  
38 He's heard that the City wants to purchase 15,000 acres that would be taken off the  
39 tax roles.

40  
41 Dick Bedlington, 6937 Holeman Avenue, Blaine, stated he has applied to be a  
42 member of Diking District 1. He farms about 2,000 acres in the Lynden and  
43 Ferndale areas. He farms 1,000 acres and owns 60 acres in the diking district area.  
44 He helped form Diking District 4, and has been a member of that district. He is also  
45 a member of Drainage District 1. He's been involved in drainage and diking district  
46 issues, and can contribute to Diking District 1.

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1 Leonard Lindstrom, City, stated home and schools are their first and last line  
2 of prevention against a godless society. Schools must give top priority to speaking  
3 and speech and the proper use of rights and freedoms. If they don't use their rights  
4 and freedoms right, it is disruptive.  
5

6 Frank Moser, Diking District 1, stated he recommends appointing Bob Imhof  
7 to Diking District 1. He's been on the Diking District 1, a federal diking district,  
8 since it originated. He'd like to see someone on the commission who lives there.  
9 During floods, the members should be close. He doesn't live there anymore, and  
10 will not be in the district anymore. Half of the district belongs to the reservation.  
11

12 Lincoln Rudder, 8373 Semiahmoo Drive, stated there was a hearing in 1996  
13 where the Growth Management Hearings Board found the County out of compliance  
14 with the Growth Management Act on the size of the Birch Bay urban growth area  
15 (UGA). Get a copy of the settlement agreement. There may be a precedent that  
16 would affect the current proposal to potentially downzone the UGA. The settlement  
17 agreement called for a distinction between short- and long-term UGA's as a method  
18 of mitigating against the irrational size of the UGA. Be aware of the precedent.  
19

20 The Semiahmoo South planned unit development (PUD) was voluntarily  
21 withdrawn by the applicant because of wetland acres within the area of the PUD.  
22 Before the County now is an application to convert that same acreage to pasture  
23 land. The State Department of Natural Resources (DNR) forest practice applications  
24 state that the only way to mitigate against wetland degradation in a clear cut  
25 situation is by reforestation, which was scheduled to take place the spring after the  
26 harvest. However, two years have elapsed. In June, the DNR is scheduled to  
27 commence enforcement proceedings. This issue of downzoning the size of the UGA  
28 and Birch Bay Community Plan is timely. It could compel the DNR to enforce  
29 application and get that area reforested. The issue of downzoning affecting water  
30 quality is important. Both Sylvia Goodwin and Hal Hart can work with the Council  
31 on that issue. There is an Environmental Protection Agency (EPA) presentation that  
32 describes the fact that the absence of forest canopy due to a clear cut increases  
33 runoff by 35 percent, which destroys the aquifer.  
34

35 There's nothing in the United States Constitution or the Fifth Amendment that  
36 grants any American the right to subdivide his or her land. The concept of  
37 preservation of property is entirely different from the future right to subdivide land.  
38 Land use planning is appropriate to do these sorts of downzones.  
39

40 Cathy Berg, 7585 Sterling Avenue, Birch Bay, stated she would speak about  
41 the James Way right-of-way access to the beach. A while ago, the County Council  
42 voted to deny public access vacation. The Council specifically said that public  
43 access should remain at that end of James Way. In the last week, the entire parcel  
44 has been cleared and leveled. A portable chain link fence continues to block the  
45 access to the beach. A sign on the fence says, "Construction Area - Keep Out."  
46 This is unacceptable. Look into the situation and see to it that the Council's will is  
47 implemented.

1  
2 Bob Imhof, 2287 Slater Road, Ferndale, stated he is one of the applicants to  
3 the Diking District 1 vacancy. He has lived in the diking district area all his life. He  
4 owns 160 acres of the family farm. His father was one of the original diking district  
5 members. They have dealt with tribal issue through the diking district for 54 years.  
6 He has a good working relationship with the tribe. He is interested in serving. He's  
7 worked on many flood events.

8  
9 Patrick Alesse, 4825 Alderson Road, Birch Bay, stated people have been  
10 asking him about what is happening at James Way. He recently saw survey stakes  
11 near the area. It looks like there might be a four-foot wide path to the water, but  
12 he doesn't know. There has been some construction near beach access. In 1912,  
13 Morrison and others put together a project there. That property was to be the  
14 right-of-way for residents to go to the beach reserve, which was part of the  
15 promised property. Somehow, that property got swallowed up a few years ago.  
16 The Birch Bay Chamber of Commerce asked the County Council a few years ago to  
17 purchase the property. That would have been much simpler. People don't know  
18 what's happening. When they look at the old platted areas, the beach reserve, lots  
19 off the beach, and rights-of-way was good planning, but it went away.

20  
21 Joe Rutan, County Road Engineer, stated there is a fence placed across the  
22 right-of-way at the beach access on James Way. The request for a vacation was  
23 denied last year. He asked the Engineering Division's land surveyor to look into  
24 that fence and why it's there. It seems to be a temporary situation. He was  
25 surprised to see the fence and understands that it shouldn't be there. He will look  
26 into the issue and keep the Council informed. It is a public right-of-way for public  
27 access.

28  
29 Robert Burke stated he no longer has a residence. He is a victim of police  
30 misconduct here and elsewhere. This problem seems to be escalating. The hardest  
31 thing is to convince people that the problem exists. Law enforcement agencies have  
32 existed in the country for 230 years, and know a lot of ways to hurt and harm  
33 people in addition to solving real crimes. There is a need for an independent  
34 agency, outside of internal affairs offices, to look into police and sheriff misconduct  
35 in this and other cities. The misconduct does happen and people are victimized.  
36 The police do not police themselves. Create an independent agency to look into the  
37 problem.

38  
39 Lynn Barton, Bellingham, stated that she agreed that the previous speaker  
40 has a valid point. She's talked to others who have mentioned this problem. She  
41 described three incidents that happened to her. In one case involved an  
42 unconfirmed federal agent of the Treasury Department who came to her door asking  
43 questions about her neighbors. In another incident, an Iranian friend, who is a  
44 community resident and homeowner, was detained for three hours while coming  
45 home from Vancouver, British Columbia. Questionable things happened during that  
46 detention. A third incident happened a year ago in Sumas while she was trying to  
47 find the library. A helicopter had been tracking her as she looked for the library.

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1 She really recognized what the community up there goes through. She wonders if  
2 they need to take a closer look at how all this affects the residents in that area. It  
3 affects the quality of life for a lot of people. She will provide more detail in a letter  
4 to the Council.  
5  
6

## 7 **PUBLIC HEARING**

### 8 9 **1. ORDINANCE AMENDING WHATCOM COUNTY CODE 12.44 TO CLARIFY** 10 **PROCEDURES FOR FILING OF APPLICATION SUMMARIES AND OTHER** 11 **MISCELLANEOUS CLARIFICATIONS (AB2004-104)** 12

13 Joe Rutan, County Road Engineer, gave a staff report and stated there are  
14 three key changes. The first two key changes are to Whatcom County Code (WCC)  
15 subsection 12.44.040 regarding when the application summary must be recorded  
16 and how the assessment shall be made for residential zoning within the assessment  
17 area. The third key change is to WCC 12.44.080 regarding the County permit  
18 approvals that trigger the assessment collection. There are other changes that  
19 clean up the ordinance.  
20

21 McShane opened the public hearing, and hearing no one, closed the public  
22 hearing.  
23

24 ***Brenner moved*** to adopt the ordinance.  
25

26 Roy stated she understands that this new language will satisfy most of the  
27 community members who are dissatisfied with this process.  
28

29 Brenner stated it will help those in the future. It won't do anything for the  
30 Mission Road people.  
31

32 Crawford stated the folks who would be discouraged by this are the  
33 developers. They've raised the bar for triggering the assessment to single-family  
34 residences or commercial or industrial development. Before this, the trigger was  
35 only a building permit. The developer's opportunity for reimbursement will be less.  
36 However, the Council has realized real challenges in latecomer agreements. This  
37 change is a step forward. The program so far has not been successful. There have  
38 only been a few agreements and all have been problematic. A benefit to the  
39 different assessment trigger is that all property owners should be included in the  
40 assessment area. It will still be up to the developer to create the proposal, but it  
41 shouldn't be a jigsaw pattern like it has been. Everyone in the area will be  
42 included, but someone must burden the road before the assessment is triggered.  
43

44 Caskey-Schreiber asked if there is something requiring a note on the deed if  
45 there is a pending latecomer agreement on undeveloped land.  
46

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1 Rutan stated the preliminary assessment area would be recorded. The  
2 Council can accept, deny, or change the assessment area. The intent is for  
3 notification, but if the area is changed, there could be a situation of non-  
4 notification.

5  
6 Brenner stated the Council has the option of taking out parcels, but can't put  
7 more parcels in the assessment area.

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

10  
11 **2. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**  
12 **REQUEST NUMBER 01-04 (AB2004-141A)**

13  
14 Steve Oliver, Chief Deputy Treasurer, gave a staff report and stated the  
15 Treasurer is asking that the County Council authorize the sale of 73 Sudden Valley  
16 parcels as a single lot, with the restrictive covenant in place.

17  
18 McShane opened the public hearing and the following people spoke:

19  
20 Zane Welty, 425 Chuckanut Drive North, Bellingham, asked that the lots be  
21 sold individually or in smaller packets to generate more income for the County.  
22 This would allow lower income people in the area the opportunity to buy property.

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

25  
26 Caskey-Schreiber stated the speaker made good points. However, the  
27 County, City of Bellingham, Water District 10, and Sudden Valley are working  
28 together to buy the development rights on these lots, which are good target areas  
29 for density reduction. They have proximity to streams and sensitive areas, or  
30 Sudden Valley will trade other more sensitive lots for these. This agreement took a  
31 long time to craft by Erika Stroebel. Reducing density in the watershed has a  
32 benefit to everyone because it reduces the human impact, which results in pollution  
33 and increased trips on the roads that parallel the lake. She supports this sale.  
34 Otherwise, she supports the speaker in getting more money for the County.  
35 However, that is not the goal of this sale. The goal is to work with the Sudden  
36 Valley community to reduce density.

37  
38 ***Caskey-Schreiber moved*** to approve the resolution.

39  
40 Crawford agreed with Councilmember Caskey-Schreiber. This is a unique  
41 opportunity to protect Lake Whatcom. This is not the normal tax title procedure of  
42 the County. Today in Finance Committee there were four lots in the Birch Bay area  
43 that will go through the normal hearing and auction process. He agreed with the  
44 speaker that the tax title sales do present some unique opportunities for some  
45 folks.

46  
47 ***Motion carried unanimously.***

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3 **CONSENT AGENDA**  
4

5 **Crawford** reported for the Finance and Administrative Services Committee  
6 and **moved** to approve Consent Agenda items one through five.  
7

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

- 10 **1. RESOLUTION SETTING THE HEARING TO SELL TAX-TITLE PROPERTY**  
11 **BY PUBLIC AUCTION, REQUEST 02-04 (AB2004-151)**  
12  
13 **2. RESOLUTION SETTING THE HEARING TO SELL TAX-TITLE PROPERTY**  
14 **BY PUBLIC AUCTION, REQUEST 03-04 (AB2004-152)**  
15  
16 **3. RESOLUTION SETTING THE HEARING TO SELL TAX-TITLE PROPERTY**  
17 **BY PUBLIC AUCTION, REQUEST 04-04 (AB2004-153)**  
18  
19 **4. RESOLUTION SETTING THE HEARING TO SELL TAX-TITLE PROPERTY**  
20 **BY PUBLIC AUCTION, REQUEST 05-04 (AB2004-154)**  
21  
22 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE A**  
23 **DECLARATION OF COVENANTS AND RESTRICTIONS FOR WETLAND**  
24 **MITIGATION AREAS – HOVANDER COUNTY PARK (AB2004-155)**  
25

26  
27 **OTHER ITEMS**  
28

- 29 **1. DISCUSSION AND POSSIBLE APPROVAL OF RECOMMENDATIONS OF**  
30 **THE FINAL DRAFT OF THE SALMON RECOVERY INTERLOCAL**  
31 **AGREEMENT BETWEEN THE LUMMI NATION, NOOKSACK TRIBE,**  
32 **WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE,**  
33 **WHATCOM COUNTY, AND THE CITIES OF BELLINGHAM, BLAINE,**  
34 **EVERSON, FERNDALE, LYNDEN, NOOKSACK, AND SUMAS (AB2004-**  
35 **115A)**  
36

37 Roy reported for the Natural Resources Committee and stated this item is  
38 held in committee for two weeks.  
39

- 40 **2. DISCUSSION REGARDING WRIA 1 WATERSHED MANAGEMENT**  
41 **PROJECT (AB2004-025A)**  
42

43 Roy reported for the Natural Resources Committee and stated these items  
44 will be discussed further in next week's Water Resources work session.  
45

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

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1           McShane stated the Public Utility District has asked to meet with  
2 councilmembers. He asked if that is related to these items.

3  
4           Roy stated it is related to the items requested for funding. The  
5 administration is working on setting overall goals and priorities. The draft  
6 implementation plan is a draft. They'll have to discuss a lot what is the most  
7 important thing to fund. They have no money for action items now.

8  
9           **3.     ORDINANCE AMENDING WHATCOM COUNTY CODE 1.08.060,**  
10           **INITIATIVE, REFERENDUM, AND RECALL – FORM OF PETITION**  
11           **(AB2004-145)**

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

15  
16           Caskey-Schreiber asked if petitions currently in process will still be accepted.

17  
18           Roy stated they will be accepted.

19  
20           *Motion carried unanimously.*

21  
22           **6.     ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY**  
23           **ZONING ORDINANCE, TITLE 20, TO SPECIFY WHERE PARKS AND**  
24           **RECREATION FACILITIES ARE PERMITTED IN VARIOUS ZONING**  
25           **DISTRICTS (AB2004-137)**

26  
27           *Fleetwood* reported for the Planning and Development Committee and  
28 *moved* to adopt the ordinance.

29  
30           *Motion carried unanimously.*

31  
32           **5.     ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**  
33           **PLAN TEXT AND MAP REGARDING THE BIRCH BAY URBAN GROWTH**  
34           **AREA (AB2004-122)**

35  
36           Fleetwood reported for the Planning and Development Committee and stated  
37 this is held in committee until the Birch Bay Community Plan is adopted.

38  
39           **4.     ORDINANCE ADOPTING THE BIRCH BAY COMMUNITY PLAN (AB2004-**  
40           **121)**

41  
42           Fleetwood reported for the Planning and Development Committee and stated  
43 this item was amended and recommended for approval. Two of the amendments  
44 recommended by committee are to remove two areas of the northern Birch Bay  
45 area from the urban growth area (UGA), which are the Birch Point area south of  
46 Lincoln Road and west of Birch Bay Village and a wetland surrounded by Shintaffer,  
47 Lincoln, Harborview, and Anderson roads.

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1  
2           McShane suggested that Council vote on those amendments tonight so that  
3 the effect elsewhere in the plan can be considered and the public can have an  
4 opportunity for input.  
5

6           Fleetwood stated the community requested that the County Council public  
7 hearing be held after the April 28 Birch Bay Steering Committee meeting.  
8

9           Caskey-Schreiber stated she wants to remove the Birch Point area for  
10 environmental reasons and also because it would be costly to service. There is a  
11 significant wetland area, an aquifer recharge area, has steep slopes, is significant  
12 for the herring population, and is home to bird populations. In committee it was  
13 mentioned that removing the area from the UGA would be a downzone. However,  
14 it is not a downzone. The current zoning is rural, one unit per five acres (R5A) and  
15 converts to urban residential, four units per acre (UR-4) if sewer is installed in the  
16 area.  
17

18           Sylvia Goodwin, Planning Division Manager, stated the current zone is UR-4,  
19 which is held at a density of R5A until sewer comes to the area. The zone is  
20 currently UR-4.  
21

22           McShane asked if the density would remain at R5A and the sewer would not  
23 come to the area if removed from the UGA. Goodwin stated that if the Council  
24 removes the area from the UGA, it would also want to downzone the area to R5A  
25 instead of leaving it UR-4, because urban zoning is not appropriate outside a UGA.  
26

27           Caskey-Schreiber stated they should keep the current practical density of  
28 R5A in this area. It will be really susceptible to erosion and shoreline instability.  
29 Every time they take away pervious surface, water hits the cliffside faster. It would  
30 behoove the community to treat that area differently.  
31

32           Regarding the other amendment from committee to remove wetlands from  
33 the UGA, that area is about 80 percent critical area wetlands. It doesn't make  
34 sense to designate that area for development when there really isn't a way to  
35 develop. Don't risk that area. It is one of last natural filtration systems in the area  
36 before the water goes to Birch Bay. There is dense housing around two sides of the  
37 wetland right now. Wetlands are valuable for filtering stormwater runoff.  
38 Sacrificing wetlands will be detrimental to the bay. She asked the acreage of the  
39 wetlands. Goodwin stated the acreage is approximately 220 acres. The Birch Point  
40 acreage is approximately 300 acres.  
41

42           McShane stated he supported the proposal to remove the wetland area from  
43 the UGA.  
44

45           ***Fleetwood moved*** to amend the Birch Bay Community Plan figure 8-4 on  
46 plan page 8-22, to remove everything in the Birch Point urban growth area (UGA)

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1 south of Lincoln Road and west of the north-south boundary of Birch Bay Village,  
2 extending from Birch Bay to Lincoln Road.

3  
4 Brenner stated she supported the motion, however she wants to hear from  
5 community members about the proposal and where the density should be  
6 transferred.

7  
8 Roy stated she would preliminarily vote against the motion. She watched  
9 the Birch Bay Steering Committee try to fit the incredible growth that is happening  
10 and will continue to happen in the urban growth areas they inherited. However, the  
11 Birch Point neighborhood was represented at all the steering committee meetings.  
12 She is reluctant to vote on something that has this big of an impact on the entire  
13 density distribution without hearing from the steering committee. She appreciates  
14 the environmental concerns, which are real and significant. She would rather hold  
15 her vote for this motion and support the plan the way it came from the community  
16 until after the hearing.

17  
18 McShane stated he had concerns about the near-shore habitat and fiscal  
19 impacts of dealing with stormwater and runoff issues in the future.

20  
21 ***Fleetwood moved*** to adopt the ordinance.

22  
23 Fleetwood restated the motion to amend the Birch Bay Community Plan  
24 figure 8-4 on plan page 8-22, to remove everything in the Birch Point urban growth  
25 area (UGA) south of Lincoln Road and west of the north-south boundary of Birch  
26 Bay Village, extending from Birch Bay to Lincoln Road.

27  
28 ***Motion to amend carried 4-2 with Crawford and Roy opposed.***

29  
30 ***Fleetwood moved*** to amend the Birch Bay Community Plan figure 8-4 on  
31 plan page 8-22, to remove from the UGA the area east of Shintaffer Road, south of  
32 Lincoln Road, west of Harborview Road, and north of Anderson Road.

33  
34 Brenner stated she would support this item for the same reason she  
35 supported the previous motion to amend, but she still wants to hear from the  
36 community.

37  
38 Roy stated she would not support this item for the same reasons she did not  
39 support the previous motion. She is concerned about the absorption of the density  
40 from these areas they are removing from the UGA. She supports having a corridor  
41 between different UGA's. She asked if there is any way they can look at having  
42 corridors that are green spaces or bicycle paths that would retain the rural flavor  
43 between the UGA's without taking out an entire area.

44  
45 McShane stated it might be more appropriate to have that buffer to the north  
46 because of the sewer service. It is an issue they should explore.

47

1 Roy stated the Council may need to work with the City of Blaine, which is  
2 half of the problem.

3  
4 ***Motion to amend carried 4-2 with Roy and Crawford opposed.***  
5

6 Caskey-Schreiber stated the Birch Bay Steering Committee will comment on  
7 where they need to increase density to make up for the density that has just been  
8 removed from the UGA. She asked staff to also provide options.  
9

10 Roy stated many hours were spent on the plan looking at how the population  
11 projections will fit into the UGA. She understands that the County is required to fit  
12 the population projection into the UGA somewhere.  
13

14 Crawford asked to be notified of the upcoming Birch Bay Steering Committee  
15 meeting that will discuss these amendments.  
16

17 ***McShane moved*** to removed from the UGA the Point Whitehorn area south  
18 of Grandview Road, but leaving in the existing waterfront development at the end  
19 of Koehn Road. It's an area of statewide significance and is part of what makes  
20 Birch Bay special for everyone in the county. It might not make good sense to  
21 develop that area heavily. The location is next to the most significant herring  
22 spawning grounds in the Puget Sound.  
23

24 Roy stated it is also right next to the heavy industrial area, which puts out 50  
25 tons of toxins per year. She's not persuaded that this one piece will have a big  
26 impact. She feels strongly that the people in the Point Whitehorn community are  
27 very connected with Birch Bay. She can't support cutting off that one piece, and is  
28 not sure of the benefit of doing so. Those lots are for sale. She asked if they are  
29 already platted. Goodwin stated there are large parcels south of Grandview with  
30 pending subdivisions. Each tract could have 30 houses if they are further platted.  
31 If the amendment is passed and the area is downzoned, they can't be platted more  
32 than one house per five acres.  
33

34 McShane stated the area is outside the Birch Bay Water and Sewer District  
35 service area. The sewer district said it would need to add tanks and pressure  
36 pumps to get above an elevation of 100 feet, which this area is. The area is outside  
37 the boundary of a water association that is located nearby.  
38

39 Caskey-Schreiber stated she values the near-shore area. They have to do  
40 what they can for the unstable slopes. This is a significant shoreline with steep  
41 slopes, herring, wetlands, and an aquifer recharge area. She supports the motion  
42 to amend.  
43

44 Brenner stated she can't support another removal at this point. She might  
45 be convinced to do so at the public hearing. They've just about gutted the entire  
46 area right now. She's not going any further.  
47

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1 Roy stated the Birch Bay Water and Sewer District was an integral part of the  
2 planning process. If there was a problem with this area being in the UGA, they  
3 would have brought it up. The district let the steering committee know of any  
4 problem that came up.

5  
6 Fleetwood asked about designating this area as a limited area of more  
7 intense rural development (LAMIRD) and whether the motion needs to identify the  
8 area presently developed.

9  
10 McShane stated they will figure out later whether LAMIRD's need to be  
11 designated.

12  
13 ***Motion to amend failed 3-3 with McShane, Fleetwood, and Caskey-***  
14 ***Schreiber in favor.***

15  
16 McShane stated the other committee amendments made were small, so the  
17 Council will leave them for now.

18  
19 Caskey-Schreiber asked if Councilmember McShane will drop his proposal to  
20 remove from the northeast corner of the UGA. She wants the opportunity to vote  
21 against that proposal.

22  
23 McShane stated he won't bring it forward at this time. The amendments just  
24 made have been adopted to the current draft plan. They will be added to the plan  
25 that will eventually have a public hearing. There may be other amendments from  
26 the Planning Committee.

27  
28 Fleetwood stated that in two weeks the Planning Committee will take up the  
29 question of how to redistribute the density that has been removed.

30  
31 McShane stated this item will go back to the Planning Committee.

32  
33 Roy stated staff is critical for coming up with density alternatives. This is an  
34 extremely complex process. One community meeting is not going to solve the  
35 problem. Staff will really have to work on this.

36  
37 Caskey-Schreiber stated she asked staff to provide options that could be  
38 forwarded to the steering committee. One option may be to expand the UGA in a  
39 more appropriate area.

40  
41 Caskey-Schreiber stated she talked to Ms. Goodwin about the concept of  
42 transfers of development rights (TDR's) and why the Council needs to plan for the  
43 entire population projection. It seems like they're giving something away if they  
44 already target their high density areas.

45

1 **7. APPOINTMENT TO DIKING DISTRICT #1 VACANCY DUE TO**  
2 **RESIGNATION, APPLICANTS: DICK BEDLINGTON, ROBERT IMHOF,**  
3 **ED TOMLIN (AB2004-139)**  
4

5 Brenner nominated Dick Bedlington.

6  
7 Crawford nominated Bob Imhof.

8  
9 Crawford voted for Imhof.

10  
11 Fleetwood voted for Bedlington.

12  
13 McShane voted for Imhof.

14  
15 Brenner voted for Bedlington.

16  
17 Caskey-Schreiber voted for Bedlington.

18  
19 Roy voted for Bedlington.

20  
21 ***Dick Bedlington was appointed.***  
22

23 **8. REQUEST CONFIRMATION OF THE EXECUTIVE'S APPOINTMENT OF**  
24 **LARRY DAUGERT TO THE BICYCLE/PEDESTRIAN ADVISORY**  
25 **COMMITTEE (AB2004-156)**  
26

27 ***McShane moved*** to confirm the appointment.

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

31 **9. REQUEST CONFIRMATION OF THE EXECUTIVE'S APPOINTMENT OF**  
32 **DEBORAH ANN FREDERICK TO THE WHATCOM COUNTY MENTAL**  
33 **HEALTH ADVISORY BOARD (AB2004-157)**  
34

35 ***Brenner moved*** to confirm the appointment.

36  
37 ***Motion carried unanimously.***  
38

39 **10. REQUEST CONFIRMATION OF THE EXECUTIVE'S APPOINTMENT OF**  
40 **CRAIG PARKINSON AND BRET BEAUPAIN TO THE DEVELOPMENT**  
41 **STANDARDS TECHNICAL ADVISORY COMMITTEE (TAC) (AB2004-158)**  
42

43 ***McShane moved*** to confirm the appointments.

44  
45 ***Motion carried unanimously.***  
46

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1 **11. REQUEST CONFIRMATION OF THE EXECUTIVE'S APPOINTMENT OF**  
2 **CANDY PETERSON, RICHARD EMERSON AND MARILYN BADER NESSE**  
3 **TO THE SUBSTANCE ABUSE ADVISORY BOARD (AB2004-159)**

4  
5 *McShane moved* to confirm the appointments.

6  
7 *Motion carried unanimously.*  
8

9  
10 **INTRODUCTION ITEMS**

11  
12 *Brenner moved* to accept the Introduction Items except Introduction Item  
13 seven, which was withdrawn from the agenda.

14  
15 *Motion carried unanimously.*  
16

17 **1. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**  
18 **REQUEST 02-04 (AB2004-151A)**

19  
20 **2. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**  
21 **REQUEST 03-04 (AB2004-152A)**

22  
23 **3. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**  
24 **REQUEST 04-04 (AB2004-153A)**

25  
26 **4. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**  
27 **REQUEST 05-04 (AB2004-154A)**

28  
29 **5. ORDINANCE AMENDING THE 2004 BUDGET, FOURTH REQUEST**  
30 **(AB2004-160)**

31  
32 **6. ORDINANCE CONTINUING THE INTERIM CONDITIONAL USE**  
33 **CRITERIA ADOPTED BY ORDINANCE 2003-050 FOR THE SITING OF**  
34 **MUSHROOM COMPOSTING AS A CONDITIONAL USE WITHIN THE**  
35 **AGRICULTURAL ZONING DISTRICT (AB2004-150)**

36  
37 ~~**7. RECEIPT OF PLANNED UNIT DEVELOPMENT, PUD2003-0001, AND**~~  
38 ~~**PRELIMINARY LONG SUBDIVISION, LSS2003-0004, "BAY CREST**~~  
39 ~~**NORTH SUBDIVISION," JIJ CORPORATION (AB2004-162)**~~

40  
41 **8. ORDINANCE REVISING WHATCOM COUNTY CODE 3.40.030, BONA**  
42 **FIDE CHARITABLE OR NONPROFIT ORGANIZATIONS (AB2004-161)**

43  
44 **9. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY**  
45 **LAND DIVISION REGULATIONS (TITLE 21) (AB2004-163) (THIS**  
46 **ORDINANCE MAY BE DIVIDED INTO SEVERAL DIFFERENT**  
47 **ORDINANCES IF NECESSARY)**

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1  
2  
3 **OTHER BUSINESS**  
4

5 **Roy** spoke regarding **discussion with Senior Deputy Prosecutor David**  
6 **Grant regarding BP (AB2004-018)** and stated Council Chair Dan McShane is the  
7 County's representative on the Energy Facility Site Evaluation Council (EFSEC) and  
8 is unable to participate or take needed actions on behalf of the Council in that  
9 matter. Therefore, she ***moved*** to authorize Council Vice-Chair Caskey-Schreiber to  
10 exercise the Council Chair's powers as approved by the Council regarding the BP  
11 negotiation matter and to sign documents necessary to move forward with the  
12 pending negotiations surrounding the application.  
13

14 ***Motion carried 5-0 with McShane abstaining.***  
15

16  
17 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**  
18

19 Crawford asked permission to be excused from next week's Council activities  
20 because he will be on family vacation next week.  
21

22 McShane stated he went to the Board of Natural Resources meeting in  
23 Olympia today regarding the **Lake Whatcom Landscape Plan (AB2004-084)**.  
24 The Board is in a very difficult position. The Board of Trustees is very concerned  
25 about making sure the trust beneficiaries make as much money as possible. It isn't  
26 very comfortable with the fact that it might need to do things to protect water  
27 quality in a sensitive watershed. However, it is obligated to do something under  
28 State law. It hasn't been able to make a decision yet because the nuances of the  
29 committee recommendation is difficult to understand. They will get a good review.  
30 One issue is how the interjurisdictional committee will be appointed. He and others  
31 recommended to the Board that the committee be appointed by the County Council  
32 to ensure that the Landscape Plan is carried out. Since the committee will oversee  
33 the State Department of Natural Resources (DNR), it should not be appointed by  
34 the DNR. They have also made a commitment to paying for the committee, so it  
35 should have some say in who is appointed. He thanked everyone who worked on  
36 this issue.  
37

38  
39 **ADJOURN**  
40

41 The meeting adjourned at 8:35 p.m.  
42  
43

44 \_\_\_\_\_  
45 Jill Nixon, Minutes Transcription  
46

47 The Council approved these minutes on April 20, 2004.

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ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

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

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