

1 **OPEN SESSION**
2

3 The following people spoke:
4

5 John Raney, 3040 Birchwood Court, Bellingham, stated Revised Code of
6 Washington (RCW) 10.101.030 requires the County to adopt standards for the
7 delivery of indigent defense services in the County. Nothing has been done about
8 it. Whatcom County doesn't have such standards, which can't be allowed. It's a
9 conversation they have to have sooner rather than later. There is a downside to
10 not having standards. First, the County will get sued. It has an obligation to have
11 standards.
12

13 Second, the County public defenders may unionize and bargain for lower
14 caseloads. There are a lot of disadvantages to that.
15

16 Third, the Washington Bar Association and courts may adopt the American
17 Bar Association (ABA) standards as ethical standards, in which case it will be
18 virtually impossible to get a licensed attorney to practice under conditions that
19 don't meet those standards. At this point, the County has the option to increase
20 funding for indigent defense gradually, to meet those standards. If the ABA
21 standards are adopted, then the County will have to meet those standards all at
22 once. The problems will be huge.
23

24 Another possibility is that criminal defendants may stop negotiating their
25 cases. The current system is pushing 1,800 cases. That's about nine year's worth
26 of court trials. The vast majority would be dismissed for failure of a speedy trial.
27 There are other consequences, also.
28

29 Michael Duman, 352 South Forest Street, Bellingham, stated Public Utility
30 District (PUD) 1 decided to provide wholesale telecommunication some years ago to
31 stimulate economic growth and to reduce governmental costs. The PUD is now
32 winding down its project. The PUD spent too much money and made massive
33 errors of judgment. Nonetheless, the project has merit. The PUD will be selling off
34 its assets. That doesn't mean that the PUD cannot continue to manage and
35 coordinate those assets for the benefit of the public. He asked the Council to
36 review the information he submitted earlier. This system makes sense. The nation
37 is moving from an industrial economy to an information economy. Lay the
38 infrastructure to attract these businesses to the community so they don't pass up
39 quality of life, a wonderful workforce, and smart people. These industries will allow
40 the community to grow economically, maintain its quality of life, and have a low
41 environmental impact. Provide a nominal level of support to a peer agency. In
42 addition, ask for fiscal responsibility from the PUD.
43

44 Tom Hollett, 380 West Bluff Road, Pt. Roberts, stated his neighbor, John
45 Lesow, is an applicant for the Whatcom County Planning Commission District 3
46 position. He supports Mr. Lesow. He has been an active member of the community
47 for many years. Mr. Lesow is an astute businessman and a learned person. When

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1 confronted with a situation, Mr. Lesow will pursue it actively. He can search out
2 resources and work with all people to accomplish goals. Mr. Lesow wrote in his
3 application that he is not blindly opposed to progress, but is opposed to blind
4 progress. That is an astute statement that shows Mr. Lesow will work with people
5 to achieve goals.

6
7 Geoff Menzies, 988 West Laurel Road, Ferndale, thanked the Council for
8 approving the additional services request (ASR) for a marine resource coordinator
9 for Drayton Harbor and Portage Bay.

10
11 Regarding the community oyster farm, Drayton Harbor has a conditionally
12 approved classification. Every time there is a half-inch of rain, there is a five-day
13 closure. Since the middle of August, the harbor has been closed 40 days. It's been
14 an unusually wet fall. This winter will show whether a commercial shellfish
15 operation is viable in Drayton Harbor. The efforts of the oyster farm is to restore
16 water quality in Drayton Harbor to a level to support commercial shellfish
17 harvesting. It will also open areas from recreational harvest. There is now a
18 commitment from a buyer to sell three-quarters of the crop to China. The balance
19 of the product is sold locally on the docks in Blaine. The end user in China needs to
20 have regular delivery. The challenge in the next two years is to deal with upper
21 watershed sources, including hobby farms, on-site septic systems, and commercial
22 dairies to know why they have high bacterial counts during wet weather events.
23 The next two years are crucial. If they can't increase the closure trigger to three-
24 quarters of an inch or one inch of rainfall, they won't be able to restore the harbor
25 to a viable level for commercial shellfish harvesting.

26
27 Linda Franz, 6640 Trent Lane, Ferndale, asked the Council to remember that
28 the Comprehensive Plan review is just a review, and it's not necessary to make
29 amendments to it. The State may do a study to provide more information on
30 decisions the Council is trying to make. The County has the option of beginning
31 this study early. This study is on mitigation practices for things like mines. Look at
32 the location of current mines. Make it clear to everyone where mining will be in the
33 future. Identify resources. Do proper planning. Insure that mines are in areas
34 with enough room to mitigate problems. Look at the impact to private wells.
35 Discourage destructive mining practices such as vertical walls, which are difficult to
36 reclaim. Mitigation must be clearly defined. Language says that abutting parcel
37 size density must not exceed one unit per nominal five acres for more than 25
38 percent of the perimeter site unless project-specific mitigation is created. That
39 means they are going to throw away most of the density requirements around the
40 mines. Mitigation is very subjective. They have no proof that it works. Mitigation
41 will put a lot of burden on the County staff and it will cause a lot of material
42 damage to property value, environment, and health. Distance is the only
43 mitigation for a mine. At 1,000 feet, all she hears is the shovel.

44
45
46 **PUBLIC HEARINGS**

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1 **1. RESOLUTION CONDITIONALLY APPROVING THE COMPREHENSIVE**
2 **SEWER PLAN FOR POINT ROBERTS WATER DISTRICT NO. 4 (AB2004-**
3 **393)**

4
5 McShane opened the public hearing and the following person spoke:

6
7 Dan Bourks, Pt. Roberts Water District Manager, stated the Board of
8 Commissioners supports the County planning staff recommendations. Currently, no
9 one is petitioning sewer service.

10
11 Hearing no one else, McShane closed the public hearing.

12
13 ***Brenner moved*** to approve the resolution.

14
15 ***Motion carried unanimously.***

16
17 **2. RESOLUTION ORDERING AN ELECTION FOR THE PROPOSED POINT**
18 **ROBERTS PUBLIC HOSPITAL DISTRICT (AB2004-377)**

19
20 McShane opened the public hearing and the following people spoke:

21
22 Mark Millman, 589 South Beach Road, Pt. Roberts, stated residents must
23 allow two hours to get to Blaine or Bellingham. The round trip can take five hours
24 or more. As a consequence, many residents suffer through many maladies rather
25 than lose a day's work. The elderly find a long trip a burden. Those with chronic
26 medical conditions leave the Point permanently.

27
28 Canadian doctors were never a choice. Now, they've withdrawn all but
29 emergency services to U.S. residents. The Aydon Wellness Clinic opened in June
30 2003 and changed this situation. The clinic is available two to three days per week.
31 The clinic will be lost if the district is not formed and new funding can be found.
32 The clinic is now funded by a one-time grant for the startup phase of rural clinics.
33 The grant runs out in five months. That's why they need a hospital district. There
34 is a need, a frugal budget, experience, and support from the community. They
35 need time and a special election that will give residents the opportunity to keep the
36 clinic doors open. He thanked the Council for its support.

37
38 Ralph Hill, Interfaith Clinic Executive Director, stated he's been working with
39 the Point Roberts community. The proposal is the only way the community can
40 maintain access to healthcare facilities. He asked the Council to support the
41 resolution.

42
43 Hearing no one else, McShane closed the public hearing.

44
45 ***Crawford moved*** to approve the resolution. He asked what kind of money
46 this district can generate. Millman stated the Revised Code of Washington (RCW)
47 allows for a \$.50 levy and a \$.25 levy, for a total of \$.75. The split has to do with

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1 the one percent cap on property values, which Point Roberts is well under. To
2 continue the clinic in its current operations, the district will tax approximately \$.35
3 per \$1,000 of assessed value. That amount is an estimate based on preliminary
4 negotiations with Interfaith and a review of past operating expenses.
5

6 Crawford asked the revenue that level will raise. Millman stated that level
7 will raise \$75,000 to \$85,000 per year to operate. With the size of the community
8 and distance from a large population base, there is a gap between what the clinic
9 can earn in revenue and the operating cost. That's what the district would collect.
10 The plan has no paid positions in Point Roberts. The plan is to contract with a
11 healthcare provider. In this case, they are talking with Interfaith to do that.
12

13 Caskey-Schreiber stated she supports this measure. It is a creative solution
14 from the community to address their healthcare access issues.
15

16 Nelson asked for information on the use of health care clinics nationwide.
17

18 Dewey Desler, Deputy Administrator, stated clinics are being used
19 nationwide to provide primary care for people in rural areas. The administration
20 supports Point Roberts. When the County asked for a \$.38.5 levy for emergency
21 medical services (EMS), it would generate about \$120,000 in Point Roberts. A \$.35
22 levy would generate about \$100,000 in Point Roberts.
23

24 Millman stated that level is in excess of what the district needs.
25

26 Nelson stated he supports this item. He is concerned. Many clinics in other
27 areas are experiencing excessive emergency use. Plan for that. Millman stated
28 this is a scheduled day clinic that does not provide emergency services, which are
29 provided through the fire department. They are looking for a method to maintain
30 access two to three days per week for the majority of the day-to-day medical
31 needs.
32

33 ***Motion carried unanimously.***
34

35 **3. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
36 **PLAN, CHAPTER 2 – LAND USE, CITY OF FERNDALE URBAN GROWTH**
37 **AREA (AB2004-344)**
38

39 McShane opened the public hearing and the following people spoke:
40

41 Nick Solberg, 5381 Bellaire Way, Belfern Water Association President,
42 submitted and read information (*on file, Exhibit A*). He is opposed the proposed
43 language in the draft plan.
44

45 Carl Weimer, 1055 West Laurel Road, North Bellingham Community
46 Association, stated he agrees with the previous speaker, Mr. Solberg. Every time
47 Ferndale talks about its UGA, they talk about areas to the east. There are plenty of

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1 other places the City has not filled or is filling with low density housing. Delete the
2 language that mentions the area to the east of Ferndale. Don't open the door to
3 planning in that area. The area to the east should be designated a limited area of
4 more intense rural development (LAMIRD). Most of the residents in the area would
5 be happy to have a clear boundary placed around the North Bellingham community
6 so that area doesn't sprawl into farmland.
7

8 Ellen Gray, Thousand Friends of Washington, submitted information (*on file,*
9 *Exhibit B*). She is concerned about the lack of analysis to document the size of the
10 proposed UGA's. The Growth Management Act (GMA) requires review of UGA's in
11 2004, using the most recent ten-year population forecast from the Office of
12 Financial Management (OFM). She could not find analysis that justifies some of the
13 proposed UGA sizes. The City of Blaine UGA is too large. Blaine is achieving a
14 density of about .46 units per acre. Reduce Blaine's UGA. Maps show the location
15 of critical areas. Remove critical areas from UGA boundaries to prevent urban
16 development in critical areas. The UGA includes a lot of undeveloped, rural land.
17

18 McShane stated the Blaine UGA is not before the Council tonight.
19

20 Sylvia Goodwin, Planning Division Manager, stated the Council already
21 approved the Blaine UGA for the concurrency meeting. The Council is not having a
22 hearing on Blaine. The City of Blaine and the County are not looking at Blaine's
23 UGA's this year. That's required to do in 2007.
24

25 Lincoln Rutter, 8373 Semiahmoo Drive, Blaine, stated he is also trying to
26 understand how the size of the UGA's got out of line from the GMA. He asked why
27 the Blaine UGA's were not considered. He attended the Birch Bay Steering
28 Committee meetings where the size of the UGA was discussed. The steering
29 committee was told by a paid consultant that the steering committee members
30 were not entitled to reduce the size of a UGA, which contradicts the GMA. In
31 addition, the County land use manager did nothing to dissuade the members of
32 that committee from that interpretation. The Blaine City Manager said he would
33 look favor of reducing the Blaine UGA because it is obviously too large. It's almost
34 four times too large, relative to the density requirements of the GMA. Many of the
35 UGA's include wetlands that shouldn't be included. In the cases of Blaine and Birch
36 Bay, aquifers are also included. It's important to protect aquifers, which were
37 overlooked. The City of Blaine will not provide data necessary to determine the
38 capacity of the UGA, the size of the aquifer, and the size of the wetlands. The
39 County has a poor record of complying with the GMA. Size the UGA's correctly.
40

41 Hearing no one else, McShane closed the public hearing.
42

43 ***Brenner moved*** to forward the ordinance to the concurrency meeting. The
44 Council received a letter from a resident east of the Ferndale UGA that spoke about
45 wording saying they can't extend urban services beyond the UGA. The wording was
46 crossed out and instead referred to a policy on extending utility beyond the UGA.

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1 Goodwin stated there are already utilities outside of the UGA in Ferndale. The City
2 of Ferndale and the County need to work together on policies for extension.

3
4 Brenner stated that according to Mr. Solberg, those lines were extended
5 specifically for health and safety reasons, and they're not supposed to justify
6 providing services at urban levels. Goodwin stated new houses have been built out
7 there. They have to hook up to something.

8
9 McShane stated there isn't a policy around that very issue.

10
11 Brenner asked if there is a policy by the State or federal government about
12 being a regional purveyor. Goodwin stated there isn't a City or County policy on
13 whether building permits in areas that already have city utilities can or can't hook
14 up to those utilities. They're not talking about extension of utilities, but of infill of
15 an existing area. If there is a federal law that prohibits the City from hooking up,
16 they need to find it and adopt it. The County doesn't have a basis for denying
17 someone a building permit if the City of Ferndale is willing to provide water. Being
18 a regional purveyor is a different issue than a policy on connection to an existing
19 line for infill.

20
21 McShane stated the Council received comments about language on the area
22 east of the existing Ferndale UGA. The reason for the public hearing is to strike
23 that language.

24
25 Crawford stated this language is a description.

26
27 McShane stated numerous people are sensitive to that description.

28
29 *(Clerk's Note: End of tape one, side A.)*

30
31 Roy stated she supports sending this item to the concurrency meeting.

32
33 **Nelson** moved approval to forward the ordinance to the concurrency
34 meeting.

35
36 ***Motion to forward carried unanimously.***

37
38 **4. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
39 **PLAN, CHAPTER 2 – LAND USE, CITY OF LYNDEN URBAN GROWTH**
40 **AREA (AB2004-345)**

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

44
45 **Brenner moved** to forward to the concurrency meeting.

46
47 Crawford asked if there is a definition of net residential acre.

1
2 McShane stated the net residential acre is calculated after roads, wetlands,
3 and stormwater facilities.

4
5 Crawford asked if the City of Lynden may not like it.

6
7 McShane stated the Council wants to encourage higher densities in the urban
8 growth areas, but won't tell the cities exactly what that density should be.

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

11
12 **5. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
13 **PLAN, CHAPTER 2 – LAND USE, CITY OF BELLINGHAM URBAN**
14 **GROWTH AREA (AB2004-341)**

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

18
19 ***McShane moved*** to forward to the concurrency meeting.

20
21 Crawford asked the change from the Planning Commission recommendation.

22
23 Brenner stated the change is to the density allowed.

24
25 ***Motion carried unanimously.***

26
27 **6. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
28 **PLAN, CHAPTER 2 – SUDDEN VALLEY PROVISIONAL URBAN GROWTH**
29 **AREA (AB2004-339)**

30
31 McShane opened the public hearing and the following person spoke:

32
33 Chris Comeau, City of Bellingham, read a letter in to the record from the City
34 of Bellingham Planning Director Jorge Vega (*on file, Exhibit C*).

35
36 Hearing no one else, McShane closed the public hearing.

37
38 Fleetwood asked the process of rescinding the urban growth area.

39
40 Sylvia Goodwin, Planning Division Manager, stated they would have to strike
41 all reference to Sudden Valley being a provisional urban growth area and return the
42 area to a recreational subdivision or limited area of more intense rural development
43 (LAMIRD).

44
45 McShane stated the version of the ordinance with the light blue cover and
46 which proposes alternate language to policy 2AA-25 was a result of discussions with
47 legal counsel regarding the LAMIRD designation. There would be problems if the

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1 Council chose a LAMIRD. The recommendation is to revert the area back to a
2 recreational subdivision. A LAMIRD designation may not accomplish the goals of
3 less density.
4

5 ***Brenner moved*** to rescind the designation of Sudden Valley as a provisional
6 UGA and to designate Sudden Valley a recreational subdivision.
7

8 Caskey-Schreiber stated Sudden Valley has already been platted. The lots in
9 the density reduction program have already had their development rights removed.
10 The City of Bellingham fears that Sudden Valley could increase density, take those
11 lots out of conservation, or convert the golf course area to a business district if
12 Sudden Valley achieved incorporation. She asked Ms. Goodwin to comment on
13 that. Goodwin stated there are a few small, unplatted areas left in Sudden Valley.
14 Most of those already have urban zoning. They could be further platted and have
15 condominiums. Most of the lots are fully platted and developed or set up for single-
16 family housing. Even if Sudden Valley were to incorporate and change the zoning
17 to significantly increase density, it would be another 50 to 70 years before all those
18 existing houses were ready to be torn down and replaced with higher density
19 housing. It's not likely that a higher density would occur, other than those small
20 vacant lots.
21

22 Most of the land in the density reduction program have recorded covenants
23 that stay with the land. The Sudden Valley Community Association kept a small
24 pool of lots to trade for lots with a higher environmental value. The covenants are
25 permanent.
26

27 The County downzoned the golf course to a rural zone. If incorporated,
28 there are probably homeowner association rules that would give everyone common
29 rights to the golf course and that would be difficult to undo. If the association
30 really wants to convert the use of the golf course, it would require approval of the
31 majority of those who hold interest, which could be done in theory.
32

33 Caskey-Schreiber stated she is against the motion because it's important for
34 this community to explore this option and figure out if incorporation will work or not
35 work. They need to figure it out by the end of 2006, or else the issue is dead
36 forever. The community needs to figure out once and for all whether it can
37 incorporate.
38

39 Roy stated she is concerned about what happens if the community comes to
40 the wrong conclusion. Sudden Valley is not a sustainable economically viable area.
41 There's no tax base. She doesn't feel right about encouraging incorporation when
42 she doesn't believe a city would be viable.
43

44 Nelson stated he agreed with Councilmember Caskey-Schreiber. They've all
45 been to community meetings at Sudden Valley. The citizens have expressed a
46 desire to work on incorporation. They have done a lot of work on various things.

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1 It's a strong, proactive community. He supports the community's efforts to achieve
2 the goals they all want, which is density reduction to protect the drinking water.
3

4 Fleetwood stated they don't need another city on Lake Whatcom. He's never
5 liked this designation. He appreciates that the overall goal is the best water quality
6 for the lake. However, pretending there will be a city there someday places a
7 fallacy on the books. He supports the motion.
8

9 Crawford stated he challenges the assertion that a city can't be financially
10 viable. When the Council made this designation, the community submitted
11 preliminary numbers supporting their claim of viability. The community needs local
12 control over some of the problems in the area, specifically the road infrastructure.
13 No one envisions Sudden Valley becoming something it is not already today. One
14 option may be for Sudden Valley, as a city, to contract out all its city services to
15 another city.
16

17 Regarding the drinking water quality, keep in mind that Sudden Valley
18 residents also depend on the lake for its drinking water. He questioned the
19 incentive the community would have to convert its golf course to a commercial
20 area. No one in the community has the will to say that the money is more
21 important than their quality of life. If incorporated, they won't see Sudden Valley
22 change physically from what it is today, other than possibly improved roads.
23

24 Brenner stated it's extremely naïve to believe there wouldn't be a physical
25 difference if the area became a city. It's an insult to all the taxpayers who are
26 taxing themselves to purchase property in the Lake Whatcom watershed to keep
27 development down and improve the water quality. Allowing this area of the lake
28 the possibility of becoming a city doesn't go with their efforts to purchase land in
29 the watershed for lake protection. Rescind the designation.
30

31 Nelson stated Sudden Valley is one of the largest communities in the county.
32 Look at the reality. Sudden Valley already exists as a community.
33

34 ***Motion to rescind the provisional UGA designation and schedule a***
35 ***public hearing failed 3-4 with Brenner, Fleetwood, and Roy in favor.***
36

37 ***McShane moved*** to forward the amended version with the light blue cover
38 to the concurrency meeting. He read policy 2AA-24, including the amendment to
39 that policy. He's heard much debate about this since the Council created the
40 provisional UGA. People have said they can't do it. If they can do it, they would
41 have the assurance put in place.
42

43 Dave Grant, Senior Civil Deputy Prosecutor, stated the additional language
44 parallels the language the State Environmental Protection Act (SEPA) official
45 required as a mitigating provision in his determination. The amendment would
46 bring that component out more openly.
47

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1 Nelson asked if they do not have a legal agreement for incorporation, then
2 the County would not support incorporation. Grant stated that's correct.
3

4 Fleetwood stated his brief research suggests that they cannot have one
5 government agency binding future decisions of a future city. This language seems
6 to be dead on arrival, Sudden Valley will not become a city, and the Council may as
7 well rescind the designation.
8

9 Roy stated the County will only support incorporation. She asked if the
10 County has to give its blessing to the incorporation process. Grant stated it's a
11 process that goes before the Boundary Review Board. The County may be a party.
12 He's not sure if the County must give its approval.
13

14 McShane stated the County did a downzone when it created the provisional
15 UGA. The Council has since done another downzone. An UGA doesn't necessarily
16 mean there must be intensive rural development. The City has taken a policy in
17 the Hillsdale area to reduce that urban level of density as much as possible. The
18 County will consider something similar in the Geneva UGA. Other cities have less
19 than intensive urban development occurring for resource protection reasons. A
20 significant amount of development can occur in other areas outside of the
21 watershed.
22

23 ***Motion carried 6-1 with Brenner opposed.***
24

25 **7. ORDINANCE ADOPTING THE CURRENT STATE BUILDING CODE AND**
26 **REPEALING EXISTING CHAPTERS IN TITLE 15 OF THE WHATCOM**
27 **COUNTY CODE (AB2004-374)**
28

29 McShane opened the public hearing and the following person spoke:
30

31 Mary Dickinson, Building Industry Association of Whatcom County
32 Governmental Affairs Director, stated she is comfortable with the ordinance. She is
33 pleased with section B.103. She is pleased that staff is working on alternatives to
34 section B.105, which isn't relevant in Whatcom County. She recommends flexibility
35 with Appendix B. Some of the requirements will affect affordability. However,
36 Section B.103.1 allows County staff to allow alternatives.
37

38 Hearing no one else, McShane closed the public hearing.
39

40 ***Crawford moved*** to adopt the ordinance. He asked if there is no change to
41 the provision that single-family residences in the county and under 4,000 square
42 feet are not required to have a sprinkler.
43

44 Warner Webb, Deputy Fire Marshal, stated that's correct. There is no
45 change. He submitted an article on residential fire flow requirements (*on file,*
46 *Exhibit D*).
47

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

3 Crawford thanked Building Services Manager Sam Ryan because this
4 significantly changes the building code. These codes include flexibility that didn't
5 exist before.
6

7 Caskey-Schreiber thanked Warner Webb for the wonderful job he does.
8

9 **8. RESOLUTION AUTHORIZING THE LEVY OF TAXES FOR THE WHATCOM
10 COUNTY FLOOD CONTROL ZONE DISTRICT FOR 2005 (AB2004-389)
11 (COUNCIL ACTING AS THE FLOOD CONTROL ZONE DISTRICT BOARD
12 OF SUPERVISORS)**
13

14 Jeff Monsen, Public Works Director, gave a staff report and stated this
15 resolution carries forward that tax put in place a year ago in place of a service fee.
16 He recommends not increasing the collection.
17

18 McShane opened the public hearing and, hearing no one, closed the public
19 hearing.
20

21 ***Caskey-Schreiber moved*** to approve the resolution.
22

23 ***Motion carried unanimously.***
24

25 **9. RESOLUTION BY THE GOVERNING BODY OF THE COUNTY-WIDE
26 FLOOD CONTROL ZONE DISTRICT (WCFCZD) EXTENDING THE
27 CURRENT WCFCZD FUNDING MECHANISM AND LEVELS FOR THE
28 LYNDEN/EVERSON SUBZONE (AB2004-390) (COUNCIL ACTING AS
29 THE FLOOD CONTROL ZONE DISTRICT BOARD OF SUPERVISORS)**
30

31 Jeff Monsen, Public Works Director, gave a staff report and stated this and
32 the next two agenda items are service fees with the same formula used last year.
33 The only change in the formula is to clarify that the minimum is \$5. That change is
34 the same for all three sub-zones.
35

36 McShane opened the public hearing and, hearing no one, closed the public
37 hearing.
38

39 ***Fleetwood moved*** to approve the resolution.
40

41 ***Motion carried unanimously.***
42

43 **10. RESOLUTION BY THE GOVERNING BODY OF THE COUNTY-WIDE
44 FLOOD CONTROL ZONE DISTRICT (WCFCZD) EXTENDING THE
45 CURRENT WCFCZD FUNDING MECHANISM AND LEVELS FOR THE
46 ACME/VAN ZANDT SUBZONE (AB2004-391) (COUNCIL ACTING AS
47 THE FLOOD CONTROL ZONE DISTRICT BOARD OF SUPERVISORS)**

1
2 McShane opened the public hearing and, hearing no one, closed the public
3 hearing.

4
5 ***Crawford moved*** to approve the resolution.

6
7 ***Motion carried unanimously.***

8
9 **11. RESOLUTION BY THE GOVERNING BODY OF THE COUNTY-WIDE**
10 **FLOOD CONTROL ZONE DISTRICT (WCFCZD) EXTENDING THE**
11 **CURRENT WCFCZD FUNDING MECHANISM AND LEVELS FOR THE**
12 **SUMAS/NOOKSACK/EVERSON SUBZONE (AB2004-392) (COUNCIL**
13 **ACTING AS THE FLOOD CONTROL ZONE DISTRICT BOARD OF**
14 **SUPERVISORS)**

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

18
19 ***Caskey-Schreiber moved*** to approve the resolution.

20
21 ***Motion carried unanimously.***

22
23 **12. RESOLUTION TO SELL TAX-TITLE PROPERTY BY NEGOTIATION, REQ.**
24 **#08-04 (AB2004-386A)**

25
26 McShane opened the public hearing and the following people spoke:

27
28 *(Clerk's Note: End of tape one, side B.)*

29
30 Tony Pickering, American Pony Parts, 2750 Peace Portal Drive, Blaine, stated
31 he is interested in buying the property. The piece is behind his warehouse. The
32 property is landlocked. The only way to get to the property is through his property.

33
34 Hearing no one else, McShane closed the public hearing.

35
36 ***McShane moved*** to approve the resolution.

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

39
40 **13. ORDINANCE RELATING TO TAXATION AND IMPOSITION OF AN**
41 **EXCISE TAX ON TIMBER HARVESTED FROM PRIVATE LANDS AND**
42 **FROM PUBLIC LANDS (AB2004-394)**

43
44 Brenner stated it looks like this is just for public lands, and that they already
45 collect a tax on private lands. She asked if that is accurate.

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1 McShane stated this was an issue at the one Association of Timber Counties
2 meeting he attended. The association supports the ordinance because it means
3 more money from an excise tax on the public trees that are harvested. It made
4 financial sense.

5
6 Crawford stated it appears that they are simply following the taxing structure
7 allowable by state law.

8
9 Brenner stated it makes a difference if they are increasing a tax on private
10 land than if they implement a tax on public land. Public land belongs to the public.
11 The public has a right to be reimbursed for timber removed from public land.
12 However, they already tax harvests on private land enough. She wants to make
13 sure this is for public lands.

14
15 Nelson stated this is for public lands through the State Department of Natural
16 Resources (DNR). There is a bid process that bids for stumping. This price is
17 based on the price of the stumpage, or the amount gained back from that. On
18 private lands, tax is based on four percent.

19
20 Dewey Desler, Deputy Administrator, stated the legislature allows counties to
21 be credited for an existing tax placed on both public and private stumpage. That
22 excise tax will be credited back to the County over the next ten years. Currently,
23 the County collects four percent on the private stumpage. A similar tax for public
24 stumpage will be phased in over the next four years.

25
26 Brenner asked if that tax is already being collected, the County hasn't
27 received any of it, but now the County will begin receiving a portion of that tax.
28 Desler stated that's correct. The amount is already being collected and there won't
29 be an increase in tax to anyone.

30
31 Crawford stated the fifth whereas statement clearly states that there is no
32 increase in tax to anyone.

33
34 McShane opened the public hearing and, hearing no one, closed the public
35 hearing.

36
37 ***Nelson moved*** to adopt the ordinance.

38
39 ***Motion carried unanimously.***

40
41
42 **CONSENT AGENDA**

43
44 ***Crawford*** reported for the Finance and Administrative Services Committee
45 and ***moved*** to approve Consent Agenda items one through three and five through
46 ten. They need more information on item four. On item number nine, the

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1 resolution is amended on the exhibit B salary matrix for the Sheriff's Office
2 management staff, they added a step H.

3
4 Brenner asked that Planning and Development staff to explain in two weeks
5 why it is scheduled before the Finance Committee and not the Planning and
6 Development Committee.

7
8 McShane stated he is in favor of voting on item four now.

9
10 Sylvia Goodwin, Planning Division Manager, stated this item was scheduled in
11 the Finance Committee because they have to look at revenue sharing. If there was
12 any kind of business that collects a sales tax, the County is entitled to revenue
13 sharing. If the County has put in any kind of capital facility in the area, the County
14 is entitled to reimbursement. For this property, there is only vacant land. There
15 are no County facilities or sales tax generated, so there is no revenue sharing. The
16 property is in the City's urban growth area. There are no issues other than a
17 concern about the flood plain. The City of Lynden has flood standards stronger
18 than the County's standards, so there won't be more development than in the
19 county.

20
21 ***Motion to approve Consent Agenda items one through three and five***
22 ***through ten, including item nine as amended by committee, carried***
23 ***unanimously.***

24
25 **1. DISCUSSION AND POSSIBLE ACTION REGARDING THE RFP FOR**
26 **HEARING EXAMINER SERVICES (AB2004-398)**

27
28 *(Clerk's Note: See the beginning of the Consent Agenda items for discussion*
29 *of this item.)*

30
31 Crawford stated the committee moved to accept the proposal that Michael
32 Bobbink submitted to the Council. That was the recommendation from the
33 committee, and that is what the Council just voted on.

34
35 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
36 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
37 **INTERFLUVE, INC. FOR MONITORING OF THE SAXON BANK**
38 **STABILIZATION AND SAAR CREEK SEDIMENT TRAP PROJECTS, IN**
39 **THE AMOUNT OF \$180,635 (AB2004-401)**

40
41 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
42 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
43 **AUTOMATIC FUNDS TRANSFER SERVICES TO PROVIDE LOCKBOX**
44 **PAYMENT PROCESSING FOR PROPERTY TAX AND SPECIAL**
45 **ASSESSMENT PAYMENTS, IN THE AMOUNT OF \$20,000 (AB2004-402)**
46

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1 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
2 **INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE**
3 **CITY OF LYNDEN REGARDING THE ANNEXATION WITHIN THE URBAN**
4 **GROWTH AREA, AMENDMENT #4 - +/- 8 ½ ACRES SOUTH OF KOK**
5 **ROAD (AB2004-403)**
6

7 *(Clerk's Note: See the beginning of the Consent Agenda items for discussion*
8 *of this item.)*
9

10 **McShane moved** to approve the request.
11

12 Crawford asked why the City wants this land.
13

14 Sylvia Goodwin, Planning Division Manager, stated there is good, developable
15 land in this area, partly in the floodplain and partly in the upland. They're talking
16 about putting in multifamily housing in the developable land in the urban growth
17 area.
18

19 Crawford asked if there is a minor amount of property tax revenue that
20 would go to the City instead of the County. Goodwin stated the property tax to the
21 County would stay the same. The County would lose the road tax from the area.
22 The City would collect a city property tax. If the area developed, the assessed
23 value goes up, and the County gets more property tax.
24

25 Caskey-Schreiber asked if part of this property is agricultural land, and if that
26 land would be rezoned. She asked if this would add pressure to areas south of the
27 Nooksack River, if this area is filled in. Goodwin stated any flood plain fill could
28 increase flooding in other areas. The County should have addressed that before
29 they made the area an urban growth area (UGA). Once designated as a UGA, the
30 intent is for the area to develop. Their flood regulations, if they fill the flood way,
31 requires a study to make sure there is not increased water depth in other areas,
32 including areas outside the UGA. The stated intent is to fill the upland portions of
33 the area, not the flood way.
34

35 McShane asked about small adjustments made to the urban growth area all
36 along that flood way, based on flood plain mapping. Goodwin stated the
37 adjustments were also based on property line boundaries. Parts of this property
38 dipped into the flood plain, but it was difficult to calculate acreages and draw
39 annexation boundaries that zigzagged in and out of the flood plain. Their intent is
40 to use the entire acreage to calculate density, but to cluster development within the
41 upland portions, not the flood plain. There hasn't been an engineered development
42 proposal yet.
43

44 **Motion carried unanimously.**
45

46 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
47 **GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND THE**

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1 WASHINGTON STATE DEPARTMENT OF COMMUNITY, TRADE &
2 ECONOMIC DEVELOPMENT TO EXTEND THE BIRCH BAY WATER &
3 SEWER DISTRICT'S SANITARY WATER SYSTEM FOR THE BENEFIT OF
4 THE BIRCH BAY VIEW COMMUNITY, IN THE AMOUNT OF \$850,000.
5 IN ADDITION, REQUEST AUTHORIZATION FOR THE EXECUTIVE TO
6 ENTER INTO A SUBRECIPIENT AGREEMENT WITH THE BIRCH BAY
7 WATER & SEWER DISTRICT AS THE SUBRECIPIENT OF THIS GRANT
8 FUNDING (AB2004-404)
9

10 6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE
11 AWARD OF BID #04-80, THE ANNUAL LIST OF INDIVIDUALS AND
12 COMPANIES INTERESTED IN RENTING THEIR EQUIPMENT TO THE
13 COUNTY, IN AN AMOUNT THAT MAY EXCEED \$35,000 WITH A SINGLE
14 VENDOR (AB2004-405)
15

16 7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE
17 PURCHASE OF A MODULAR BUILDING FROM WILLIAM SCOTSMAN,
18 INC. USING THE WASHINGTON STATE CONTRACT, IN THE AMOUNT
19 OF \$104,118.69 (AB2004-406)
20

21 8. REQUEST APPROVAL OF THE HOUSING FOR LOW INCOME ADVISORY
22 COMMITTEE RECOMMENDATIONS FOR FUNDING OPERATIONS RFP
23 04-79, IN THE AMOUNT OF \$211,759 (AB2004-407)
24

25 9. RESOLUTION ADOPTING A SALARY SCHEDULE AND POLICIES FOR
26 UNREPRESENTED WHATCOM COUNTY EMPLOYEES FOR THE YEAR
27 2005 (AB2004-387)
28

29 10. RESOLUTION ORDERING THE CANCELLATION OF WARRANTS MORE
30 THAN A YEAR OLD (AB2004-408)
31

32
33 **OTHER ITEMS**
34

35 1. ORDINANCE AMENDING THE 2004 WHATCOM COUNTY BUDGET,
36 FOURTEENTH REQUEST (AB2004-397)
37

38 *Crawford* reported for the Finance and Administrative Services Committee
39 and *moved* to adopt the ordinance.
40

41 *Motion carried unanimously.*
42

43 2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE A NEW
44 APPLICATION FOR A LIQUOR LICENSE FOR BROWN SNOUT, 8384
45 SILVER LAKE ROAD, MAPLE FALLS (AB2004-409)
46

47 *McShane moved* to approve the request.

1
2 ***Motion carried unanimously.***
3
4

5 **2004 COMPREHENSIVE PLAN AMENDMENTS**
6

7 **1. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY**
8 **COMPREHENSIVE PLAN, CHAPTER 8, MINERAL RESOURCE LANDS**
9 **(AB2004-400)**

10 Roy reported for the Natural Resources Committee and stated the committee
11 made many amendments. This item is held in committee to December 7.
12
13

14 **2. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
15 **PLAN, CHAPTER 2 – CHERRY POINT URBAN GROWTH AREA (AB2004-**
16 **395)**
17

18 ***Fleetwood*** reported for the Planning and Development Committee and
19 stated the amended version adds an additional goal to work toward adding an
20 amenity such as a park in the Cherry Point area. He ***moved*** to have a public
21 hearing on the amended version.
22

23 Crawford stated there is no northwest border of this urban growth area
24 (UGA).
25

26 ***Fleetwood amended his motion*** to have a public hearing on the
27 ordinance, including the recommendation from the committee, but amended,
28 "...northwest border **area** of the UGA."
29

30 Nelson asked if there was a discussion about the available industrial land
31 supply. He also asked if they will still evaluate the industrial land supply and alter
32 it, if necessary.
33

34 Fleetwood stated that is correct.
35

36 Pete Kremen, County Executive, stated he is in favor of the amendment. It
37 is a goal the administration has worked on extensively already. It is prudent to
38 include the amendment. This area is a gem for the community, and has the
39 potential of being one of the most stellar park settings with unmatched potential.
40 He commended Councilmember Fleetwood for including the goal. The negotiations
41 have been low key. This is important. It's a goal he's tried to achieve and is a high
42 priority of his office. Vote for the amendment.
43

44 ***Motion to hold a public hearing as amended carried unanimously.***
45

46 ***McShane moved*** to introduce the ordinance as amended by the committee,
47 with Councilmember Fleetwood's amendment.

1
2 ***Motion carried unanimously.***
3

4 **3. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
5 **PLAN, CHAPTER 2 – CUSTER PROVISIONAL URBAN GROWTH AREA**
6 **(AB2004-396)**
7

8 ***Fleetwood*** reported for the Planning and Development Committee and
9 ***moved*** to remove all language to revert the provisional urban growth area back to
10 its rural status.

11
12 Crawford asked if the reason for the amendment is to get rid of the Custer
13 provisional urban growth area. He asked the reason for getting rid of it.
14

15 Fleetwood stated his reason was to get it to the public hearing, which staff
16 requested. This will allow the Council to hear from the neighbors and decide
17 whether or not to give them an additional year or two to put forward a master plan
18 that would allow this plan to develop.
19

20 Sylvia Goodwin, Planning Division Manager, stated this was not a staff
21 recommendation. A Planning Committee member recommended it. Staff does not
22 recommend eliminating the Custer UGA. Staff recommends a firm sunset date at
23 the end of 2006. She recommended a public hearing to hear citizen concerns.
24 Certain committee members want to get rid of it altogether.
25

26 Crawford asked the reason for the recommendation of a firm sunset date.
27 Goodwin stated it's gone on for seven years without an adequate master plan
28 prepared. Two more years would give them time to finish a master plan. In the
29 meantime, residents in the surrounding area are left with a lot of uncertainty. They
30 don't know whether the area will be industrial or residential. The original language
31 was to give them some certainty, and review it in five years. It's now been seven
32 years.
33

34 Crawford stated he would abstain. The firm he works for did the initial work
35 on this project, even though the work preceded his employment there. His firm
36 may work on it again if it goes through.
37

38 ***Motion to amend carried 6-0 with Crawford abstaining.***
39

40 ***McShane moved*** to schedule a public hearing on the amended version.
41

42 ***Motion carried 6-0 with Crawford abstaining.***
43

44
45 **CORRESPONDENCE APPROVAL**
46

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1 **1. REVIEW AND APPROVAL OF LETTER TO BE SENT TO THE SHARED**
2 **STRATEGY DEVELOPMENT COMMITTEE, NATIONAL MARINE**
3 **FISHERIES, AND U.S. FISH AND WILDLIFE REGARDING SALMON**
4 **RECOVERY (AB2004-065)**

5
6 *Nelson moved* to send the letter.

7
8 *Motion carried unanimously.*

9
10
11 **INTRODUCTION ITEMS**

12
13 *McShane moved* to accept the Introduction Items, including the addenda.

14
15 *Motion carried unanimously.*

16
17 **1. ORDINANCE AUTHORIZING THE 2005 WHATCOM COUNTY UNIFIED**
18 **FEE SCHEDULE (AB2004-410)**

19
20 **2. ORDINANCE AMENDING THE 2004 WHATCOM COUNTY BUDGET,**
21 **FIFTEENTH REQUEST (AB2004-411)**

22
23 **3. ORDINANCE ADOPTING AMENDMENTS TO THE COUNTY-WIDE**
24 **PLANNING POLICIES ADOPTED AS APPENDIX C OF THE WHATCOM**
25 **COUNTY COMPREHENSIVE PLAN (AB2004-272A)**

26
27 **ADDENDA:**

28
29 **4. ORDINANCE ADOPTING ONE-TENTH OF ONE-PERCENT SALES AND**
30 **USE TAX FOR THE PURPOSE OF FUNDING JAILS (AB2004-412)**

31
32 The version with the dark pink cover.

33
34 **5. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
35 **PLAN, CHAPTER 2 - CHERRY POINT URBAN GROWTH AREA (AB2004-**
36 **395A)**

37
38 **6. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
39 **PLAN, CHAPTER 2 - CUSTER URBAN GROWTH AREA (AB2004-396A)**

40
41
42 **OTHER BUSINESS**

43
44 Fleetwood referenced a fiberoptic wholesale telecommunication project. He
45 submitted a letter to all the councilmembers. The letter is in support of the project
46 with the Public Utility District (PUD) if there is a financially efficient way to do that.
47 He asked for support of the letter.

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1
2 Crawford stated he doesn't support the letter. It doesn't say much. The
3 private sector studies the market capacity and the need for this. It is willing to
4 meet that need in the community. When the PUD came to the County, it was the
5 first requests for a percentage of the sales tax revenue. The project struggled. He
6 doesn't want the County to become involved. If the PUD can sell this to a private
7 party, it may be managed a lot better.

8
9 Brenner stated she won't support the letter because she doesn't trust the
10 PUD. It made some very bad decisions. She doesn't want to work with the PUD on
11 this.

12
13 Fleetwood stated this is a benign letter. It doesn't indicate the County's
14 support for continued financial involvement with the PUD. He would like this letter
15 submitted at a December 14 meeting. If this won't pass tonight, he will bring it to
16 the Council on December 7.

17
18 Roy stated she is concerned about the letter. It's important to get
19 clarification. It sounds like the expectation is a bigger connection and financial
20 commitment. Three councilmembers got that impression from the presentation.
21 She will not support the letter tonight.

22
23 Fleetwood withdrew the letter. He will bring it back in two weeks. He's
24 confident their concerns will be allayed.

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

25
26
27
28
29 Caskey-Schreiber stated she attended the salmon summit. It was a very
30 good meeting. The keynote speaker addressed the need for all salmon recovery
31 strategies to be connected. They have to do everything well for salmon recovery to
32 be successful. The speaker was complimentary about Whatcom County and felt
33 everyone here is working well together.

34
35 Roy stated she volunteered to observe salmon for the salmon recovery
36 project on Terrell Creek. She's excited to see the connection between the
37 conference and the real world.

38
39 Brenner stated she attended the salmon summit also. She also attended a
40 seminar on green building. There is a lot of potential for innovative ideas to be
41 actively environmentally sensitive. Flat-roofed buildings provide an opportunity to
42 grow vegetation on the roofs. The new jail is a perfect example of a building that
43 would be good for a green roof and solar panels.

ADJOURN

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1 The meeting adjourned at 9:20 p.m.
2
3

4
5 _____
6

Jill Nixon, Minutes Transcription

7 The Council approved these minutes on January 11, 2005.
8

9 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

10
11
12
13
14 _____

Dana Brown-Davis, Council Clerk

Dan McShane, Council Chair