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1 **MINUTES CONSENT**

2
3 *Fleetwood moved* to approve the Minutes Consent items.

4
5 *Motion carried unanimously.*

6
7 **1. REGULAR COUNTY COUNCIL FOR JUNE 29, 2004**

8
9 **2. REGULAR COUNTY COUNCIL FOR JULY 13, 2004**

10
11
12 **OPEN SESSION**

13
14 The following people spoke:

15
16 Jeff Margolis, 5465 Potter Road, Van Zandt, stated he speaks on behalf of
17 the Mt. Baker Foothills Economic Development Association (EDA). He emailed this
18 report to the County Council members (*on file*). This is the a fact-finding report.
19 The EDA conducted a symposium about Washington State's feasibility study about a
20 western Washington commerce corridor. The discussion at the symposium was
21 about quality of life, public resources, private profit, growth inducing impacts of the
22 corridor, the environmental costs of the corridor, the issue of collaborative
23 planning, and the issue of natural based economies. The report also has supportive
24 addenda. He urged the Council to establish a public/private ad hoc committee to
25 study this issue. This proposed commerce corridor is going to be the most
26 significant event in the history of this county and the biggest public works project in
27 the northwest.

28
29 Roy asked if the Mt. Baker School District was not included. Margolis stated
30 the addenda includes a letter from the school district attesting to its concern about
31 long-range planning. They want to be involved with the consultant and every
32 aspect of communication. The school district board said they would contact every
33 school district in the corridor.

34
35 Carl Westman, 5222 Birch Point Road, stated he is interested in traffic issues
36 in Birch Bay. Traffic has increased greatly in the past 50 years. Have a connector
37 road east of the Seldar Road to Lincoln Road, which would be the primary access to
38 Birch Point and Semiahmoo. It should extend to Loomis Trail at Highway 99. Birch
39 Bay Drive is too congested, and the speed limit should be 25 miles per hour. He
40 suggested traffic be diverted off of Birch Bay Drive.

41
42 Stony Lacsdahl, 2597 Donovan, stated there is only one American party. He
43 is not chairman Mao. He will run for governor against Governor Locke. Governor
44 Locke promised him a ticket to work in 2001. Processing is not his favorite activity.
45 He is a little left of center but is not a right-wing radical. If one doesn't stand up,
46 one has to sit down. He needs a job. He requested that they create a performance

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1 library in the area behind the library. They can't make kids sit and read books
2 when they're performers.
3

4 Gary Lysne, 2472 Northshore Road, stated his comments are addressed to
5 District One representatives McShane and Nelson. He has been working on
6 Northshore during the past week. Surveyors working on Northshore say the work
7 is to widen the road. Last week, the Council passed an ordinance to protect water
8 quality. There's been talk by committees in the county and city of putting a fence
9 around the lake and moving the road back. Now, they are surveying to widen the
10 road. County Road Engineer told him Northshore is probably the worst road in the
11 county and probably the most difficult to deal with. He asked Councilmembers
12 McShane and Nelson to talk with Mr. Rutan to find out the timeline and if they are
13 really going to widen the road and put more blacktop down. In some areas, the
14 road is only 25 yards from the lake. The average distance is probably 50 yards
15 from the lake. There is no water treatment or stormwater runoff control. He would
16 like to hear back from the councilmembers after they talk to Mr. Rutan.
17

18 The Drayton Harbor Advisory Committee did a good job. The Council picked
19 one object from the citizens advisory committee for motor boating on Lake
20 Whatcom. Reopen that and institute every issue and address every issue in that
21 citizens advisory committee.
22

23 Chris Ungern, 2095 Northshore Road, stated he would comment on the clean
24 green yard waste area that is a city project that the County helps fund. He's been
25 using the opportunity to get away from doing open burning to dispose of brush
26 trimmings. He was disappointed when the hours were cut back this summer. He
27 understands the hours will be reinstated. Open burning has an impact on the
28 watershed. This project is very positive and may, unknowingly, do something good
29 for lake quality by giving people an alternative. He agreed with Mr. Lysne about
30 continuing to work in other areas of Lake Whatcom water quality.
31

32 Dennis Jones, 1487 Sudden Valley, thanked the members of the Birch Bay
33 Community to come up with a model used to create the Sudden Valley Community
34 Plan. Without management, materials, models, and money to get anything done.
35 The Watershed Management Plan gives them a place to go. Consider ecology and
36 humanity as a whole. Many people have lived at Lake Whatcom for many years.
37 Basin three is pretty clean. All the diversion water doesn't go to the bottom of the
38 lake. It's a surface flow. The watershed is two-third full. There isn't room for two-
39 thirds more growth. They don't have to fill it all.
40

41 Regarding planning, Birch Bay and Sudden Valley came up with plans. After
42 the board accepted the plan, a realtor asked for more gate security. If they have a
43 plan, they have to stick to it. He thanked everyone who worked on it.
44

45
46 **CONSENT AGENDA**
47

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

3
4 McShane withdrew item four.

5
6 **Motion to approve Consent Agenda items one through three and five**
7 **carried unanimously.**

- 8
9 1. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
10 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
11 **FAIRBANKS ENVIRONMENTAL SERVICES, INC. FOR A CLAM**
12 **RESTORATION FEASIBILITY STUDY AND SUBMERGED AQUATIC**
13 **VEGETATION ASSESSMENT IN THE AMOUNT OF \$19,500 (AB2004-**
14 **280)**
15
16 2. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
17 **PROFESSIONAL SERVICE CONTRACT BETWEEN WHATCOM COUNTY**
18 **AND CATHOLIC COMMUNITY SERVICES – RECOVERY CENTER FOR**
19 **OUTPATIENT SUBSTANCE ABUSE SERVICES (AB2004-281)**
20
21 3. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
22 **AMENDED PROFESSIONAL SERVICE CONTRACT BETWEEN WHATCOM**
23 **COUNTY AND JAN LOR, ADMINISTRATOR, FOR EMPLOYMENT**
24 **SERVICES TO PEOPLE WITH DEVELOPMENTAL DISABILITIES IN THE**
25 **AMOUNT OF \$10,560 FOR A TOTAL AMENDED AMOUNT OF \$25,360,**
26 **EXTENDING THE CONTRACT TO JUNE 30, 2005 (AB2004-282)**
27
28 4. **RESOLUTION ESTABLISHING CRP NO. 903005 AND AWARDING THE**
29 **BID FOR THE FROST ROAD SAAR CREEK BRIDGE NO. 242**
30 **CONSTRUCTION TO THE LOW BIDDER, AWARD CONSTRUCTION, INC.**
31 **IN THE AMOUNT OF \$618,308.26 (AB2004-283)**
32

33 **Crawford moved** to approve the resolution.

34
35 McShane stated he has always been opposed to this project. The contract
36 amount doesn't include preliminary engineering, construction engineering, testing,
37 and contingency. The potential total is over \$763,000. Frost Road should be
38 closed.

39
40 Caskey-Schreiber stated she is also opposed to this project. The Park Road
41 experience turned out very expensive for a low volume use. Many other roads are
42 in desperate need of attention.

43
44 Crawford stated two of the homeowners wanted the road closed and eleven
45 wanted the road kept open. The Mt. Baker School District wants the road open.
46 The Fire District wants the road open. They would have done a culvert

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1 replacement, but it wasn't feasible for salmon. This is a project that will enhance
2 the salmon.

3
4 Brenner stated she agrees with Councilmember Crawford. Many people who
5 don't live on the road use the road as a transportation route. Some of those
6 business people would be highly inconvenienced. They're talking about the public
7 good, not just a few people.

8
9 ***Motion carried 5-2 with Caskey-Schreiber and McShane opposed.***

10
11 **5. RESOLUTION TO ELECT EXPENDITURES OF NATIONAL FOREST**
12 **RELATED SAFETY-NET PAYMENTS UNDER PL 106-93 (AB2004-284)**

13
14
15 **PUBLIC HEARINGS**

16
17 **1. ORDINANCE ADOPTING THE BIRCH BAY COMMUNITY PLAN (AB2004-**
18 **121)**

19
20 Sylvia Goodwin, Planning Division Manager and Jeff Chalfant, Senior Planner,
21 gave a staff report with a Power Point presentation (*on file*). The first Birch Bay
22 plan was adopted December 1978. The zoning then is similar to the zoning in the
23 plan tonight. There were areas of suburban zoning at four houses per acre. The
24 Point Whitehorn and Birch Point areas were zoned suburban residential, four units
25 per acre. At Arne Road near Alderson Road was zoned commercial.

26
27 Ten years later, during the next planning process, changes were made that
28 were adopted in November 1987. The zoning became urban residential, four units
29 per acre (UR-4). The commercial zone at Arne Road was dropped. Commercial
30 zones were focused at Birch Bay-Lynden Road, Blaine Road, and along the
31 shoreline. The medium density zones were seven units per acre. High density
32 areas are now zoned resort commercial.

33
34 In 1997, the Comprehensive Plan process revisited and created urban growth
35 areas. It was adopted in November 1997. The urban growth area they are
36 considering was adopted then. Tonight's plan adds one hundred acres to the urban
37 growth area (UGA). Most of the zoning in the propose plan is similar to what was
38 adopted in 1997. At that time, the Point Whitehorn and Birch Point areas were
39 zoned at a density of four units per acre. That plan was appealed. The issue in
40 1997 had nothing to do with Birch Bay. The appeal was eventually upheld by
41 Superior Court and is in place today.

42
43 The current effort started in about 2000. The Birch Bay Economic
44 Development Action Plan was adopted in 2000. At that time, the community
45 members realized they need to resolve infrastructure issues. The Steering
46 Committee was formed in 2001. Their plan was adopted in 2003.

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1 Goodwin continued to read her presentation (on file) regarding major issues
2 considered in the planning process. Population projections were initially higher than
3 in the proposed plan. The County Council modified them. Much of the
4 transportation focus is on getting traffic off Birch Bay Drive. The Capital Facilities
5 Plan in the proposed plan addresses public services and facilities. There is
6 consensus that building height will generally get higher. There are still setbacks
7 and height restrictions. The largest recreational shellfish harvest is in the area.
8 Tourism is important to the economy. Many assumptions in the plan is that
9 wetlands and critical areas will remain undeveloped. The Council talked about the
10 area eventually incorporating.

11
12 Much of the debate now is on population, land supply, and how large the UGA
13 needs to be. She discussed the land supply and demand statistics from the
14 presentation. Fifty-one percent of the housing units are seasonally occupied.

15
16 Crawford asked if recreational vehicle sites are counted as households.
17 Goodwin stated they are counted as seasonal, recreational households. Many
18 people live seasonally or recreationally in Latitude 49 and Leisure Park. They are
19 not legally occupied all year long. They can't differentiate between seasonal and
20 full-time households when issuing building permits.

21
22 *(Clerk's Note: End of tape one, side A.)*
23

24 Goodwin continued to read from her Power Point presentation (*on file*). If the
25 trend in growth from 2000 to 2004 were to continue for 20 years, they would need
26 5,568 housing units, not the 3,457 units projected.

27
28 Goodwin continued to read from her presentation regarding recommended
29 environmental controls and capital facilities costs and funding.

30
31 An issue on everyone's minds is whether they should or should not include
32 Point Whitehorn and Birch Point in the UGA. She displayed an aerial photo from
33 February 2004 that shows development in these areas. The Birch Point shoreline is
34 already substantially developed and subdivided. The lot sizes along the northern
35 bluff are three-quarters to one acre. Smaller lots are 6,000 to 7,000 square feet.
36 There are a few un-subdivided parcels on the shoreline between the road and bluff.
37 The interior has larger tracts, five acres and more.

38
39 The Point Whitehorn area in questions is zoned UR-4 along the southwest
40 portion of the Point, which is about 35 acres. Most of the small platted lots are
41 developed. There are water and sewer facilities for those areas.

42
43 Roy asked the exact area being discussed. Goodwin stated the area being
44 discussed is everything on the Point south of the areas already developed. If they
45 are going to modify the UGA, they will need to take out all that area out, including
46 the areas to the south that already have water and sewer, and is already developed.

47

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1 McShane stated that developed area to the south is served by a different
2 water district.

3
4 Goodwin stated the most controversial issue is whether to leave those two
5 areas in the UGA. She concluded her presentation about the arguments for and
6 against inclusion in the UGA. She recommends adopting the plan as it is.

7
8 Caskey-Schreiber stated Ms. Goodwin mentioned that the current UGA
9 withstood an appeal. She asked if that is how the short- and long-term UGA
10 designations evolved, and if there were ever conditions on when the County should
11 go into the long-term UGA areas. Goodwin stated Whatcom County proposed the
12 short- and long-term UGA's as part of the Comprehensive Plan in 1997. That was
13 how the County proposed to deal with the issue of the area being already oversized.
14 They wanted to make sure development occurred in areas along the bay that
15 already have utilities, as infill, before they extended utilities. In the Comprehensive
16 Plan, there are specific criteria that have to be met for an area to transfer from a
17 long-term to a short-term planning area. This subarea plan tightens up the
18 conditions even more. It was not court-ordered. It was done before the plan was
19 adopted and appealed.

20
21 McShane asked if there has been an environmental impact statement (EIS)
22 for cannery hill. Goodwin stated there has, and also from West Semiahmoo, which
23 has also expired. There was also planning for south Semiahmoo, which was
24 withdrawn.

25
26 McShane asked how many homes were proposed for Cannery Hill. Goodwin
27 stated it seems to have been around two thousand, plus a golf course. It straddled
28 the line between Blaine and Whatcom County.

29
30 McShane asked if it was done before the salmon endangered species listing.
31 Goodwin stated it was. It addressed other habitat. That EIS is on file in her office,
32 but is not a part of this record.

33
34 McShane asked Ms. Goodwin to explain the second public hearing item, the
35 **ordinance amending the Whatcom County Comprehensive Plan text and**
36 **map regarding the Birch Bay urban growth area (AB2004-122).** Goodwin
37 stated this ordinance amends the countywide Comprehensive Plan. There are two
38 pages in it that describes the Birch Bay urban growth area. There is a map showing
39 the UGA. This ordinance amends the map to add the 100 acre area at Blaine Road
40 and Alderson Road.

41
42 Caskey-Schreiber asked if some of the numbers were based on the 2000
43 Census, and the population of Birch Bay at that time.

44
45 Roy stated the population at that time was approximately 4,700.

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

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1
2 Al Hanners, 3007 Plymouth Drive, Bellingham, stated he recommends that
3 the Point Whitehorn area be removed from the plan. He is a retired geologist and
4 botanist. Point Whitehorn is a classic example of a feeder bluff.
5

6 Eliana Steel-Friedlob, 6934 Holeman Ave, stated she urged the Council to
7 withdraw the Birch Point and Point Whitehorn areas from the UGA.
8

9 Richard Grout, Washington State Department of Ecology, Bellingham Field
10 Office, stated he urged the Council to withdraw the Birch Point and Point Whitehorn
11 areas from the plan because of the impermeable soils.
12

13 Alan Friedlob, 6934 Holeman Ave, submitted his testimony in writing (*on file,*
14 *Exhibit D*) and read his testimony. He asked the Council to withdraw 95
15 undeveloped and wooded acres south of Grandview Road and West of Koehn Road.
16 Also, rezone that area from UR-4 to rural, one unit per five acres (R5A).
17

18 Kip Lachner, 8563 Semiahmoo Drive, Blaine, stated he had concerns about
19 Birch Point, and asked the Council to withdraw Birch Point from the plan. There is
20 already room to accommodate the population.
21

22 Cathy Seemann, 6057 Birch Point Road, stated the Birch Point area can be
23 protected without removing it from the UGA. Keep Birch Point in the plan. Property
24 owners deserve predictability.
25

26 Judy Eaton, 8369 Semiahmoo Drive, Blaine, asked the Council to withdraw
27 the Birch Point and Point Whitehorn areas from the UGA.
28

29 Jo Slivinski, 6163 Semiahmoo Lane, submitted her testimony in writing (*on*
30 *file, Exhibit E*) and asked the Council to withdraw the Birch Point and Point
31 Whitehorn areas from the plan. She presented a petition to the Council to remove
32 those areas.
33

34 Linda Tucker, 4371 Bay Road, Blaine, stated she would support taking out
35 Point Whitehorn and Birch Point if that is what the majority of the neighbors want
36 and if it protects the bluffs from erosion. Don't increase the UGA by 100 acres.
37 Don't increase the commercial areas. Retain the short-term and long-term planning
38 areas.
39

40 Tom Pratum, North Cascades Audubon Society, stated this area is probably
41 the most important birding area in the county. He asked the Council to remove
42 Birch Point and Point Whitehorn from the UGA. The conditions for changing to
43 short-term planning areas aren't adequate for protection.
44

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

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1 Steve Irving, 2664 Brown Road, Ferndale, asked the Council to withdraw
2 Birch Point and Point Whitehorn areas from the UGA. He's concerned about the
3 wetlands and sensitive environmental areas.
4

5 Eve Pryce, 2480 Autumnwood Court, stated she agreed with everyone whose
6 spoken. This is an opportunity for the Council to save this unique area.
7

8 Mary Dickinson, Building Industry Association (BIA) of Whatcom County
9 Governmental Affairs Director, stated she submitted the BIA's testimony at earlier
10 Council meetings. Support the Birch Bay Steering Committee's recommended plan.
11 The Council can't put a moratorium on growth. It's against the U.S. Constitution.
12

13 Bill Eaton, 8369 Semiahmoo Drive, asked the Council to withdraw Birch Point
14 and Point Whitehorn from the UGA. Support responsible growth while protecting
15 sensitive areas.
16

17 Shirley Cortez, 4435 Fleet Road, Blaine, asked the Council to not take areas
18 out of the UGA. People bought property while it was in the UGA. It would not be
19 fair to change it now. Adopt the plan as it is.
20

21 Ivy Sager-Rosenthal, People for Puget Sound, asked the Council to remove
22 Birch Point and Point Whitehorn from the UGA. The shoreline is very important for
23 wildlife habitat, ecological functions, and to save Puget Sound.
24

25 Jim Torgerson, Anchorage, Alaska, referenced the property surrounded by
26 Shintaffer Road, Lincoln Road, Anderson Road, and Harborview Road. He asked the
27 Council to adopt the plan as put together by the community. Develop areas close to
28 well-developed roads. Preserving the plan protects the process of putting the plan
29 together.
30

31 Ellen Gray, Thousand Friends of Washington, submitted information for the
32 record (*on file, Exhibit F*). She read her comments into the record and stated the
33 UGA is bigger than it needs to be to accommodate the projected growth. She asked
34 the Council to shrink the UGA.
35

36 Kathy Berg, 7585 Sterling Avenue, Birch Bay asked the Council to leave Birch
37 Point and Point Whitehorn in the UGA, but designate them as sensitive areas.
38

39 Stuart Pennington, 5625 Whitehorn Way, asked the Council to remove Birch
40 Point and Point Whitehorn from the UGA because bank erosion will increase if
41 developed fully.
42

43 Rick Poitras, 6914 Holeman Avenue, asked the Council to remove Point
44 Whitehorn from the UGA because the land is unstable.
45

46 Lincoln Rutter, 8373 Semiahmoo Drive, submitted information for the record
47 (*on file, Exhibit O*), and stated the Birch Bay Subarea Plan doesn't adequately

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1 provide for financing to fund the plan. The cost is on the taxpayers, not the
2 developers.

3
4 Patty Rutter, 8373 Semiahmoo Drive, asked the Council to remove Birch
5 Point and Point Whitehorn from the UGA because of the negative environmental
6 impacts that will result.

7
8 Becky Raney, 6933 Holeman Avenue, submitted information for the record
9 (*on file, Exhibit G*). They need proper storm drains. Before there is more planning,
10 fix what they already have.

11
12 Jack Grant, Trillium Corporation Representative, stated he submitted a letter
13 to the Council on June 10, 2004. Of the 1,000 acres that Trillium holds in the area,
14 only 450 acres have been and will be developed. Trillium supports the staff report
15 and leaving Birch Point in the UGA. Adopt the plan as it is.

16
17 (*Clerk's Note: The Council took a five-minute break at 9:14 p.m.*)

18
19 Wayne Schwandt, Trillium Corporation Representative, stated he appreciates
20 the problems homeowners along the bluff are having but doesn't see the correlation
21 to what Trillium is doing. There is no evidence that the clearing work on more than
22 500 acres is impacting the bluff. The development of houses won't happen in the
23 next two to three years. They are looking 20 years into the future. The process is
24 very important. Adopt the plan as recommended by County staff.

25
26 McShane asked if there has been any discussion with anyone who might
27 purchase Trillium land at Birch Point or Point Whitehorn. Schwandt stated the long-
28 term plan at Birch Point is to undertake a comprehensive plan for that problem.
29 They have not discussed selling land at Birch Point, but they have at Point
30 Whitehorn. Those properties are on the market now.

31
32 Dan Warner, Pro-Whatcom, stated the County should remain predominantly
33 rural. Steering Committee members didn't know they had the option of shrinking
34 the UGA. He asked the Council to consider shrinking the UGA in the Birch Bay
35 Subarea Plan.

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

38
39 Steve Kozer, 6917 Holeman Avenue, submitted information (*on file, Exhibit*
40 *H*), and stated Whatcom County holds the public trust. He asked the Council to
41 remove Birch Point and Point Whitehorn from the UGA because the plan doesn't
42 adequately address stormwater issues. The area is designated a marine reserve
43 area. The plan says it will cost about \$80 million to fund the essential services. The
44 UGA is too large.

45
46 Craig Erdman, Geo-Engineers Representative for Trillium Corporation, stated
47 Geo-Engineers did an assessment of groundwater and surface water changes

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1 resulting from Trillium's conversion activities. No one has criticized that
2 assessment. In the future, a UGA with high density will help protect the
3 environment because controls will be implemented to protect the environment.
4

5 Caskey-Schreiber asked if two assumptions were built into the report. The
6 first is that re-planting will occur, and the second acknowledges that the subsurface
7 may change, depending on manmade events. Erdman stated the first report simply
8 looked at the harvest activities, without conversion. A second report dealt with the
9 actual conversion to pasture.

10
11 Caskey-Schreiber asked if they are banking on a vegetative cover. Erdman
12 stated the report dealt with the conversion from timber to pasture. Further
13 development would require additional analysis.
14

15 Rosemarie Francis, 5328 Canvasback Loop, Blaine, asked the Council to keep
16 Birch Point in the UGA. Adopt a management plan in addition to a development
17 plan. Bring sewer into the area.
18

19 Doralee Booth, 8188 Birch Bay Drive, submitted information (*on file, Exhibit*
20 *I*). She read her comments into the record, and asked the Council to approve the
21 plan as it is.
22

23 Claudia Hollod, 8240 Birch Bay Drive, submitted a videotape (*on file, Exhibit*
24 *J*), and stated she wants orderly, predictable, planned growth that is sensitive to the
25 needs of the community. Approve the plan as it is. Leave Birch Point and Point
26 Whitehorn in the UGA.
27

28 Roger Ellingson, 3033 Alderwood, Bellingham, asked the Council to remove
29 Birch Point and Point Whitehorn from the UGA because it is an important birding
30 area that provides the community economic resources. Smaller UGA's are a more
31 efficient use of tax dollars. Keep populations in the cities and dense areas away
32 from rural areas.
33

34 Bob Wiesen, 3314 Douglas Road, asked the Council to adopt the plan as
35 presented. They've already over-estimated their buildable land supply.
36

37 Dave Pros, 1466 Roy Road, stated the plan has an excessively large UGA.
38 Make the UGA smaller. He asked the Council to remove Birch Point and Point
39 Whitehorn from the UGA.
40

41 Chris Dillard, 2216 G Street, asked the Council to remove Birch Point, Point
42 Whitehorn, and wetlands from the UGA. Don't expand the UGA. It's too large.
43

44 Cathy Cleveland, 4961 Morgan Drive, submitted her testimony into the
45 record (*on file, Exhibit K*) and asked the Council to remove Birch Point and Point
46 Whitehorn from the UGA.
47

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1 Laura Leigh Brakke, 585 Pleasant Bay, asked the Council to remove Birch
2 Point and Point Whitehorn from the UGA. The only reason to develop is from those
3 who want to make money selling homes.
4

5 Wendy Steffensen, North Sound Bay Keeper and RE Sources Representative,
6 submitted her testimony into the record (*on file, Exhibit L*), and asked the Council to
7 remove Birch Point and Point Whitehorn from the UGA.
8

9 Kay Schuhmacher, 5583 Point Whitehorn Way, asked the Council to remove
10 Birch Point and Point Whitehorn from the UGA. Keep some areas worthwhile to visit
11 and be proud of.
12

13 Keats Garman, 8710 Oertel Drive, asked the Council to remove Birch Point
14 and Point Whitehorn from the UGA to protect the marine and bird habitat, to reduce
15 the erosion of the high banks, and to protect the rural character of the area.
16

17 Barbara Skudlarick, 8361 Semiahmoo Drive, submitted information for the
18 record (*on file, Exhibit M*), and asked the Council to remove Birch Point and Point
19 Whitehorn from the UGA to protect wildlife habitat.
20

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

23 Ken Pettichord, 8677 Semiahmoo Drive, submitted information for the record
24 (*on file, Exhibit N*), and asked the Council to remove Birch Point and Point
25 Whitehorn from the UGA. His land is eroding away.
26

27 Dick Skudlarick, 8361, Semiahmoo Drive, asked the Council to remove Birch
28 Point and Point Whitehorn from the UGA.
29

30 Bill Hinely, 2676 Donovan Avenue, asked the Council to remove Birch Point
31 and Point Whitehorn from the UGA.
32

33 Bill Grant, Goldstar Resort President, stated the Blaine Road and Alderson
34 Road intersection was designated zoned as a prime commercial business center.
35 Include the area because it will eventually become the town center for Birch Bay.
36

37 Bruce Pederson, 6167 Semiahmoo Lane, asked the Council to remove Birch
38 Point and Point Whitehorn from the UGA to preserve the area.
39

40 Ted Morris, 5105 Helwig Road, Birch Bay, stated he supports the plan as it is
41 now.
42

43 Donna Rae Pederson, 6167 Semiahmoo Lane, asked the Council to remove
44 Birch Point and Point Whitehorn from the UGA. They are using huge chunks of the
45 bluffs because of what is happening inland.
46

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1 Dave Determan, 6989 Birch Bay Drive, asked the Council to leave the UGA
2 alone. Put more stringent controls on the UGA in that area.
3

4 Gaylee Ankerberg, 6932 Holeman Avenue, stated stormwater drainage is not
5 adequate and is not working. Protect the bay and bluff. She asked the Council to
6 remove Birch Point and Point Whitehorn from the UGA.
7

8 Doug Stark, 2813 Birchwood Avenue, stated he volunteers in Birch Bay as a
9 beach naturalist. Protect the natural areas. Grow smarter, not bigger.
10

11 Fred Schuhmacher, 5583 Whitehorn Way, asked the Council to remove Birch
12 Point and Point Whitehorn from the UGA.
13

14 Carol Sandvig, 8212 Birch Bay Drive, asked the Council to approve the plan
15 as it is. Keep Point Whitehorn and Birch Point in the UGA with stringent
16 development guidelines.
17

18 Hearing no one else, McShane closed the public hearing.
19

20 ***Nelson moved*** to adopt the ordinance as presented.
21

22 Caskey-Schreiber stated the steering committee did a good job. The Council
23 has made it even better. She is still concerned about keeping Birch Point and Point
24 Whitehorn in the UGA.
25

26 The councilmembers have more information that the steering committee had.
27 The Puget Sound Action Team recommends removing the areas from the UGA
28 because of the unstable soils. She read from the letter from the State Department
29 of Ecology. They've heard from many other groups that all acknowledge that they
30 have to protect the land above the nearshore areas. The marine shore bird
31 population is declining, which is linked to the declining forage fish, which is declining
32 because they are harming the habitat.
33

34 Pull out the sensitive areas. A UGA designation is a green light for growth. It
35 will be a more successful plan. When the UGA is so large, it jeopardizes the
36 commercial areas. The Birch Bay UGA is twice the size as the City of Blaine's UGA.
37 The County may not be able to service that urban level of development.
38

39 ***Caskey-Schreiber moved*** to amend the ordinance to remove Birch Point
40 from the UGA.
41

42 Crawford stated the plan addresses all the things Councilmember Caskey-
43 Schreiber mentioned. There has been additional information on marine issues, but
44 the Birch Bay community groups are active in addressing those marine issues. The
45 County is not set up to provide urban levels of service in that area. Because of that,
46 those issues are being acknowledged.
47

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1 They are able to separate long-term and short-term planning areas. Growth
2 won't continue as they are seeing it today. In ten or 20 years, they will be better
3 equipped to deal with growth issues. A long-term planning area is a place holder to
4 make sure everyone has opportunities and is flexible in the future. He will vote to
5 keep Birch Point in the UGA.
6

7 Brenner stated someone made a comment that stormwater detention doesn't
8 work. Engineers showed her today how detention does work when it's actively
9 maintained. Private associations and people aren't maintaining their stormwater
10 detention. There should be more stringent regulations. Make people responsible
11 for maintaining their stormwater detention.
12

13 Someone mentioned that Point Roberts is in the same position, and they
14 think it's okay. It's not okay. Point Roberts has been difficult for the County to
15 maintain.
16

17 Someone mentioned that they didn't want to pay for sewer. That area can't
18 exist without sewer. It's not good to have the drain fields and septic systems. The
19 problem is already there. Trillium's property is flat. They're putting in bio-swales.
20 If sewer goes in, it will remove much of the problem. She doesn't think the few
21 people out there will elect to install a sewer. She doesn't see the problem they're
22 worried about from development that will happen in the future. She will vote to
23 keep Birch Point in the UGA.
24

25 McShane stated everyone wants to protect Birch Bay. The question is how to
26 get there. Some think it will be protected if it is in the UGA. It has been in the UGA
27 for some time. There are already pretty bad problems, and they're not doing a
28 good job. That won't change without a significant commitment from the County to
29 go to that level.
30

31 Ultimately, Birch Bay will not remain at a density of one house per five acres,
32 but a lesser density has to ultimately be the solution. Geo-Engineers' report
33 confirmed a lot of his views. It emphasizes the shallow aquifer. Low impact
34 development over shallow groundwater will be challenging. There is an idea they
35 can install drainage, sewer, and stormwater runoff lines. Pipes break. They will
36 dump water on one spot on the bluff. Piping is not a solution. He is in favor of
37 figuring out an appropriate development approach, but not at a density of four
38 houses per acre.
39

40 As a geologist, he goes to Puget Sound shorelines all the time. There are not
41 many places like this on the west side of Puget Sound. Support the motion, and
42 revisit this area specifically about how this area will develop. When the Birch Bay
43 plan came forward, he wasn't thinking about a downzone. He thought Ellen Shay's
44 idea was great. Maybe they can put Birch Point back into the UGA at a lower
45 density in the future. Overall, the UGA is concerning because of the commitment to
46 implement heavy transportation impact fees, parks impact fees, a parks levy, and a

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1 stormwater utility levy. They're also assuming the water and sewer rates will cover
2 the costs involved.

3
4 Roy stated each of those fees and levies must be approved by either the
5 Council or the citizens. The Council isn't guaranteeing that they will happen. Take
6 those one at a time.

7
8 *(Clerk's Note: End of tape three, side A.)*
9

10 Roy continued to ask if Councilmember McShane is saying those fees and
11 levies should be eliminated.

12
13 McShane stated he is not. To generate the revenue for those types of
14 services, it's a big commitment.

15
16 Roy stated the Birch Bay community members are going to have to tax
17 themselves to get what they want.

18
19 Caskey-Schreiber stated she doesn't have much confidence in the difference
20 between short- and long-term planning areas. The Council recently approved a
21 development in a long-term planning area. She never heard a planner tell them
22 they have to fill in a short-term planning area before going into the long-term
23 planning area. Had she known at that time what she knows today, she would not
24 have done it.

25
26 Councilmember Brenner mentioned the area being mitigated for stormwater,
27 and the engineers can do wonders. However, Dick Grout the expert from the
28 Department of Ecology says the area has sandy soil, which shifts and is easy to
29 permeate. Underneath the sand is clay, which doesn't allow infiltration. That's why
30 the area sloughs. They can't dig down to develop stormwater infrastructure
31 because the water table is two to five feet below the surface. Engineering
32 something isn't an option unless it is above-ground. The Department of Ecology
33 engineering expert doesn't think how that can be done in either Point Whitehorn or
34 Birch Point. It's not someone has done successfully.

35
36 McShane stated there has been a lot of focus on the slope stability, which can
37 be addressed by drainage systems that will be put in. The consequence of that is
38 they'll be putting fresh water in locations where there hasn't been before. That will
39 alter the nearshore habitat. The other consequence is that it might stabilize the
40 bluff, which would eliminate the feeder bluffs. Many of the lots on the bluff are on
41 large lots, and could be subdivided further. They have to have the wherewithal to
42 have a critical areas ordinance and shoreline ordinance that allows the houses to be
43 unprotected.

44
45 Roy stated she seems to be the swing vote. She went to the Birch Bay
46 Steering Committee meeting last night. This decision is something she's thought a
47 lot about. She doesn't see her decision as a reflection of their deliberations, work,

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1 efforts, or dedication to this area. The steering committee started out with a map.
2 There wasn't any impression given that they could take these UGA's out. The
3 steering committee did not put these areas in the UGA. It inherited the problem.
4 Many people all over were impacted by a developer's logging activity.
5

6 There are many people who she respects and who are on both sides of the
7 issue. Before the meeting, she didn't know what to decide. In her heart, the right
8 thing to do at this point is to remove Birch Point. Something should be in the plan
9 that makes the Council review it. There are items coming forward that will have an
10 impact.
11

12 Also, a developer has a right to request a rezone. She's more comfortable
13 doing development that way. Up until a couple of days ago, her view was to leave
14 the area in, and put in a lot of restrictions. She's uncomfortable with that now
15 because the County doesn't always have the staff to follow up on those restrictions.
16 She would rather take the area out of the UGA, study everything they need to, and
17 put it back in the UGA if they need to. The environmental reasons speak for
18 themselves.
19

20 She spoke to the stormwater expert at the Department of Ecology (DOE).
21 She's annoyed that this has become everyone's holy grail. One of the biggest
22 issues with shoreline degradation in the Puget Sound area is the shoreline armoring.
23 The DOE and County are supposed to enforce that, but they aren't. There are
24 illegal bulkheads all over. The DOE and the County has to get on it. They are
25 destroying the shoreline.
26

27 She won't support this if it means increasing any density in Birch Bay. They
28 know what that will do to shellfish. The zone is currently zoned one house per five
29 acres. The Council is not downzoning it. It will stay at that zone. They are leaving
30 the zoning the same while they look at the issues.
31

32 Caskey-Schreiber stated she is comfortable with removing these areas and
33 not increasing the density in Birch Bay. The projected growth is high.
34

35 Nelson stated this is a tough issue. He's been around this community for
36 many years. It has grown and has become a wonderful community. Let the
37 community have a hand in how it grows. These are valuable pieces of real estate
38 that will have environmental and livability impacts. There are positive ways that
39 development can help. He is concerned about taking these areas out of the UGA.
40 The result is that developers and another Council that is not environmentally
41 sensitive may put them back in. They have the opportunity to put in restrictions
42 and controls that will keep the community safe.
43

44 McShane stated the local people have an opportunity to appeal Council
45 decisions.
46

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1 Roy suggested a friendly amendment to add language that says the County
2 will review area in the future.

3
4 McShane suggested a friendly amendment to add language that says the
5 County will review the area for future types of development compatible to the Birch
6 Bay plan and the environment. There are areas in the County that have a higher
7 density, but are considered rural. That is something the County should explore.
8 Possibly, Birch Point could be put back into the UGA at a lower density.

9
10 Caskey-Schreiber did not accept a friendly amendment. A developer will
11 bring forward development requests. Don't change that protocol. They won't forget
12 about this area.

13
14 Nelson stated this area allows close to 1,000 dwelling units. He asked the
15 current density in similar communities. Goodwin stated the goal in the
16 Comprehensive Plan averages six to eight units per acre. There is an excess of land
17 supply in the County, but not as much as Ellen Gray said earlier. Decreasing the
18 UGA will not require an increase in density in other areas. Now, there is an excess
19 of 870 units. They will only be 121 units short. She asked the Council to clarify the
20 area in the motion.

21
22 Nelson stated they are pushing against the envelope for densities. They have
23 already lowered density in Lake Whatcom and Lake Samish. Lummi Island will
24 probably be next. Their children will suffer as the Council decreases the ability of
25 people to find affordable places to live.

26
27 ***Motion to amend carried 4-3 with Nelson, Crawford, and Brenner***
28 ***opposed.***

29
30 ***McShane moved*** to remove Point Whitehorn from the UGA, from the portion
31 of Point Whitehorn that is part of section 11, which is south of the line if they were
32 to continue Grandview Road all the way to the water.

33
34 Goodwin stated that area does not have sewer. It does have public water.

35
36 Caskey-Schreiber stated the population is estimated at about 6,000. There
37 has been quite a lot of permits issued this year. The population projection is around
38 9,700. At 2.3 residents per home, they actually need to accommodate only 2,000
39 more units. The 100 acres that is being added and some of the new properties
40 should accommodate that with no problem. Once the community's commercial
41 centers are viable, she will support expanding the UGA at that point to
42 accommodate more. They have to incorporate first. The community will have a
43 population of 9,000 in ten years, not twenty years. If the community is not going to
44 incorporate, then the added population should go to Blaine.

45
46 ***McShane amended his motion*** to remove the area south of northern line
47 of Section 11.

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1
2 Brenner stated someone said the councilmembers may already have their
3 minds made up. Her mind was changed about Point Whitehorn. There are already
4 sewer and water where it needs to be. It's not going to affect what happens at
5 Point Whitehorn. She's still very concerned about Birch Point. It doesn't seem like
6 the problems with Birch Point will happen at Point Whitehorn because Point
7 Whitehorn already has sewer. She will support the motion.

8
9 Roy stated Point Whitehorn has a pristine bank without houses. It's serving
10 its natural function. She will support the motion.

11
12 Crawford stated it's not theirs. The acreage being withdrawn at Point
13 Whitehorn is about 90 acres, not 35 acres. He has the same concerns about losing
14 density. This is a long-term planning area that is a placeholder for the future. It
15 would be nice to propose a park in that area, but Birch Bay State Park is just to the
16 north. Keeping this in the long-term planning area designation gives them the most
17 flexibility. By taking this area out of the UGA, the zone will go to one unit per five
18 acres. He's not sure that is good, either.

19
20 ***Motion to amend carried 5-2 with Nelson and Crawford opposed.***

21
22 McShane stated they have to have another hearing on this item because of
23 significant changes. Ms. Goodwin has done a tremendous job working on this with
24 the Council. He thanked Ms. Goodwin and her staff.

25
26 Goodwin suggested postponing the next hearing due to the substantial
27 changes made to this item. The staff has to rewrite the text on that item. The staff
28 will also need to rewrite major portions of the plan. She won't have it done by the
29 next meeting.

30
31 *(Clerk's Note: Councilmember Nelson left the meeting at 11:40 p.m.)*

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

37
38 *(Clerk's Note: See the staff report for the above item for discussion on this*
39 *item.)*

40
41 McShane stated this item would be postponed.

42
43
44 **OTHER ITEMS**

45
46 **1. ORDINANCE AMENDING THE 2004 WHATCOM COUNTY BUDGET, 10TH**
47 **REQUEST (AB2004-276)**

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

4
5 **Motion carried 6-0 with Nelson absent.**

6
7 **2. REPORT ON COMMITTEE ACTION REGARDING THE 2005 INTEGRATED**
8 **ROADSIDE VEGETATION MANAGEMENT PROGRAM (AB2004-285)**

9
10 Brenner reported for the Public Works and Safety Committee and stated the
11 committee approved the program.

12
13 **3. ORDINANCE ADOPTING AMENDMENTS TO SECTIONS OF THE**
14 **WHATCOM COUNTY ZONING ORDINANCE (TITLE 20) CHAPTER 20.10,**
15 **COMPREHENSIVE PLAN AMENDMENTS, CHAPTER 20.71 WATER**
16 **RESOURCES PROTECTION OVERLAY DISTRICT, CHAPTER 20.89**
17 **DENSITY TRANSFER PROCEDURE, AND CHAPTER 20.90**
18 **AMENDMENTS, RELATING TO THE TRANSFER OF DEVELOPMENT**
19 **RIGHTS (AB2004-275)**

20
21 Fleetwood reported for the Planning And Development Committee and stated
22 the Council will have a public hearing on:

- 23 1. This ordinance with minor changes, and
24 2. This ordinance with the same minor changes plus a significant change
25 to the impervious surface limit from 2,500 square feet to 2,000 square
26 feet.

27
28 **4. APPOINTMENT OF IAN SMITH TO THE FLOOD CONTROL ZONE**
29 **ADVISORY COMMITTEE, ALTERNATE POSITION (AB2004-264A)**

30
31 *(Clerk's Note: The Council acted as the Flood Control Zone District Board Of*
32 *Supervisors.)*

33
34 **Brenner moved** to appoint Ian Smith to the alternate position.

35
36 **Motion carried 6-0 with Nelson absent**

37
38
39 **INTRODUCTION ITEMS**

40
41 **McShane moved** to accept the Introduction Items, including the addenda.

42
43 **Motion carried 6-0 with Nelson absent.**

44
45 **1. ORDINANCE AMENDING THE 2004 WHATCOM COUNTY BUDGET, 11TH**
46 **REQUEST (AB2004-286)**

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1 **ADDENDA**

- 2
- 3 2. INTERIM ORDINANCE AMENDING WCC, TITLE 20, CHAPTER
- 4 20.80 – SUPPLEMENTARY REQUIREMENTS, TO INCLUDE THE
- 5 BIRCH BAY WATERSHED UNDER SECTIONS 20.80.635 –
- 6 STORMWATER SPECIAL DISTRICTS AND 20.80.735 – WATER
- 7 RESOURCE SPECIAL MANAGEMENT AREAS TO PROVIDE
- 8 ADDITIONAL REGULATORY PROTECTION FOR THE BIRCH BAY
- 9 WATERSHED (AB2004-287)
- 10
- 11 3. INTERIM ORDINANCE AMENDING WCC CHAPTER 16 TO
- 12 PROVIDE ADDITIONAL REGULATORY PROTECTION FOR
- 13 WETLANDS AND GEOLOGICAL HAZARD AREAS (AB2004-288)
- 14
- 15 4. ORDINANCE ADOPTING AMENDMENTS TO SECTIONS OF THE
- 16 WHATCOM COUNTY ZONING ORDINANCE (TITLE 20) CHAPTER 20.10,
- 17 COMPREHENSIVE PLAN AMENDMENTS, CHAPTER 20.71 WATER
- 18 RESOURCES PROTECTION OVERLAY DISTRICT, CHAPTER 20.89
- 19 DENSITY TRANSFER PROCEDURE, AND CHAPTER 20.90 AMENDMENTS,
- 20 RELATING TO THE TRANSFER OF DEVELOPMENT RIGHTS (AB2004-
- 21 275)
- 22
- 23 5. ORDINANCE AMENDING WCC 20.10, 20.71, 20.89, AND 20.90
- 24 RELATING TO THE TRANSFER OF DEVELOPMENT RIGHTS AND
- 25 IMPERVIOUS SURFACES IN THE LAKE WHATCOM WATERSHED.
- 26 (AB2004-289)
- 27

28

29 **OTHER BUSINESS**

30

31 **McShane** stated that Senior Civil Deputy Prosecutor Dave Grant requested

32 an executive session to a land use consistency hearing for BP. He would recuse

33 himself from the executive session because of his position on the Energy Facility

34 Site Evaluation Council (EFSEC). He **moved** to go into executive session.

35

36 ***Motion carried 4-2 with Brenner and Roy opposed.***

37

38 *(Clerk's Note: The Council retired into executive session for approximately*

39 *two minutes.)*

40

41 **Brenner moved** to authorize the amended language in the agreement.

42

43 ***Motion carried 5-0-0 with McShane abstaining and Nelson absent.***

44

45 Caskey-Schreiber stated she will sign the agreement.

46

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1 Crawford stated the Sheriff's Office asked him to bring forward a resolution
2 opposing housing for sex offenders in Peaceful Valley.

3
4 Crawford asked permission to be excused from the next meeting due to a
5 family vacation.

6
7
8 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

9
10 McShane stated he has a meeting scheduled on Friday at 10:00 a.m. with
11 Senior Civil Deputy Prosecutor Karen Frakes and representatives from Thousand
12 Friends regarding an appeal.

13
14 *(Clerk's Note: End of tape three, side B. Tape four, side A, begins earlier in*
15 *the meeting, at the motion to approve the language regarding EFSEC.)*

16
17 McShane continued to state that the appeal is regarding their rural chapter.

18
19 Roy asked the Council to respond in support of the Mt. Baker School District.

20
21 McShane asked Councilmember to write a letter.

22
23 **ADJOURN**

24
25 The meeting adjourned at 11:48 p.m.

26
27
28 _____
29 Jill Nixon, Minutes Transcription

30
31 The Council approved these minutes on _____, 2004.

32
33 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

34
35
36
37
38 _____
39 Dana Brown-Davis, Council Clerk

Dan McShane, Council Chair