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1 WHATCOM COUNTY COUNCIL
2 **Natural Resources Committee**
3

4 July 27, 2004
5

6 Committee Chair Sharon Roy called the meeting to order at 9:30 a.m. in the
7 Council Chambers, 311 Grand Avenue, Bellingham, Washington.
8

9 Present:

10 Seth Fleetwood
11 Laurie Caskey-Schreiber
12

Absent:

None

13 Also Present:

14 Dan McShane
15
16

17 **COMMITTEE DISCUSSION**
18

19 **1. PRESENTATION REGARDING THE DRAYTON HARBOR SHELLFISH**
20 **PROTECTION DISTRICT (AB2004-278)**
21

22 Geoff Menzies, Drayton Harbor Shellfish Protection District Advisory
23 Committee Chair, stated his presentation is the final component of a grant to do
24 special projects in Drayton Harbor. A grant of \$15,000 went for these special
25 projects. The main focus is the supplemental marine water quality sampling. He
26 will also update the committee on the meeting with all stakeholders key to
27 complete restoration in Drayton Harbor. He presented a Power Point (*on file*)
28 regarding the involved partners, the purpose of the sampling project, and State
29 Department of Health (DOH) criteria for upgrade at the community oyster farm.
30 The extra sampling they did was designed to get more data to see if they met the
31 water quality standards. The Puget Sound restoration fund, DOH, and Whatcom
32 County collaborated to show contamination at the harbor entrance didn't affect
33 community oyster site. They showed through drift studies and dye studies that it
34 didn't impact station four, the site of the community oyster farm. They worked
35 with the City of Blaine to address known potential human sources and show they
36 aren't the problem. They did dye tests at Blaine to show sewage on Marine Drive
37 doesn't get into marine waters, and sewer in collection systems doesn't get into
38 storm drains.
39

40 Stations 8 and 15 exceed standards for shellfish harvest at the marina. Sites
41 4 and 6 are key commercial oyster growing sites. Sites 3 and 5 are deep water
42 sites in the harbor. Site 12 is on the south side of the spit. These are the stations
43 routinely monitored. He continued his presentation on the DOH stations in Drayton
44 Harbor regarding sampling frequency and conditions, standards for approved
45 shellfish growing waters, and the range of fecal coliform concentration in wet
46 versus dry weather.
47

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1 There are four scenarios showing different fecal coliform levels. The best
2 scenario is dry weather conditions during a flood tide.

3
4 Fleetwood asked when prime harvest season is. Menzies stated any month
5 except May through August.

6
7 Menzies continued to state that the worst scenario is wet weather during an
8 ebb tide. A spike in the data set during these conditions, if they can't explain it
9 entirely, it would remain in the data set. They are working with the Conservation
10 District and State in the hope that data sampling set won't be included.

11
12 Another scenario is ebb tide following a rain event. Because of the rain
13 event, these data sets were excluded.

14
15 Caskey-Schreiber asked what the numbers reflect. Menzies stated they
16 reflect the fecal coliform concentration at each station.

17
18 Menzies continued his presentation and stated the last scenario is dry
19 weather during ebb tide. None of the sites meet the 90th percentile standard with
20 all data. If they exclude the November 20th event, three of five sites meet the
21 standard.

22
23 He asked the committee members to read the sanitary survey of Drayton
24 Harbor (*on file*). It summarizes the improvements made. It shows the current
25 classifications of Drayton Harbor. Harvest is conditionally approved in some areas.
26 A shoreline along the spit is now opened for shellfish harvesting, which provides
27 recreational opportunities. His presentation continued to explain what conditionally
28 approved classification means.

29
30 Roy asked who makes the call about closures during conditionally approved
31 classification. Menzies stated the City of Blaine reports rainfall to the State
32 Department of Health. If there is a heavy rainfall in a 24 hour period, the City
33 notifies the State Department of Health and the commercial farms, which stop
34 harvesting for five days. There is a system in place to do that.

35
36 Menzies finished his presentation on DOH recommendations, whether an
37 approved status is within reach, and how they get to an approved status. The
38 Puget Sound Restoration Fund has generated \$300,000 to do the work they've
39 done in the last three years. Profits from the sale from the community oyster farm
40 will also contribute funding. It's time for the County to provide funding, especially
41 for a shellfish coordinator.

42
43 Fleetwood asked if there is a connection between the Puget Sound
44 Restoration fund and Puget Sound Action Team. Menzies stated there is not.

45
46 Fleetwood asked the potential for commercial success. Menzies stated
47 planning to look at cash flow analysis, build on partnerships they already have, and

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1 to plant on three to five acres over each year. The intent is to use a combination of
2 funding sources to become economically viable. They want to make it the presence
3 it should be in Drayton Harbor. The intention is to continue to invest and become a
4 viable industry in Drayton Harbor. The concept is that once they have shown it is a
5 growing venture, funds from the commercial sector and sales will go back to
6 projects that support the watershed. It will be a high value crop in Whatcom
7 County.

8
9 Fleetwood asked if there is a reason to hope, given rising density around
10 Birch Bay. Menzies stated the urban growth area (UGA) wraps around Blaine.
11 Zoning is actually rural, one unit per five acres (R5A), not urban residential, four
12 units per acre (UR-4). Terry Galvin's intention in south Drayton Harbor is not to
13 have an area to develop, but use it for urban reserve and open space. There's no
14 hope if they wrap the whole harbor in urban density.

15
16 Another issue is the conversion and build-out of all the five-acre lots and
17 hobby farms, which are the biggest threat to water quality in Drayton Harbor. It
18 can be done if they plan with the respect for the natural resources they want to
19 protect. They can't have both.

20
21 Caskey-Schreiber asked if it's better to have the UR-4 density or a hobby
22 farm. Menzies stated it depends on the site. Don't assume UGA boundaries in
23 Blaine will be developed at four units per acre. As they approach 20 percent of
24 impervious surfaces, shellfish downgrades will occur. The level of impervious
25 surfaces in Blaine is 50 to 60 percent. If the whole watershed was like that, they
26 won't harvest oysters. He doesn't want to see hobby farms along the R5A area.
27 The City will recognize it is a good place for open space. They have tried to
28 purchase that property with grants. A commitment to protecting water quality and
29 resources will drive their effort.

30
31 Fleetwood asked for a summary of the report that outlined their success.
32 Menzies stated the City of Blaine sanitary sewer system is documented to not leak
33 into marine waters, storm drains with high bacteria levels in east Blaine don't
34 receive leaks from sewer lines. The Port surveyed all live-aboards and showed they
35 can handle their own waste. The County Health Department surveyed and fixed
36 the sewer system. The Conservation District has all dairy farms in the watershed
37 with a nutrient management plan. Now, they haven't addressed the hobby farms.
38 Another achievement was that the State agreed to include dry weather condition
39 data.

40
41 Roy stated it sounds like part of the work was proving to DOH that the
42 sources were not human. Another issue was figuring out how to keep the non-
43 human sources out of the water. Menzies referred to his presentation about the
44 DOH criteria for upgrade at the community oyster farm site. They met all the
45 criteria to show that human sources were not impacting the water. They're still wet
46 weather impaired. When they remove the soil buffer or saturate it with water, it

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1 can't filter the fecal matter. When there is that loading to the harbor, DOH will shut
2 them down for five days.

3
4 Fleetwood asked if they ever found a problem from geese. Menzies stated
5 they did not. The committee is interested in launching a program to delineate
6 human versus livestock sources.

7
8 Menzies stated he would give an update on the stakeholder meeting
9 yesterday. They need to do a total maximum daily load (TMDL) study. There are
10 two full-time equivalent (FTE's) employees at the Conservation District that run out
11 of funding in June. They don't have time to work on hobby farms, only commercial
12 farms. Provide funding for someone at Conservation District to provide technical
13 support to hobby farms. The Conservation District recently identified fifty hobby
14 farms that would cause problems in wet weather conditions. Therefore, the critical
15 areas ordinance (CAO) is not working. Tighten up the CAO. Get prescriptive.
16 Right now, it is a complaint driven program.

17
18 Operation and maintenance (O&M) is the same thing. There are 30,000
19 septic systems in the county. There is a 20 percent failure rate seven years after
20 the survey. Have a routine O&M program in sensitive areas like this. The City of
21 Blaine wants to do projects to look at stormwater treatment in Drayton Harbor, to
22 be installed next summer.

23
24 Last, they need a dedicated source of funding to support the advisory
25 committee. The shellfish district allows them to assess property owners for
26 protecting their water quality. There is no proactive program to address the key
27 sources. Someone ought to work on that.

28
29 Roy asked for a summary of this presentation. Menzies stated all the work
30 they've done with the County has been through the Water Resources Division.
31 There are reports associated with each of these projects. They're all available on
32 the website. Because they're all volunteers, it's hard to pull it together in a nice
33 package, though he would like to do that.

34
35 Roy stated the main component of their success is Mr. Menzies, who
36 deserves a lot of credit for working with the City, agencies, and on finding funding
37 sources. They may not be here without his leadership.

38
39 Menzies stated many have been involved in their success. The question is
40 whether they can get to fully approved classification in a few years so people
41 countywide can go to Drayton Harbor to buy fresh oysters.

42
43 *(Clerk's Note: End of tape one, side A.)*

44
45 Caskey-Schreiber asked Mr. Menzies to comment on the **Birch Bay**
46 **Community Plan (AB2004-121)**. Menzies stated he has concerns about the
47 UGA. If they end up with that density in that size of a UGA, there should be

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1 impervious surface restrictions. He has concerns. As a Planning Commissioner, he
2 deferred to the steering committee. His view is from water quality, and whether
3 the plan can protect shellfish. There was not a lot of consideration of that. As a
4 Planning Commissioner, he worked on getting in low impact development and
5 protection of wetland language. Once they reach the level of 20 percent of
6 impervious surfaces, they begin to see a loss of shellfish harvest opportunities. It's
7 difficult to get it back.

8
9 McShane stated Mr. Menzies raised the issue of assessment for the local
10 district, O&M and ongoing inspection of septic systems, and CAO enforcement and
11 implementation. Menzies stated they must also tighten the language in the CAO.

12
13 McShane stated that is coming forward soon. Mr. Menzies also mentioned
14 farm plans for hobby farms and community education/coordination. Menzies stated
15 they need more prescriptive measures for hobby farms. They already tried
16 education. The Conservation District found 50 hobby farms that they know have
17 problems, which shows the CAO isn't working. It's supposed to address animal
18 access to wetlands.

19
20 McShane stated that can be tied into the CAO update. The question is
21 paying for the technical and implementation work. Menzies stated the shellfish
22 protection district has authority to assess people in the watershed.

23
24 McShane asked if there are other areas.

25
26 Roy stated Mr. Menzies also asked the County to reinstate the shellfish
27 coordinator position.

28
29 Menzies stated they have no staff support. They've done a lot with a little bit
30 of money. They need staff support. They need to restore and maintain.

31
32 Bruce Roll, Water Resources Division Manager, stated they also need
33 monitoring long-term and project specific monitoring.

34
35 McShane stated he's not sure when DOH does monitoring. Menzies stated
36 DOH monitors every other month. That's all their mandated to do. Through the
37 winter, they monitor twice per month.

38
39 McShane asked if that is a short-coming. Roll stated it is. Similar successes
40 are happening in Portage Bay and with the Marine Resources Committee. Over the
41 last four or five years, they have had huge successes by these groups doing
42 projects. From the start, the County administration tried to staff these groups.
43 Now, the County Council needs to wrestle with the priorities of marine resources.
44 They are only escalating and growing. His biggest concern is if there are resources
45 in the priority areas. It requires an enormous amount of leg work to provide
46 support to these groups. Think in terms of all the groups working on these issues.
47 There is some need by all for staff support.

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1
2 Caskey-Schreiber asked how an assessment fee works. Roll stated there are
3 many ways to work it. The best place to look for funding sources is in a report
4 from Parametrix done through the water resource inventory area (WRIA) process
5 that identified many sources. The Revised Code of Washington (RCW) recognizes
6 this area as being an area where they can levy a fee or a tax. Think about the
7 service areas they intend to provide services to.

8
9 Caskey-Schreiber stated she would like to discuss it in a future water
10 resources work session. There isn't any fat in the budget right now. They've
11 lobbied hard for funding. An assessment may be the way to go. Roll agreed.

12
13 Roy asked if the report has information on levying an assessment. Menzies
14 stated the shellfish protection district legislation describes how local governments
15 can raise funds.

16
17 Roy asked if the boundaries of the assessed area would be the same as the
18 district. Menzies stated it could be, or it could be smaller. The County is to
19 develop a budget for implementation of the program. They need to work on that.
20 He doesn't have any funding as chair, except from what they can get from grants,
21 to put his time into updating the plan. When they do a community health project,
22 they put staff support into it. It's the County's responsibility to come up with a
23 budget for the problem. Volunteers have worked for ten years. If they don't get a
24 dedicated source of funding soon, those volunteers will no longer be around. The
25 three pieces are the advisory committee, water resources division, and a non-profit
26 organization that works to get those projects done. Ultimately, they're talking
27 about a public health problem and whether they want to harvest native shellfish in
28 Drayton Harbor.

29
30 Roy stated the Portage Bay Shellfish Protection District Advisory Committee
31 feels the same way. They may be looking at a third district in Birch Bay. She
32 asked if they could set up a district without a closure. Menzies stated they could.
33 No one likes a new tax. Other jurisdictions charge an annual fee of \$25 per parcel
34 to provide services. It might pay for someone who drives around and looks for
35 problems. That provides security that someone is watching what is happening.
36 Whatcom County hasn't made it a priority to have an O&M program, even when it
37 has problems. Having someone dedicated to doing that protects public health.

38
39 Roy asked she can work with Mr. Roll on extending the sunset date of the
40 district. Roll stated they could. Staff will prepare an ordinance. In September or
41 October, they will have a work session dedicated to marine issues.

42
43 Roy stated this is a high priority for all four councilmembers here today. Any
44 support would be appreciated. They need to follow through. Schedule marine
45 resources issues, specifically the Marine Resources Committee (MRC) for discussion
46 in a month or two.

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1 Erika Stroebel, Senior Planner, stated the MRC is interested in making a
2 presentation in October.

3
4 **2. DISCUSSION REGARDING FLOOD CONTROL ZONE DISTRICT**
5 **PRIORITIES AND THE SOUTH FORK (AB2004-279)**
6

7 Paula Cooper, River and Flood Division Manager, stated the Flood Control
8 Zone District Advisory Committee and others prioritized the lower required staff
9 time. One is the Potter Road bridge replacement, and another is the Acme Saxon
10 logjam riprap removal. Other questions come up at the flood district about
11 potential opportunities. Without a tool to evaluate the opportunities, they don't
12 know if they will work in terms of flood hazard reduction.

13
14 Regarding Potter Road, there has been issue with the hydraulic analysis.
15 The consultant is redoing some of it. It's not clear if that work will be usable for
16 the purposes they need to design a new bridge project that won't increase flooding
17 problems and possibly even look at opportunities to reduce flooding problems.
18 Potter Road is closed to all vehicular access to a large community.

19
20 The Acme Saxon project requires detailed hydraulic and geomorphic analysis
21 to ensure the project doesn't increase risk to local property owners. That risk
22 analysis hasn't been done to an acceptable level. The River and Flood Division has
23 only reviewed the work, to date, but it has consumed a lot of staff time. She had
24 an idea for the River and Flood Division to take more of a lead role, in terms of the
25 hydraulic analysis. They can develop a hydraulic model of the south fork Nooksack
26 River that would be useful to all their future needs. If they manage the work, they
27 can ensure that they are happy with it. It will provide some comfort to the
28 community. They are balancing the priority of the lower Nooksack versus the south
29 fork.

30
31 Caskey-Schreiber asked if the question today is if it's okay for the advisory
32 committee to be involved with the Lummi Nation or with staff on these projects.
33 Cooper stated the Lummi Nation and Road Division are both proposing projects that
34 require hydraulic analysis. The Lummi project needs geomorphic analysis as well.
35 She proposes to take a more active role in leading a hydraulic modeling effort. The
36 Lummi Nation can contribute funding toward how the logjam impacts the river.
37 Because analysis was lacking regarding Potter Road, there is a lack of confidence in
38 the project.

39
40 Caskey-Schreiber asked the expectation for the advisory committee
41 members. Cooper stated it is not about the members. It is for the district to select
42 a consultant to get started on the hydraulic model development for the south fork.

43
44 Roy asked the budget implications. Cooper stated they would have to
45 budget more money for next year's budget.
46

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1 Roy asked if the request is for conceptual approval of the project. Cooper
2 stated that is correct. The request is whether the Council supports diverting
3 resources to work on the south fork.
4

5 Roy asked if an analysis was done, but doesn't meet their needs. Cooper
6 stated a model was done, but there were significant concerns that the model is not
7 right.
8

9 Roy stated they might have to look at this model further. Cooper stated
10 they will. They will have to expand it to look at a broader geographic area to
11 answer some questions about areas upriver.
12

13 McShane stated the model was produced for the Potter Road project, which
14 is a road project, not a flood project. Staff and the Lummi Nation had concerns
15 about the model in terms of flooding. Staff prefers an unsteady flow model. The
16 option is to divert funds from some of the goals for next year, or to add a new
17 contract for hiring a consultant to create a model. Cooper stated she wouldn't do it
18 in-house. They would have a consultant.
19

20 McShane asked if the idea is to add funding for a model, and not take any
21 funds away from other projects. Cooper stated it will be close to even. It will take
22 additional money to develop this. It's something they'll have to do anyway. She
23 put money for the south fork model in the budget in previous years, but they have
24 focused energies on the lower Nooksack River instead.
25

26 McShane asked the rough estimate of the cost. Cooper stated she guessed
27 the cost would be \$100,000 to \$200,000.
28

29 Bruce Roll, Water Resources Division Manager, stated that area is a priority
30 for salmon recovery groups in the county.
31

32 McShane asked if this model may play a role in getting grant funding for
33 other projects. Roll stated the Tribes and others are very engaged in doing
34 recovery projects.
35

36 Cooper stated that is a priority of the salmon recovery people, not
37 necessarily the flood district.
38

39 Caskey-Schreiber stated the Council okayed a study recently by Canadians.
40 Cooper stated that was for Jones Creek, a tributary to the south fork. It only
41 looked at the alluvial fan area.
42

43 Caskey-Schreiber asked if the tribes look at the big picture. Cooper stated
44 they do from the perspective of salmon habitat, not flooding.
45

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1 Caskey-Schreiber stated the County needs this for residents of the area and
2 for road work. She asked where the money comes from. Cooper stated the money
3 comes from the flood control zone district funds.
4

5 Ron Bronsema, Countywide Flood Control Zone District Advisory Committee
6 Chair, stated it's unfortunate that the priorities have been set to work on the
7 analysis on the lower Nooksack River. They have worked on reach one, and are
8 ready to start on reach two. In the real world, the priorities don't always work out.
9 A lot of staff time was taken up by County Road Division and the Lummi Tribe for
10 projects in the south fork. The proposal for engineered logjams and removal of a
11 rock wall are controversial. People are very upset. The Lummi Tribe backed off
12 because of the public outcry. Some people think the rock wall is protective, but
13 they don't have the science to prove that's true or untrue. Staff time is being
14 wasted anyway, so he supports a hydraulic analysis so they have the science. He
15 supports this reluctantly. Due to time constraints, this has not yet been before the
16 advisory committee. The general membership of the committee doesn't know
17 about it yet.
18

19 Roy asked the time constraints. She preferred to have the advisory
20 committee meet first. Cooper stated the Lummi Nation and Road Division have
21 projects that are delayed. They are close to construction. The Road Division has
22 issues with funding sources. The next advisory committee meeting is August 12.
23

24 Art Anderson, Countywide Flood Control Zone District Advisory Committee
25 Member, stated that in the past, the committee has put together a work plan on
26 which they build their budget. It seems like other things they don't plan for pop
27 up. Communication between the Lummi Tribe and advisory committee hasn't been
28 the best. Those numbers weren't in the work plan. Many of the advisory
29 committee members have been on the committee for many years. They make an
30 effort to tour the river. Staff is focused on other items, and the advisory committee
31 can't complete its work plan. It's disturbing when this issue wasn't noticed on
32 today's agenda. He asked if the advisory committee is a priority.
33

34 Roy stated the advisory committee is extremely important to the governing
35 system, and she wants to hear what it has to say before making a decision.
36

37 McShane stated there was a lot of talk at the last advisory committee
38 meeting about focusing on the main stem. He asked if Mr. Anderson thinks a shift
39 away from the main stem effort to get a broader plan for the south fork is
40 appropriate. Anderson stated in 1990, they sent a lot of water to Canada that
41 caused an international incident. They need to have that hydraulic model focus on
42 how much water they can send to Sumas and how much will go down the main
43 stem. Staff gets pulled in so many directions that they are unable to focus.
44 They're a great staff, but they are bounced around. They need clear, precise
45 leadership. They need more involvement from the Council.
46

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1 McShane stated he doesn't think those other projects are being thrown out
2 there by anything the County Council is doing. There is great deference on this
3 Council to the Flood Control Zone District Advisory Committee. Some folks have
4 made efforts to go around the committee, but it hasn't happened. The advisory
5 committee has done a good job. He needs to know if shifting resources to the
6 south fork is a good idea. Anderson stated he didn't see it coming. The Council
7 can shift resources if it has to. The committee can adapt. He would rather have
8 the County staff involved to make sure it's done right. There are questions he has
9 about whether it will work. He's heard from citizens in the Acme area about
10 removing the riprap. If rock is removed from one of the railroad columns, they'll
11 hear about it from the railroad company. They're not available to follow the work
12 plan.

13
14 *(Clerk's Note: End of tape one, side B.)*

15
16 Anderson continued to state that they get a lot of money from the citizens
17 every year. He'd like to see the citizens get the best benefit. There will be another
18 flood at some point in the future. The County will hear from citizens about what
19 the County has done with the money.

20
21 Caskey-Schreiber asked Mr. Anderson if the budget can accommodate this
22 extra expense. Anderson stated something will have to go on hold. They'd also
23 have to divert staff time. It's not an operationally efficient way to work.

24
25 Caskey-Schreiber stated there is a difference of opinion on how they should
26 proceed. Therefore, it should go to Flood Control Zone District Advisory Committee
27 for discussion. She asked if there is any chance the advisory committee can meet
28 earlier so it can come to the Council in August.

29
30 McShane stated the direction from the Council would be to defer to the
31 decision of the Flood Control Zone District Advisory Committee. He asked if staff
32 need a decision now. Cooper stated they could wait if they need to.

33
34 Fleetwood stated he agreed with sending this to the advisory committee
35 first.

36
37 McShane suggested the Natural Resources Committee defer its view to the
38 advisory committee's decision.

39
40 ***The committee concurred.***

41
42 Bronsema stated it's difficult to get a quorum of the advisory committee in
43 the summer, especially August.

44
45 McShane stated that if the advisory committee supports the south fork
46 hydraulic study, he will support it. If it doesn't, that will be okay with him as well.
47 There is some concern that the Council might lose site of some overall goals of the

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1 advisory committee. He understands the frustration. If the advisory committee
2 may review the issue and decide they can't do it right now.

3
4 Bronsema stated the concern of advisory committee members is not the
5 money for the study, but the drain on staff time. Get a consultant out there to
6 work on it.

7
8 Roy stated the advisory committee will make a recommendation about the
9 priorities and this project. If the advisory committee approves, the Council will see
10 a budget item for a consultant.

11
12
13 **OTHER BUSINESS**

14
15 There was no other business.

16
17
18 **ADJOURN**

19
20 The meeting adjourned at 11:14 a.m.

21
22
23
24 _____
25 Jill Nixon, Minutes Transcription

26
27 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

28
29
30
31
32
33 _____
Dana Brown-Davis, Council Clerk

Sharon Roy, Committee Chair