

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

WHATCOM COUNTY COUNCIL
Regular County Council

October 12, 2004

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

<u>Present:</u>	<u>Absent:</u>
Barbara Brenner	None
Laurie Caskey-Schreiber	
Sam Crawford	
Seth Fleetwood	
Sharon Roy	
L. Ward Nelson	

FLAG SALUTE

ANNOUNCEMENTS

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

SPECIAL PRESENTATION

1. PRESENTATION BY ST. JOSEPH’S HOSPITAL – “WHATCOM COUNTY’S HOSPITAL: AN UPDATE” (AB2004-017)

Nancy J. Bitting, St. Joseph Hospital Regional Chief Executive Officer, stated there are key components of the hospital they should be aware of. Sponsorship, which began in 1891, is from the Sisters of St. Joseph of Peace. There are six hospitals in their system. They recently started a volunteer health care mission in El Salvador.

In a literal sense, they can’t truly be not-for-profit. However, 100 percent of their margin is used for facility, equipment, and new services and programs. They need profit to fund the future. All the profit goes back into the community.

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1
2 Their mission drives their decisions. In today's world, lack of insurance, the
3 cost of healthcare, and consumer expectations create a pressure to provide all
4 services that are needed in the community. As pressures continue, they have
5 judged their decisions against their core values. They refer to both the mission and
6 core values frequently.

7
8 Stephen R. Omta, St. Joseph Hospital Chief Operating Officer, stated the
9 hospital is a significant part of Whatcom County economics. They have over 2,000
10 employees. They are also a part of how people give their time to the community.
11 There are about 370 volunteers who provide care to the sick in the community.
12 They provide a full continuum of care. They provide some level of support for all
13 phases of life. They also do some things that are a little less commonly known.
14 They do outreach in the community, provide a parishioner's coordinator, and
15 provide a place for people to deal with issues about community health.

16
17 Missions and values are to provide services to everyone, regardless of their
18 ability to pay. They offer services to everyone. Charity care has grown annually.

19
20 Overall, Whatcom County uses health resources very wisely. The admissions
21 per thousand people is slightly above the State average, and significantly below the
22 national average. When people do come to the hospital, they tend to stay 3.8
23 days, which is less than the State average. They work hard to keep fees below the
24 State average.

25
26 They are making investments in their facilities. They also make
27 commitments to the community in other ways. There is a workforce development
28 coalition, which is a significant collaboration in the community. They've created
29 educational programs for a number of employment positions at the hospital. There
30 is a national shortage of those programs nationwide.

31
32 There are various regulatory agencies that visit and inspect the hospital
33 regularly. Internally, they continually do measurements and improvements. One
34 example of clinical quality is in the transparency area, which is informing the
35 community to improve their services and programs.

36
37 Chris Phillips, St. Joseph Hospital Director of Community Outreach, stated
38 part of that community commitment is ensuring that people have access to a
39 position. There are problems in the community with access to primary health care
40 and specialty care. The hospital works with other organizations to ensure the
41 citizens continue to have access to physicians. They support the effort of private
42 medical practices to recruit physicians. Also, the St. Joseph Medical Group was
43 created to recruit for certain medical specialties. If they are going to impact access
44 to care, the hospital cannot do it alone. The hospital is committed to ensuring
45 access to care no matter a person's income. It does that a number of ways,
46 including working with lower income school districts and collaborating with other
47 organizations to create a seamless system of care for uninsured residents of

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 Whatcom County. They want to link the emergency room to community clinics,
2 and link community clinics to primary care providers and specialists who will accept
3 patients at a free or reduced cost. Over 40 percent of visits to the emergency room
4 are for non-emergent cases. The only way to impact that statistic is to work with
5 community partners over time.
6

7 Bitting stated they are working to improve specific areas and processes.
8 They involve patients in different ways to help build a new way to process care.
9 They've been lucky to be recognized for some areas of excellence, including in the
10 area of the work environment.
11

12 One of their major issues is the significant drop in the income from
13 operations. The two hospitals consolidated in the past, which provided a margin to
14 operate, which is very unusual in the state and nation. Now, there are significant
15 capital needs that have taken up some of the margin. A future challenge is going
16 to be maintaining sufficient income to grow with the community. The senior
17 population continues to grow. They use health care resources more intensely than
18 younger age groups.
19

20 Nelson asked about the statistic showing a drop in income from operations.
21 Bitting stated that statistic is their income from operations minus costs. It is the
22 margin.
23

24 Crawford asked how many dollars per year go through St. Joseph's Hospital.
25 Bitting stated that amount is \$250 million. The margin is weak given the amount of
26 money that goes through the hospital.
27

28 Nelson asked if that is because of recent significant expansion. Bitting
29 stated that is because of a combination of reasons. The revenue stream is
30 changing. Sixty-five percent of the revenue comes from the government, which
31 doesn't negotiate. The government pays rates it decides. Fifty percent of their
32 margin is from Medicare. Both physicians and hospitals are very poorly paid by the
33 government. Costs remain the same. They compete with the Seattle market and
34 other large markets for labor. Capital costs are also the same across the nation.
35

36 Caskey-Schreiber asked if the income drop was because of the physical
37 expansion at the hospital. Bitting stated that is part of the reason. They have had
38 significant access problems because of the space issues at the hospital. They've
39 alleviated those problems enormously, but overhead costs have increased. The
40 trend is likely to continue in the future. There are tougher issues with
41 reimbursement. There are changes in technology. Medicare doesn't pay for the
42 cost of certain services.
43

44 Crawford asked for an update on whether the community is at or near a
45 crisis, given the net reduction in the number of physicians in the community.
46 Bitting stated some physicians have been recruited to the community. They are
47 still in trouble with certain specialties. That problem was the driver for this

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 process. The people in the community who are most in trouble are the lower
2 income people. Increasing access specifically refers to access to physicians. There
3 are now more than 20 providers in the medical group, which is an increase.
4 Recruitment doesn't keep up with the number of physicians leaving the community
5 and the increase in the population.
6

7 Crawford asked if there are statistics or records showing the number of
8 doctors on a per capita basis. Bitting stated they do an annual study, and track the
9 statistic against the State's benchmarks. Those questions are answered at least
10 once per year.
11

12 Phillips stated the County Health Department took the lead with the State
13 Department of Health to do a Health Professional Shortage Area (HPSA) Survey.
14 Data has been published in the last three months. It shows the number of
15 physicians, and the numbers of those physicians who accept Medicare and
16 Medicaid. The Health Department took a tremendous leadership role to do that.
17

18 Crawford asked if the bottom line is that the situation is not improving.
19 Phillips stated it is improving in some specialty areas. In other specialty areas, it
20 has gotten worse. The net result is a little progress, but there are still problems.
21

22 Nelson stated the demographic information is important. Phillips stated
23 there is very good data that shows population-to-physician ratios. As a whole, the
24 county is approaching a distress level. However, the rural areas of the county are
25 well beyond the distress level and into the level of an emergency situation. Access
26 depends on where one lives in Whatcom County. It's not good in the rural county
27 areas. There are fewer primary care physicians in Kendall, Everson, and Blaine.
28 They can't make a go of it for various reasons.
29

30 Brenner asked if a lot of people see the outlying communities as bedroom
31 communities to Bellingham, so they come to Bellingham for their physicians
32 anyway. People in the county come into the city for their physician care. Phillips
33 stated those people do. In other states, people don't have to travel as far to access
34 a physician.
35

36 Bitting stated there are lower income people in outlying areas who can't
37 afford to spend the time away from work or travel into Bellingham. That is one of
38 the reasons they are seeing an increase in the emergency care, which is a very
39 expensive way to treat primary care.
40

41 Caskey-Schreiber stated the Madrona Clinic doesn't accept Medicare and
42 Medicaid patients, and Interfaith picked up the bulk of those patients. She asked if
43 that is enough to meet the service demands, or if they need to still address
44 shortages. Bitting stated Medicare is still a problem. Their Center for Senior Health
45 is seeing about nine percent of Medicare-eligible patients. That didn't meet patient
46 needs. They've doubled the size of the Center for Senior Health. They figure out
47 the waiting time between the call to see a doctor and an appointment. Right now,

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 that's a major problem, even if one can find a doctor.

2
3 Caskey-Schreiber stated she's frequently heard that seniors in this
4 community can't get access to health care.

5
6 Roy stated the care at the Center for Senior Health provide incredible care to
7 Medicare patients. Her elderly mother has received excellent care.

8
9
10 **MINUTES CONSENT**

11
12 *Fleetwood moved* to approve the Minutes Consent items.

13
14 *Motion carried unanimously.*

15
16 **1. REGULAR COUNTY COUNCIL FOR SEPTEMBER 28, 2004**

17
18 **2. COMMITTEE OF THE WHOLE FOR SEPTEMBER 28, 2004**

19
20
21 **OPEN SESSION**

22
23 The following person spoke:

24
25 Dennis Jones, 1487 Sudden Valley, stated the Lake Whatcom Management
26 Plan includes 21 goals that were adopted November 1992. It has been the outline
27 for development planning in the watershed at the State and County level. They live
28 in one of the most beautiful places in the world. People are committed to keeping
29 this community in control of their destiny. When voting, find the people who will
30 keep them working together. Regarding the Management Plan, different areas of
31 the county need different things. He has problems with the urban growth area
32 (UGA) of Sudden Valley. Keep in mind that whole watershed district concept, the
33 State's vision of what they can do, sustainable forestry, and housing and recreation
34 in the watershed.

35
36
37 **PUBLIC HEARINGS**

38
39 **1. ORDINANCE CONTINUING AND AMENDING THE INTERIM**
40 **CONDITIONAL USE CRITERIA ADOPTED BY ORDINANCE 2004-027**
41 **FOR THE SITING OF MUSHROOM COMPOSTING AS A CONDITIONAL**
42 **USE WITHIN THE AGRICULTURAL ZONING DISTRICT (AB2004-150A)**

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

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 **Caskey-Schreiber moved** to adopt the ordinance. This is the interim
2 regulation that is currently in place.

3
4 **Motion carried unanimously.**

5
6
7 **CONSENT AGENDA**

8
9 **Crawford** reported for the Finance and Administrative Services Committee
10 and **moved** to approve Consent Agenda items one and two.

11
12 Brenner asked about changing the language about five days per week, eight
13 hours per day to four days per week, ten hours per day. That's come up in the
14 past, and they haven't been comfortable with having Sheriff deputies on ten-hour
15 shifts and that there might be gaps in coverage.

16
17 Dewey Desler, Deputy Administrator, stated the coverage is actually better.
18 The overlap allows the deputies to get their reports done without spending more
19 overtime. The administration and deputies support the change.

20
21 **Motion carried unanimously.**

- 22
23 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
24 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND EXIGENT**
25 **COMPUTER GROUP FOR IMAGE AND DATA EXPORT PROCESSING TO**
26 **ENABLE PRODUCTION OF AUDITOR'S OFFICE IMAGES TO THE**
27 **INTERNET VIA LASERFICHE, IN THE AMOUNT OF \$21,000 (AB2004-**
28 **350)**

29
30 **Addendum to Consent Agenda:**

- 31 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER**
32 **INTO A COLLECTIVE BARGAINING AGREEMENT BETWEEN**
33 **WHATCOM COUNTY AND THE WHATCOM COUNTY DEPUTY**
34 **SHERIFF'S GUILD FOR THE PERIOD OF JANUARY 1, 2003**
35 **THROUGH DECEMBER 31, 2005 (AB2004-358)**

36
37
38 **OTHER ITEMS**

- 39
40 **1. REPORT ON COMMITTEE DISCUSSION REGARDING THE LAKE**
41 **WHATCOM MANAGEMENT PLAN (AB2004-017)**

42
43 Roy reported for the Natural Resources Committee and stated the
44 councilmembers need to review the handouts before the Joint Lake Management
45 Committee meeting next Wednesday. Go to the meeting with any suggestions and
46 ideas. This will be the working plan for the next year. The Natural Resources
47 Committee members agreed with the three major priorities, which are stormwater,

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 land preservation, and community outreach. The Natural Resources Committee
2 members also suggested three topics for discussion during the meeting. The three
3 topics are the financing issues related to stormwater retrofitting, whether education
4 on herbicides and pesticides is working, and working with City of Bellingham and
5 Sudden Valley on the next step of the Sudden Valley density reduction program.
6

7 **2. REQUEST CONFIRMATION OF EXECUTIVE'S APPOINTMENT OF**
8 **THOMAS MCGRATH TO THE AMERICAN'S WITH DISABILITIES ACT**
9 **COMPLIANCE COMMITTEE (AB2004-351)**

10 *Crawford moved* to confirm the appointment.
11

12 *Motion carried unanimously.*
13

14
15 **3. ORDINANCE AMENDING WCC TITLE 24, HEALTH CODE, TO CREATE**
16 **WCC 24.12, MUSHROOM SUBSTRATE PRODUCTION FACILITY RULES**
17 **(AB2004-300)**
18

19 McShane stated an amended version of the revised version will be introduced
20 to the Council at this meeting.
21

22
23 **2004 COMPREHENSIVE PLAN AMENDMENTS**
24

25 *Fleetwood* reported for the Planning and Development Committee and
26 *moved* to forward items one through five to the concurrency meeting.
27

28 **1. ORDINANCE AMENDING THE /WHATCOM COUNTY COMPREHENSIVE**
29 **PLAN, CHAPTER 2 – SUDDEN VALLEY PROVISIONAL URBAN GROWTH**
30 **AREA (AB2004-339)**
31

32 McShane stated the Planning Committee approved two amendments:

- 33 1) Add a sentence to the end of policy 2AA-24, "The County will not
34 support incorporation unless a legally binding agreement is reached."
35 and
36 2) Amend policy 2AA-25, "...redesignated a recreational subdivision as a
37 limited area of more intensive rural development."
38

39 *McShane moved* to add a sentence to the end of policy 2AA-24, "The
40 County will not support incorporation unless a legally binding agreement is
41 reached."
42

43 *Crawford suggested a friendly amendment* to amend the motion to
44 amend policy 2AA-24 to add language, "The County will not support incorporation
45 unless a legally binding agreement is reached on the above listed matters." The
46 intent of this paragraph has to do with lake protection.
47

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 **McShane accepted** Councilmember Crawford's friendly amendment.
2

3 **Nelson suggested a friendly amendment** to amend the motion to amend
4 policy 2AA-24, "The County will not only support incorporation unless if a legally
5 binding agreement is reached on the above listed matters."
6

7 **McShane accepted** Councilmember Nelson's friendly amendment.
8

9 **Motion to amend carried unanimously.**
10

11 **McShane moved** to amend policy 2AA-25, "...redesignated a recreational
12 subdivision as a limited area of more intensive rural development."
13

14 Crawford asked the difference between a recreational subdivision and a
15 limited area of more intense development.
16

17 *(Clerk's Note: End of tape one, side A.)*
18

19 Crawford continued to ask the reasons for the committee's change.
20

21 McShane stated the recreational subdivision area was larger than the Sudden
22 Valley area. They have been focused only on Sudden Valley. When Sudden Valley
23 became a provisional urban growth area (UGA), those areas outside of Sudden
24 Valley were dropped from the recreational subdivision and fell into a rural status.
25 Subsequently, those areas had zoning changes. If Sudden Valley does not become
26 a city, it is clearly an urban area of more intensive rural development. There is
27 recreation there, but it is really an isolated urban pocket.
28

29 Crawford asked if the Planning Department staff concurs.
30

31 Sylvia Goodwin, Planning Division Manager, stated that would be fine.
32

33 Caskey-Schreiber stated limited areas of more intense rural development
34 allow like in-fill to occur, but not further expansion. That would suit this area well.
35 It would protect the platted lots and also not allow an expansion of light industrial
36 or commercial property.
37

38 Nelson stated there is a language change to allow light industry in
39 commercial areas.
40

41 McShane stated that is related to the other stand-alone urban growth areas.
42 These policies are specific to Sudden Valley.
43

44 Nelson stated policy 2AA-20 applies to Sudden Valley.
45

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 Caskey-Schreiber stated areas designated as limited areas of more intense
2 rural development (LAMIRD's) allow what exists to continue, but does not allow
3 expansion of what exists.
4

5 McShane stated that once the area is a LAMIRD, it would no longer fall under
6 the urban growth criteria.
7

8 Fleetwood stated there could be an argument made to end that policy after
9 the word "viable." The remaining language limits the County to what it can
10 consider for that area.
11

12 McShane stated that had not occurred to him.
13

14 Goodwin stated the Council could say that the area will be no longer be an
15 urban growth area and returned to a recreational subdivision or LAMIRD if it does
16 not incorporate. That's the language staff suggested for the Custer area, which the
17 Planning Commission is considering. That way, the area wouldn't be subject to a
18 lengthy County review process. It would just occur automatically.
19

20 ***McShane amended his motion*** to amend policy 2AA-25, "If incorporation
21 has not been accomplished by the end of 2006, ~~a comprehensive plan amendment~~
22 ~~shall be docketed to consider whether~~ the Sudden Valley Provisional UGA is viable
23 ~~or whether it should~~ will be redesignated as a Recreational Subdivision **Limited Area**
24 **of More Intensive Rural Development."**
25

26 Caskey-Schreiber stated she liked the motion. She asked if they have to go
27 through a Comprehensive Plan amendment to redesignate the area. Goodwin
28 stated that if the Plan says the area will revert to a LAMIRD, the staff will prepare
29 the amendment and bring it forward in the amendment process. The text and map
30 in the plan would have to change. Staff would automatically write it up rather than
31 docket it and go through a lengthy hearing process. There will still need to be an
32 ordinance for the annual amendment.
33

34 Caskey-Schreiber stated Councilmember McShane's amendment is very
35 clear.
36

37 Crawford asked what is happening with incorporation of Sudden Valley.
38 Goodwin stated little has happened. There have been no petitions or viability
39 studies. There has been some community discussion.
40

41 Crawford asked why that is. Three years ago, a significant segment of the
42 residents wanted incorporation to happen. The Council gave the community a
43 deadline for making it happen. He asked what happened to the momentum.
44 Goodwin stated there was a lot of progress on density reduction and community
45 planning. It was appealed and went to court. The community spent time and
46 money on fighting the court battle, which was resolved just last week in the

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 County's favor. The community probably didn't want to spend a lot of time on
2 incorporation when they didn't know the outcome of the lawsuit.

3
4 Crawford stated that with the lawsuit finished, they could see increased
5 momentum on the steps necessary for incorporation. Goodwin stated they could
6 see that.

7
8 Crawford stated it seems like the County should extend the time because of
9 the three-year lawsuit. The intent of policy 2AA-25 was to leave the option open
10 for incorporation. See if there is continued momentum. It might be premature to
11 rule it out at this time. He'd like to leave the option open.

12
13 McShane stated he preferred that this issue be resolved. It is an issue he
14 wasn't happy with, but supported anyway. They've got two years to work on it. If
15 the community is close to incorporation at the end of 2006, he would be willing to
16 make a simple Comprehensive Plan amendment to extend the deadline for a year.

17
18 Crawford stated he opposes the motion to amend. He would like the options
19 for the community to remain open.

20
21 Caskey-Schreiber stated she supports the amendment. The language as
22 written about viability is subjective, which makes her nervous. The consequences
23 should be clear.

24
25 ***Motion to amend carried 6-1 with Crawford opposed.***

26
27 McShane moved to forward this amended version to the concurrency
28 meeting. They may decide at a later date that these changes warrant a public
29 hearing.

30
31 ***Motion to forward to concurrency as amended carried unanimously.***

32
33 **2. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
34 **PLAN, CHAPTER 2 – COLUMBIA VALLEY/KENDALL URBAN GROWTH**
35 **AREA (AB2004-340)**

36
37 *(Clerk's Note: See the beginning of the Comprehensive Plan Amendments*
38 *section for the motion to forward to the concurrency meeting.)*

39
40 ***Motion carried unanimously.***

41
42 **3. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
43 **PLAN, CHAPTER 2 – LAND USE, CITY OF EVERSON URBAN GROWTH**
44 **AREA (AB2004-343)**

45
46 *(Clerk's Note: See the beginning of the Comprehensive Plan Amendments*
47 *section for the motion to forward to the concurrency meeting.)*

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1
2 *Motion carried unanimously.*
3

- 4 **4. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
5 **PLAN, CHAPTER 2 – LAND USE, CITY OF NOOKSACK URBAN GROWTH**
6 **AREA (AB2004-346)**
7

8 *(Clerk's Note: See the beginning of the Comprehensive Plan Amendments*
9 *section for the motion to forward to the concurrency meeting.)*

10
11 *Motion carried unanimously.*
12

- 13 **5. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
14 **PLAN, CHAPTER 2 – LAND USE, CITY OF SUMAS URBAN GROWTH**
15 **AREA (AB2004-347)**
16

17 *(Clerk's Note: See the beginning of the Comprehensive Plan Amendments*
18 *section for the motion to forward to the concurrency meeting.)*

19
20 *Motion carried unanimously.*
21

22
23
24 **INTRODUCTION ITEMS**

25
26 *Crawford moved* to accept the Introduction Items including the addendum.
27

28 *Motion carried unanimously.*
29

- 30 **1. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY**
31 **COMPREHENSIVE PLAN, CHAPTER 9 – RECREATION (AB2004-352)**
32
33 **2. ORDINANCE REVISING AND AMENDING THE WHATCOM COUNTY**
34 **COMPREHENSIVE PLAN, CHAPTER 3 – HOUSING (AB2004-353)**
35
36 **3. ORDINANCE REVISING AND AMENDING THE WHATCOM COUNTY**
37 **COMPREHENSIVE PLAN, APPENDIX A (GLOSSARY), APPENDIX B**
38 **(LIST OF ACRONYMS) AND APPENDING D (BIBLIOGRAPHY)**
39 **(AB2004-354)**
40
41 **4. ORDINANCE ADOPTING AMENDMENTS TO THE TRANSPORTATION**
42 **CHAPTER OF THE WHATCOM COUNTY COMPREHENSIVE PLAN**
43 **ESTABLISHING POLICIES TO IMPLEMENT THE BICYCLE PLAN AND**
44 **CONSIDER UTILIZING ITS TECHNOLOGY IN TRANSPORTATION**
45 **PROJECTS (AB2004-355)**
46

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

- 1 5. ORDINANCE AMENDING THE 2004 WHATCOM COUNTY BUDGET,
2 THIRTEENTH REQUEST (AB2004-356)
3
4 6. REQUEST FOR PUBLIC HEARING TO PRESENT FINDINGS OF THE
5 NORTHFORK COMMUNITY RESOURCE CENTER FEASIBILITY STUDY
6 (AB2004-357) (HEARING TO BE SCHEDULED)
7
8 7. RESOLUTION ADOPTING THE WHATCOM COUNTY 2005 ANNUAL
9 ROAD CONSTRUCTION PROGRAM (AB2004-335)
10

11 **Addendum to Introduction Items:**

- 12 8. ORDINANCE AMENDING WCC TITLE 24, HEALTH CODE, TO CREATE
13 WCC 24.12, MUSHROOM SUBSTRATE PRODUCTION FACILITY RULES
14 (AB2004-300)
15
16
17
18

19 **OTHER BUSINESS**
20

21 *McShane* stated the Committee of the Whole had a discussion last time
22 regarding the Lake Whatcom Landscape Management Plan. He *moved* to authorize
23 and direct the Prosecutor to file an action as soon as possible against the State
24 Department of Natural Resources (DNR) and its responsible officials under the State
25 Administrative Procedure Act or, in the alternative, for a writ of mandamus seeking
26 an order compelling the DNR to immediately implement the Lake Whatcom
27 Landscape Management Plan as required by the State legislation in its adoption of
28 Chapter 205 of the laws of 2000.
29

30 Crawford stated he is against the motion. He is interested in looking into
31 legal remedies resolving this situation after the election. In the midst of a heated
32 election race for Commissioner of Public Lands, he is not interested in bringing this
33 forward. It reeks of a questionable motive. He is concerned about the public's
34 perception of the motivations of the Whatcom County Council when it is three
35 weeks away from the election. After the election, it would be healthy for the
36 Council and community to debate the merits of pursuing litigation with the State.
37

38 Nelson stated he is very concerned about this. Councilmember McShane's
39 wife has been very involved in this. He asked if it is her group that wants the
40 County to seek a legal remedy through the County mechanism. He asked if there is
41 a conflict of interest if that's the case.
42

43 McShane stated he has the County's interest in mind. He was on the
44 Landscape Planning Committee, which reached an agreement with the DNR in
45 November 2003. The final environmental impact statement the DNR released, with
46 concurrence of the committee, was completed in January 2004. It was brought
47 before the Board of Natural Resources on April 6, 2004. No action has occurred

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 since. The timing is unfortunate. The delay is due to lack of action by the DNR,
2 which has fiscal impacts to Whatcom County and the County's junior taxing
3 districts. He doesn't know how long the delay will continue. Hopefully it will be
4 resolved quickly without requiring a court decision.
5

6 Brenner asked if there will be substantial impacts to the taxing districts in
7 the next three weeks, until the election. She will support waiting if there isn't a
8 substantial impact in the next three weeks.
9

10 McShane stated they've been having impacts since 1998. He can't say there
11 will be a timber harvest in the next three weeks.
12

13 Brenner asked to wait until after the election.
14

15 McShane stated this will be before the Board of Natural Resources at its
16 November 2004 meeting. It is after the election. Last Tuesday, the Board of
17 Natural Resources had a discussion about the plan. The DNR has taken the position
18 that the Board of Natural Resources needs to approve the plan. That isn't
19 consistent with other landscape plans that have been adopted in the past.
20

21 He wrote a letter to the board and Commissioner Sutherland trying to
22 explain the County's position. They have also received communication from the
23 City of Bellingham and Water District 10. The board and DNR seem to be having a
24 hard time understanding the County's position. His letter didn't seem to make the
25 position clear. He doesn't know how else to make it clear.
26

27 One issue clouding the issue is the interjurisdictional committee, which would
28 provide advice to the DNR about the landscape plan and how it would be
29 implemented. That is an issue that is often raised, but is not necessarily of the
30 greatest concern. A section in the resolution was brought to the board, and will
31 come before the board in November, that allows the board to ask the DNR to
32 terminate the plan at any time in the future. That has consequences if the County
33 is going to commit to an interjurisdictional committee. He questions why the
34 County would commit to this committee when, at any time at will, the DNR can
35 drop the plan.
36

37 There has also been communication from DNR that it is looking at alternative
38 plans contrary to the Landscape Plan that is mandated by State law. That has cost
39 implications to all of the trust. Staff time is being put toward a plan that doesn't
40 follow the State legislation.
41

42 Nelson stated he doesn't understand the urgency to do this now. The board
43 will look at the issue, and will continue to look at the issue several times. It is a
44 significant issue for all State lands. There isn't an intent to invalidate the
45 Landscape Planning Committee's work. There also needs to be an opportunity for
46 other interests to address the board on this issue, especially when the DNR intends

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 to go forward. He asked if there is evidence the DNR doesn't intend on going
2 forward.

3
4 McShane stated a letter from Commissioner Sutherland says the DNR is
5 working on an alternative plan that is to be crafted with the Landscape Planning
6 Committee, but the Landscape Planning Committee has not been reconvened.

7
8 Nelson stated that is the legislature's concern. He asked why that would be
9 the County's concern.

10
11 McShane stated the legislature passed the law. The legislature is not going
12 to step in to implement the law. The DNR is to implement the law. It is not acting
13 on it.

14
15 Nelson stated the DNR is not under the County's jurisdiction.

16
17 McShane stated the DNR must follow the law. That's the issue.

18
19 Caskey-Schreiber stated she doesn't have a lot of empathy for Commissioner
20 Sutherland. They have been waiting for this for over a year. The Council sent
21 many letters and resolutions and spent many meetings trying to work this out. The
22 only leverage the County has left is to try to get Commissioner Sutherland to act
23 before the election. After the election, when there is no motivation, he may put
24 them off even longer. Get this done. Citizens worked long and hard on this
25 committee. Commissioner Sutherland is negligent by failing to act.

26
27 Nelson stated he understands the concern about the citizens and residents of
28 Sudden Valley. However, other citizens in the community are gravely concerned
29 about the process. Those citizens addressed those concerns to the State. The
30 process is larger than what Whatcom County government has done. There are
31 circumstances that can affect others, such as forest practices and reimbursement to
32 other counties in other areas.

33
34 Caskey-Schreiber stated Whatcom County is the only county that has had
35 legislation directing the DNR to approve a plan for Whatcom County. Whatcom
36 County is different from other counties. The DNR should adhere to the law that was
37 passed.

38
39 Roy stated she appreciated Councilmember Crawford's concerns. However,
40 this could have been solved a long time ago. It isn't just the County that is waiting.
41 She is concerned that it looks very political. She asked if Councilmember McShane
42 has been working with Dave Grant, who will be the one to file the lawsuit.

43
44 McShane stated that's correct.

45
46 Roy stated this is a dilemma.

47

DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.

1 McShane stated he can understand the concerns about the political
2 ramifications. The County raised that issue at a meeting in June. The reaction to
3 that concern was strong. The delay is because there are significant powers in the
4 State that have caused this delay. However, it's gone beyond a delay. He's no
5 longer concerned about a delay for political reasons. They've caused a delay and
6 have a conviction that this plan will not be adopted under any circumstances. The
7 communication he's received indicates that the board and DNR would like to opt out
8 of the plan whenever it sees fit, and it will not commit to the plan. Send a clear
9 and timely message before the board meeting in November that section eight of the
10 resolution before the board is not acceptable to the County. He's talked with every
11 board member. He hasn't had a lot of success.

12
13 Brenner asked why it would appear political by the County Council.

14
15 Roy stated the County Council is perceived to be very environmental. It
16 could be interpreted as a political move.

17
18 Nelson stated any vote they take can be considered political.

19
20 McShane stated they are all politicians. He is on the Council to represent the
21 interest of Whatcom County. It is in Whatcom County's interest to complete and
22 implement this plan for fiscal, public safety, and drinking water quality reasons. He
23 is willing to make that political statement. He worked on the plan. It is a
24 technically sound plan. The plan will allow clear-cutting harvest in the watershed.

25
26 Brenner stated she is not aware of Lisa McShane's involvement. If there was
27 some involvement, Councilmember McShane may want to consider excusing
28 himself from the vote. She's not concerned about it. She was concerned about a
29 fiscal problem with the County not doing this now. She's convinced that they
30 probably need to vote on this now if the board meets in November.

31
32 Nelson stated the plan is workable. However, he doesn't want to alienate
33 people in order to make a statement. That is the perception, which is a lot of what
34 the councilmembers do. The Council can make and defend political decisions.
35 However, it is harder to equivocate perceptions. People in the community feel
36 strongly about getting this done. This may alienate the board and Commissioner,
37 who already know the County's position. After the election, the County can
38 demonstrate that it has no ill-will toward people and that this County wants to work
39 with DNR on a workable and defensible plan for Whatcom County.

40
41 McShane stated he agreed with Councilmember Nelson in March and April.
42 However, a DNR official's statement to the Board of Natural Resources was that the
43 DNR is unclear about Whatcom County's position. He became very frustrated.

44
45 Fleetwood asked if this assumes that this would go to a hearing and there
46 would be a ruling before the board meets.

47

