

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 Comprehensive Plan, reversing the recommendation from staff and the Planning
2 Commission. The rezone to industrial land was to encourage freight transportation
3 by rail instead of truck at a location where there is extensive rail infrastructure.
4 The Council said its reason was to preserve rural land, even though the land is
5 located across from a shopping mall and freeway exit. The new majority owner is
6 an Oregon tribe that plans to partner with the Lummi Tribe on the 209 acre parcel.
7 The Oregon tribe owns the nearest casino to Portland. It has a net profit of \$70
8 million per year. It bought a shopping center in Salem and apartment complexes in
9 Portland. The tribe agreed to accept County oversight as outlined in the
10 Comprehensive Plan. Indian tribes are sovereign nations that deserve the respect
11 and diplomacy that governments are to apply to one another. The County needs
12 the goodwill of the tribes when negotiating water and other issues. Some members
13 of this Council were shockingly rude to the tribes. As a result, the tribes now say
14 they will develop the land under their sovereignty. The Council gave up control and
15 a tax base. That does not help the adjoining landowners who maintain their rural
16 status without the safety and oversight that a master planned rezone would have
17 provided, next to an industrial facility developed by a nation the Council has
18 insulted and antagonized. **Ordinance amending the Whatcom County
19 Comprehensive Plan, Chapter 6 and 7 goals and policies related to the
20 Custer Provisional Growth Area (AB2004-396B).**

21
22 Dennis Jones, 1487 Sudden Valley, Bellingham, stated the land clearing
23 ordinance was the first and most proactive ordinance the Council passed. Since
24 then, the Council passed more things. This Council has begun to start making the
25 hard choices on Lake Whatcom issues. He complimented Dan McShane and Ward
26 Nelson for working with each other. He complimented Chair Caskey-Schreiber for
27 bringing things up and publishing minutes on the website. Everyone in the room
28 should respect each other by waiting until the amendments are all in before making
29 a decision. Councilmember Fleetwood has done that, and has also given up more
30 income due to conflicts of interest than if he was paid for 40 years. He thanked the
31 watershed cooperative management for publishing the complete Watershed
32 Management Plan at www.lakewhatcom.su.edu. If anyone wonders why it's
33 important to sustain Lake Whatcom water quality, check www.lakewhatcom.org
34 which shows the costs if they don't sustain that water supply. **Ordinance
35 amending the official Whatcom County zoning ordinance, Title 20, Chapter
36 20.71 - Water Resource Protection Overlay District, Chapter 20.80 -
37 Supplementary Requirements (Stormwater and Clearing), Chapter 20.85 -
38 Planned Unit Developments, and Chapter 20.97 - Definitions, to provide
39 additional regulatory protection for sensitive watersheds (AB2002-222B)**

40
41 Andrew Lohrer, 852 Sudden Valley, Bellingham, stated voters have the right
42 to expect open and honest government. They should always be properly notified of
43 decisions with long-lasting and far-reaching implications. This procedure should
44 have gone to committee. The emergency ordinance should not have been
45 presented. **Emergency ordinance imposing an interim moratorium on the
46 acceptance of new applications for subdivisions and new building permits
47 within the Lake Whatcom watershed (AB2005-072A)**

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 Cheri McKay, 6781 Ocean Road, Everson, Hopewell Neighborhood
3 Association, submitted and read from her testimony (*on file, Exhibit B*). Put the
4 issue in committee and have a public hearing. **Ordinance amending text of the**
5 **official Whatcom County zoning ordinance, specifically the addition of**
6 **Chapter 20.15 - mushroom substrate production facilities siting**
7 **requirements, establishing locational criteria and zoning districts in which**
8 **such facilities will be allowed (AB2005-105)**
9

10 Elizabeth Denny, Glen Echo Neighborhood Association, stated the timeframe
11 designated to inform the Planning Commission was rushed. It did not allow enough
12 time for the commissioners to understand the issue. There were questions about
13 unfinished substrate and the implications of material alterations on a
14 nonconforming use. She is concerned that the Planning Commissioners did not
15 understand the issues. The attorney suggested the association write to the
16 commissioners, which they did. **Ordinance amending text of the official**
17 **Whatcom County zoning ordinance, specifically the addition of Chapter**
18 **20.15 - mushroom substrate production facilities siting requirements,**
19 **establishing locational criteria and zoning districts in which such facilities**
20 **will be allowed (AB2005-105)**
21

22 Greg Barlean, Hopewell Neighborhood Association, stated the illicit substrate
23 production industry operates in a way to beat the rules. If the industry has to
24 answer to one powerful regulatory body, it can't play. The industry knows the
25 effect on the environment. The two ways to beat the rules is to avoid them or
26 defeat them in court. Beating the rules is easier and cheaper, and is always the
27 first option. The two companies in Whatcom County had approval for their facilities
28 at one time with no conditional use permit, no solid waste handling permit, a State
29 Environmental Protect Act (SEPA) determination of non-significance (DNS), and
30 exemption from the air pollution authority. However, the neighbors fought the
31 companies. The companies went to court to defeat the neighbors. Recently, the
32 statewide solid waste handling permit regulations for substrate production were
33 defeated. With that, the neighbors lost the legal might of the State Department of
34 Ecology. The conditional use permit requirements for substrate production are at
35 risk also. Courts in other jurisdictions are erring on the side of the industry.
36 Further concessions will serve to weaken Whatcom County laws. This matter needs
37 further review. **Ordinance amending text of the official Whatcom County**
38 **zoning ordinance, specifically the addition of Chapter 20.15 - mushroom**
39 **substrate production facilities siting requirements, establishing locational**
40 **criteria and zoning districts in which such facilities will be allowed**
41 **(AB2005-105)**
42

43 Chad Bernard, 2104 Humboldt Street, Bellingham, stated this debate is a
44 joke. He's lived in Bellingham for over 20 years. Back East, one isn't allowed to
45 even look at the water supply without getting into trouble. This is a classic example
46 of greedy developers versus a weak-willed Council not looking out for their general
47 health. **Ordinance imposing an interim moratorium on the acceptance 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 **new applications for subdivisions and new building permits within the Lake**
2 **Whatcom watershed (AB2005-072)**
3

4 Paul Schissler, 215 W. Holly Street, Bellingham, stated "homes people can
5 afford" is a better term than "affordable housing." Take strong steps to deal with
6 an urgent issue in the county. The average price of home sold in Whatcom County
7 is over \$200,000. It takes an income of up to \$80,000 to afford that unless the
8 person has a big down payment. People essential to the county are being priced
9 out of the market. He would like the County to take proactive steps to deal with
10 the affordable housing issue. Demand, not land supply, is what drives the issue.
11 There is a great demand for homes here. They will have a stronger community
12 when there are homes that everyone can afford. The Comprehensive Plan has both
13 old and new ideas for doing that. Take those steps. The Building Industry
14 Association is eager to find ways for their builders to build homes that their
15 employees can afford to buy. There are a lot of nonprofit organizations that would
16 like to team up with the County, small cities, and others in the community to have
17 a healthy mix of housing at all sizes and prices.
18

19 Ken Ryan, 7098 Goodwin Road, Everson, stated he attended the Planning
20 Commission meeting regarding the mushroom substrate issue. The commissioners
21 did not fully comprehend the issues. They did not have enough time to fully
22 comprehend the issues. He is very concerned about buffers and setbacks. Have a
23 public hearing on the issue. **Ordinance amending text of the official Whatcom**
24 **County zoning ordinance, specifically the addition of Chapter 20.15 -**
25 **mushroom substrate production facilities siting requirements, establishing**
26 **locational criteria and zoning districts in which such facilities will be**
27 **allowed (AB2005-105)**
28

29 Vince LaLonde, 1317 Roland Street, asked that they meet in the future at a
30 place that is bigger and not as crowded. It would be nice for someone to explain to
31 those in the lobby how the order of the meeting would occur. It's really crowded
32 out there.
33

34
35 **CONSENT AGENDA**
36

37 **Nelson** reported for the Finance and Administrative Services Committee and
38 **moved** to approve Consent Agenda items one through seven.
39

40 **Motion to approve Consent Agenda items one through seven carried**
41 **unanimously.**
42

- 43 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
44 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND**
45 **STEWART+KING PARTNERSHIP FOR ARCHITECTURAL/ ENGINEERING**
46 **SERVICES FOR ALTERATIONS TO 509 GIRARD, WHATCOM COUNTY**
47 **HEALTH DEPARTMENT, IN THE AMOUNT OF \$48,205 (AB2005-093)**

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 2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
3 CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND
4 CASCADIA CONSULTING GROUP, INC. FOR OUTREACH SERVICES TO
5 PROMOTE WASTE REDUCTION, RECYCLING AND HOUSEHOLD
6 HAZARDOUS WASTE MANAGEMENT, IN THE AMOUNT OF \$25,000
7 (AB2005-094)
8
- 9 3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
10 CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND HANDEL
11 INFORMATION TECHNOLOGIES, INC. FOR MAINTENANCE OF
12 JUVENILE OFFENDER CASE MANAGEMENT SYSTEM, IN THE AMOUNT
13 OF \$23,250 (AB2005-095)
14
- 15 4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
16 CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND IMAC
17 INC. TO SUPPLY AND INSTALL A TILTING STEAM JACKETED KETTLE
18 IN THE JAIL KITCHEN, IN THE AMOUNT OF \$28,952.98 (AB2005-096)
19
- 20 5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE
21 PURCHASE OF A VARIETY OF ROAD MAINTENANCE PRODUCTS USING
22 THE WASHINGTON STATE CONTRACT FOR ROAD STRIPING PAINT
23 AND BEADS IN THE AMOUNT OF \$375,000; HERBICIDES IN THE
24 AMOUNT OF \$90,000; TIRES IN THE AMOUNT OF \$50,000;
25 GUARDRAILS AND MATERIALS IN THE AMOUNT OF \$50,000; AND
26 RUBBERIZED ASPHALT IN THE AMOUNT OF \$30,000 (AB2005-097)
27
- 28 6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
29 SETTLEMENT AGREEMENT BETWEEN WHATCOM COUNTY AND
30 GENERAL TEAMSTERS UNION, LOCAL 231 REGARDING THE HEALTH
31 CLERICAL COLLECTIVE BARGAINING AGREEMENT, EXTENDING THE
32 CURRENT AGREEMENT WITH MODIFICATIONS FOR THE PERIOD
33 JANUARY 1, 2005 THROUGH DECEMBER 31, 2007 (AB2005-098)
34
- 35 7. RESOLUTION CANCELING UNCOLLECTIBLE PERSONAL PROPERTY
36 TAXES (AB2005-099)
37
38

39 **OTHER ITEMS**
40

- 41 1. REQUEST AUTHORIZATION TO RENEW WHATCOM COUNTY'S
42 PROPERTY INSURANCE POLICY (AB2005-092)
43

44 *Nelson* reported for the Finance and Administrative Services Committee and
45 *moved* to approve the request.
46

47 *Motion carried unanimously.*

1
2 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
3 **PROFESSIONAL SERVICES AGREEMENT BETWEEN WHATCOM COUNTY**
4 **AND WILSON ENGINEERING, L.L.C. TO PROVIDE PERMITTING,**
5 **DESIGN AND CONSTRUCTION PHASE PROFESSIONAL SERVICES FOR**
6 **A PROPOSED PUBLIC PARKING LOT AT THE FERRY TERMINAL ON**
7 **LUMMI ISLAND, IN THE AMOUNT OF \$58,645 (AB2005-076)**
8

9 **Nelson** reported for the Finance and Administrative Services Committee and
10 **moved** to approve the request. The public would like more time to look at a
11 proposal.
12

13 Fleetwood asked if time is of the essence on this contract.
14

15 Nelson stated it is if they are going to get the engineering work done in time
16 for project completion this year.
17

18 Jeff Monsen, Public Works Director, submitted information (*on file, Exhibit C*)
19 and stated the recommendation is to either approve both the contract with Wilson
20 Engineering and designating the house surplus or reject both. Don't approve one
21 and not the other.
22

23 Roy asked if the house is no longer an option for a community center if the
24 Council approves both. Monsen stated that is correct.
25

26 Brenner stated she has confidence in the Public Works staff, who can find a
27 way to support the house and make the parking lot happen this year. She will vote
28 against the motion.
29

30 Crawford stated he is in favor of the motion. They need to move ahead with
31 the parking issue. A citizen suggested language for the engineer. Tonight, they
32 are moving forward with the engineer and aren't going to change the terms of the
33 contract. As work proceeds with the engineer, he requested the administration be
34 aware of the community's sensitivity to these issues. He suggested the engineer
35 "shall consider the use of all local and state best management practices" when it
36 comes to the stormwater management aspect of the design. Be sensitive to the
37 use of existing landscaping for buffers. Incorporate that and other landscaping and
38 stormwater treatment amenities within the parking areas. Make sure the
39 contractor is very aware of the community's sensitivity to this issue. Monsen stated
40 he will make sure that happens.
41

42 Caskey-Schreiber stated she is against the motion. Give the Land Trust time
43 to explore the creative idea they've come up with. The community is vested in
44 figuring out how to use the house. Give them that option.
45

46 Roy stated she is against the motion. The house is one issue. She is
47 reluctant to let go of the possibility of the trade that would give the County three

1 parcels on the shoreline with public beach access. Getting beach access makes this
2 worth waiting for. The expectation of setting up a community center in this house
3 aren't really realistic. It's very complex. Half of the people on Lummi Island will be
4 unhappy no matter what the Council decides.
5

6 Nelson agrees that the house probably won't make that good of a community
7 center. He is intrigued by the aspect of using the three properties. He asked if
8 they can continue to work with the Land Trust on preserving this beachfront.
9 Monsen stated pursuing the parking lot construction and designating the house
10 surplus would not extinguish that possibility. The County has the ability to acquire
11 additional land.
12

13 Nelson asked if the Land Trust is working this proposal on its own. Monsen
14 stated it is with a proposed transaction to trade that land for a portion of the
15 existing site. He doesn't have enough information on how that transaction would
16 occur.
17

18 McShane stated his vote has nothing to do with the Land Trust. He never
19 liked this much money for a parking lot in the first place.
20

21 ***Motion failed 2-5 with Nelson and Crawford in favor.***
22

23 **3. APPOINTMENT TO DRAINAGE IMPROVEMENT DISTRICT #7,**
24 **APPLICANT: GREGORY EBE (AB2005-087)**

25
26 ***Fleetwood moved*** to appoint Gregory Ebe.
27

28 ***Motion carried unanimously.***
29

30 **4. APPOINTMENT TO ADDRESS AND ROAD NAME CITIZEN APPEALS**
31 **COMMITTEE, APPLICANT: KAREN HOLMES (AB2005-088)**

32
33 ***Brenner moved*** to appoint Karen Holmes.
34

35 ***Motion carried unanimously.***
36

37 **5. REQUEST CONFIRMATION OF THE EXECUTIVE'S APPOINTMENT OF**
38 **ANALIESE BURNS TO THE WHATCOM COUNTY DEVELOPMENT**
39 **STANDARDS TECHNICAL ADVISORY COMMITTEE (AB2005-100)**

40
41 ***Nelson moved*** to confirm the appointment.
42

43 ***Motion carried unanimously.***
44

45 **6. REQUEST CONFIRMATION OF THE EXECUTIVE'S REAPPOINTMENT OF**
46 **WILLIAM CECIL TO THE SUBSTANCE ABUSE ADVISORY BOARD**
47 **(AB2005-101)**

1
2 **Brenner moved** to confirm the appointment.
3

4 **Motion carried unanimously.**
5

6 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE AN**
7 **APPLICATION IN LIEU OF CURRENT PRIVILEGE FOR WILLOWS INN**
8 **BED & BREAKFAST, 2579 WEST SHORE ROAD, LUMMI ISLAND**
9 **(AB2005-102)**

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

12 **Motion carried unanimously.**
13
14
15

16 **PUBLIC HEARINGS**
17

18 **1. RESOLUTION TO SELL SURPLUS PROPERTY (AB2005-081A)**
19

20 Jeff Monsen, Public Works Director, gave a staff report and asked the Council
21 to reject the resolution because it would be inappropriate without the consultant
22 agreement in place.
23

24 Caskey-Schreiber opened the public hearing and the following people spoke:
25

26 Colleen Berg, Lummi Island Community Land Trust Executive Director,
27 submitted information (*on file, Exhibit D*). The Land Trust put forward a proposal to
28 the Council. Don't surplus the house at this time. If the County moves forward on
29 the proposal to swap the Embrey house with the neighboring property, parking
30 won't be completed by September's ferry dry dock. It wasn't the Land Trust's
31 intention to delay the parking project. If the Council is serious about the Land
32 Trust proposal, delay the decision for two weeks. Two weeks will allow the Land
33 Trust to hold an island community meeting. In the last week and a half, they've
34 collected over 70 signatures on a petition of support of the Land Trust project, as
35 long as parking is not delayed. However, she suspects the parking project will be
36 delayed no matter what. At a community meeting, the Land Trust can let people
37 know that the parking project will be delayed and get the community's input. If the
38 Council can't delay its decision for two weeks, the Land Trust will consider
39 withdrawing its proposal. Through the Land Trust's proposal, the County can
40 acquire a stretch of beach, will have a continuous beachfront, will support the
41 community project, will have over three acres of contiguous property. If it doesn't
42 happen, the community will lose the beach access and the use of a community
43 building. The community will lose several cedar trees and the beautiful landmark
44 stump.
45

46 Polly Hanson, 2781 West Shore Drive, Lummi Island, stated the Council
47 should not trade the two-week dry dock parking lot for a long-term plan. 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 Council should stop and think about what is going on. Look to the future.
2 Appreciate the big picture. Don't get lost over a temporary, two-week parking
3 problem. There is a solution. The County does need to provide temporary parking.
4 The overriding concern with filtered parking is not convincing. Parking along the
5 shoreline has never been filtered. The County got official permission to put in a
6 drain. A recent County project routed stormwater drainage from the parking lot to
7 the beach through a tideland outfall from a cache basin. There wasn't anything
8 about filtration. If off-road temporary parking on the Carlisle and Embrey property
9 is not allowed, the Land Trust will ask the nearby store, restaurant, and grange to
10 provide parking in their lots, which are farther away and unfiltered. They will
11 generate more foot traffic crossing the road to the ferry. No one has ever been
12 killed on a Lummi Island road. The dangers are minimal. There is no need to
13 sacrifice the long-term benefit of the community, including the acquisition of a
14 public beach. A chance to have an integrated three acres is not minor.

15
16 Wanda Cucinatta, 2303 Tuttle Lane, Lummi Island, asked why they can't put
17 in a temporary parking lot. It will take five dump loads of gravel to lay out on the
18 lawn to park for two weeks. The island residents won't be mad at them for
19 stopping the parking plan.

20
21 *(Clerk's Note: End of tape one, side A.)*

22
23 Hearing no one else, Caskey-Schreiber closed the public hearing.

24
25 Caskey-Schreiber asked if the Public Works Department has to postpone the
26 parking lot for a year until the Land Trust figures out if their proposal is feasible.
27 Monsen stated the timeline required this hearing process and the permitting
28 process to deal with resolving some of these issues. Until they have a concept for a
29 design for a consultant and can apply for the permit, the process doesn't begin.
30 They can deal with the issues, but there is a time element. In order to get to the
31 bid and construction, they have to apply for the permit by March 1. Any delay on
32 deciding on the basic concept for the parking lot means the permit application is
33 delayed.

34
35 **Nelson moved** to approve the resolution, however, he is against the
36 resolution.

37
38 Brenner asked about bringing in gravel for the temporary parking lot.
39 Monsen stated that if a permit is required, the County will apply for one. Five truck
40 loads of gravel will not create a temporary parking lot. A temporary parking lot, if
41 that is the goal, should not be constructed. There are other alternatives for a
42 temporary lot.

43
44 Roy asked if committing to one design or the other eliminates the possibility
45 of the other option to get the three parcels together. Monsen stated that if the goal
46 is to construct the permanent parking lot before dry dock, the Council needs to
47 decide tonight to designate the house surplus and move that direction. Any other

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 alternatives for property exchange should be done more deliberately, without
2 pretending they can accomplish parking lot construction this year. A temporary
3 parking lot can be done elsewhere, but not on this property.
4

5 Roy stated she desires to compromise with the community. She asked if
6 moving ahead with the decision to asphalt the parking lot will eliminate the option
7 for the property trade. Monsen stated that to move ahead with the parking lot, he
8 needs to know now whether the house is going to stay there or move.
9

10 Brenner asked how two weeks will make the difference between whether or
11 not the County can construct the permanent parking lot. Monsen stated he doesn't
12 want to debate the point of whether two weeks will really make a difference. In
13 two weeks, if the Council wants to look at alternatives, the result is the same. In
14 two weeks, the Council decides to dispose of the house, he will proceed.
15

16 Caskey-Schreiber asked if the administration will have to re-bid for the
17 engineering work if the Council decides to keep the house. Monsen stated the
18 contract is flexible enough to allow the engineer to prepare whatever the Council
19 decides.
20

21 ***Motion failed unanimously.***
22

23 **2. INTERIM ORDINANCE AMENDING THE WHATCOM COUNTY**
24 **SHORELINE MANAGEMENT PROGRAM, SECTION 23.100.20.57,**
25 **AQUACULTURE REGULATIONS (AB2005-085)**
26

27 Caskey-Schreiber opened the public hearing and the following people spoke:
28

29 Hue Beattie, 2104 McKenzie Avenue, stated he took a graduate course from
30 Western Washington University in aquaculture. He is opposed to raising salmon in
31 Puget Sound. If done, it should be in a totally closed system. The Atlantic salmon
32 can screw up the native salmon runs. Ann Mosness knows more about this issue
33 than anyone.
34

35 Hearing no one else, Caskey-Schreiber closed the public hearing.
36

37 ***Roy moved*** to adopt the interim ordinance.
38

39 ***Brenner moved*** to amend to change the word "salmon" to "fin fish"
40 throughout the document. Other types of fin fish could also degrade the wild fish
41 populations.
42

43 Roy stated the Marine Resources Committee and commercial fishing industry
44 is in favor of this ban. The research is overwhelming. She's reluctant to expand
45 this without hearing from the experts about the other fin fish species.
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 McShane stated he raised the issue at the last Marine Resource Committee
2 meeting. This is an interim ordinance to amend the shoreline management
3 program. The shoreline program in its entirety will come before the Council. He's
4 asked members of the Marine Resources Committee to provide input on this issue.
5 The Council doesn't have a record built around anything except salmon. Therefore,
6 he agrees with Councilmember Roy. Adding other fish goes beyond what the
7 Council's advertised hearing is about. He shares the concern. However, they need
8 more thoughtful discussion from the Marine Resource Committee and to see
9 available science.

10
11 Caskey-Schreiber stated that the amendment will require another ordinance.
12

13 **Brenner withdrew** her amendment. This request came from Ann Mosness,
14 who has presented the Council with the most information. She didn't realize it
15 would require another ordinance.
16

17 Caskey-Schreiber stated recent report cites aquaculture as one of the major
18 ocean pollutants. A salmon farm with 200,000 fish emits the same amount of
19 nutrient waste and untreated sewage as a city with a population between 20,000 to
20 65,000 people.
21

22 Nelson stated he understands the concern, but doesn't share the same level
23 of concern because he hasn't seen any applications for aquaculture farms in
24 Whatcom County. The level of concern with the State isn't the same as here.
25 There are other ways to protect salmon runs. In the next six months, look at
26 regulatory practices that do allow aquaculture to occur. In the future, it will be
27 more difficult to produce the protein needed to sustain populations if they don't
28 have options.
29

30 Roy stated the State of Alaska is zealous about protecting its waters from
31 this industry. That is a state that has a sustainable salmon fishing industry. They
32 are putting pressure on British Columbia to get their fish farms farther from Alaska.
33 It's a matter of protecting the native fish runs.
34

35 Crawford stated this is an interim ordinance, not unlike what the Council has
36 done with composting. The intent is to wait until they get the shoreline
37 management plan finalized, in which this issue will be addressed permanently. He
38 asked the timeframe for the shoreline management plan.
39

40 McShane stated it will come forward in November.
41

42 Crawford stated the fish farms around Washington are shopping for locations
43 that don't have regulations in place. They're looking for shoreline areas.
44

45 They currently are prohibited 12 miles from the mouth of any river containing
46 significant fish runs. He felt that wasn't covering a 12-mile distance from the whole

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 shoreline. Twelve miles would be a long way for them to operate a fish farm from a
2 shore. He asked about the 12-mile border on Whatcom County shores.

3
4 McShane stated an example is Chuckanut Bay by Oyster Creek would be
5 about 12 miles from the Nooksack River. The next closest is Samish River. He
6 doesn't know if there are anadromous fish runs there.

7
8 Brenner stated she agreed they will need more sources of protein in the
9 future. The problem with the farm fish is that they compete with the native fish.
10 Don't trade wild salmon for farmed fish. All the evidence says they compete for the
11 same food, breed with the wild fish, and the wild fish stock is not as healthy as it
12 should be because of that.

13
14 Fleetwood stated net pens have been a disaster. This is an easy vote for
15 him.

16
17 ***Motion carried 6-1 with Nelson opposed.***

18
19 **3. ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE**
20 **ACCEPTANCE OF NEW APPLICATIONS FOR SUBDIVISIONS AND NEW**
21 **BUILDING PERMITS WITHIN THE LAKE WHATCOM WATERSHED**
22 **(AB2005-072)**

23
24 Caskey-Schreiber opened the public hearing and the following people spoke:

25
26 Mike Morrow, 1941 Lake Whatcom Boulevard, Sudden Valley, stated Sudden
27 Valley held a town hall meeting last Saturday. Someone at that meeting mentioned
28 diverting more water from the Nooksack into Lake Whatcom to help clean the lake.
29 Since Georgia Pacific closed down, the amount of water diverted into the lake has
30 been reduced. It may not be a solution to the problem of pollution. They all
31 recognize that the lake needs to be cleaned up. A moratorium today is premature.
32 This offers at least one viable option to temporarily help clean the lake. During the
33 town hall meeting, Councilmember McShane said they couldn't increase the
34 diversion because of the Endangered Species Act. However, the Bellingham Public
35 Works Department staff person who handles the outflow and diversion indicated
36 that all they're doing with the diversion now is equalizing the use of Lake Whatcom
37 water for Bellingham and that he wasn't aware of any endangered species that
38 would be affected. At this time, it's low because there is so much runoff from the
39 mountains. In the summer, they will need more water. They could increase water
40 dramatically. The diversion system allows up to 49 million gallons per day if
41 maximized. He's not suggesting that, but it is an option to help purge Lake
42 Whatcom.

43
44 David Hunter, 819 Mason Street, Bellingham, stated he is in favor of the
45 moratorium. About the process, an emergency ordinance is a standard practice in
46 law. It's called a motion for an ex parte order. It is done all the time and protects

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 everyone's interest by allowing interested parties to speak two weeks later. It
2 requires that an emergency be shown.
3

4 He recommended changing the moratorium to not allow applications unless
5 they have been fully completed by the time of the moratorium. Development is the
6 primary cause of water quality degradation. He asked the Council to pass the
7 moratorium. He commended the Council for considering this at this time.
8

9 Gary Gallant, 1253 Sudden Valley, stated the Robin Matthews report showed
10 trace amounts of various chemicals and remarked that changes coincided with the
11 drastic reductions in the amount of water diverted from the middle fork of the
12 Nooksack River. They need to keep the water flow of the lake up, increase the flow
13 of the Nooksack River to keep basin three clean, and move the water supply line to
14 basin three. He is against the moratorium because it won't be temporary.
15

16 Mike Kent, 8201 Chehalis Road, Birch Bay, stated Councilmembers Roy and
17 Brenner are open-minded and moderate. Their votes are critical here. Many
18 people have worked together to provide solutions. The emergency moratorium
19 would forever divide the community. Put the brakes on the moratorium. Work with
20 the City of Bellingham. Study it carefully. Continue to nurture the different
21 stakeholders working together.
22

23 Fred Bovenkamp, 700 Fern Drive, Lynden, stated he is a land developer in
24 the community. He designs communities that respect the environment and
25 neighbors. One of his recent developments conformed to all regulations and
26 complied with every requirement of the plat. This moratorium could prevent his lot
27 buyers from building their homes. Based on the approach taken here, the Council
28 could apply the same strategy to Birch Bay, which would pull the rug out from one
29 of his projects. His industry needs predictability and to be treated fairly. The
30 developers and builders are committed to environmental responsibility. They must
31 be good stewards of the land by using responsible development practices, including
32 low-impact development. This project will polarize the community.
33

34 John Tiscornia, 5646 E. Mercer Way, Bellevue, submitted and read from his
35 testimony (*on file, Exhibit E*). He bought property on Lake Whatcom for a
36 retirement home. Single site lots should be exempted because they are not a
37 development. There are options other than the moratorium. The Council is
38 responsible for being fiscally responsible, exhausting every possibility, and not take
39 his retirement funds.
40

41 Charles Rendina, 1164 Sudden Valley, Sudden Valley Community Association
42 Board of Directors President, stated he opposes the moratorium. There is no
43 explanation for how a building moratorium improves water quality, especially
44 heading into a dry season. There is little or no evidence that current construction
45 practices are a pollution concern. The ordinance lacks a plan of action. It will harm
46 the local economy. If prolonged, it will bankrupt some voters and cause financial
47 hardship to many. It divides the community, is a breach of faith, is autocratic, is

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 the wrong way to govern. He strongly supports stringent regulations, but opposes
2 the moratorium. They can do better if everyone works together. Support
3 measures that unite the community in a process of constructive cooperation with all
4 interested parties.

5
6 Max Legg, 3844 South Bay Drive, Sedro-Woolley, stated he is opposed to the
7 moratorium. It is a valuable community resource. Councilmembers are knowingly
8 using it to create community division. Lake Whatcom issues are becoming an
9 emergency during an election year. This moratorium causes panic because the
10 government is becoming unpredictable and sneaky in slipping legislation past the
11 public. The Councilmembers have failed to provide needed and adequate
12 leadership to find solutions on a timely basis. They have not adequately involved
13 the community. It's easy to blame the problem on development. However,
14 development serves young families who want to own their own home. The Council
15 hasn't shared the science it is using to justify the moratorium.

16
17 *(Clerk's Note: End of tape one, side B.)*

18
19 Legg continued to state the Council should set up an open process to
20 facilitate greater community involvement.

21
22 Mac Carter, 546 Sudden Valley Drive, Sudden Valley Community Association
23 Board of Directors member, stated he is opposed to the building moratorium. This
24 is a poorly planned initiative. There are no new findings from water quality studies
25 that suggest this need. He questioned why Councilmember McShane didn't talk
26 about planning and building on existing water quality improvement programs, such
27 as the Lake Whatcom Management Program. A temporary moratorium will have an
28 immediate negative impact to existing property owners, the local economy, and the
29 County's tax base. Much has been done to reduce pollution in Lake Whatcom
30 through cooperative efforts. Much more can be done if they continue to work
31 together. This plan is inappropriate and divisive. Promote processes that address
32 the causal factors that endanger the water supply.

33
34 Steve Grieser, 23 Morning Beach Circle, Sudden Valley, Sudden Valley
35 Community Association General Manager, submitted and read from his testimony
36 *(on file, Exhibit F)*. He is opposed to the building moratorium. Sudden Valley has
37 done much to reduce density and protect water quality. Vote against the
38 moratorium.

39
40 Jon Raney, 3040 Birchwood Court, Bellingham, stated the Council should
41 pass the moratorium. It is long overdue. He read from an opinion piece in the
42 February 8, 2005 Bellingham Herald in favor of the moratorium. Stop aggravating
43 the problem by continuing to build in a sensitive watershed. If they don't, a
44 solution will only get harder and more expensive. The opposing opinion piece from
45 the Building Industry Association said there are things they should have done a
46 long time ago. He agrees with that. If things had been done ten or twenty years
47 ago, the problem would have been ameliorated. However, they can't do anything

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 about that now. The issue from here on out is who is going to pay for the
2 degradation of the lake. He doesn't object to anyone doing whatever they want as
3 long as he doesn't have to subsidize it, which is what he is being asked to do.
4 Those people who bought land in the watershed for retirement or development took
5 a risk, just as if someone buys a stock. They are aware that regulations change.
6 They're not asking for certainty. They're asking for a guaranteed profit. That is not
7 government's job. Regulation is one of the forces in the market.
8

9 Jim Skerjanc, 556 Summit Place, Glenhaven, stated Councilmember Brenner
10 championed the ban on medical waste a few years ago. Now, champion the
11 hardworking people who are trying to work and live in Whatcom County. This
12 moratorium puts these people out of business.
13

14 Nancy Grayum, 2539 Pacific Street, Bellingham, stated she move to Sudden
15 Valley in 1995. It didn't take long to be aware there was an emergency back then.
16 There has been a lot of talk over the years by people about the emergency on the
17 lake, but nothing was done. She asked Bill McCourt why people aren't hearing what
18 is going on with the lake. One of the things, since the building moratorium was
19 lifted in Sudden Valley, there has been a huge development increased. Dissolved
20 oxygen continued to decline over the last ten years. The natural landscape has
21 been developed at a rapid rate. Soils sloughing into the lake increased the
22 phosphorus level. Sediment particle algae is going through the treatment plant.
23 More chemicals are being used. Public health is being threatened.
24

25 Theresa Kingma, 2498 Autumnwood Court, Bellingham, stated she
26 represents mothers of young children. They trust that the Council will uphold its
27 moral responsibility to ensure good, clean, safe drinking water for the children into
28 the future. The health of the children and the community is the most important
29 issue.
30

31 Nancy Daily, 1 Austin Falls Court, Sudden Valley, stated she is a mother of
32 eight children. She has lived in Sudden Valley for many years, owns a home with
33 three lots on Austin Creek. She does not use fertilizer on her yard. With the
34 exception of slug bait, she doesn't use insecticide either. She drives older, well-
35 maintained vehicles with good mileage. She is not extravagant. She and her
36 husband has managed to invest in a modest retirement portfolio and recently
37 purchased a fourth log adjoining her home. The moratorium itself will cause
38 financial hardship without sympathy to her loss. A moratorium will not solve the
39 problem of clean water. There is conflicting data about the emergency nature of
40 the moratorium. They all need to make sacrifices in the face of this emergency.
41 Councilmembers should walk away from their investments and turn them over to
42 the County without monetary compensation, which is what they are asking her to
43 do.
44

45 Beth Gross, 23 Cascade Court, Sudden Valley, stated she and her family own
46 two vacant lots in Sudden Valley. Those from the Sudden Valley Community
47 Association do not accurately represent her view. She is aware of the impact of 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 temporary moratorium. However, she supports temporary moratorium to provide
2 clean drinking water. Long-term water quality monitoring data shows trends of
3 accelerated degradation. The issuance of fish advisory's due to high levels of
4 mercury in the fish populations indicates an increasing and alarming trend in the
5 decline of Lake Whatcom's water quality. Her desire to build in the watershed will
6 further contribute to this trend. They must approach mitigation more holistically.
7 The County must establish more effective guidelines with best management
8 practices. Use this time wisely to come up with effective guidelines to restore the
9 damage that has occurred. And minimize more damage. She and her family are
10 prepared to make personal sacrifices for clean drinking water. Make her sacrifice
11 worthwhile.

12
13 Jim Neher, Lake Whatcom Water and Sewer District General Manager,
14 submitted and read from his testimony (*on file, Exhibit G*). A moratorium does not
15 avoid future degradation of the lake. The district worked with the County and City
16 on a joint management plan, without one mention of a moratorium at the last
17 session. There are practical steps that can be taken to produce immediate
18 reductions to pollutants in Lake Whatcom.

19
20 Bill Quehrn, Building Industry Association (BIA) Executive Director, stated he
21 speaks for Audrey Borders, Building Industry Association President. No new
22 information has appeared to warrant the declaration of a water quality emergency
23 or the imposition of the moratorium. There is no scheduled action plan in the
24 ordinance. The ordinance does not provide for compensation to those unduly
25 burdened. Nothing in the ordinance supports the Lake Whatcom Management Plan.
26 This ordinance rests on data not available until December or later.

27
28 Recent and proposed legislation suggests that this Council is only interested
29 in strangling growth by any measure available. Meanwhile, BIA members feel they
30 are targeted for extinction, along with the jobs they create, the products they build,
31 the tax base they generate, and the employees they support, which is 12 percent of
32 wages in Whatcom County. The BIA president will take every action that is prudent
33 and necessary to protect and defend the membership.

34
35 If a future Council is ready to meaningfully discuss improving the quality of
36 the water, the BIA will be willing to partner in that effort. The moratorium fails that
37 test. Set it aside and begin discussions.

38
39 The BIA president commends Building Services Manager Sam Ryan and her
40 employees in serving the people of Whatcom County resulting from the debacle
41 that introducing this ordinance created. They have provided outstanding public
42 service and deserve the Council's apology.

43
44 Betsy Brinson, 1811 C Street, Bellingham, Lake Whatcom Stewardship
45 Association Co-Chair, submitted documentation (*on file*). She asked that the
46 testimony of Craig Magnusson and Wendy Eickmeyer during the boat ban public
47 hearing be incorporated to this record by reference.

1
2 She is a resident and property owner in the watershed. If Whatcom County
3 is going to point the finger at citizens and development, the County needs to see
4 how much it has contributed to the problem from roads, lack of stormwater
5 containment, and lack of runoff containment. If the Council is sincere that
6 stormwater runoff from development is a concern, then the County road
7 department had better get busy building stormwater runoff controls. Dr. Matthews
8 is on record saying that stormwater runoff causes degradation to city water.
9 However, she's changed her position. Make improvements to County facilities that
10 are causing problems also.

11
12 Mary Dickinson, Building Industry Association Governmental Affairs Director,
13 stated she submitted information earlier in the day supporting her positions and
14 conclusions. Consider them carefully in light of the enormous financial
15 consideration at stake if the moratorium is adopted. One issue is a claim of a
16 taking. Several or many takings claims will result from the adoption of this
17 ordinance. The Council has not demonstrated that sufficient facts exist to justify
18 the moratorium. This moratorium could result in takings claims as set forth in the
19 U.S. Constitution's Fifth Amendment. Local governments are not immune from
20 such actions. Considerable sums of money that could be used to enhance water
21 quality in Lake Whatcom may be squandered in defending the moratorium and in
22 paying settlements to prevailing plaintiffs. Don't adopt the moratorium.

23
24 Eric Robison, 905 E. Maple, stated he is a Lake Whatcom watershed property
25 owner.

26
27 Bill Roessal, 6039 Northwest Road, Ferndale, described his history in
28 Whatcom County. The bad lake water is not a new issue, but the Council acts like it
29 is a new issue. He has property in the watershed and his building site is prepared.
30 He just provided a footpath easement to the City and County to link two reserve
31 areas. He is in the process of getting a building permit for his property. Through
32 that process, he can set aside two-thirds of his property through the conservation
33 plan. He can also do an engineered water retention plan to protect Lake Whatcom.
34 Don't adopt the moratorium. They can keep the lake clean through the building
35 permit process.

36
37 Joe McCaskill, 210 W. Smith Road, Bellingham, stated he has a building lot
38 on Lake Whatcom. This moratorium affects more than those around Lake
39 Whatcom. It affects all in Whatcom County. There are many businesses ancillary
40 to the construction industry that will be affected. It can be very damaging to the
41 economy and the government tax base. The moratorium won't fix the problem. It
42 may slow down future problems. There are many problems in the lake they need
43 to fix. People who work with water quality control thinks the County should spend
44 its energy working with them.

45
46 Steve Hood, Washington State Department of Ecology (Ecology), stated he's
47 been reading some errors recently. There has been a lot of discussion about

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 changing the drinking water source or the intake. Once Lake Whatcom is on the
2 303(d) list, it was prioritized early because it is a drinking water source. However,
3 the same criteria apply whether or not the lake is a drinking water supply. The
4 criteria apply to all lakes. Even though people are eager to pursue an alternate
5 drinking water source, it doesn't affect what needs to be done to Lake Whatcom.
6 Those protections are to include a range of things, including drinking water.
7

8 There is a change in the lake related to temperature, changes in the
9 diversion, and changes in withdrawal due to Georgia Pacific (GP). The evidence
10 Ecology used to determine the lake is impaired is the data from 1984 through 1997,
11 which was before the change in the diversion, which happened in 1998. It also
12 predated the withdrawal changes from Georgia Pacific. Many people have tied
13 those items together. However, the City altered its diversion to leave water in to
14 protect fish in the middle fork of the Nooksack River before Georgia Pacific changed
15 its withdrawal needs. That lower flow is not related to the change in withdrawal
16 from Georgia Pacific. It's not related to the underlying trend that the lake is
17 impaired. Since then, there is more data. Some people say the lake degradation is
18 reversing. However, there are a lot of factors. Conditions change from year to
19 year. The temperature in the spring has a big effect in how low the oxygen goes.
20 While the level may go up during part of the year or over a couple of years, the
21 worsening trend remains.
22

23 People have asked him for the cost. He can't provide that estimate. The City
24 of Bellingham will spend a couple million dollars on its small part. The County has a
25 lot more area to deal with. That amount will be the tip of the iceberg. They are
26 going to have to address existing roads and existing homes.
27

28 He can't make a recommendation. Preserve the options.
29

30 McShane stated the lake was listed as impaired in 1998. He asked if there
31 are other water bodies in the Lake Whatcom watershed that are impaired and on
32 the 303(d) list. Hood stated Silver Beach Creek is impaired for bacteria. There is a
33 proposed list to the EPA Environmental Protection Agency (EPA) for 2004. That list
34 is out for public comment. Those comments are being addressed. A candidate list
35 is coming out soon that would add a listing for phosphorus, mercury, PCB's and
36 other contaminants in the lake. Some of the lake tributaries would be added for
37 bacteria.
38

39 Nelson asked when Ecology will have the total maximum daily load (TMDL)
40 study done.
41

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

44 Hood stated the first draft will come forward in June. At that point, they will
45 have an idea of the natural conditions. The diversion from the middle fork of the
46 Nooksack River dilutes the pollution in the lake. The natural conditions didn't have
47 a diversion. They have to examine what the lake will look like when that diversion

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 is removed. Ecology should have a good idea about that when the preliminary
2 report comes out. Between the preliminary report and final report, the Lake
3 Whatcom Management Committee technical people will have a chance to raise
4 issues they think need to be raised before the report is final. After the technical
5 stuff is included, there will be public review. The final report is scheduled for
6 December 2005. That report will show what the natural condition targets are. It
7 will also show what the pollutant loads are in 2001 and what the projected pollutant
8 loads from a potentially fully developed watershed.

9
10 Nelson stated funding will be critical. They are going to have to spend local
11 funds. They have to address the impacts from past actions with the ability to go to
12 the voters with an action and funding plan. He asked if the State will give the local
13 communities control to handle the problems. Hood stated there are grant and loan
14 programs, but loan programs will have to be paid back. Those projects with human
15 health benefits and implement the TMDL will score highly. The local governments
16 will have to have a stable funding source to match funds and pay back loans. A
17 stable funding source to deal with stormwater is recommended as part of the
18 permit. Lake Whatcom may have a particular focus, but the whole program needs
19 to be examined countywide.

20
21 Crawford asked if the 303(d) listing says there is pollution that needs to be
22 cleaned up, and requires Ecology to implement a plan to clean up the pollution.
23 Hood stated the listing requires them to develop a plan to allocate where those
24 pollutant sources come from. That's the TMDL study.

25
26 Crawford asked if Lake Whatcom is the only 303(d) listing in the area. Hood
27 stated that if Lake Whatcom wasn't on the list, they'd be doing this same effort in
28 Drayton Harbor to deal with bacteria. They recently completed a TMDL study on
29 the Nooksack River to reduce bacteria in the river and tributaries.

30
31 Crawford asked the number of 303(d) listings in Western Washington. Hood
32 stated there were 666 water bodies in all of Washington in 1996. There are many.

33
34 Crawford asked how many success stories are there. Hood stated few have
35 been de-listed. Until recently, there has not been an emphasis on implementing
36 the plans. EPA says they need to submit a plan. Only now have their regulations
37 said that the plan needs to work.

38
39 Crawford asked if there are any other municipal water sources on the 303(d)
40 list in Western Washington. Hood stated he doesn't know of any other municipal
41 water systems on the 303(d) list.

42
43 Roy asked if the standard responses to stormwater funding is by a local
44 stormwater district, so the whole community pays. Hood stated that is the
45 standard.

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 John Spreitzer, 1534 Sudden Valley, stated they don't have the information
2 needed to make a decision tonight. The studies are ongoing. This decision will
3 affect everyone in the county. That is wrong.
4

5 Controlled construction is not the problem. People are the problem.
6 Everyone in the watershed and in Bellingham has contributed to the problem for
7 years. Not one vacant lot has caused degradation to the lake. The innocent lot
8 owner are made to pay for the problems. Poor management of government is the
9 problem. Bellingham his diverting ten billion gallons of water from reaching the
10 lake per year. That water would flush out the lake. The County has allowed the
11 sewage system to become antiquated and not required septic system upgrades.
12 The County never created the Yew Street Connector to allay traffic from around the
13 lake. The County has no policy for the use of detergents, pesticides, and fertilizers
14 around the lake. The County has not done anything about detaining runoff from
15 the roads. One acre of logging causes more damage that a construction lot.
16

17 They have caused a panic in developers and builders. The little guy will be
18 left out. If they vote for this moratorium without a plan, they are hypocrites.
19

20 Chris Weitzel, 66 Sudden Valley, stated his problem is the so-called need of a
21 moratorium just so they can have a dialogue. They've engaged in dialog in the
22 past. Once the moratorium is imposed, they will quit talking. Now the lawyers will
23 start talking. He was planning on building one house per year. Now it's going to be
24 ten this year, all in the watershed. There are a lot of people out there that don't
25 know what the Council is trying to do. They are excluded from the public process.
26

27 The moratorium won't be temporary, such as the sewer moratorium was
28 supposed to be. The environmentalists sued every time they tried to lift the
29 moratorium. The same will happen here. He had asked if the County is legally able
30 to lift a moratorium when the court does not allow them to lift it. Contact legal
31 counsel to find out if this can be a temporary moratorium. This is not temporary.
32 That's what everyone is concerned about.
33

34 Alice Cyr, 372 Sudden Valley, stated building is happening a lot in Sudden
35 Valley. At one building location, there was no runoff barrier. Runoff from the
36 development site was going into a ditch, which flows into a small creek, then Austin
37 Creek, then Lake Whatcom. A lot of the talk she's heard tonight is selfish and
38 about money. If they are unable or unwilling to take a step back and put in a
39 moratorium on this frenetic building until the science comes in, the property values,
40 quality of life, and ability of businessmen to get good people will go down because
41 they have to hang a "don't drink the water" sign on the lake. Don't look at the lake
42 as a recreation area or a nice perk for development. The watershed is not a cash
43 cow. It's really water and a reservoir for drinking water. The quality of the
44 drinking water affects them all.
45

46 Andrew Lohrer, 652 Sudden Valley, stated he is strongly opposed to the
47 moratorium. It's unreasonable, unproductive, unnecessary, and chaotic. He asked

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 why they choose to do the moratorium during the dry season. There has been a lot
2 of legislation that is not about water, but about anti-growth. If there are grandkids
3 and kids who want to live here, there won't be a place for them to buy a home.
4 The homes will cost more. Work on ways to make new homes work.
5

6 Sharon Crozier, Bellingham, stated the Council is trying to keep everyone
7 happy. Therefore, the Council takes a little bit away and gives a little bit back. The
8 Council knows what it needs to do with the watershed. For some, it's not politically
9 correct. Others are trying to make compromises. People feel divided because this
10 keeps coming forward a little at a time. The five-year plan obviously didn't work.
11 They're not supposed to have that much development and disregard for what that
12 development causes. Eventually, the watershed will be built out. The Council can
13 get around it by having the State and federal government come in and be the bad
14 guy. Hard working, intelligent people can find a way to adapt to another way of
15 living faster than she can adapt to trihalomethanes.
16

17 Paul Isaacson, 204 Shallow Shores Road, stated this affects his family and
18 his hundreds of acres. They've worked through downzones, overlays, and tree
19 retention. The water users in Bellingham haven't made any sacrifices or been
20 affected by any regulations that have occurred in the county the last several years.
21 It's their turn to do something. People like him, with large tracts of land that have
22 done nothing, are affected most by the current and new standards. There are no
23 requirements of those who live in the city and watershed to use bicycles instead of
24 cars or stop using fertilizers. He asked that five-acre tracts or larger that have
25 shown responsibility with the new regulations be exempt from the moratorium.
26

27 Included on the 303(d) list is many water bodies all over the county. The
28 listing is not a Lake Whatcom issue. It's a County and State issue. The State
29 Department of Health Northwest Regional Manager told him recently that the water
30 is some of the best he's seen in the state and has wonderful drinking water
31 conditions, even untreated.
32

33 DJ VanWeerdhuizen, 7231 Secluded Lane, Ferndale, stated he is a builder.
34 Builders are concerned for the water. He is concerned that this was dropped on
35 people like a bombshell. The Council cannot expect people who have planned to
36 build houses and invested so much to lose so much overnight.
37

38 Elizabeth Evans, Associated General Contractors (AGC) of Washington, stated
39 her organization is the leader in the construction industry for stormwater education
40 and designing best management practices used by contractors throughout the
41 state. She is opposed to the moratorium. Many jurisdictions in the state
42 successfully manage stormwater runoff during yearlong construction activity. Rules
43 governing stormwater exist in Ecology's Western Washington Stormwater Manual.
44 Whatcom County is bound by federal and State regulations at a minimum.
45 Therefore the issue is not creating new laws, but enforcing existing State rules.
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 The rules governing stormwater runoff will be stricter when phase two of the
2 National Pollutant Discharge Elimination System (NPDES) is implemented in
3 Washington with the Department of Ecology's new stormwater general permit
4 required for all sites over one acre.
5

6 The enforcement of existing State laws and regulations would have helped
7 prevent the problems now being experienced. If fully implemented at this time,
8 they will reverse the damage already done to the lake.
9

10 A six-month moratorium is meaningless and will only address future impacts,
11 not real solutions that can be implemented immediately. Construction sites over
12 five acres already fall under Ecology's rules for stormwater runoff. She asked the
13 purpose of the moratorium, if there are clearly defined goals, who will be invited to
14 discuss the regulations, the budget, and how regulations will be enforced.
15

16 The AGC will work with the County in a positive way. Listen to the majority
17 of residents testifying tonight.
18

19 Susan Templeton submitted information (*on file, Exhibit I*) and testified on
20 behalf of Denise Spreitzer, Focus Northwest Co-Founder. Ms. Spreitzer is a
21 mortgage lender. The moratorium will cause many to suffer a significant financial
22 cost. Many will foreclose and claim bankruptcy. One upside is that devalued lots
23 will be snapped up by developers and speculators who can afford to wait for more
24 favorable government.
25

26 Focus Northwest is an organization to provide consumer information about
27 progressive ideas to enhance lifestyles. She sponsors seminars. While driving
28 through Oregon, the state seemed full of derelict towns and ruined timber plans.
29 Embrace strong proactive measures to improve the standards of building and land
30 management practices. A checklist is developed for geologic and watershed
31 standards. Use basic due diligence before making a decision. Endorsing green
32 building standards is easy.
33

34 Jim Trowbridge, 1853 Academy Road, stated he has lived at his location for
35 more than 30 years. Some people would believe that he is not worthy of the fair
36 consideration of his property, should not have any appreciation in the value, or
37 should not retire with any meaningful income from that property. He is a
38 speculator. The Council has managed to polarize the community more than ever
39 before. What should have been a reasoned, open discussion of a public policy
40 matter has been turned into an ambush leading to panic and chaos. There have
41 been more building and subdivision permits the last two weeks than all year. That
42 is not good public policy. They've done that twice. The first time was with the
43 rezone a year ago. This is not a temporary moratorium. The Council's decisions
44 should be based on the public trust.
45

46 Nothing occurred on January 24, 2005 that merited the emergency ordinance
47 proposed on January 25th. There was no emergency. The City of Bellingham says

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 the water is just fine. Water District 10 and City of Bellingham submit reports
2 monthly. The State Department of Health say the water is fine.

3
4 *(Clerk's Note: The Council took a ten-minute break at 10:00 p.m.)*

5
6 Jim Troutman, 4313 Cordero Drive, Bellingham, stated he is opposed to the
7 moratorium. He would like to develop his property in about ten years. He
8 submitted for a permit when he heard about this. He didn't want to do that.
9 People who hoped to hold their properties for ten or twenty years have been forced
10 to develop their property. That is the exact opposite of what the Council hopes to
11 achieve. If this is adopted, he hopes for permit extensions for people who were
12 forced to apply for permits but don't really want to build yet.

13
14 Sten Goodhope, 1051 Chuckanut Drive, Bellingham, stated he has a parcel in
15 the watershed that is four acres. He is allowed to build one home under the current
16 zoning. Any house would be built on the backside of the property to take
17 advantage of the view. Runoff would be filtered through 80 percent of the four
18 acres. There is plenty of room for stormwater retention measures. He asked why
19 there are no provisions for good stewards of this land. He asked why the proposed
20 ordinance is not reasonable.

21
22 Bill McCourt, 3495 Robertson Road, Bellingham, referenced a copy of a draft
23 report issued by the City of Bellingham recently. The City significantly reduced the
24 diversion to maintain instream flow necessary for Chinook salmon survival. With
25 less water coming into the lake, the pollution from the surrounding areas becomes
26 more concentrated in the lake.

27
28 The lake has experienced increased productivity in orders of magnitude
29 higher than in past years. Phosphorus and pH are increasing in the lake. Oxygen
30 is decreasing in the lake. The amount of alum used to treat the water has
31 increased to the highest levels ever. The number of particles in the drinking water
32 is increasing due to the difficulty of treating the lake's water. Trihalomethanes
33 (THM's) are increasing due to changes in the lake. Some points in the system are
34 approaching the maximum contaminant levels allowed under the safe drinking
35 water act. There is a cost estimate of \$36 million for a new water treatment plant,
36 which doesn't start to cover the operating cost.

37
38 People frequently ask what it would cost to treat the water to a higher
39 degree. There is no simple answer. The \$36 million will reduce the THM's, but it
40 will not eliminate them. There are other forms of treatment for disinfection that
41 don't form THM's, but they do form other compounds that present other health
42 risks. Some processes will reduce the chemicals effectively, but cause risks of
43 microbial contamination of the water distribution system. These are all
44 compromised solutions that become necessary when one fails to follow the first
45 principle in drinking water, which is to protect the source.

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 He is concerned with people who define this problem as a city problem or a
2 drinking water problem. Although it is, the citizens of the county are responsible
3 for cleaning up the lake regardless of the fact it is a drinking water source. Most
4 county residents don't realize they are liable for cleanup due to the County role in
5 lack of management of the watershed. If the community fails to take this seriously
6 now and take action, the City will be forced to spend substantial amounts of money
7 upgrading the treatment process to meet the Safe Drinking Water Act. Due to the
8 Clean Water Act, the entire community will still have to pay to clean up the lake.

9
10 *(Clerk's Note: End of tape two, side B.)*

11
12 McCourt continued to state they have a challenge ahead. Demonstrate the
13 leadership necessary to adopt the moratorium.

14
15 Bob Wiesen, 3314 Douglas Road, Ferndale, stated the City may have to
16 upgrade its treatment plant anyway because the federal government has the ability
17 to keep changing the rules. The public is really taking a hit over this. Many
18 citizens have been involved in developing the Lake Whatcom Management Plan.
19 The same thing is happening that has happened in the past. A group of people
20 works on something, sometimes for years, and then the County Council throws it
21 out or changes it drastically. The Council is going to have a hard time keeping
22 people involved in the process. Bellingham has not done its share.

23
24 Jack Swanson, 900 Dupont Street, stated his law firm has been contacted by
25 many property owners in the watershed. He is a land use and real estate attorney
26 that resides in the watershed. Over the past decade, property owners in the
27 watershed have had their properties devalued while changes in regulations have
28 occurred. The governmental actions occurred under the guise of protecting water
29 quality. The watershed owners have borne the lion's share of the cost. It is argued
30 that protecting the water quality will insure the quality of the drinking water for the
31 citizens of Bellingham. If adopted, the Council is likely to see lawsuits. Most of the
32 landowners do not believe the science is there to justify the moratorium. So much
33 value has already been extracted from these property owners as a result of prior
34 actions. Most councilmembers are simply anti-growth. They use junk science,
35 scare tactics, and propaganda as a means to justify the extreme agenda. The
36 Council is not acting in good faith. This Council has no desire to solve problems in
37 the watershed, yet let the problems remain unsolved to justify limiting
38 development. Millions of taxpayer dollars have been spent on useless work,
39 including the Utah State University study. Meanwhile, technology to deal with
40 these problems has been developed and proven in Lake Sammamish. This
41 technology can be used in basin one, where the possibility of degradation does
42 exist. Defeat the moratorium. Even with the moratorium, there will be 200 new
43 houses in the watershed, many of which wouldn't have been built. There will be a
44 fair bit of logging activity as well.

45
46 Darryl Reser, 1990 Academy Road, stated he would like to see nonbiased
47 statistics on water quality from the 1970's to the present time. He would like to

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 see statistics that makes this an emergency. He asked if the motivation is to drive
2 down land prices so the City and County can buy land for less.

3
4 All his money is tied up in five acres in the watershed, a mile from the lake.
5 He has done everything by the book. He has an approved well, septic system, and
6 he built a shop to store his stuff. He is designing a house that he and his wife want
7 to build in about a year and a half. They are trying to keep the footprint small.
8 They aren't going for the view. They want privacy.

9
10 He asked how a moratorium is going to affect the price of housing all around
11 Whatcom County. If they take away the supply, they will drive up the price
12 throughout the county, adding to the pain that first-time home buyers already
13 experience. This is a time for calmly looking at the facts, not taking away the
14 rights of landowners and citizens. Set up a meeting to do more brainstorming.
15 Think, plan, then act.

16
17 John Lesow, 317 Madrona Place, Point Roberts, submitted and read from his
18 testimony (*on file, Exhibit J*). He compared Greater Vancouver Regional District
19 (GVRD) reservoir to Lake Whatcom. He supports the moratorium.

20
21 Gary Kitching, Ferndale, stated he is opposed to the moratorium. The
22 County hasn't done anything to correct the problems around the lake from existing
23 homes. New homes are built to stricter standards. This is a bad idea.

24
25 Jim Kolbo, 4017 Mayne Lane, Ferndale, stated that he agrees with previous
26 speakers. He moved in from King County in 1993. King County was doing a bunch
27 of downzoning. If it's a problem for all, everyone should pay for it. Local
28 governments are looking for park property under the guise of saving the
29 environment. However, if they are going to take somebody's property, they must
30 pay fair market value for it. Everyone must pay if it is for the good of all.

31
32 Gene Myers, 2728 Walnut, Bellingham, submitted and read from his
33 testimony (*on file, Exhibit K*). This is a case of water quality versus other benefits
34 people derive from living around the lake. There is a moral presumption against
35 actions that degrade a major drinking water source. The needs of the many
36 supercede the needs of a few.

37
38 Rick Dubrow, 516 Ridgeway Drive, Bellingham, stated they are struggling
39 with the impact of a growing population. The community must juggle rights and
40 responsibilities. He is a member of the Building Industry Association (BIA). A
41 question is how they can respect the rights of a few when the drinking reservoir for
42 many continues to degrade. There is a way to continue to build around the lake
43 while retaining healthy drinking water. First, they need to clean up the existing
44 roads and existing homes. No single new home, even using low impact
45 development standards, will improve lake quality. Low impact development is not
46 good, it is just not as bad. A home built with low impact development standards
47 degrades water quality. Every home built in the lake needs to be quality-neutral or

1 better, not low impact development. There are best management practices
2 available to support that.

3
4 They need this moratorium to give staff the breathing room it needs to
5 create this plan. He believes in this strongly enough that he will self-impose a
6 moratorium on his company. He will build new homes only if a property owner
7 embraces the kind of zero impact development that he's described. He will only do
8 a remodel if it affects water quality positively. If the moratorium does not pass, he
9 will create a coalition of other businesses that affect water quality that are willing to
10 step up to this same plate. Pass the moratorium.

11
12 Josh Evans, 7082 Dahlberg Road, Ferndale, stated he is one of the few
13 people this evening who doesn't have a financial investment in the outcome of this
14 decision. That is significant. He represents the common person off the street. He
15 is a student at Western Washington University. The well water where he lives is
16 undrinkable due to years of dairy farm runoff. That's not fun. Due to poor water
17 quality management, water can become undrinkable. He is a water consumer.
18 Water quality affects a larger community, not just those who live in the watershed.
19 He supports the moratorium.

20
21 The question is whether the County Council believes the data that has been
22 presented concerning the overall Lake Whatcom water quality is correct, the quality
23 of drinking water for over 80,000 people could be at risk, that new building sites
24 cause significant soil erosion, and that impervious surfaces can increase runoff
25 toxins into the lake itself. If they believe this is true, than the choice is clear.

26
27 The Council will need a time out to think. They know growth is the factor
28 facing Whatcom County. Embrace the responsibility to make tough decisions. The
29 Council is responsible to voters and also to those who are too young to vote. This
30 is not a light decision. Water is a limited resource. Once property is taken out of
31 its pristine state and placed in development, it will never return.

32
33 Dave Ewoldt, 1515 I Street, Bellingham, stated he supports the moratorium.
34 Everyone should be aware of the concept of carrying capacity. Environmental
35 degradation has negative effects on human health and the economy. That has
36 been known since the days of the dust bowl. Public awareness has been readily
37 available, since The Web of Life was published in 1953. People who say this is a
38 surprise simply haven't been paying attention. Carrying capacity is a natural law.
39 Ignorance of the law is no excuse. Natural laws carry the same admonishment.

40
41 People don't have the right to develop anywhere and anything they want to
42 develop at any time. That's why they have zoning laws. Zoning laws are subject to
43 change as they become consciously aware of damages and dangers. The
44 Washington State Supreme Court upheld this concept in ruling that public health
45 concerns always trump vested development rights. The sensitive watershed is
46 already over-developed. This is obvious to anyone who looks at the evidence
47 available for at least a couple of decades. It is hard to feel sorry for anyone who is

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 trying to make a quick buck while they still can. Young people wishing to build on
2 family property is a separate issue to which there are separate solutions.
3

4 Humans are a part of the natural world, subject to natural laws. All species
5 expand to fill an ecological niche. When they continue to develop, they expand that
6 niche. They are doing so at the expense of quality of life, productive farmland,
7 cleansing effect of forests on the air they breathe, and the filtering capacity of
8 wetland areas for water they drink. Explore alternatives. What they are doing is
9 not working.

10
11 Greg Anders, 4152 Meridian Street, stated he is opposed to the moratorium.
12 Governments are about the communities they represent. It's clear certain
13 councilmembers have forgotten that they cannot enact legislation without input
14 from their electoral base and fellow councilmembers. The citizens of the county
15 have been ambushed. Not all citizens of the community have had the same
16 environmental activist epiphany as some councilmembers. The community's ability
17 to cooperate has been damaged. The City made a bad choice in using an industrial,
18 recreational, and residential lake as its water supply. Should the City of Bellingham
19 continue to use the lake as its water supply, it should keep the lake clean while
20 protecting the historical use. Before taking away property rights and install sewer
21 lines that will rid the watershed of septic fields, increase the flow from the diversion
22 to increase oxygen levels. All science should be put to peer review. "Evil"
23 developers have provided everyone a home. Vote for the community and against
24 the moratorium.
25

26 Cal Leenstra, 315 Lakeway Drive, Bellingham, stated he owns a prime
27 waterfront lot on the north shore of Lake Whatcom. He has been planning to build
28 on that lot for a long time. The vacant landowners are not causing the problem
29 with the lake. If an unbiased scientific study in the future concludes there is a
30 water quality problem, the cost to cure it should be borne by all who use the lake
31 as a drinking water source and people who drive on the roads in the watershed. A
32 takings clause operates to bar government from forcing some people alone to bear
33 the public burdens that should be borne by the public as a whole. The
34 constitutional requirement of just compensation is from equitable principles of
35 fairness as much as the technical aspects of property law. Regulation can be so
36 onerous as to constitute a taking in certain circumstances. While there is no set
37 formula to determine where the regulation ends and a taking begins, economic
38 effect on the property owner is a factor that must be considered in making this
39 determination. Whatcom County must not generate an ordinance without
40 consideration of and provisions for those unduly burdened. Oppose any
41 moratorium.
42

43 Mike Valich, 2501 E. Sunset, Bellingham, stated much of the work to date to
44 preserve and improve the water quality in Lake Whatcom is commendable and will
45 further the public good. The proposed building moratorium is not commendable or
46 sensible. The County has already instituted a downzone and purchased land and
47 development rights. New housing is the best and cleanest in the watershed.

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 Pollution occurs due to a historic lack of site planning. Now, they must manage
2 construction impacts with diligent plan review and construction enforcement. Build
3 stormwater control facilities. Correct problems with existing systems and retrofit.
4 Ban use of chemicals used in the watershed. Banning construction will drive up
5 prices and create new problems. Retrofitting will promote economic health. He
6 questioned where else they will build homes if they don't build in the watershed.
7 People will continue to come to Whatcom County. Don't put everyone up in
8 apartments or the crime rate will go up.

9
10 Keith Cook, 3778 Toad Lake Road, stated he is building his house on Toad
11 Lake Road. He took all the necessary precautions and tried to leave the property in
12 better shape than when they started. They all want to live in a safe community
13 with water that is safe. However, this is too quick and too fast. He hasn't
14 researched this. He is relying on the Council to make the decisions. With the
15 information presented, it doesn't seem right for an emergency moratorium.

16
17 Jennifer Bullard, 3804 Britton Road, Bellingham, stated she is a community
18 member and member of the Building Industry Association (BIA). She is also a new
19 mother to be. She sees both sides. There is not a clear plan of what they are
20 going to do with this moratorium. The proposal now is just to shut down
21 construction. The focus should be on both sides. It is both an ecological and
22 economic issue. She is opposed to the moratorium. They need a plan.

23
24 Stephanie Leblanc, 173 Alder Drive, Sedro Woolley, stated she is opposed to
25 the moratorium. There has been a lot of behind-the-scene negotiation going on
26 among the councilmembers. Reconsider the agreements. She has a degree in
27 geology and business administration. They need to think of fiscal responsibility in
28 how to protect the watershed. The moratorium will be longer than six month.
29 They will lose the tax base needed to put together programs to help protect the
30 watershed. The houses that exist will have their taxes increase. One
31 councilmember told her that they will have to raise sales tax to cover the deficit.
32 They have to come up with a process.

33
34 Vincent LaLonde, 1317 Roland Street, Bellingham, stated that part of good
35 leadership is taking a wider and longer view. He supports the moratorium. There
36 are water shortages all over the world. Clean water will be supplied at a greater
37 premium. Climate change and global warming is also an issue. Regarding diverting
38 water from the Nooksack River, they don't know what that water will look like in ten
39 years. When there is less water flowing into the lake due to climate change, the
40 lake can't handle it.

41
42 The majority of speakers opposed to the moratorium have a financial
43 interest. He feels for them. However, others are making sacrifices. He gave up
44 driving for environmental reasons, and bought a bus pass. It's not convenient or
45 easy, but it's the good thing to do. He is also a homeowner that pays taxes. He
46 would be willing to pay extra taxes to compensate people, especially small
47 landowners, and to defend the water protection measures in court. The majority of

1 the people he knows are environmental hobbyists who have a hobby of drinking
2 clean water.

3
4 *(Clerk's Note: End of tape three, side A.)*

5
6 Marian Beddill, 3600 Seeley Street, Bellingham, stated she supports the
7 moratorium. They are headed to a blue-green algae bloom if they don't take action
8 now. It is the Council's responsibility to attend to the entire county. Protection of
9 health trumps private interest. She advised those who have spoken erroneously to
10 study, learn, and speak the truth that is respected.

11
12 Bill Geyer, 1008 - 16th Street, Bellingham, stated he does not own property
13 in the watershed. Those who live in the watershed are no different from others
14 who own property and homes, which are the major item of financial security. The
15 moratorium is a draconian measure that substantially impacts many families'
16 financial security.

17
18 The Councilmembers have sworn to uphold the constitution and the County
19 charter. Reread Section 1.10 of the charter. This ordinance will unduly burden
20 people. This section of the charter was approved by the voters to specifically give
21 the Council and other government officials pause to consider appropriate actions.
22 The Council has not taken appropriate actions in the area of stormwater, septic
23 fields, and retrofitting of the sewage lines. Don't approve the moratorium.

24
25 Kathleen Ing, 3100 St. Clair Street, Bellingham, stated she supports the
26 moratorium. She owns four acres of property in another watershed. The people in
27 the watershed should be compensated. She would be willing to pay for
28 compensating those people. She has seen Alabama Hill develop over the years.
29 She placed a moratorium on herself. Over the years, she has been approached by
30 many developers and realtors. Her moratorium is not a sacrifice because nothing is
31 more precious than clean air and water, which are more valuable than money.

32
33 Darcy Jones, Jones Engineers, stated the moratorium is based on the notion
34 that declining levels of dissolved oxygen in the lake are correlated with phosphorus
35 and sediment loading, which are directly related to land development activities.
36 The scientific facts and data do not support the basis for the moratorium in terms of
37 phosphorus and sediment loading related to land use. The reduction of dissolved
38 oxygen levels is not correlated with phosphorus loading, according to the Huxley
39 Watershed Institute 2003 and 2004 monitoring program reports. He quoted the
40 2003 report, which said that phosphorus concentrations were relatively low, below
41 detection levels. He quoted the 2004 report, which said soluble phosphate
42 concentrates are low. Find the real problems and causes with dissolved oxygen.
43 They haven't built diversion systems, constructed septic systems, or done any
44 stormwater improvements.

45
46 Jeff Smith, 1341 Sudden Valley, Bellingham, stated he is opposed to the
47 moratorium. They demand and deserve the Council's attention. Current building

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 and remodeling is a benefit to the lake because of current regulations. His
2 neighborhood protects all creeks in the watershed. He received no notice from the
3 water district that the water is harmful. Most people oppose the moratorium. They
4 haven't had time to get the facts together. Look more carefully at this issue.
5

6 Bob Shipp, 3726 Fielding Avenue, submitted and read from his testimony (*on*
7 *file, Exhibit L*). Increase the flow into the lake. Increase the outflows. Find a way
8 to produce revenue from hydroelectric plants. There are good alternatives for
9 drinking water sources.
10

11 Chol Lee, 4826 Lookout Avenue, stated the councilmembers have already
12 made up their minds. He doesn't know who to believe about the data. He hopes
13 the Council has done a good job researching the data. If not, don't make this
14 decision.
15

16 Hugh Beattie, 2104 Mackenzie Avenue, stated he supports the moratorium.
17 He owns a building lot in Sudden Valley that he plans to build upon someday. The
18 moratorium will give the City and County planning departments time to implement
19 many of these great suggestions. By the time the moratorium is over, things will
20 be straightened out. Lake Whatcom Boulevard should be for local access only.
21 There are many other things they can do.
22

23 Jim Pope, 3846 Brownsville Drive, Bellingham, referenced a white paper from
24 the Whatcom County Association of Realtors Government Affairs Director. A
25 Whereas statement from the ordinance is about blue-green algae blooms. This
26 ordinance is introduced under the Growth Management Act. He asked how blue-
27 green algae blooms are connected to the Growth Management Act and the County
28 Comprehensive Plan. The ordinance should be connected to the moratorium act,
29 which is Revised Code of Washington (RCW) 36.70B.110. This ordinance was
30 introduced on January 25, 2005. The moratorium act calls for three weeks of time
31 between the introduction and the public hearing.
32

33 All three of his sons were raised here, but now live out of the area because
34 there are few jobs that allow someone to earn a decent living. He's concerned
35 about what this will do to the economy by taking jobs out of the county.
36

37 Lark Ticen, 1350 Mitchell Avenue, Blaine, stated she supports the
38 moratorium because of public health issues. She purchased the last parcel of land
39 in Geneva along Lake Whatcom Boulevard. Since then, she saw the installation of a
40 water line and sewer system, but it is not being used. It is under the control of
41 Water District 10. She was told she could tap into this line for her property when
42 she obtains a building permit, as long as she pays for a line large enough for all the
43 other residents along Lake Whatcom Boulevard also, through a latecomer's
44 agreement. The lack of the use of this line is adding to the problem. Potable water
45 is installed and available. Do not vote for the moratorium.
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 Juliet Thompson, 2406 Jaeger Street, stated they can't create laws for the
2 people to stop driving their sport utility vehicles (SUV's) and from fertilizing their
3 lawns. It's difficult enough to enforce erosion control and construction practices
4 around the watershed. This community will be divided on this issue whether or not
5 there is a moratorium. Be prepared for a long struggle. Someone is bound to get
6 stung in this process. This happened in Lake Sammamish in 1998.

7
8 Sudden Valley is a less expensive place to live. It's always been seen as an
9 affordable community. However, living in the watershed should cost more. As
10 unpopular as it sounds, adjust the tax structure. Retrofit existing infrastructure to
11 remove curb and gutter. Improve the perviousness of the roadways in the area.
12 Amend development codes to keep building foundation slabs above the elevation of
13 pipe conveying systems. Amend codes to allow approval of those designs while
14 they are experiment with them. Local staff need to be trained and educated on
15 how to use proper construction techniques. Purchase insurance to indemnify City
16 engineers from negligence claims while they are learning this process.

17
18 Ken Kutner, 5483 Noon Road, Bellingham, stated he does not have a vested
19 interest in the watershed. The Council and County have a lot of work to do.
20 Development is going to happen. It has to go somewhere. If the County doesn't
21 find another source of water somewhere, it will have to keep using the lake. They
22 have to control pollution. Long-standing property owners will have to get paid off
23 one way or another. Get ready for a lot of work in terms of keeping the water
24 source pure.

25
26 Marie Avra, 3124 Racine Street, Bellingham, stated they need to look at the
27 dump that is going into the lake, logging practices, and old septic systems. Sudden
28 Valley has strict guidelines for building. She purchased two lots and combined
29 them to preserve the forest in Sudden Valley. A moratorium in the dry season is
30 irresponsible. She will build with any green materials she can. The moratorium is
31 an undue burden on those who were going to build.

32
33 Dennis Jones, Sudden Valley, stated they have five years of good studies.
34 They have the Lake Whatcom Management Plan. They have a lot of data on the
35 lake. He doesn't have an answer on the moratorium. There are ordinances they
36 can improve. Get on with the Lake Whatcom Management Plan. The cost of a new
37 source or treatment system costs much more.

38
39 Doug Campbell, 1401 Astor Street, stated he is a civil engineer. He is
40 concerned about the fact that the moratorium discredits the claims that the water
41 quality is degrading. The trust of the people is broken. They don't have anything
42 scientific that they can debate. He quoted the Entranco study. Better understand
43 the contributions of contaminants in the lake. The County needs to work with the
44 City of Bellingham. Tell the City to implement source control. Have staff prepare
45 information for the community to debate, use the management plan, and cooperate
46 with the City. Stop buying property in the watershed until they get their act

1 together. The County Health Department has not weighed in on the issue. There is
2 no plan to implement lake protection.

3
4 Patrick Alesse, 4825 Alderson Road, Birch Bay, stated that if people have to
5 buy water just to drink, that will be more unduly burdened. That is the future.
6 They talk about growth and growth management. People on the Council want to
7 see a different kind of growth. Considering how contentious they can be, they have
8 an excellent government at the national, state, and local levels. The Council has a
9 tough job to do. Do it well.

10
11 Dennis Murphy, 2202 - 40th Street, Bellingham, stated previous Councils
12 have failed their fiduciary duty to ensure the safety and health of Lake Whatcom.
13 He supports the moratorium as a first step. The Council needs to open dialog with
14 the citizens of the county and the City of Bellingham. At stake is the health of over
15 80,000 people versus the economics of a few hundred.

16
17 Kim Pierce, 17530 Talbot Road, Edmonds, stated he just purchased 160
18 acres on Academy Road four weeks ago. He investigated the property for six
19 months. He talked to everyone in the Planning Department. He failed to talk to
20 each councilmember. This moratorium is very premature. There is too much
21 evidence that this Council is well-informed enough to make this decision.

22
23 Roger Ellingson, 3033 Alderwood Avenue, Bellingham, thanked
24 Councilmember McShane for bringing forward this ordinance.

25
26 Gary Reid, 5651 Mission Road, stated he discussed a moratorium with Dan
27 McShane four years ago. At that time, the Building Industry Association (BIA)
28 suggested a net minus ten percent for development. That was not adopted. Very
29 little else has been adopted. Don't work on a moratorium, but work on solutions.
30 The BIA accepts the challenge to solve the problem.

31
32 Hearing no one else, Caskey-Schreiber closed the public hearing.

33
34 **McShane moved** to adopt the ordinance.

35
36 **Brenner moved** to amend the ordinance, "All lots five acres or greater shall
37 be exempt from the moratorium."

38
39 Crawford asked the rationale for the motion to amend.

40
41 Brenner stated there are two reasons. First, people with acreage, if they owe
42 money, can get a class III forestry permit and clear cut the whole property.

43
44 *(Clerk's Note: End of tape three, side B.)*
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 Brenner stated people have bills to pay. It sounds like a lot of people don't
2 trust the Council. She's very concerned there will be over-cutting in the watershed
3 by people who need the money.
4

5 Another reason is that there may be people with several smaller contiguous
6 lots that add up to five acres or greater. This amendment could be an incentive for
7 them to consolidate their lots. Those are good reasons to do this. Larger parcels
8 are not the problem.
9

10 Crawford stated he's not sure how this works.
11

12 Brenner stated one can get a permit to clear cut property from the State
13 Department of Natural Resources that supercedes all County regulations.
14

15 Caskey-Schreiber stated she will support the amendment. This has caused a
16 lot of people to rush forward in a panic unnecessarily. The Council will come up
17 with something that is reasonable for most folks. The concern with parcels five
18 acres or larger has to do with her goal of minimizing the negative impacts of land
19 clearing. She hopes to address that with this time out. Larger land owners have
20 some of those five-acre tracts in forestry. She would rather they not feel compelled
21 to rush to develop those lots. If the County gives them an exemption, they can
22 develop when they're ready. That might have a less detrimental effect.
23

24 Crawford stated he didn't hear any testimony tonight from someone with
25 acreage saying that is what they would do. He is thinking about someone with
26 open forestland who would have to develop stormwater controls versus someone
27 with a lot in Sudden Valley where the infrastructure already exists. They're saying
28 the forestland owner gets to develop. He asked if they are in a hurry.
29

30 Roy stated they have discussed this so much and so many times. There may
31 be a sense of impatience. The Council did have testimony from an individual
32 related to this issue and asked for this. During the issue of Birch Point, most
33 councilmembers were saying that the impact of building a house on a five-acre lot
34 was minimal compared to two houses per acre with all of the engineered
35 stormwater systems they could devise. One home on five acres still has less
36 impact. That logic should apply in Lake Whatcom as well.
37

38 McShane stated the uncertainty without a technical review of the issue is a
39 valid point. The impact of the actual building on lots zoned rural, one unit per five
40 acres (R5A) might not be problematic. Regardless, he would rather have that type
41 of evaluation. If this were to pass, remember they need to look at road design
42 standards in the watershed at all levels, but particularly in the R5A zones because
43 of the way those types of roads have detrimental impacts on streams that flow into
44 the lake. It has significant impact on the creek and privately-owned stormwater
45 facilities. There is a desire to deal with the tree issue. Some of those arguments
46 make sense. Don't forget that is a significant contributor. They need to address it
47 soon.

1
2 Crawford stated he is not in favor of a moratorium. He should be amenable
3 to supporting an amendment only because it gives certain groups of individuals a
4 way out of this onerous regulation. He will support anything that allows some folks
5 some opportunity to be salvaged of this situation. At the same time, he sees a lack
6 of reason and rationality to do this moratorium in the first place, and then create
7 subgroups of people who have privileges that others don't have. For the purpose of
8 making this amenable for some people in case it passes, he will support the
9 amendment.

10
11 ***Motion to amend carried 5-2 with Fleetwood and McShane opposed.***
12

13 Nelson asked if the State Department of Ecology (Ecology) put the lake on
14 the 303(d) list because of low oxygen levels. Hood stated that is correct.
15

16 Nelson asked about the Whereas statement, "Whereas, the 303(d) listing
17 requires the establishment of a total maximum daily load (TMDL) that designates
18 loading capacity of the lake such that there will be no measurable change in oxygen
19 levels from natural lake conditions..." Hood stated that is Ecology's criteria for
20 oxygen in a lake.
21

22 Nelson asked how they define "natural lake conditions." Hood stated they
23 will look at the lake and calibrate the model under existing conditions so the oxygen
24 levels match. Then, they will run the model as if all the watersheds were forested.
25 They would look at the kind of loading from creeks like Brannian Creek and Smith
26 Creek, which are mostly forested. They will look at the lake if all the creeks like
27 that, if there was no diversion, and if no dam controlled the lake elevation. That
28 would represent the natural conditions.
29

30 There has been a lot of talk about forestry. His scientists say the water
31 coming out of the forested areas is as near as they are going to get to near-pristine
32 conditions. The mostly-forested basins would represent the natural loading of the
33 lake.
34

35 Nelson asked if they are looking at the requirement to restore the lake to the
36 level it was prior to human habitation, including tribal habitation. Hood stated that
37 is correct, but there is some flexibility. It's a measurable change. They've been
38 challenged on determining what is and is not measurable. There is .2 milligram
39 difference at any point in the lake at any time of the year under any circumstance.
40 As they examine the differences between natural conditions and climactic
41 situations, they would run a future scenario using the same weather patterns. They
42 will introduce projected loading achieved from the reductions, input the diversion,
43 alter the outlet of the lake to reflect what is going on, and then determine over a
44 year if they are within a couple tenths of a milligram of oxygen from historic
45 conditions.
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 Nelson asked if this is lake-wide. Hood stated they look for what the critical
2 conditions, which is generally at the bottom of the lake. During the summer the
3 lake has no source of oxygen. They won't be focused on the surface of the lake.
4 Under natural conditions, they may find zero oxygen at a certain depth. That will
5 be an easy criteria to meet because they are close to zero now. Or, they may find
6 at 12 meters they had 3 milligrams, for instance. If that happens, they would
7 make sure they don't go below an oxygen level of 2.8 milligrams at that depth.

8
9 Nelson asked if the TMDL won't be done by April. Hood stated it comes in
10 several stages. In December 2005, there will be a report describing a range they
11 may agree on. The final TMDL comes within the next year.

12
13 Roy asked if there will be a preliminary TMDL in June. Hood stated there will
14 be.

15
16 McShane stated comments and peer review in the county would be a
17 collaborative process. The County, City of Bellingham, and water district will
18 participate in what the TMDL report looks like. Hood stated that Ecology has to
19 divide the pie. Making that decision will be easier if everyone has an input. He
20 doesn't presume to know the right decision until they've conferred and get
21 everyone's viewpoints. Ultimate, Ecology is responsible. Ecology needs a lot of
22 input and to collaborate. If the County, City, and water district can divide the pie
23 so it meet's Ecology's requirements, that will be great. He won't argue with that.

24
25 McShane stated one concern is getting the report right and not rush it. It
26 doesn't have to be so extreme to make the water quality better than before the
27 trees even grew. Hood stated he will be cautious enough to get it right the first
28 time.

29
30 Nelson stated they need to have the data as soon as they can. It's a concern
31 to the community for drinking water, habitat, and fish. He asked if habitat and fish
32 or drinking water is the driving force. Hood stated the drinking water issue raised
33 the urgency. However, the criteria are set to protect aquatic life and the entire
34 suite of things that occur with better oxygen conditions.

35
36 Nelson asked if there has been any success in any other of the 600 303(d)
37 listings. Hood stated the Nooksack River is ongoing and has been implemented.
38 They have been meeting water quality standards in the Nooksack River for quite
39 awhile. They are starting to see some decline in the water quality in the river given
40 the adverse weather conditions. There are still tributaries in the basin that aren't
41 up to quality, but it is a success.

42
43 **Nelson moved** to amend to eliminate the second-to-last Whereas statement
44 on the first page because they don't know when the TMDL will be released and so
45 no one is put on the spot.

1 **McShane accepted** the motion as a friendly amendment to his motion to
2 adopt the ordinance. The Council has received lots of communication, some of
3 which is extremely constructive. A recurring concern is that there is an equity issue
4 in who is paying versus who should pay. How that is worked out goes beyond the
5 moratorium and some things they can do in the short-term. It will take a long time
6 to work that out. The State may pay some role. The State taxpayers may help bail
7 them out of some of this problem. There has been an attempt by the
8 administration to get some money for this.
9

10 Mr. Campbell and others talked about coming up with solutions. The Council
11 will need a lot of help on this. Mr. Campbell mentioned the trust issue, which really
12 struck him. Many citizens have a trust issue. The Council also has a trust issue.
13 This has been a high priority issue when the councilmembers' trust is tested by the
14 voters. Every single councilmember has talked about doing things to protect Lake
15 Whatcom. The Council has not carried out the public's trust very well when he sees
16 what has been happening.
17

18 The Council has been somewhat passive due to political will, the nature of
19 their jobs as councilmembers, and the complicated issue. The Council has taken
20 some bold steps. He appreciates the Council supporting some of those bold steps.
21 On many other issues, they wait for the joint team of the County and City to come
22 together. The Council needs to send the message to the administration that the
23 Council will support bold, quick actions so there is not timidity when those issues
24 are brought forward. The Council will support the actions required to resolve issues
25 during and after the moratorium. They need to move quickly because things don't
26 look good.
27

28 Nelson stated Councilmember McShane does take bold, quick action. He
29 truly believes in his job. He has well-meaning intentions. It's a difficult issue. His
30 concern with the bold, quick actions is the impact to the watershed. Some bold,
31 quick actions result in negative impacts to the watershed. Before 2001, they
32 averaged less than 100 permits in the watershed. There were 300 permits last
33 year. There is an element of fear in the community. They have to be cautious.
34

35 Caskey-Schreiber stated there was a sewer moratorium back then.
36

37 Nelson stated that was done before this. Take this into consideration. The
38 community wants to work on this. Focus the Council's attention on stormwater
39 management. They need measurement standards that are understandable. He is
40 concerned about moratoriums. They are useful when protecting against health
41 concerns or emergencies that can be clearly identified. This is not so clear. He
42 recognizes the impacts to water quality from development. They have to take
43 steps to prevent further water degradation. There are many ways to do that. He
44 agrees with representatives from the Building Industry Association (BIA) who has
45 made a concerted effort over the years to help the County come up with
46 mechanisms to deal with stormwater.
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 The moratorium is an issue of hydrology. They want to prevent negative
2 hydrological and stormwater impacts. He agrees with that. This has been an
3 unusually wet season. He's seen some degradation due to runoff and lack of
4 support of the stormwater management ordinances. It's the County's responsibility
5 to fix it. If that's the case, the moratorium should last no more than the wet
6 season.

7
8 **Nelson moved** to add language to state the moratorium would not last for
9 longer than five months, to the end of the wet season. They still have not resolved
10 stormwater or other issues brought forward. He would be willing to come back and
11 look at an additional moratorium for prevention of damage during the wet season.

12
13 Hal Hart, Planning and Development Services Director, stated the wet season
14 ends the beginning of May.

15
16 Nelson restated his motion to add language to state the moratorium would
17 not last to the end of the wet season, to May 1, 2005.

18
19 **McShane accepted** the motion as a friendly amendment to his motion to
20 adopt the ordinance, "BE IT FURTHER ORDAINED by the Whatcom County Council
21 pursuant to RCW 36.70.795, that this ordinance shall be effective ~~for not longer~~
22 ~~than six months~~ until May 1, 2005 following its effective date,...." He's putting a lot
23 of trust in Councilmember Nelson to work hard and diligently to assist them.

24
25 Brenner stated someone testified that the councilmembers all made up their
26 minds before the hearing. She didn't make up her mind before the hearing. She
27 changed her mind twice tonight. She talked to legal counsel, who doesn't think it's
28 a concern that someone can legally keep the moratorium in place without the
29 Council's approval. She will support the moratorium with the May 1, 2005 deadline.

30
31 Certain comments bothered her and need to be corrected. One comment
32 was about courts doing emergency actions, and then following it up with a vote two
33 weeks later. The Council is generally not supposed to do legislation that way.
34 They've really done damage to the public's trust. She will not support any
35 extensions if she doesn't feel that things are getting done. She hasn't felt that
36 things have been getting done in the last two years. Two years ago and again one
37 year ago, she made a motion to ban phosphorus-containing pesticides and
38 chemicals in the watershed. The motion was voted down both times. She's glad
39 the Executive has brought it up again. Everything contributes. She's not trustful of
40 this moratorium.

41
42 One woman testified that she was concerned about the effect of mercury in
43 the watershed on her children. The mercury in the water is not caused by
44 development. She's nervous about all the misinformation about different things.

45
46 There is a City of Bellingham publication about increasing trihalomethanes. A
47 representative from the State Department of Health told her the numbers have

1 stayed the same during from 2002 through 2004. According to him, those numbers
2 have remained stable for the last three years. They're getting all kinds of science
3 and statements. She's not a scientist. This has divided the community terribly.
4 The Council has to prove to everyone that it is serious about not keeping the
5 moratorium going. There are plenty of people who don't want the moratorium
6 lifted, but she's not one of them. She will support the moratorium this time. One
7 of the biggest problems they have is with enforcement. They can get enforcement
8 in place for the time when the moratorium is lifted. She won't support the
9 moratorium again.

10
11 Crawford stated he is against the ordinance. It is inappropriate, invasive,
12 overbearing regulation. The Council has not demonstrated how it will have a
13 defined impact on Lake Whatcom water quality. There have been no less than 100
14 ideas tonight from the public, who the Council is supposed to represent. People
15 and organizations have volunteered to assist the Council. People from the highest
16 level in the state regarding stormwater management have told the Council that this
17 is not the methods by which it can regulate the amount of pollutants going into
18 Lake Whatcom. They are jumping to a conclusion with more impact to folks than
19 anything he's ever seen. It's wrong and inappropriate for protecting Lake
20 Whatcom.

21
22 Roy stated the Council is full of reasonable people. She will support the
23 ordinance. There is not a shred of doubt in her mind that urbanization,
24 development along water bodies, affects water quality. It's true for marine
25 resources, lakes, and rivers. There are lakes and water bodies all over the country.
26 Soil disturbance and impervious affecting water quality is not debatable. Ten
27 percent of impervious surfaces will affect shellfish in a marine environment. There
28 are impacts that they need to look carefully at.

29
30 Take a look at how they can intervene. Not many people are informed about
31 what the Council has done up to this point. The Council has implemented
32 downzones, spent a half million dollars on a vacuum street sweeper, purchased
33 land in the watershed, and many more interventions. However, they keep getting
34 data that the lake is degrading. This isn't the first intervention the Council has
35 done.

36
37 She talked to both Roger Ellingson and Bill Quehrn, two very articulate and
38 smart individuals with two different perspectives on this issue. There are areas
39 where these two people agreed on the issues, including stormwater retrofitting. All
40 citizens are going to pay for stormwater retrofitting. The transfer of development
41 rights program is another issue on which everyone agrees. Strengthen the
42 program to help compensate people. Strengthening the land clearing regulations is
43 a third issue on which everyone agrees. The County has a way to go on land
44 clearing. There is an opportunity for everyone to work together. Land urbanization
45 is a major factor.

1 Nelson stated this is not an easy choice. There are serious issues the Council
2 must address. This moratorium is not a long-term method for councilmembers to
3 do nothing about. He will only support the moratorium until May 1, 2005 so the
4 councilmembers can work on the stormwater ordinance and stormwater
5 management. Rectify the point system. Find an alternative method to use during
6 the wet season if it will be allowed at all. Do that before the next wet season. He
7 will only support this until the wet season is over.

8
9 Fleetwood stated he feels compelled to respond to some of the assertions
10 made about the Council's motivation for this ordinance.

11
12 *(Clerk's Note: End of tape four, side A.)*
13

14 Fleetwood continued to state that an earlier speaker said the Council had
15 only one reason for bringing this forward during an election year, which is for
16 political benefit. He'd rather be anywhere other than the center of this storm. It's
17 not fun and it won't result in some sort of political gain. That is ludicrous, and it
18 doesn't motivate him.

19
20 He is motivated to support the moratorium only if there is some measurable
21 improvement. There is no reason to support the moratorium if it won't result in a
22 beneficial impact. The moratorium will exempt so many people that they will have
23 normal levels of development this year. He was persuaded by the argument to
24 preserve options and ensure they put in place standards stricter than those already
25 in place. The standards in place aren't the strictest around. Runoff is going into
26 the lake, and they need to get even stricter with it. They need different regulations
27 to capture more runoff in lands that are subject to development in the future.

28
29 He is bothered by the impression that the Council has not ever dealt with
30 stormwater before. In fact, the Council has given enormous consideration to
31 stormwater. It's in the Joint Lake Whatcom Management Plan. They need to use
32 the next three months to deal with that issue. They have to identify what
33 stormwater means. To him, it means the built environment that Mr. Quehrn alludes
34 to. If they are going to deal with that problem, they have to deal with issues of
35 jurisdiction, equity, cost, and who pays. They have to assess and identify the
36 information in the TMDL. If anything comes from what has happened in the last
37 couple of weeks, it will be a renewed commitment to a comprehensive approach to
38 Lake Whatcom. He will support the ordinance.

39
40 Brenner stated she will support the ordinance. There is a backup of building
41 permit appointments through July. If the Council does a short-term moratorium, it
42 can be lifted before anyone else can get their applications completed anyway.
43 There are concerns about the chaos dumped on people because of the way this was
44 done. Prove to the public that the Council deserves its trust. At the same time,
45 they can get caught up in what they're doing. She doesn't understand how people
46 think the Council is holding up permits if the Council is done with this before anyone
47 else's permit can go through.

1
2 Caskey-Schreiber stated this ordinance will take effect when Executive
3 Kremen signs the ordinance. All the permits and appointments will be
4 grandfathered in, although the new development standards will apply to those with
5 permit appointments. That's as fair as the Council can be. The Council
6 understands the pain people are going through. This community will not even
7 notice that a moratorium is happening, given the high volume of permits being
8 processed. The Planning Department staff is doing a fabulous job. She thanked
9 the staff for accommodating this.

10
11 She is not as optimistic as Councilmember Nelson that this can be done by
12 May 1. They have serious work to do. She will support the moratorium based on
13 facts. Evidence shows that the lake has significantly deteriorated the last several
14 years. There are elevated levels of oxygen depletion. There is a higher dose of
15 chemicals to treat the water because of higher levels of blue-green algae. In the
16 last two years, blue-green algae in basin three is growing over 100 percent. That's
17 not good because 96 percent of the lake's water is in basin three. It is showing the
18 same trends to which basins one and two have succumbed. Moving the intake is
19 probably no longer a viable option. The City of Bellingham is adding more
20 aluminum sulfate to coagulate all the sediments. The City has had to reduce its
21 standards for drinking water because it couldn't meet those standards any longer.
22 The water doesn't taste as good as it once did. There are facts from the
23 Environmental Protection Agency (EPA) that urbanization of any watershed will be
24 the leading source for water quality impairment. Lake Whatcom County is not
25 different from anywhere else. Forty five percent of the 17 million lakes in America
26 are polluted, which is attributed to urban runoff and storm sewers. Most lakes are
27 affected by nutrients. Of the lakes that are polluted, fifty percent is impaired by
28 nutrients versus five percent that are impaired by pesticides. The problem is
29 phosphorus. The EPA also says that land clearing is one of the biggest causes of
30 sediment. Phosphorus runoff from residential houses is two times the amount of
31 commercial operations. Sediment delivery from a construction site can be a major
32 source of pollution. Without adequate erosion control, high rates of soil loss can be
33 ten to twenty times that of cropland. The State of Wisconsin Department of Natural
34 Resources said that clearing a one-acre site without proper erosion controls can
35 deliver 30 to 200 tons of sediment per year, and that 35 percent of sediments and
36 28 percent of phosphorus enters the lake as a result of land clearing.

37
38 She hopes they can find a way to minimize the effects of construction and
39 land clearing on this lake, they have to take it. This is their only viable drinking
40 water source. There is no other option. Advocating an attempt to find another
41 source is accepting the fact they are willing to sacrifice this natural resource. That
42 is unnecessary. The cost would be astronomical. The EPA said that anything they
43 can do to prevent contamination will save them 30 to 40 times the cost of finding a
44 new water source.

45
46 The Council is trying to be accommodating as it can by grandfathering in the
47 submitted permits and exempting five-acre lots. There is work to be done. They

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 need to address road standards. They need to find a way to minimize impacts to
2 hillsides when cleared. Use any tool they can. Exercise every option to minimize
3 the human impacts. Her responsibility as a councilmember and elected official is to
4 ensure that natural resources are available for the next generation.

5
6 ***Motion to adopt the ordinance as amended carried 6-1 with Crawford***
7 ***opposed.***

8
9
10 **INTRODUCTION ITEMS**

11
12 ***Nelson moved*** to accept the Introduction Items.

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

- 15
16 **1. ORDINANCE AMENDING 2005 WHATCOM COUNTY BUDGET, REQUEST**
17 **NO. 2 (AB2005-103)**
- 18
19 **2. ORDINANCE AMENDING WHATCOM COUNTY CODE BY THE ADDITION**
20 **OF A NEW SECTION TO WHATCOM COUNTY CODE, TITLE 16,**
21 **ENVIRONMENT, CHAPTER 16.28 – MANURE AND AGRICULTURAL**
22 **NUTRIENT MANAGEMENT, SECTION 16.28.045 – APPEALS AND**
23 **ADDITION OF NEW LANGUAGE TO WHATCOM COUNTY CODE, TITLE**
24 **20, ZONING, CHAPTER 20.92 – HEARING EXAMINER, SECTION**
25 **20.92.210 – FINAL DECISIONS (AB2005-104)**
- 26
27 **3. ORDINANCE AMENDING TEXT OF THE OFFICIAL WHATCOM COUNTY**
28 **ZONING ORDINANCE, SPECIFICALLY THE ADDITION OF CHAPTER**
29 **20.15 – MUSHROOM SUBSTRATE PRODUCTION FACILITIES SITING**
30 **REQUIREMENTS, ESTABLISHING LOCATIONAL CRITERIA AND**
31 **ZONING DISTRICTS IN WHICH SUCH FACILITIES WILL BE ALLOWED**
32 **(AB2005-105)**
- 33
34 **4. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
35 **ORDINANCE, TITLE 20, CHAPTER 20.80 TO DESIGNATE THE BIRCH**
36 **BAY WATERSHED AS A STORMWATER SPECIAL DISTRICT AND A**
37 **WATER RESOURCE SPECIAL MANAGEMENT AREA (AB2005-106)**
- 38
39 **5. RESOLUTION CONDITIONALLY APPROVING THE SAMISH WATER**
40 **DISTRICT COMPREHENSIVE SEWER PLAN (AB2005-107)**

41
42
43 **OTHER BUSINESS**

44
45 McShane stated he is working on a draft letter about a legislative report on
46 the Department of Natural Resources landscape plan for the Lake Whatcom

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 watershed. He may need to talk to councilmembers individually before sending it
2 out. There may be a time issue to get it out within a week.

3
4 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

5
6 There were no reports or other items.

7
8
9 **ADJOURN**

10
11 The meeting adjourned at 12:51 a.m.

12
13
14
15 _____
16 Jill Nixon, Minutes Transcription

17 The Council approved these minutes on February 22, 2005.

18
19 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

20
21
22
23
24
25 _____
26 Dana Brown-Davis, Council Clerk

Laurie Caskey-Schreiber, Council Chair