

1 **OPEN SESSION**

2
3 The following people spoke:

4
5 Mark Polin, Bellingham, thanked Councilmember Brenner for her work on the
6 resolution opposing the Patriot Act. He thanked Councilmember Nelson for his
7 service in the military. Many in the audience are disturbed by the attack on their
8 constitutional rights. He asked those in the audience who are opposed to the
9 Patriot Act to stand. Most of the full audience have stood in support of the
10 resolution opposing the Patriot Act. The question is whether they give away their
11 constitutional rights in the name of fighting terrorism. They cannot sacrifice their
12 liberty for safety. Congress has allowed these incursions into their freedom. Both
13 conservatives and liberals across the country have objected to much of the Patriot
14 Act. This is a local issue because of the resounding voices of opposition coming
15 from all across the country in an organized manner.
16

17 Charles Antholt, 2265 Tuttle Lane, Lummi Island, stated they have discussed
18 the Lummi Island Subarea Plan. He submitted information (*on file*) on why the
19 current draft of the subarea plan is unacceptable. Options include sending the plan
20 back for more work or putting it on hold. Both options are problematic because
21 they imply continuation of the 1979 subarea plan. They are not okay per
22 Washington Administrative Code (WAC) 36-195-920. Unconstrained development
23 is a direct tax on all the residents. They need to provide funding authorization to
24 allow the studies to go forward and a moratorium on development. Build on the
25 revised draft plan. Keep Lummi Island rural.
26

27 Bruce Guthrie, Bellingham, stated he supports the resolution opposing the
28 Patriot Act. This resolution has broad-based support. He is a fiscal conservative.
29 Conservatives can see that this resolution states only that constitutional rights are
30 sacred and asks that those portions of the Patriot Act that violate the Constitution
31 be repealed. A vote against this resolution is a statement that one doesn't support
32 the Constitution, which is the supreme law of the land. Their constitutional rights
33 must be fought for and won again and again. Eternal vigilance is the price of
34 liberty. According to reports from the general accounting office, the Patriot Act has
35 been employed in investigations unconnected to terrorism or national security.
36 Congress must limit use of the Patriot Act to national security concerns.
37

38 Dennis Jones, 1487 Sudden Valley, stated Bainbridge Island is similar in size
39 to Lummi Island and the Lake Whatcom watershed. He comes from Fir Island. He
40 hoped the Council would look at that option. A municipality doesn't necessarily
41 need to be an urban growth area.
42

43 He thanked the Boats On and Boats Off group for bringing forward a joint
44 resolution that was adopted in 1992. Parks gain more revenue from recreational
45 activities than from forestry. Work with the State Department of Natural Resources
46 on planned-for forestry. They want public ownership of the watershed. They have
47 to break even at least. That's what it means to be planned-for.

1
2 Last month, Sudden Valley began allowing multiple-lot owners to pay one
3 dues instead of multiple dues if they put their extra lots into a green belt. He asked
4 the County Council to look into buying the development rights in the watershed.
5

6 Bob Luitweiler, Bellingham, stated he has been in Nazi Germany. He has
7 seen society that gave up its freedom; criminalized and executed segments of the
8 society; taught the children to spy on their parents, and; invented wiretapping. He
9 talked to the people who fell into that trap and did not see it coming. It was small
10 steps in the beginning. By the time it got going and they saw where they were
11 going, they were trapped. The vote on this resolution is not a small thing. The
12 United States has changed from a popular country around the world to a country
13 deathly feared by many thoughtful people all over the world. Voting on the
14 resolution is a valuable message that they don't agree with a Congress that
15 rescinded civil liberties.
16

17 Patti Mahboobzadeh thanked the audience members and the Council for the
18 opportunity to talk about this issue. If people don't speak up, the unspeakable will
19 occur. They're occurring now. The things done in the name of the Patriot Act were
20 done in a hyper state. They cannot turn the entire country over because of what's
21 happened. Eleven percent of towns with a population over 50,000 have had
22 Federal Bureau of Investigation (FBI) agents visit. She supports the resolution
23 opposing the Patriot Act.
24

25 Sharon Crozier, Bellingham, stated she is in favor of the resolution opposing
26 the Patriot Act. This is a local issue. On July 1, several laws go into effect that turn
27 past misdemeanors into felonies. In this climate, the interpretation of a
28 "subversive organization" can be very loose. Let their voices in Whatcom County
29 be heard. Let law enforcement and the federal government know how they feel.
30

31 Charles Meyers, Blaine, stated he spoke on behalf of family that has gone
32 before him and those that come after. His family has fought in every war the
33 United States has been involved with, beginning with the Revolutionary War. The
34 Bill of Rights outlines specifically what the government shall not do, which are the
35 very things the Patriot Act now says the government may do. The Patriot Act is
36 also a direct attack on language and civil liberties. He is in support of the
37 resolution opposing the Patriot Act. Sent the resolution via e-mail, entitled "Anti-
38 Patriot Act Resolution." Within five seconds, the firewall on his computer notified
39 him there was an attempt at a port scan on his computer from a source in
40 Arlington, Virginia. Every time he tries to check his email now, he gets a computer
41 attack from either Arlington or Dulles.
42

43 Irene Morgan state she would finish reading the statement that Mark Polin
44 could not finish due to time restraints and that supports the resolution opposing the
45 Patriot Act. Constructive dissent to government is what the country was founded
46 on. Whatcom County Republicans' platform believes that the most responsive
47 government is the government closest to the people, which is the County Council.

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1 All political power rests in the people. Governments are established to maintain
2 individual rights. It is imperative for the County Council to speak for everyone in
3 the community. It is unacceptable to dismantle the Constitution. Across the
4 country, four states and 279 cities and counties have already spoken against the
5 Patriot Act.

6
7 She asked the Council to vote in favor of the resolution. She has been a
8 citizen of Whatcom County for most of her life, and hope her grandchildren will
9 realize the same freedoms.

10
11 Don Shank stated he just moved to Bellingham. They have to beware.
12 There are those who would tell them to be afraid to increase their own power. They
13 use fear to seize control. Power corrupts. They may trust the current leaders with
14 extreme police powers. However, sooner or later an administration will come along
15 who may abuse the power. Their freedoms, once surrendered, may never be
16 recovered. Somebody has to watch the watchers. Support the resolution and
17 support the Constitution, which is the original Patriot Act.

18
19 Douglas Bestle, 3105 Crestline Drive, stated he is a Vietnam veteran. He is
20 in favor of the resolution opposing the Patriot Act. He is a member of the American
21 Civil Liberties Union (ACLU). He has also been involved in bringing this issue
22 forward to the County Council. He presented a list of businesses and organizations
23 that support the resolution (*on file*).

24
25 Bern Haggerty, Whatcom County, stated he is in favor of the resolution
26 opposing the Patriot Act. Approving the resolution doesn't cost anything. It
27 clarifies for County employees, especially local law enforcement personnel, where
28 the Council stands on the Patriot Act. If the local law enforcement sticks up for
29 citizens' rights, they'll know the Council will back them up. The Sheriff's deputies
30 have many encounters with federal authorities. They need to know that they have
31 the right to ask questions of anyone doing a secret sneak-and-peek search.

32
33 Richard Gilda, Jensen Road, stated there are six million people in the State.
34 County Executive Pete Kremen was awarded the citizen of the year by the
35 Washington State Realtors Association. He has not studied the Patriot Act
36 completely, but he is against it. He thanked Councilmember Brenner for bringing
37 this resolution forward. Table the Patriot Act resolution and work on it more.

38
39 Yvonne Goldsmith, Ferndale, stated she has an alternative to the resolution
40 opposing the Patriot Act. The one good thing the Patriot Act did is to allow agencies
41 to talk to each other. She submitted (*on file*) and read an alternative into the
42 record which was written by Brett Bonner. It puts a more positive spin on the
43 County.

44
45 Indira Raichoudhury, Sudden Valley, stated she took an oath to protect the
46 country from all enemies, foreign and domestic, when she joined the military. She
47 specifically took an oath to protect the Constitution, not any government or political

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1 party. Many people seem to feel it's not within the parameters of the County
2 Council to protect the Constitution. Not one single page of the Patriot Act has
3 anything to do with breaking down the walls of communication between any
4 government agencies. That claim is political spin.

5
6 The Patriot Act costs mutual funds \$700 million in technology costs through
7 2005.

8
9 *(Clerk's Note: End of tape one, side A.)*

10
11 Raichoudhury continued to state that one industry is spending \$288 million
12 in annual expenses to deal with the Patriot Act. The pensions of every county
13 employee vested in a mutual fund is being usurped to comply with this Act.
14 Businesses throughout the country are incurring huge costs to deal with the
15 provisions of the Patriot Act. Banks have to report transactions over \$2,000 or any
16 transaction that seems suspicious. Libraries are dealing with the Patriot Act. If
17 people have to worry about the books they read and how they look to an FBI agent,
18 then they aren't really free.

19
20 The Patriot Act costs one particular businessman over \$100,000 per year.
21 There were business people here who had to go through special reporting because
22 of the Patriot Act and because they happened to come from a Muslim country.
23 Those business people left the county because they couldn't cross the border
24 without a hassle. The county has lost businesses. They have people in this county
25 who are afraid. Students at Western Washington University have had to drop
26 classes because they are in violation of the Patriot Act and in danger of being
27 deported. The Patriot Act affects people in Whatcom County. It's a local issue
28 costing local dollars. Approve the resolution opposing the Patriot Act.

29
30 Bob Wiesen, 3314 Douglas Road, stated he is more concerned about what
31 the local government is doing to him regarding his property rights. He has some
32 concerns about issues in the Patriot Act, but the courts will deal with those issues.
33 They need to sort out the local issues.

34
35 Sheila Pfeiffer, Fairhaven, stated the Patriot Act is unpatriotic. Many people
36 have said that not supporting the Act is unsupportive of the President. However,
37 anyone can be President, but not anyone can write a constitution. The Constitution
38 is more important than whoever happens to be president. They must not lose their
39 freedoms and right. The federal government will withhold funding from schools if
40 schools don't divulge information about the seniors and juniors. She thanked
41 Councilmember Brenner for the resolution and the Council for letting this come
42 forward. This is a local issue. She supports the resolution opposing the Patriot Act.

43
44 Joan Airoidi, Whatcom County Library System Director, stated the Whatcom
45 County Board of Library Trustees passed a resolution, which she read into the
46 record, that summarizes the impact of the Patriot Act on libraries.

47

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1 Frank Monks, Lake Samish, stated he is in favor of the Patriot Act. The
2 Council needs to be very careful in a resolution concerning it. A recent interview of
3 the person who originally set up the terrorism department in the Department of
4 Justice revealed the different aspects of the Patriot Act. Much of what has been
5 said here is myth. There is a need for the Act. The Act is not there to do away
6 with anyone's liberty. He served during World War II defending the Constitution.
7 He's willing to let Congress deal with this. The Patriot Act is up for renewal in the
8 fall. The intelligence community can evaluate these things much better than he
9 can. There is nothing in the Patriot Act that bothers him. He is in favor of the
10 freedom they have like anyone else. Be careful when considering the resolution.
11

12 Steve Barnett, Ferndale, stated this administration claimed the right to jail
13 citizens without habeas corpus or legal representation. That is un-American.
14 Everyone should oppose implementation of the Patriot Act. This administration was
15 not elected by a majority of the voters.
16

17 Jean Yeasting, stated she is in favor of the resolution opposing the Patriot
18 Act. The Act erodes their constitutional rights and civil liberties. She's concerned
19 about unwarranted searches without probable cause, known as sneak-and-peek
20 searches. She's concerned about surveillance of medical, financial, computer, and
21 student records. As a teacher, she is concerned about monitoring of library
22 activities. It's fundamental for a healthy democracy for citizens to be well-
23 informed, which means being widely read and paying attention to what is going on
24 in the world. People need to use the library freely and without fear. Support the
25 resolution.
26

27 Katherine Walton, Western Washington University (WWU) student, stated
28 she is in favor of the resolution opposing the Patriot Act. The students are aware of
29 and care about what's going on. If she and her peers don't have their freedoms,
30 they can't help this country in the future. Support the resolution.
31

32 Alfred Dale stated he served in the military. He's blessed to be alive. These
33 issues are theological issues. In the 1920's, Germany was the most advanced
34 country in the world. They need all the opportunities available to have this
35 conversation. The voluntary associations they have are the backbone of the
36 political and social structure. People can do things together without intrusion of the
37 state. People need to help each other provide affirmation of their basic values.
38

39 Pablo Schroeder, 2608 Huron Street, Bellingham, stated he is a business
40 owner in Bellingham. He read a poem into the record. People have to speak up for
41 each other. He is in favor of the resolution opposing the Patriot Act. Approve the
42 resolution.
43

44 Bob Olson, retired air force physician, stated he represents Veterans for
45 Peace, which includes veterans from many wars. He asked that the Council honor
46 those who have been injured and died in previous wars and the present war and
47 pass the resolution opposing the Patriot Act.

1
2 Roy Giordano, Parkway Chateau of Senior Citizens, stated his fellow Parkway
3 Chateau residents asked him to speak for them. They are in favor of the resolution
4 opposing the Patriot Act. They remember a time before World War II and 120,000
5 loyal Japanese Americans who were incarcerated in concentration camps during a
6 time of fear and hysteria. The same thing happened to Italian Americans and
7 German Americans during that time. They are now faced with a similar set of
8 circumstances where fear and hysteria have taken over after the events of
9 September 11, 2001. The County Council has an opportunity at the grassroots
10 level to turn this around. As fearful as they have become, they will not give up
11 their constitutional rights, the Bill of Rights, and their rights of privacy. After World
12 War II, he became an attorney and then a superior court judge. He is seriously
13 concerned about what has happened to the Constitution and their Bill of Rights.
14 Pick this issue up and provide leadership and the citizens' representatives.

15
16 Scott Pattern, 2409 Fir Street, stated he is a 15-year old student at Sehome
17 High School. He loves this community, but does not feel safe. They should not be
18 afraid. He should feel that his constitutional rights should be protected. He's more
19 afraid of his government than of the terrorists. The times remind him of what he's
20 learned about the McCarthy era. The same thing has happened. He supports the
21 resolution opposing the Patriot Act.

22
23 John Naber, 2320 I Street, he recently purchased Exceptions to the Ruler by
24 Amy Goodman. He's worried that he has to feel afraid to purchase books
25 considered subversive. The government has the power, under the Patriot Act, to do
26 surveillance of private bookstores, public libraries, and high school students.
27 George Bush has sent a bill to Congress to make the Patriot Act permanent. It was
28 supposed to expire in 2005. Over 800 cities and counties have passed anti-Patriot
29 Act resolutions. He supports the resolution opposing the Patriot Act. Approve the
30 Patriot Act.

31
32 Fred James, Sudden Valley, stated he used to live in Alaska, in which people
33 are very used to their freedoms. They should not be afraid of the government. The
34 motives of those enacting the Patriot Act are not in question. They want to protect
35 the citizens. However, their means are contrary to the first, third, fourth, and fifth
36 amendments to the Constitution.

37
38 The County Council is being asked to sign a resolution that would oppose
39 only certain aspects of the Patriot Act, not the entire Act. All over the country, the
40 Council's peers have signed similar petitions. He asking the Council to approve the
41 resolution.

42
43 People from the ACLU to the far right wing of the political spectrum are
44 asking the Council to approve the resolution. The people as a whole are asking the
45 legislators to approve the resolution. The citizens are asking the Council to defend
46 their liberties. He supports the resolution opposing the Patriot Act.

47

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1 Brian Wokich, High Street, WWU student and Western Freedom Alliance,
2 stated the sunset provisions in the Patriot Act only affect 14 provisions in the Act.
3 Even if the courts do act at some point in the future, many people will have had
4 their civil liberties taken away from them in the meantime. It's important to act
5 quickly. The Western Washington University faculty senate has approved a
6 resolution defending civil liberties.

7
8 The Patriot Act affects him through fear. He studies political science and
9 foreign policy at WWU. Terrorism isn't something that will go away soon. The
10 people in the department are afraid to look up certain pieces of information in the
11 library or on the internet. This is not an effective tool for teaching the students.
12 People were afraid after the events of September 11, but America is not afraid
13 anymore. People across the country have spoken out against the Patriot Act.
14 These communities are not speaking out of fear, but out of hope and bravery. He
15 supports the resolution opposing the Patriot Act.

16
17 Loren Taylor, 1604 I Street, stated prior to the previous election cycle, he
18 supported George Bush. Now he doesn't. Section 315 erodes the notion of
19 probable cause, which is established by much case law and precedent. It also
20 removes the concept of judicial oversight, which is scary. It must be frustrating to
21 those in the CIA and FBI to come against the wall of civil liberties, but the concept
22 of eroding and removing basic rights is not the right solution. With this provision,
23 there is an automatic gag order if the government requisitions someone's records.
24 The public doesn't even know if there have been any abuses of the Act. It would be
25 impossible to know. He supports the resolution opposing the Patriot Act.

26
27 Vincent Lalonde, Bellingham, stated he supports the resolution opposing the
28 Patriot Act. When terrible things happen in the country, they like to assume that
29 the leaders will look out for the Constitution while going to battle. However, the
30 current federal administration argues that people in the world don't have any rights
31 at all. Unlawful combatants have been brought to the military base in Cuba.
32 Because they are on an American base, but not in America, those people somehow
33 don't have any rights under the Geneva Convention, which the Country helped
34 enforce after World War II. People say that American unlawful combatants also
35 don't have rights. If the law is equal to everyone and everyone begins with the
36 same rights, they can't turn civil rights on and off like a light switch whenever it's
37 convenient. The current federal administration has forfeited the citizens' belief that
38 the administration has put constitutional rights first. Instead, citizens have to be
39 cautious of what the administration hands the citizens.

40
41 Ellen Kratt, 2670 Donovan Avenue, stated she enlisted in the Women's Navy
42 Reserve in World War II. The most important thing they have in this county is their
43 civil rights. There are times when people and the government don't trust each
44 other. However, people can always trust their civil rights.

45
46 Laura Hale stated she supports the resolution opposing the Patriot Act. She
47 feels compassion for the prisoners in Guantanamo, without any access to courts or

1 legal representation. She works with people who need access to health care. It's a
2 big loss if people give up seeking medical care because of fear.

3
4 Steve Hood, Bellingham, stated he is an attorney and has studied
5 constitutional law. The Patriot Act violates the first, fourth, fifth, sixth, eighth, and
6 fourteen amendments of the Constitution. The Act, which erodes civil liberties and
7 rights, expands the capacity of the government to do whatever it wants as long as
8 it can link it's actions, no matter how tenuously, to the fight against terrorism. It
9 allows searches and seizures of people and evidence, wiretaps, and email taps
10 without probable cause. Contrary to public perception, most of the Patriot Act does
11 not expire in December of 2005. This is a local issue because Whatcom County
12 does not exist in a vacuum. The United States government is founded on a balance
13 of power among the three branches of the federal government and among the state
14 and local governments. The genius of the founding fathers is that local
15 governments can step forward to control the federal government when it becomes
16 too powerful. As of today, there are 290 cities, towns, and counties and four states
17 that have said in one voice that they will not be intimidated by illegal searches and
18 imprisonments. Many people in favor of the Patriot Act say it's necessary to fight
19 terrorists with weapons of mass destruction. However, the 9/11 Commission has
20 already found that 9/11 could have been prevented with the laws they had on the
21 books. Instead of scaring all Americans, invest money to protect the ports,
22 borders, bridges, tunnels, rails, water supply, food supply, computer system, power
23 grids, and power plants instead of spending it all on military adventure-ism abroad.
24 He's sick and tired of unfair, dishonest attacks that label people against the Patriot
25 Act as unpatriotic. He is deeply patriotic, which is the reason he supports the
26 resolution opposing the Patriot Act. Keep the government that is one truly for the
27 people, of the people, and by the people.

28
29 Patrick Geracie stated he is a psychotherapist. The culture of fear, anxiety,
30 and paranoia has been very good for his business. However, he is in favor of the
31 resolution opposing the Patriot Act.

32
33 Tom Hussey, Bellingham, stated there is a disturbing lack of responsiveness
34 from the leaderships of the democracies throughout the world to the wishes of their
35 people. The United States has an appointed president take the United States to
36 war over the wishes of most of the citizens. The president decided he wanted to go
37 to war. Congress quietly acquiesced and gave him that power.

38
39 *(Clerk's Note: End of tape one, side B.)*

40
41 Hussey continued to state that in Great Britain, Spain, and Italy, the vast
42 majority of people were opposed to going to war against Iraq, but their leadership
43 took them to war anyway. Japan has sent troops to Iraq. Article 9 of the Japanese
44 constitution, imposed upon the Japanese government after World War II, renounces
45 war as an instrument of policy. However, Japan sent troops to Iraq over the wishes
46 of the Japanese people. Spain finally got it right. Hopefully they'll see the end of
47 an evil and unjustified war in Iraq. They cannot depend on the federal government

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1 to protect their constitutional rights. Protection of those rights have to begin at a
2 local level with governmental bodies like the County Council. Vote for the
3 resolution.

4
5 Marja Cartwright, Bellingham, stated she is an immigrant to the United
6 States, which has the power to investigate people. When she got her visa,
7 everyone in her family was scrutinized. They don't need more laws. She has
8 always been a pacifist. Society is too civilized to fight wars. She fears for what
9 happens to her in this country right now. At all times, she carries with her the
10 phone number to an attorney and the Finnish Consulate. Her family in Finland asks
11 her how she can stay in the United States. They fear for her here. What's
12 happening in this country is frightening.

13
14 Chet Dow, 1583 Brookedge Court, stated he respects the councilmembers'
15 work. Someone said there's no cost for this, but there is a cost to staff who
16 perform their duties. One and a half hours tonight has been taken up by an issue
17 that could have been addressed by other elected officials in the country. Someone
18 spoke about the separation of powers and levels of government. The governmental
19 system provides a forum to consider issues that are brought up. He has mixed
20 feelings about all of this. He's impressed with the public spirit of many of the
21 citizens of the county. There is a huge gathering of people here dedicated to this
22 issue. Allow the federal government to consider what is before them tonight.

23
24 Sharon Monteiro stated she supports the resolution opposing the Patriot Act
25 as many in Whatcom County do. It's important for the County to join the City of
26 Bellingham, which already opposes the Patriot Act. The City of New York also
27 opposes the Patriot Act. It's a growing national movement. They want to keep
28 their civil rights and the Bill of Rights.

29
30 Martin VanBuren stated this is not a County Council issue. The County is not
31 going to change this bill. They have to let the federal government change it. This
32 doesn't have anything to do with county business.

33
34 Larry Klepinger stated he is a veteran. His father-in-law was a Japanese
35 pilot in World War II. They did some bad things, and the United States did some
36 bad things. He's thankful they can be here today. If they approve this resolution,
37 ask whether it will help. If they believe that it won't hurt the men and women in
38 Iraq, then vote for the amendment. If it will hurt them in any way, then reconsider
39 the vote.

40
41 Lynn Barton, Bakerview Road, stated she addressed the Council two weeks
42 ago about a problem with a federal agent. It was a federal agent at her door. The
43 police department looked into the issue and was told it was a federal agent.
44 However, the police department did not obtain any identification of the person. She
45 has to go through the federal process of finding out who the agent was who came
46 to her door. Since the agent was from the Department of Treasury, she questions

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1 whether she should investigate and complain about the agent, due to possible
2 repercussions. She submitted a letter for the record (*on file*).
3
4

5 **OTHER ITEMS**
6

7 **12. RESOLUTION OPPOSING THE USA PATRIOT ACT (AB2004-186)**
8

9 Nelson stated he is serving active duty in the Army. He was informed by
10 legal counsel that it may not be appropriate to vote on this issue. He supports
11 Councilmember Brenner's efforts in bringing this forward, but must recognize
12 military separation from policy-making. He will excuse himself from the discussion
13 and the vote, due to an appearance of fairness issue.
14

15 (*Clerk's Note: Councilmember Nelson left the room.*)
16

17 **Brenner** stated someone called her who disagreed with the resolution. The
18 person kept asking her if she knew of anyone who is in jail because of this Act. It
19 made her sad to hear someone tell her that she shouldn't complain about a law that
20 could put someone in jail without being charged, without actually knowing anyone
21 who has been put in jail due to the Act. It was even sadder to hear that its only a
22 few people. She didn't support the City's resolution and wasn't that interested in
23 the issue. However, she was taken by the resolution approved by the City of
24 Tonasket. Her father, brother, and son are or have been military. She doesn't
25 approve of being called a bad American because she doesn't support the Act. She
26 read the substitute version of the resolution. Someone asked if this is really
27 important to the people locally. It's costing local citizens money right now. She's
28 pleased that so many people of so many persuasions came to speak to the Council.
29 This resolution presented to the Council by someone from the radio station pretty
30 much plagiarized her resolution. She doesn't see why they would have any
31 problem with the resolution she wrote. She **moved** to approve the resolution.
32

33 Crawford stated he is against the resolution. He believes passionately in the
34 Bill of Rights. He understands the need to balance national security issues to
35 protect the citizenry, from whom the consent for government comes. He strongly
36 supports the current President's administration and war on terror. The system of
37 checks and balances with the vote of Congress and judicial review of the courts has
38 been effective for 228 years. It preserves, protects, and promotes freedom and
39 individual rights. As a citizen of the United States, he does not share the fear of
40 government that many people have expressed. His trust is based in his confidence
41 in the constitutional structure of the government and based on his personal
42 experience and interaction with his elected officials. He's had opportunity to voice
43 his concerns and opinions, and received a response with openness to debate and
44 dialog. His views may differ from many in the audience, and he respects their
45 concerns. He urged people to bring their concerns to the federal elected officials,
46 Rick Larson, Patti Murray, Maria Cantwell, and President George Bush. In the

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1 meantime, he will not vote in favor of the County Council making any official
2 statement or resolution on this matter.

3
4 McShane thanked the councilmembers and citizens who worked on this
5 resolution. Although he hesitates sometimes, there are times when it's the County
6 Council's job to weigh the concerns of the community and speak for the
7 community. When the County Council speaks up for the community, it does play
8 well with the federal legislators. It gives more oomph to the lobbying effort. He is
9 in favor of the resolution.

10
11 He didn't hear anyone suggest recently that they were fond of the Patriot
12 Act. There was a suggestion to let the courts figure it out. Those who suffer from
13 having their constitutional rights violated receive little solace in having to go
14 through a long, lengthy process to recover their rights. It only applies to those who
15 are fortunate enough to have the resources and support structure to fight their
16 home government all the way to the Supreme Court. There have been cases where
17 it's been years and the people are long gone before their rights are granted to
18 them. The case of Japanese internment is one instance. He doesn't want to be a
19 part of anything like that again. He doesn't buy the issue of just handing it over to
20 the courts to decide. They should speak out. As a legislator, he knows legislators
21 try to weigh carefully the Constitution.

22
23 Roy stated she is against the resolution. Before elected to the County
24 Council, she used to sit as an observer of the Council for the League of Women
25 Voters. One time, the County Council wrote a letter to the federal government
26 saying that dams were good for fish. At the time, she wondered how the seven
27 people on that Council dared to represent that position in behalf of her, a county
28 citizen. When running for office, people ask if they are a Democrat or Republican.
29 She told them that they don't deal with national issues. They deal with local issues,
30 so party affiliation doesn't matter. If she was offended by a County Council
31 representing the county on an issue she disagrees with, she ought to carry that
32 principle through when she agrees. She was elected to do county business.
33 Everything the federal government does affects Whatcom County. She can write
34 many resolutions about different federal issues. She supports every word in the
35 resolution. However, this is not the Council's role. The elected officials in
36 Washington D.C. would be more impressed by a phone call and letter from each
37 citizen than from the County Council.

38
39 Caskey-Schreiber stated Councilmember Roy made some good points. She
40 was afraid this would be viewed as a partisan issue. It's a federal issue. Due to
41 Councilmember Nelson's support, the resolution has come forward. Once here, she
42 is faced with the dilemma of making a decision. She investigated whether or not it
43 is a local issue. She spoke to experts in the field, including someone who has spent
44 his entire academic career studying the Constitution.

45
46 She learned that the Patriot Act threatens the very principles of the fourth
47 amendment, which advocates for the protection of citizens' privacy and freedom

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1 from unreasonable searches. Everyone needs to be able to speak publicly without
2 fear of retribution from the government. That's essential to the foundation of the
3 country. They all deserve freedom of speech without fear of consequences from
4 the government. That's how the Act affects people locally. She agrees with
5 Councilmembers Crawford and Roy that if the citizens want to really make a
6 difference, go to Washington D.C., write letters, or make phone calls to let their
7 voices be heard. She supports the resolution opposing the Patriot Act. They have
8 to start somewhere. Constituents she represents are asking her to represent them.
9 She thanked councilmembers Brenner, Fleetwood, and Nelson in crafting the
10 resolution, which is a non-partisan effort. All three come from different
11 perspectives.
12

13 Fleetwood stated there was a question of whether or not this is County
14 business. Everyone could come forward and express a passionate opinion for one
15 side or the other. There's no County Charter or code provision that provides
16 direction to the Council on what it's supposed to do. The Council trying to persuade
17 federal congressional members to try and make changes to the Act has some small,
18 incremental, beneficial effect. The effects are small, but worthwhile, which gives
19 them a local purpose. The resolution strikes the right balance. They're not saying
20 that every provision in the Act is inappropriate. The resolution acknowledges that
21 some provisions are appropriate, but there are some provisions that are not
22 appropriate. There are provisions in the law that have a chilling effect on the right
23 to assemble and speak. There are provisions that violate fundamental notions of
24 privacy. There are provisions in the Patriot Act that reduce standards for search
25 and seizure to something less than probable cause. Those are incredibly important,
26 core elements of what this country is all about. He supports the resolution
27 opposing the Patriot Act. He was once reluctant about this coming forward.
28 However, he likes seeing the people here express themselves. This is the closest
29 he's seen to local democracy at work.
30

31 ***Motion to approve the resolution carried 4-2-1 with Crawford and***
32 ***Roy opposed, and Nelson abstaining.***

33
34 *(Clerk's Note: The Council took an eight-minute break at 9:10 p.m.)*
35

36
37 **PUBLIC HEARING**

38
39 **1. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**
40 **REQUEST 02-04 (AB2004-151A)**

41
42 McShane opened the public hearing and, hearing no one, closed the public
43 hearing.
44

45 ***Nelson moved*** approval.
46

47 ***Motion carried unanimously.***

1
2 **2. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**
3 **REQUEST 03-04 (AB2004-152A)**
4

5 McShane opened the public hearing and, hearing no one, closed the public
6 hearing.

7
8 ***Caskey-Schreiber moved*** approval.

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

11
12 **3. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**
13 **REQUEST 04-04 (AB2004-153A)**
14

15 McShane opened the public hearing and, hearing no one, closed the public
16 hearing.

17
18 ***Fleetwood moved*** approval.

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

21
22 **4. RESOLUTION TO SELL TAX TITLE PROPERTY BY PUBLIC AUCTION,**
23 **REQUEST 05-04 (AB2004-154A)**
24

25 McShane opened the public hearing and, hearing no one, closed the public
26 hearing.

27
28 ***Crawford moved*** approval.

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

31
32 **5. 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 McShane opened the public hearing and the following people spoke:

38
39 Greg Barlean, Hopewell Road, stated he is available to answer questions.
40 The Planning Commission workshop was requested by Jon Sitkin and hosted by the
41 Planning Department and a committee handpicked by Kraig Olason. Not much was
42 accomplished. The workshop was shelved until a resolution of the solid waste
43 handling regulations were brought forward.
44

45 Elizabeth Deny, Everson, asked the Council to roll over the ordinance. To
46 make a prudent decision, the County must take more time to explore its options
47 and gather information. It's a complex issue that is important to families and

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1 businesses in the Glen Echo, Hopewell, and other communities where future
2 facilities will be sited.

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

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

7
8 Crawford asked for a future executive session discussion to review the issue.

9
10 McShane stated a citizen from Pennsylvania is interested in what the County
11 is doing about mushroom composting. It is a great concern of people in that part
12 of the country.

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

15
16
17 **CONSENT AGENDA**

18
19 ***Crawford*** reported for the Finance and Administrative Services Committee
20 and ***moved*** to approve Consent Agenda items one through eleven and thirteen
21 through sixteen. The administration withdrew item 12 from the agenda.

22
23 Nelson withdrew item four.

24
25 McShane withdrew item three.

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

28
29 ***Motion to approve Consent Agenda items one, two, five through***
30 ***eleven, and thirteen through sixteen carried unanimously.***

- 31
32 **1. RESOLUTION AMENDING WHATCOM COUNTY'S HARTFORD 457**
33 **DEFERRED COMPENSATION PLAN (AB2004-169)**
34
35 **2. RESOLUTION AMENDING WHATCOM COUNTY'S ICMA-RC 457**
36 **DEFERRED COMPENSATION PLAN NO. 304613 (AB2004-170)**
37
38 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
39 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
40 **PARAMETRIX, INC. TO COMPLETE THE REVIEW OF THE**
41 **COMPREHENSIVE PLAN FOR COMPLIANCE WITH THE REQUIREMENTS**
42 **OF THE GROWTH MANAGEMENT ACT AND TO AMEND THE**
43 **COMPREHENSIVE PLAN AND CRITICAL AREAS ORDINANCE AS**
44 **NEEDED, IN THE AMOUNT OF \$75,000 (AB2004-171)**

45
46 ***McShane moved*** approval.
47

1 ***Motion carried unanimously.***
2

3 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
4 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
5 **PARAMETRIX, INC. TO INVENTORY AND ANALYZE SHORELINE**
6 **ECOLOGICAL CONDITIONS AND LAND USE; DEVELOPMENT OF GOALS,**
7 **POLICIES, ENVIRONMENT DESIGNATION, AND USE REGULATIONS,**
8 **IN THE AMOUNT OF \$330,000 (AB2004-172)**
9

10 Nelson asked about Task 3.3 regarding Shoreline Characterization and
11 analysis. He's concerned that the County leads a consultant where the County
12 wants the consultant to go rather than allowing the consultant to do what he or she
13 is hired to do. He asked if this task leads the consultant.
14

15 Jeff Chalfant, Senior Planner, stated this is methodology the consultant used
16 while conducting past inventories for other jurisdictions. It's the one accepted
17 methodology by the Department of Ecology. It was developed by a consortium of
18 private sector consultants and the Department of Ecology. It analyzes how areas
19 outside the shoreline jurisdiction impact the shoreline features.
20

21 Nelson stated he would support this, but get a product that will fit for
22 Whatcom County. The reach-scale analysis separates shorelines into different
23 reaches. He asked how a neighboring reach can be considered completely
24 different. The different sections impact each other. Chalfant stated the current
25 shoreline map is segmented into different reaches. Those reaches coincide with the
26 separate shoreline designations, based on existing development. They will review
27 what they currently have and refine it based on a better understanding of the
28 ecological functions. Understanding of river dynamics has become better over the
29 years.
30

31 Nelson asked if it is common when doing shoreline analysis to analyze
32 different areas differently. Chalfant stated that's how it's been done traditionally
33 since the 1970's.
34

35 McShane stated the Council, which makes the ultimate decisions, can tweak
36 these definitions of certain reaches. It's not just about ecological or physical
37 aspects of the reaches. They can consider projected future shoreline use.
38

39 Chalfant stated there may have been permitted development that has
40 occurred since the last update of the shoreline program that would result in the way
41 a reach is segmented.
42

43 Nelson asked if it means to have different perspectives from the community
44 or government. Chalfant stated that is from the integration analysis in section four.
45 The idea behind the integration strategy is to address gaps, overlaps, and
46 inconsistencies. They will get applicants and developers to provide their
47 perspectives on how to streamline the permitting process and regulations.

1
2 Nelson stated the assumptions mention that the task does not include a full
3 review of the regulatory policies of neighboring jurisdictions. He asked if this will
4 tie their hands. Chalfant stated that is a negotiation between what the County will
5 do and what the consultant will do. They decided this is a task the County staff can
6 do, and took it out of the consultant's scope of work. The staff identifies roles and
7 responsibilities. The task doesn't need to be there anymore.

8
9 **Nelson moved** to delete lines 502 and 503 on Council packet page 135,
10 "~~This task does not include a full review of regulatory policies in neighboring~~
11 ~~jurisdictions; instead it is focused on Whatcom County policies.~~"

12
13 **Motion carried unanimously.**

14
15 Nelson asked from where the reference in task 7.2 to no net loss of
16 ecological function comes.

17
18 Caskey-Schreiber stated the Department of Ecology philosophy for all
19 shorelines is no net loss.

20
21 Chalfant stated it's a rule they have to achieve. They have to demonstrate
22 no net loss of ecological function. If there is development, there has to be
23 compensatory mitigation elsewhere.

24
25 Nelson stated it's a nice objective. He doesn't like it as an objective.

26
27 Roy stated it doesn't matter. It's the State's.

28
29 McShane asked if there can be a loss within the city of Bellingham, and a
30 gain outside the city. Chalfant stated that can be coordinated.

31
32 Nelson read from Council packet page 140, lines 719 through 722 regarding
33 comments from the Technical/Advisory Committee. He asked for an explanation.
34 Chalfant stated it is an effort to control costs. The County staff would consult
35 directly with the Technical/Advisory Committee to get comments. Staff will take
36 those comments and turn them into consultant direction instead of having
37 potentially conflicting direction from many different sources. Staff will resolve
38 those conflicting comments.

39
40 Nelson stated the consultants will be here while the County looks at the final
41 product. He asked if the Council will see each of the recommendations from the
42 consultant, staff, committee, and Planning Commission. Chalfant stated it will. The
43 consultant will provide a first draft of the shoreline designations. Staff would look
44 at them and coordinate with the Technical/Advisory Committee on concurrence with
45 the methodology used. If there are any corrections, they will be filtered through
46 staff so the consultants have clear direction.

47

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1 Nelson read from Council packet page 143, lines 827 and 828 regarding
2 forest practices for conversions. He asked if the State Department of Natural
3 Resources (DNR) is reviewing those class IV permits.
4

5 McShane stated this is a conversion. Therefore, the County wants to have
6 standards in place for the conversion harvest so they follow County development
7 regulations.
8

9 Nelson asked if they already decided to go with DNR in the Lake Whatcom
10 watershed.
11

12 McShane stated they did on private timberlands, but not the actual
13 conversion. Some properties are automatically treated as conversions based on
14 when they were platted, even though the owner had no desire to convert. Chalfant
15 stated the County administers class IV conversions at this time.
16

17 McShane stated the County was considering a tree retention ordinance in
18 that area. Due to the underlying plats, some people were caught in a catch-22
19 regarding tree retention.
20

21 Nelson stated the owners would still go through DNR, rather than the
22 County, if they are not converting their plats.
23

24 McShane stated the County made an exemption to exempt them from the
25 rules, due to the circumstances of their situation. There will probably be others in
26 that situation and that the County should be aware of.
27

28 Nelson stated the Forestry Forum can check out that situation. Watch it
29 carefully. If there are accepted forest practice standards, and the property remains
30 forested, he would support it. If the property is converted, the owners shouldn't
31 have to go to DNR, but to the County. The owner shouldn't have to go through
32 both DNR and the County.
33

34 Roy stated she asked Dave Grant to look into this issue. When DNR issues a
35 permit, the applicant is allowed to convert and not follow through on the original
36 permit restrictions. They can strengthen the rules to prevent those kinds of things
37 from happening.
38

39 Dave Grant, Senior Civil Deputy Prosecutor, stated there isn't currently a full-
40 time forester on County staff to deal with these issues. There is a void in the
41 County's capability to handle the conversion option harvest plans. It would be
42 wonderful to get expert outside help through this contract.
43

44 Nelson stated he agreed. Work with foresters on it.
45

46 Nelson read from Council packet page 146, lines 964 through 965 regarding
47 parcels exceeding the zoning by more than 200 percent. When they look at zoning

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1 and potential density, they're looking at the potential. One recent subdivision
2 potential was reduced by 50 percent. In reality, no one in the last few years
3 develops at full potential. He asked how they extrapolate the potential build out.
4 He asked if that's what the 200 percent is about. Chalfant stated lots that are more
5 than twice the minimum lot size are subdividable in the future.
6

7 Nelson asked if there is anyway to do analysis based on what is actual and
8 what is real. Chalfant stated they'll take what they know of existing wetlands and
9 use the setbacks currently in the code to determine what's reality.

10
11 **McShane moved** to approve Consent Agenda items three and four.

12
13 **Motion carried unanimously.**

- 14
15 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
16 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
17 **STEWART+KING PARTNERSHIP FOR CENTRAL SHOP ALTERATIONS,**
18 **IN THE AMOUNT OF \$32,150 (AB2004-173)**
19
- 20 **6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
21 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
22 **STEWART+KING PARTNERSHIP FOR NORTHWEST ANNEX**
23 **ALTERATIONS TO CREATE THE "ONE-STOP" PERMIT CENTER IN THE**
24 **AMOUNT OF \$34,700 (AB2004-174)**
25
- 26 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
27 **ANNUAL CONTRACT BETWEEN THE WHATCOM COUNTY SHERIFF'S**
28 **OFFICE AND USDA MT. BAKER-SNOQUALMIE NATIONAL FOREST FOR**
29 **THE PROVISION OF PATROL SERVICES OF A DEPUTY AND A FULLY**
30 **EQUIPPED, MARKED SHERIFF'S VEHICLE TO PATROL ANY AND ALL**
31 **AREAS ON NATIONAL FOREST LAND WITHIN WHATCOM COUNTY, IN**
32 **AN AMOUNT NOT TO EXCEED \$60,000 (AB2004-175)**
33
- 34 **8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
35 **RESIDENTIAL LEASE AGREEMENT BETWEEN WHATCOM COUNTY**
36 **PARKS & RECREATION AND TRACEY R. WILLIAMS AND MICHAEL J.**
37 **BISCONER TO LEASE A STUDIO APARTMENT LOCATED IN THE**
38 **NIELSEN HOUSE AT THE TENNANT LAKE INTERPRETIVE CENTER**
39 **(AB2004-176)**
40
- 41 **9. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
42 **RESIDENTIAL LEASE AGREEMENT BETWEEN WHATCOM COUNTY**
43 **PARKS & RECREATION AND TIMOTHY AND MANDY SWITZER TO**
44 **LEASE THE HOUSE LOCATED AT 311 E. LAKE SAMISH DRIVE,**
45 **BELLINGHAM FOR A TERM OF ONE YEAR COMMENCING ON JANUARY**
46 **30, 2004 AND ENDING ON JANUARY 29, 2005 (AB2004-177)**
47

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1 **10. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
2 **RESIDENTIAL LEASE AGREEMENT BETWEEN WHATCOM COUNTY**
3 **PARKS & RECREATION AND PHIL O'CONNOR AND CATHERINE**
4 **WILSON TO LEASE THE HOUSE LOCATED AT 367 E. LAKE SAMISH**
5 **DRIVE, BELLINGHAM FOR A TERM OF ONE YEAR COMMENCING ON**
6 **MARCH 20, 2004 AND ENDING ON MARCH 19, 2005 (AB2004-178)**
7

8 **11. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
9 **RESIDENTIAL LEASE AGREEMENT BETWEEN WHATCOM COUNTY**
10 **PARKS & RECREATION AND JUSTIN AND CARISSA HAUG TO LEASE**
11 **THE HOUSE LOCATED AT 5305 NIELSEN AVENUE, FERNDALE, FOR A**
12 **TERM OF ONE YEAR COMMENCING ON FEBRUARY 19, 2004 AND**
13 **ENDING ON FEBRUARY 18, 2005 (AB2004-179)**
14

15 **12. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
16 **RENTAL AGREEMENT BETWEEN WHATCOM COUNTY PARKS &**
17 **RECREATION AND CHRIS FULTON FOR REAL PROPERTY SITUATED ON**
18 **THE MAPLE FALLS TO GLACIER TRAIL, GLACIER, WASHINGTON FOR A**
19 **TERM OF FIVE YEARS COMMENCING ON JANUARY 1, 2003 AND**
20 **ENDING ON DECEMBER 31, 2007 (AB2004-180)**
21

22 **13. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #04-**
23 **32 FOR THE SUPPLY OF A REPLACEMENT HIGH ROOF CARGO VAN TO**
24 **THE LOW BIDDER, BELLINGHAM CHRYSLER, IN THE AMOUNT OF**
25 **\$35,588.06 (AB2004-181)**
26

27 **14. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #04-**
28 **35 FOR THE ANNUAL SUPPLY OF ASPHALTIC MIXES FOR COUNTY**
29 **ROAD PROJECTS TO THE APPROPRIATE LOW BIDDER, BASED ON JOB**
30 **LOCATION AND DISTANCE FROM PLANT, AND PRODUCT**
31 **AVAILABILITY, FOR A TOTAL EXPENDITURE OF APPROXIMATELY**
32 **\$400,000 (AB2004-182)**
33

34 **15. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #04-**
35 **37 FOR A REPLACEMENT VIBRATORY ROLLER TO THE LOW BIDDER,**
36 **SAHLBERG EQUIPMENT, IN THE AMOUNT OF \$47,698.20 (AB2004-**
37 **183)**
38

39 **16. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #04-**
40 **38 FOR THE SUPPLY OF AN ASSORTMENT OF CUT STEEL FOR THE**
41 **RIFLE RANGE TO THE LOW BIDDER, SKAGIT RIVER STEEL &**
42 **RECYCLING, IN THE AMOUNT OF \$46,550.81 (AB2004-184)**
43

44 **OTHER ITEMS**
45
46

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1 **1. DISCUSSION (CONTINUED) AND POSSIBLE APPROVAL OF**
2 **RECOMMENDATIONS OF THE FINAL DRAFT OF THE SALMON**
3 **RECOVERY INTERLOCAL AGREEMENT BETWEEN THE LUMMI NATION,**
4 **NOOKSACK TRIBE, WASHINGTON STATE DEPARTMENT OF FISH AND**
5 **WILDLIFE, WHATCOM COUNTY, AND THE CITIES OF BELLINGHAM,**
6 **BLAINE, EVERSON, FERNDALE, LYNDEN, NOOKSACK, AND SUMAS**
7 **(AB2004-115A)**
8

9 **Roy** reported for the Natural Resources Committee and **moved** to approve
10 the agreement with the amendment submitted in committee today.

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

14 **2. DISCUSSION REGARDING WRIA 1 WATERSHED MANAGEMENT**
15 **PROJECT (AB2004-025A)**
16

17 Roy reported for the Natural Resources Committee and stated the committee
18 gave the following direction to Dr. Roll for the Planning Unit meeting on April 28:

- 19 1. Remove from the preliminary draft Watershed Management Plan
20 reference to exploring the feasibility of importation of water from the
21 Skagit River in Appendix J.3, and
- 22 2. Remove from the preliminary draft Watershed Management Plan
23 reference to evaluate the feasibility of trans-basin importation from British
24 Columbia.

25
26 The committee's position was that WRIA is to look at the resource they have
27 within WRIA, how they will allocate that resource, and how they will keep the
28 resource sustainable. Part of the plan should not be to look at getting water from
29 other areas.

30
31 Brenner asked if Point Roberts is in WRIA 1.

32
33 Crawford stated it is not.
34

35 Roy stated Dr. Roll talked to them about water use tracking in appendix I.5.
36 The Council is looking at and approving the draft that will go to the public. The
37 committee felt the tracking appendix can be interpreted as being a little onerous.
38 Dr. Roll says he feels that they should keep this in the draft, and support a more
39 cautious approach to water use tracking through doing a pilot project such as
40 Bertrand where they can look at how everything works together. Decide how to
41 frame the general requirements for water use tracking from a pilot project. Dr.
42 Roll will go to the Planning Unit with that recommendation.
43

44 **3. ORDINANCE AMENDING THE 2004 WHATCOM COUNTY BUDGET,**
45 **FOURTH REQUEST (AB2004-160)**
46

1 **Crawford** reported for the Finance and Administrative Services Committee
2 and **moved** to adopt the ordinance.

3
4 **Motion carried unanimously.**

5
6 **4. ORDINANCE REVISING WHATCOM COUNTY CODE 3.40.030, BONA**
7 **FIDE CHARITABLE OR NONPROFIT ORGANIZATIONS (AB2004-161)**

8
9 **Crawford** reported for the Finance and Administrative Services Committee
10 and **moved** to adopt the ordinance.

11
12 **Motion carried unanimously.**

13
14 **5. DISCUSSION REGARDING PAST AND CURRENT ACTIVITIES AT**
15 **JAMES WAY WEST OF BIRCH BAY DRIVE (AB2004-165)**

16
17 Brenner reported for the Public Works and Safety Committee and stated this
18 was discussed. There is no public access to the beach. There is an option of
19 private residents suing to obtain prescriptive use. It's a private civil matter and
20 doesn't concern the County.

21
22 Crawford asked about the current activity at the site.

23
24 McShane stated the right-of-way is not fenced off. It is accessible to the
25 public.

26
27 **6. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
28 **MAP FROM POINT ROBERTS TRANSITIONAL ZONE (TZ) TO**
29 **RESIDENTIAL RURAL – 1 DWELLING PER ACRE (RR1) FOR**
30 **APPROXIMATELY EIGHT ACRES (AB2004-146)**

31
32 **Fleetwood** reported for the Planning and Development Committee and
33 **moved** to adopt the ordinance.

34
35 **Motion carried unanimously.**

36
37 **7. PLANNED UNIT DEVELOPMENT, PUD2003-0001, AND PRELIMINARY**
38 **LONG SUBDIVISION, LSS2003-0004, "BAY CREST NORTH**
39 **SUBDIVISION," JIJ CORPORATION (AB2004-168)**

40
41 **Fleetwood** reported for the Planning and Development Committee and
42 **moved** to accept the Hearing Examiner's recommendation.

43
44 **Motion carried unanimously.**

45
46 **8. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY**
47 **LAND DIVISION REGULATIONS (TITLE 21) (AB2004-163)**

1
2 Fleetwood reported for the Planning and Development Committee and
3 **moved** to adopt with the amendments made in committee:
4

5 **Fleetwood moved** to reinstate the old language from section 21.04.060(2),
6 "Frontage improvements to the public roadway(s) adjacent to the subject property
7 shall be completed to the current functional classification prior to recording the
8 short plat unless security is provided under WCC 21.04.140." and number the new
9 subsection (2) as subsection (3). This language is intended to be reinstated until a
10 traffic impact fee (TIF) ordinance is adopted.
11

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

14 **McShane moved** to delete findings 24 through 27 of the ordinance.
15

16 **Motion carried unanimously.**
17

18 **McShane moved** to reinstate the language in section 21.04.080(2), "(a)
19 The beneficiary of the easement;" This is a recommendation from legal council.
20

21 **Motion carried unanimously.**
22

23 **McShane moved** to eliminate that language from section 21.04.080(3),
24 "...burdening of the easement and beneficiaries. Examples of..."
25

26 **Motion carried unanimously.**
27

28 Crawford stated he is opposed to the changes to the ordinance. He has tried
29 to believe this is the only solution to the perceived problem of the abuse of gift
30 exemptions, in the sense they are not always used as they are intended. However,
31 eliminating gift exemptions is a philosophical problem. It's still possible to get the
32 law to reflect more accurately their intent for gift exemptions. A gift exemption will
33 only occur at a density already zoned for that density. It doesn't increase density
34 beyond what the zoning allows. Not allowing parents or grandparents a portion of
35 their property to family within the accepted density is overreaching. Allow that
36 transfer to occur. It doesn't infer the recipient can build or do anything with the
37 property until appropriate regulatory review is done. It allows separate ownership
38 by family members. He would like to pursue an exemption process for that
39 purpose.
40

41 Brenner stated she agreed with Councilmember Crawford. Council requested
42 that staff find a way to make it work. Staff said the only problem with gift
43 exemptions were that the recipients are turning around and selling the parcels, and
44 that could be corrected by reinstating the five-year clause. She tried to do that in
45 committee. She likes the rest of the ordinance, and is sorry she can't support it.
46

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1 Caskey-Schreiber stated she likes getting rid of gift exemptions. Gift
2 exemptions lead to problem properties, which staff described. The recipient doesn't
3 have to prove if the property can get water. The Planning Department ends up
4 explaining to the recipients that the property could be very difficult and expensive
5 to develop. It's not doing what it was designed to do. There isn't a way to fix it
6 without undermining the entire subdivision process, especially when lots can be
7 gifted without even being surveyed. People can still will their property to their
8 children. The County is soon going to make the short-plat process easier.
9

10 Nelson asked if the Council can recognize families who want to save their
11 land for their children and have gift exemptions without going through the
12 subdivision process. He asked if staff can come up with a way to address a gift
13 exemption in these instances.
14

15 McShane stated the County can do the short-plat for them and not charge
16 them.
17

18 Hal Hart, Planning and Development Services Director, stated other
19 communities in Washington State have done this, but are running into the same
20 kinds of problems. With today's laws and regulations, they're just passing the buck
21 to the recipient to hire consultants for the process. The costs all come back to
22 roost in an extended process in the Planning Department with consultants and
23 frustrated realtors. They're trying to make it easier for them, when they haven't in
24 reality. Reinstating the five-year clause does not alleviate the environmental issues
25 that must be worked through. There is no easy answer.
26

27 Mike Donahue, Engineering Manager-Traffic/Development, stated they hope
28 the panacea for roads is the TIF.
29

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

32 Brenner stated they could require a survey on gift exemptions. There are
33 ways to make it work so someone doesn't have to pay up front to give property to
34 their children.
35

36 ***Motion to adopt the ordinance carried 4-3 with Nelson, Crawford, and***
37 ***Brenner opposed.***
38
39

40 **9. ORDINANCE ADOPTING THE BIRCH BAY COMMUNITY PLAN (AB2004-**
41 **121)**
42

43 This item was withdrawn from the agenda.
44

45 **10. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
46 **PLAN TEXT AND MAP REGARDING THE BIRCH BAY URBAN GROWTH**
47 **AREA (AB2004-122)**

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1
2 This item was withdrawn from the agenda.
3

4 **11. APPOINTMENT OF TERI COOK TO THE PUBLIC HEALTH ADVISORY**
5 **BOARD(AB2004-185)**

6
7 *Nelson moved* to appoint Teri Cook.

8
9 *Motion carried unanimously.*

10
11
12 **INTRODUCTION ITEMS**

13
14 *Brenner moved* to accept the Introduction Items.

15
16 *Motion carried unanimously.*

17
18 **1. ORDINANCE CONTINUING A MORATORIUM ON APPLICATIONS FOR**
19 **CONDITIONAL AND/OR LAND USE PERMITS FOR ELECTRICAL POWER**
20 **TRANSMISSION LINES OF 115,000 VOLTS OR LESS, DESIGNED TO**
21 **CARRY 100 MEGAWATTS OR GREATER LOADS, EXCEPT IN THOSE**
22 **DISTRICTS CLASSIFIED AS INDUSTRIAL (AB2004-167)**

23
24
25 **OTHER BUSINESS**

26
27 There was no other business.

28
29
30 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

31
32 Caskey-Schreiber stated the Georgia Strait Crossing (GSX) withdrew its
33 permit application for their compressor.

34
35 McShane stated there has been a loss of funding from the State regarding
36 mental health issues. They need to find out more about it. He received a message
37 from Rodney Lund regarding this issue.

38
39 Nelson asked Councilmember Roy to follow up on this issue. There may be
40 an ability through the North Sound Regional Support Network (NSRSN) to keep
41 funding open.

42
43 Roy stated she attended a two-day retreat with the regional mental health
44 board. Hearing about the cuts was disheartening. Anyone who is not Medicaid
45 eligible is not going to get mental health services. Whatcom County serves a lot of
46 people who are not Medicaid eligible. Whatcom Medic One firefighters have said
47 they will provide services whether or not someone is Medicaid eligible. They can't

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1 turn away someone in need and in crisis. The people at this conference were very
2 distressed.

3
4 McShane stated the first budget retreat for a two-year budget is scheduled
5 on June 8, 2004 at 9 a.m.

6
7

8 **ADJOURN**

9

10 The meeting adjourned at 10:18 p.m.

11

12

13

14 _____
Jill Nixon, Minutes Transcription

15

16 The Council approved these minutes on May 4, 2004.

17

18 ATTEST: WHATCOM COUNTY COUNCIL
19 WHATCOM COUNTY, WASHINGTON

20

21

22

23

24 _____
Dana Brown-Davis, Council Clerk

_____ Dan McShane, Council Chair

25