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1 WHATCOM COUNTY COUNCIL
2 **Regular County Council**

3
4 March 15, 2005
5
6

7 Council Chair Laurie Caskey-Schreiber called the meeting to order at 7:00
8 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.
9

10 Present:

11 Barbara Brenner
12 Dan McShane
13 Sam Crawford
14 Seth Fleetwood
15 Sharon Roy
16 L. Ward Nelson
17

Absent:

None
18

19 **FLAG SALUTE**

20
21
22 **ANNOUNCEMENTS**
23

24 Caskey-Schreiber announced there was **discussion regarding a possible**
25 **property acquisition in the watershed (AB2005-018)** in executive session
26 during the Special Committee of the Whole meeting this afternoon.
27

28 ***Nelson moved*** to approve the acquisition.
29

30 ***Motion carried 5-0-1 with Roy abstaining and Fleetwood out of the***
31 ***room.***
32

33 Caskey-Schreiber announced there was **discussion with Public Works**
34 **Engineering Division regarding pending property condemnation (AB2005-**
35 **018) and discussion with Senior Deputy Prosecutor Karen Frakes regarding**
36 **two cases of pending litigation (AB2005-018)** in executive session during the
37 regular Committee of the Whole meeting.
38

39 Caskey-Schreiber announced there was **discussion with Council Clerk**
40 **Dana Brown-Davis regarding two issues: possible contract amendment**
41 **and travel reimbursement (AB2005-017)** during the Committee of the Whole
42 meeting. The Committee of the Whole voted on whether the County can reimburse
43 the Flood Control Zone District Advisory Committee members for mileage. That
44 motion failed with Caskey-Schreiber and McShane in favor.
45

46 Caskey-Schreiber announced that the Council voted to approve the contract
47 amendment for Lynn Barton.

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1
2 Caskey-Schreiber finally announced that the Council voted to support a letter
3 in opposition of Engrossed Senate Substitute Bill 1290. This bill takes away county
4 control of the mental health system and puts the control in the hands of the State
5 Department of Social and Health Services. The bill takes away a lot of the building
6 blocks they've established already for mental health issues.
7

8
9 **SPECIAL PRESENTATION**

10
11 **1. PROCLAMATION BY EXECUTIVE PETE KREMEN DECLARING MARCH 13**
12 **THROUGH 19, 2005, AS CHUCKANUT DEMOLAY WEEK IN WHATCOM**
13 **COUNTY (AB2005-017)**
14

15 Pete Kremen, County Executive, read the proclamation into the record.
16

17 Max Davis, DeMolay Chuckanut Chapter Master Counselor, accepted the
18 proclamation.
19

20
21 **MINUTES CONSENT**
22

23 ***Nelson moved*** to approve Minutes Consent items one through five.
24

25 ***Motion carried 6-0 with Brenner out of the room.***
26

- 27 **1. COMMITTEE OF THE WHOLE FOR FEBRUARY 22, 2005**
28
29 **2. REGULAR COUNTY COUNCIL MEETING FOR FEBRUARY 22, 2005**
30
31 **3. SPECIAL COUNCIL WORK SESSION FOR FEBRUARY 22, 2005**
32
33 **4. WATER RESOURCES WORK SESSION FOR FEBRUARY 15, 2005**
34
35 **5. SPECIAL COUNCIL WORK SESSION FOR MARCH 1, 2005**
36
37

38 **OPEN SESSION**
39

40 The following people spoke:
41

42 Dennis Jones, 1487 Sudden Valley, thanked County staff for the Lake
43 Whatcom Management Program 2005 document. It's a work of art, and of policy.
44 On March 8, 2005, a County staff person asked him if implementing a surface and
45 stormwater system is the most proactive thing they can do to sustain Lake
46 Whatcom. It is. It's up to County, City, and Water District 10 staff to figure out
47 how to do develop and fund such a system. A phosphorus oxygenation plan in

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1 another jurisdiction captured water in a basin, similar to a sewer system, and
2 circulated the water into the watershed. Look into that system. That type of
3 system is cheaper and more effective than site specific and small filter systems.
4

5 Bob Wiesen, 3314 Douglas Road, stated he is concerned about unequal
6 treatment of citizens. The County will buy development rights from a farmer in
7 agricultural land, but will downzone property in the Lake Whatcom watershed.
8

9
10 **PUBLIC HEARINGS**

11
12 **1. COMMUNITY DEVELOPMENT BLOCK GRANT CLOSEOUT –**
13 **COMPREHENSIVE PLAN HOUSING CHAPTER UPDATE (AB2005-122)**
14

15 *(Clerk's Note: The CDBG required handouts are included in the Council's*
16 *packet.)*
17

18 Caskey-Schreiber opened the public hearing and the following people spoke:
19

20 Paul Schissler, Kulshan Community Land Trust, 215 W. Holly Street, thanked
21 the Council for the opportunity that this grant provides to the community to deal
22 with the problem of housing affordability. Federal money came to the state through
23 a competitive process. The County secured funding that went to the Kulshan
24 Community Land Trust, which did research and provided input to the Planning
25 Department and Planning Commission as they updated the Comprehensive Plan
26 Housing chapter. This public hearing is a requirement of the grant program in
27 order to allow the public an opportunity to complain or criticize the process. This
28 project went well. It was very helpful to devote staff time to do research that lead
29 to ideas for Whatcom County. Those items are in the Council packet. Many were
30 incorporated into the housing chapter of the Comprehensive Plan.
31

32 It will be more and more difficult over time for people to be able to own
33 homes close to where they work. Many people come to this area from elsewhere
34 with plenty of money in hand to buy homes that may seem inexpensive compared
35 to the more expensive areas from where they've come. According to one measure,
36 housing prices are 21 percent higher than they ought to be, given other factors
37 such as wages.
38

39 He would like to continue to work with the County to replicate and adapt
40 these ideas for Whatcom County's use. The County can play a lead role to
41 encourage all jurisdictions in the county to use some of these ideas so housing is
42 affordable, near jobs, in urban growth areas (UGA's), and take pressure off
43 farmland and open space. They need affordable housing near jobs. Some of the
44 best paying jobs in the county are in construction. It would be great if construction
45 workers were busy building homes they could afford to own. There is a huge
46 economic engine waiting to be revved up.
47

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1 Fleetwood asked what the County can do in the short-term to begin
2 implementation of these recommendations. Schissler stated the Housing Chapter is
3 full of good ideas, many from the 1997 plan. Kulshan Community Land Trust would
4 like to work with the County to provide supplemental help on this issue.
5

6 Hearing no one else, Caskey-Schreiber closed the public hearing.
7

8 **Nelson moved** to approve the update. He's interested in the inclusionary
9 zoning idea. The Planning Committee talked about it for the urban growth area.
10 They have to look at alternatives to keep people where the jobs are instead of
11 moving into the rural areas, where the values are less expensive. He asked if
12 they've looked at inclusionary zoning as a tool in the past.
13

14 Sylvia Goodwin, Planning Division Manager, stated they have. It's not a tool
15 the County has any regulations requiring. There are options such as increased
16 density through a Planning Unit Development. In the urban residential-mixed use
17 (UR-MX) zone, a developer receives more density if there is affordable housing.
18 There are no specific requirements yet. The Comprehensive Plan says the County
19 will look at those recommendations.
20

21 Caskey-Schreiber stated she hoped to pull in those recommendations as they
22 move forward with community plans.
23

24 Roy asked if County staff is specifically working on related codes and
25 regulations suggested in this chapter. She hoped they've made progress since
26 1997, and asked if there is an implementation plan. Goodwin stated the plan is to
27 finish the Shoreline Master Program, Critical Area Ordinance, and Urban Fringe
28 Plan. Next year, they will try to work on a major rewrite of the zoning code. As
29 part of their work on the Urban Fringe Plan, they are looking at a lot of things like
30 minimum densities, incentives for greater density, and transfers of development
31 rights (TDR's). There are many things in the Urban Fringe and UR-MX zoning that
32 will encourage affordable housing, but not to specifically implement the Housing
33 Chapter. Those items provide for land supply and development regulations that
34 allow the supply to go higher. The County doesn't have a lot of programs
35 specifically to implement the Housing Chapter.
36

37 **Motion carried unanimously.**
38

39 **2. ORDINANCE REGARDING ESTABLISHMENT OF THE SPEED LIMIT ON**
40 **EAST KELLOGG ROAD (AB2005-123)**
41

42 Joe Rutan, County Road Engineer, gave a staff report and stated this is the
43 new section of Kellogg Road that connects the Guide Meridian and James Street. A
44 lot of development occurred out there. He and the County Executive met with
45 neighbors. They recommend a 25 miles per hour speed zone from the intersection
46 of Kellogg Road and James Street to the westerly border of the Spring Creek
47 subdivision.

1
2 Crawford asked if the road will be open. Rutan stated the road will
3 eventually be open. It will not be open until the plat has a date on it. It has been
4 open for construction activities. The County will need to address how to proceed
5 with that road upon construction completion. The road has been discovered, and
6 people are driving on it.

7
8 Nelson asked if this is the road that they worked on a few years ago, and the
9 neighbors tried to seek funding based on development.

10
11 Crawford stated this is the road done through a latecomer's agreement with
12 Ralph Black and the church. The church thought the latecomer's fee was too
13 expensive.

14
15 Rutan stated this road is not the road to which Councilmember Nelson
16 referred. This road has issues regarding the existing residences, the construction
17 on James Street, and the developing neighborhood.

18
19 Caskey-Schreiber opened the public hearing and, hearing no one, closed the
20 public hearing.

21
22 ***Fleetwood moved*** to adopt the ordinance.

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

25
26 **3. INTERIM ORDINANCE AMENDING WHATCOM COUNTY CODE (WCC)**
27 **TITLE 20, SECTION 20.80.735 TO IMPLEMENT A SEASONAL**
28 **RESTRICTION ON LAND CLEARING ACTIVITIES WITHIN THE LAKE**
29 **WHATCOM WATERSHED WATER RESOURCE SPECIAL MANAGEMENT**
30 **AREA BETWEEN SEPTEMBER 1 AND APRIL 30 (AB2005-125)**

31
32 Caskey-Schreiber opened the public hearing and the following people spoke:

33
34 Nancy Graham, 2830 Ellis Street, Bellingham, People for Lake Whatcom
35 President, submitted and read from her statement (*on file*). Increased restriction is
36 needed to decrease phosphorous in the lake. Give the County staff more direction
37 as to what needs to be done. The current moratorium should not be lifted until the
38 State Department of Ecology finalizes the total maximum daily load (TMDL) study,
39 Whatcom County and the City of Bellingham identify projects that need to be
40 implemented, Whatcom County enforces Title 20 restrictions, and scientific
41 monitoring of lake and tributaries show improvements.

42
43 Steve Hood, State Department of Ecology, stated what they're doing now
44 isn't working. They need better enforcement or to reduce the number of problems
45 being created. The system now is complaint-driven. Complaints don't always come
46 in. Either get more active preventing the problems before they start, or reduce the
47 risk of developing those problems.

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1
2 Lance Hillengass, Sudden Valley Community Association Board of Directors
3 Treasurer, submitted and read from a statement (*on file*) and stated he speaks on
4 behalf of the association. They encourage the use of the point system to reduce
5 the stormwater runoff. Enforce the conditions on individual lots through County
6 inspectors. If the Council won't do that, then amend the ordinance to prohibit
7 clearing between October 1 and April 30.

8
9 Brenner stated she recently found out that Sudden Valley has the ability to
10 do enforcement. She asked why Sudden Valley doesn't do the enforcement.
11 Hillengass stated that is their intention. Sudden Valley has done some
12 enforcement, but not to the proactive degree it should. The Board is discussing
13 increasing fines and number of inspections.

14
15 Elizabeth Evans, 1221 Railroad, Bellingham, Associated General Contractors
16 of Washington, stated they are against the ordinance. It is an enforcement issue
17 that should not be solved by punitive measures that will cost valuable jobs for
18 Whatcom County families. Construction runoff is successfully being managed in the
19 state. Her agency is happy to consult with the County, as it has with the State.

20
21 Mary Dickinson, Building Industry Association Government Affairs Director,
22 stated she's submitted written testimony to the Council. She explained the
23 background of the point system. Winter clearing allows business to serve their
24 customers 12 months of the year rather than in a small window of 20 weeks. That
25 short window will prohibit necessary permits, inspections, and volume of work.
26 Project costs will skyrocket. County staff will not be able to conduct necessary
27 enforcement and inspection.

28
29 Enforcement of the point system has been inadequate. Her agency will assist
30 the County to visit any alleged problem areas, provide education, and report
31 violators. Her agency was called on only one occasion. There are only nine
32 violations in two and a half years.

33
34 Rather than eliminate the point system, increase the number of points that
35 would exempt an applicant from winter clearing rules and special watershed
36 protection areas. Require an applicant to have erosion control facilities in place
37 before a land disturbance permit is issue. Have financial penalties that are
38 sufficient to encourage compliance. Hire additional compliance officers if winter
39 clearing remains an option.

40
41 Ron Reimer, 6595 Northwest Road, Ferndale, stated he is an excavating
42 contractor. This problem is interesting. He specifically worked in the Sudden Valley
43 area, which is very concerned with the environment. It's a hard balance to
44 implement control measures. As soon as a roof is on, the builder should put up
45 temporary gutters. Erosion is almost never an issue if they're not doubling the
46 water load, which is what happens when a roof goes up.

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1 This issue has gone under the radar. A lot of people assume that they will be
2 allowed to continue if they already have their permit appointments. Give
3 developers some time, such as two years, to develop or get out of the watershed.
4 They all know they will eventually not be able to develop in the watershed.
5

6 Chris Weitzel, Sudden Valley, asked why five-acre sites are exempt. His flat
7 lot in Sudden Valley is 1,000 feet from the closest water body, a small seasonal
8 creek. This ban will affect him and exempt five-acre sites that have larger
9 disturbed areas. Sudden Valley has 50 miles of paved roads. Along the sides are
10 ditches with vegetation to serve as a natural filtration system. A flat lot has
11 virtually no runoff. He supports the point system. Staff must monitor better and
12 fine the violators. They need to stop those who clear land the wrong way, not the
13 majority who clear land the right way. Make the point system more slope-
14 sensitive. If a lot is flat, there is no justification for banning clearing in the winter.
15

16 Bob Wiesen, 3314 Douglas Road, asked the Council to be fair to the
17 landowners. The City of Bellingham does not have a water quality problem with the
18 water being taken out of the lake. The City has an engineering and design
19 problem. If it takes too long for water to get from the plant to the service, there is
20 a problem. They don't have circulation. The water sits in the pipe too long. That is
21 causing the problem. The City of Bellingham is not doing its share. It is not
22 retrofitting property or raising its standards. Wait until Bellingham does its share
23 first.
24

25 Dennis Jones, 1487 Sudden Valley, stated Bill Geyer said that when dealing
26 with Public Works issues, always err on the side of safety, don't go halfway, and do
27 it right. Sudden Valley has an Architectural Control Committee. Sudden Valley was
28 designed with 50 miles of road with one of the best designed surface and
29 stormwater systems he's ever seen. Maintenance has been deferred, and the result
30 is serious problems. The current ordinance doesn't work. He supports the position
31 of People for Lake Whatcom, but not the moratorium. Work on slopes, impervious
32 surfaces, and tree canopy.
33

34 *(Clerk's Note: End of tape one, side A.)*
35

36 Dan Marantette, Sudden Valley Community Association Board of Directors
37 Vice President, stated Sudden Valley has done a lot to make the valley's
38 environment better. He listed the actions the community has taken. A moratorium
39 on ground clearing is not in the best interest of Sudden Valley. However, they can
40 do more than they have done in the past. The community is looking forward to
41 working more with the County to make it better in the valley.
42

43 Darcy Jones, Jones Engineers, submitted a statement *(on file)*. They all
44 know what they need to do to solve the problems. Future development isn't
45 causing the current problems. They can implement and enforce stormwater best
46 management practices, the National Pollution Discharge and Elimination System
47 (NPDES) permit, and low impact development. There can be better enforcement

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1 and also reduce the problem. Projects in other jurisdictions that produce zero
2 runoff can be examples. Put the problem in the hands of the professionals, who
3 can deal with stormwater management and prepare management plans and
4 pollution prevention plans to protect the watershed in perpetuity. The NPDES
5 program will require them to do this anyway in the near future. The Engineering
6 Division staff know what to do. Provide that staff with priorities and funding.
7 Ensure future development doesn't cause future problems. Revise the point
8 system.

9
10 Juliet Thompson, RESources Volunteer, stated RESources conducted a data
11 collection program for construction erosion control measures in the watershed. Of
12 the 199 sites they were aware of under construction, they visited 59 of those sites.
13 They visited sites with a high point rating or sites along the travel route. Out of the
14 59 sites, under ten percent had adequate and sufficient perimeter control. Sixty
15 percent had inadequate, failed, or un-maintained erosion control. Thirty percent
16 had no or the bare minimum of erosion control measures.

17
18 Nineteen sites were visited during storm events. Of those, 60 percent had
19 sediment laden water leaving the site. Half of those sites had a base point value of
20 50 or more and should not have had un-stabilized soils according to the regulation.
21 The County does not issue fines for violations. Most builders are aware of that.
22 They recommend that the builder or contractor's name be posted onsite and the
23 builder have certification on erosion control best practices. If the point system is
24 continued, it must include a gradation for proximity to a water body instead of a
25 single rating of 20. Increase the distance in the point system.

26
27 Jim Pope, Whatcom County Association of Realtors, stated he agrees that the
28 contractor's or builder's names should be onsite. He encouraged the Council to
29 keep the point system in place. Don't do the land clearing moratorium.

30
31 Hearing no one else, Caskey-Schreiber closed the public hearing.

32
33 **McShane moved** to adopt the ordinance. He believes the County Council
34 has no authority to approve or tweak the point system.

35
36 Hal Hart, Planning and Development Services Department Director, stated
37 that's correct.

38
39 McShane asked if staff has considered changing the point system after two
40 years of the current system. Hart stated they have internally discussed changing
41 the point system and enforcement. They've evaluated monthly the option of
42 weighing the factors differently.

43
44 Brenner stated she hasn't gotten any information in two years on what they
45 can do to the point system to make it work better. She has some ideas. The
46 Department of Ecology, RESources, and Sudden Valley all say they need better

1 enforcement. The County is making more money from permitting. Get more
2 enforcement staff. It sounds like the County can afford it now.
3

4 There was an idea of someone's points changing periodically, depending on
5 the amount of exposed soils. She asked if that idea has ever come up to the staff.
6 Slope, soil type, and proximity to the water, not the amount of exposed area, are
7 the factors that should be reconsidered. Set up a point system with just three
8 factors of slope, soil type, and proximity to water. Then the points wouldn't have to
9 change. It would restrict more people from building during the winter. However,
10 there are flat areas that would not produce runoff and shouldn't be penalized. The
11 point system should be tweaked instead of having a seasonal land clearing ban.
12 She asked what ideas the administration has come up with. Hart stated he is
13 working closely with the County Executive to address enforcement needs. Over the
14 last two and a half years, growth has increased dramatically countywide. The issue
15 is not just with Lake Whatcom. The administration will bring proposals to the
16 Council. A construction site is very dynamic and changes over time. That is a hard
17 thing to enforce. Staff will review an idea of a simplified point system, but they
18 discussed the different factors two years ago. They can do that again.
19

20 Nelson asked how Mr. Hart responds to the accusations of REsources and
21 their findings. Hart stated there were 274 enforcement cases in the last five years.
22 Many times, those cases have multiple violations. Staff sent many of those cases,
23 about ten percent, to the penalty assessment phase. The staff is out there doing
24 enforcement.
25

26 Caskey-Schreiber stated the point system is having little effect on the water
27 quality. Basin three is showing the same signs of degradation as basins one and
28 two. According to the latest information from Dr. Robyn Matthews, the blue-green
29 algae in basin three is growing at a rate over 100 percent. There are elevated rates
30 of oxygen depletion, blue-green algae, and treatment chemicals for the drinking
31 water, and disinfected byproducts in the treated water. These are all signs that the
32 point system has been a colossal failure. Without adequate erosion control, a one-
33 acre site can contribute 60,000 pounds per year of sediment, which as phosphorus,
34 to the lake. The Environmental Protection Agency (EPA) says that any preventative
35 action now will reduce treatment costs in the long run, by an amount of 30 to 40
36 percent. Buildout in the Lake Whatcom watershed will be achieved in the next five
37 to ten years. They must eliminate the risk of adding more sediment loading and
38 phosphorus to the lake. She understands the contractors' point of view. This will
39 halt building. However, when they reach buildout, no construction will go on in the
40 watershed because it will have reached capacity. There are only 1,126 buildable
41 lots left in the watershed. Proceed cautiously with the available development sites
42 so they don't add to future problems. This problem will plague generations from
43 here on out. She doesn't know if the problems can be fixed. Who pays is an issue.
44 The County can add more enforcement and watch everything, and best
45 management practices will still only be 80 percent effective, according to the
46 Department of Ecology. Make sure they don't add to existing degradation.
47

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1 Nelson asked about the effect of many homes being built within a short
2 clearing season. Hart stated the buildable season will be condensed. There are two
3 schools of thought on the effect. One thought from the development community,
4 which became used to the cycle in which they had to build in the City of
5 Bellingham. In the county, there is a big summer push anyway. If there is a hard
6 winter, one wouldn't develop. Weather conditions play a big impact anyway. The
7 effect of a seasonal ban would shorten the season, but he's not sure if it will have a
8 huge impact.

9
10 Nelson stated a shortened building season will create a larger amount of
11 disturbed land going into the wet season, and no growing will be done. Hart stated
12 a builder would tighten up and clean the site before it's closed down for the rainy
13 season.

14
15 Brenner stated that if new construction had been stopped two years ago,
16 there still would have been degradation because they are not doing enforcement.
17 The point system isn't working as it is, but there are ways to make it much more
18 simplified during the wet months. Get more restrictive, but allow people who are
19 not the problem to build. The existing enforcement staff would only deal with a
20 small percentage of properties, which would reduce their workload.

21
22 Roy stated she senses an administrative philosophy of working with the
23 builders and not using a heavy hand on them. However, the County must get
24 stricter.

25
26 This is an interim ordinance. The Council's intent was to amend it and
27 implement a revised point system into it. She's voting for the ordinance because
28 she assumes the Council will make adjustments as part of a strategy to lift the
29 moratorium. Bellingham has a seasonal land clearing ban. It doesn't mean one
30 can't build in the winter. One can continue to build a house, but not disturb the
31 land. It's not like building is prohibited. When the Council approved the
32 moratorium, it said it will work on all these issues. The Council is still working on
33 the issues.

34
35 McShane stated he agreed this is an interim ordinance, effective for no
36 longer than six months. The intent is to work on several elements related to the
37 moratorium and point system. This is the beginning of several interim ordinances
38 that initially set a high threshold but will eventually be adjusted based on
39 thoughtful analysis. He's interested in seeing if there is another way of structuring
40 the point system. For instance, there are flat lots that contribute runoff terribly,
41 depending on the soil. Frequently, the Council wants to talk about other issues
42 when it talks about Lake Whatcom. This is not the end-all solution. The Council
43 must deal with a lot of small aspects because there are many non-point pollution
44 sources. A solution will take a lot of small actions to make any difference.
45 Unfortunately, they won't see positive results while the current councilmembers are
46 still on the Council.

1 Caskey-Schreiber stated there will still be land clearing next year. The 250
2 permitted plans that the Planning Department rushed through are exempt from
3 this.

4
5 Brenner stated that's not correct.

6
7 Pete Kremen, County Executive, stated the Planning Department didn't rush
8 through anything. The Department rushed through what the Council passed. That
9 is a degrading comment about a staff that works hard to please the Council and
10 serve the public.

11
12 Caskey-Schreiber stated she apologized. It seemed to her that processing
13 250 permits in five-days was a rush job.

14
15 Brenner stated the Council could adopt her amendments and have something
16 to deal with winter development before that time. Fix the point system now instead
17 of adopting this blanket ban until the point system is fixed. It's overkill before
18 trying something that may work just as well. Don't apply the most stringent
19 measure possible. Instead, approve regulation that is stringent for some, but not
20 all.

21
22 **Nelson** stated a land clearing ban should be based on actual precipitation
23 loads.

24
25 McShane September is a tremendous growth month to establish vegetation,
26 particularly groundcover. If planted in September, vegetation will most likely
27 become very well established by the time the big rains being in October. If a lot is
28 cleared through September the number of growing days is much less. There is
29 much less sunshine and temperatures are cooler. Dry Octobers are actually quite
30 cold. By November, when it gets really wet, the vegetation is poorly established.
31 That's the reason he proposed a date of September 1. If there is a very dry, warm
32 spring, the odds of a saturating rainfall in April are low. One can make that
33 judgment in the spring, but not in the fall. September 1 is the date the manure
34 ordinance goes into effect for those very reasons. They allow manure spreading
35 earlier, depending on the degree growing days that are actually measured. The
36 same thing may be possible in the watershed. If there is a desire to compromise,
37 there could be flexibility in that area.

38
39 Nelson stated any vegetation planted on a home construction site will be a
40 lawn. If construction isn't done, no one will want to put in a lawn when building
41 equipment still has to move around on it. It will be a waste of their money.

42
43 McShane stated that is a legitimate question that would be addressed as a
44 part of this interim ordinance. The original recommendation from administration
45 was a seasonal restriction. The point system was crafted subsequent as a
46 compromise. There is clear indication that it isn't working. The Council won't

1 resolve tonight how the point system will work. There are ways to make it work
2 better.

3
4 Roy stated the average number of growing days in September is 499 and in
5 October is 287. That is the argument that persuaded her to be in favor of
6 September.

7
8 **Nelson** stated he wanted to amend the ordinance, "April 1, as long as the
9 previous two weeks have not had more than three days greater than 1/10th of an
10 inch of precipitation per day" and "October 1 as long as the previous two weeks
11 have not had more than 1/10th of an inch of precipitation per day." This would
12 match with the dry season.

13
14 McShane stated it would be appropriate to have staff do research on that
15 suggestion.

16
17 Nelson stated he cannot support the ordinance because there is no
18 information to substantiate the dates.

19
20 McShane stated they did get information to substantiate the September 1
21 date.

22
23 Caskey-Schreiber stated the Council discussed this at length during the last
24 Lake Whatcom work session. Department of Ecology staff Andrew Craig suggested
25 these were the optimal timeframes to allow clearing without sediment loading to
26 the lake. Keep in mind that there are 250 permitted permits excluded from the
27 restriction.

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

30
31 Caskey-Schreiber continued to state those with permits in hand will not have
32 these regulations apply.

33
34 Brenner asked if this ban will apply to everyone.

35
36 Karen Frakes, Senior Civil Deputy Prosecutor, stated that the completed and
37 filed applications would be vested. Those with scheduled appointments do not have
38 complete and filed applications, according to the County vesting ordinance. They
39 are not vested and would be subject to this ordinance.

40
41 Brenner stated she thought vesting has to do with whether or not someone
42 has the right to build, not the building regulations in place. Frakes stated what's
43 relevant is the laws that existed at the time a complete application is filed.

44
45 Caskey-Schreiber stated 250 applications are complete and filed.

46

1 **Brenner moved** to amend Exhibit A, section 20.80.735(e)(i) on Council
2 packet page 387, "...as defined in WCC 20.97.054, ~~that will result in exposed soils~~
3 ~~exceeding 500 square feet~~ on slopes within the complete area of disturbance that
4 exceed 15 percent, or on which the complete area of disturbance contains soil types
5 C and D, or is within 1,000 feet of a body of water shall not be permitted from
6 September 1st through April 30th." Slopes of 15 percent to 35 percent are
7 considered steep slopes. Soil types C and D have very low ability to absorb water.
8 The Council has decided that 1,000 feet is a good size buffer for other things.
9 That's quite a bit farther than the Critical Area Ordinance. It allows a longer
10 distance from the disturbance and the water body. This amendment allows
11 properties that don't have one of these three conditions to build. The County would
12 allow much less building during the rainy season, and the properties have very little
13 chance of contributing runoff.
14

15 Roy stated she wants more time to have a discussion about this option. The
16 amendment sounds logical, and she would like to work toward something like this.
17 She would rather put the amendment positively, to say what will be allowed. Take
18 more time to talk about it. The Council's intent is to fine-tune the conditions.
19

20 Crawford stated he also wants more time to consider the amendment. The
21 Council needs staff analysis on the amendment. This isn't a way to make law.
22 They need a topographic map of the Lake Whatcom watershed to see what is and
23 isn't included. Find out the number of people who would be impacted by the
24 amendment. He supports delaying the vote. He's not comfortable putting on a
25 different set of parameters without understanding how many buildable sites would
26 be affected. The amendment sounds reasonable.
27

28 Brenner stated the Council will vote on and adopt the ordinance tonight. She
29 doesn't want to punish properties that won't contribute to the problem. She copied
30 the existing negative wording about what shall not be permitted. This is a place to
31 start from. They have three months, if it's not right, to fix it. It's better than
32 starting from nothing.
33

34 Crawford stated he agreed.
35

36 Caskey-Schreiber stated she is opposed to the amendment. Her purpose is
37 to assume the worst case scenario, then lift restrictions as they prove controls can
38 be done safely. The Council has heard that if best management practices meet
39 code 100 percent, they are only 80 percent effective. There are 250 permits that
40 won't even be required to do this.
41

42 Nelson stated they need many things in the watershed. This is only one
43 small step. He agreed that there are other steps that need to be done. To
44 accomplish the steps, the Council needs cooperation from everyone in the
45 community. Start paying attention to the concerns of Sudden Valley, which has
46 worked very hard. Maintain a collaborative relationship with Water District 10 and

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1 other groups. He supports the amendment. A hand reached out is more effective
2 than the existing process.

3
4 Brenner stated the staff would not say that best management practices with
5 these kinds of soil types, slope, and proximity to water would only be 80 percent
6 effective. They would be 100 percent effective. It will be close to 100 percent even
7 without best management practices. Staff is talking about the total watershed.
8 She's not sure she agrees. Engineers have said they can keep erosion from coming
9 off a property with best management practices. Her amendment sets high
10 standards.

11
12 McShane stated a slope of 15 percent is steep. The slope of Alabama Hill is
13 only eight or nine percent.

14
15 Brenner stated that's not a steep slope. The soil types are still in there as
16 another condition.

17
18 Roy stated before she votes on slopes or anything else, she wants to know
19 more information.

20
21 ***Motion to amend failed 3-4 with Nelson, Brenner, and Crawford in***
22 ***favor.***

23
24 ***Motion to adopt the interim ordinance carried 4-3 with Nelson,***
25 ***Brenner, and Crawford opposed.***

26
27
28 **CONSENT AGENDA**

29
30 ***Nelson*** reported for the Finance and Administrative Services Committee and
31 ***moved*** to approve Consent Agenda items one through four and six through
32 thirteen. The administration withdrew item five from the agenda.

33
34 ***Brenner withdrew*** item nine.

35
36 ***Motion to approve Consent Agenda items one through four, six***
37 ***through eight, and ten through thirteen carried unanimously.***

- 38
39 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
40 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND THE**
41 **OPPORTUNITY COUNCIL TO PROVIDE SUPPORT FOR THE HOMELESS**
42 **HOUSING RENTAL ASSISTANCE VOUCHER PROGRAM AND**
43 **OPERATING AND MAINTENANCE SUPPORT FOR DOROTHY PLACE IN**
44 **THE AMOUNT OF \$40,000 (AB2005-131)**
45
46 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
47 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND CASCADE**

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1 **VOCATIONAL SERVICES TO DEVELOP WORK-STUDY, INTERN AND**
2 **VOLUNTEER RESOURCES FOR INDIVIDUALS WITH DEVELOPMENTAL**
3 **DISABILITIES IN THE AMOUNT OF \$24,660 (AB2005-132)**
4

5 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
6 **CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND**
7 **WHATCOM COUNSELING AND PSYCHIATRIC CLINIC TO PROVIDE**
8 **ADDITIONAL FUNDING FOR BEHAVIORAL HEALTH OUTREACH**
9 **SERVICES IN THE JAIL, IN THE AMOUNT OF \$23,000 FOR A TOTAL**
10 **AMENDED AGREEMENT IN THE AMOUNT OF \$185,122 (AB2005-133)**
11

12 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
13 **INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE**
14 **CITY OF BELLINGHAM FOR THE OPERATION OF THE LAKEWAY YARD**
15 **WASTE FACILITY IN THE AMOUNT OF \$240,000 (AB2005-134)**
16

17 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
18 **INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND**
19 **WASHINGTON STATE UNIVERSITY, WSU EXTENSION FOR PILOT**
20 **WATER QUALITY TELEMETRY TO SUPPORT STEWARDSHIP FOR**
21 **CENTENNIAL GRANT, IN THE AMOUNT OF \$30,000 (AB2005-135)**
22

23 **6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
24 **INTERLOCAL GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND**
25 **THE CITY OF BELLINGHAM UTILIZING ECONOMIC DEVELOPMENT**
26 **INVESTMENT PROGRAM (EDI) FUNDING FOR CONSTRUCTION OF**
27 **DEPOT MARKET SQUARE, IN THE AMOUNT OF \$214,000 (AB2005-**
28 **136)**
29

30 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #05-**
31 **10 FOR AGGREGATE CRUSHING TO THE LOW BIDDER, AGGREGATES**
32 **WEST, IN THE AMOUNT OF \$970,909.50 (AB2005-137)**
33

34 **8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE**
35 **PURCHASE OF LIGNOSITE FROM SOLE SOURCE PROVIDER, CURT**
36 **MEENDERINCK, LLC, FOR DUST CONTROL ON COUNTY ROADS IN THE**
37 **AMOUNT OF \$64,800 (AB2005-138)**
38

39 **9. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE**
40 **PURCHASE OF A MECHANICAL SWEEPER, USING THE WASHINGTON**
41 **STATE CONTRACT, FROM SAHLBERG EQUIPMENT IN THE AMOUNT OF**
42 **\$149,274 (AB2005-139)**
43

44 *Nelson moved* to approve the request. This is a replacement sweeper.

45
46 Brenner stated she didn't vote for the first sweeper. This is a service the
47 County can contract out.

1
2 Crawford stated this is not the special sweeper for the Lake Whatcom
3 watershed. It is a sweeper used in road construction projects.
4

5 ***Motion carried 6-1 with Brenner opposed.***
6

7 **10. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE**
8 **PURCHASE OF FOUR REPLACEMENT VEHICLES, USING THE**
9 **WASHINGTON STATE CONTRACT, FROM BUD CLARY CHEVROLET IN**
10 **THE AMOUNT OF \$80,520 (AB2005-140)**
11

12 **11. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE**
13 **PURCHASE OF EIGHT HYBRID SEDANS, USING THE WASHINGTON**
14 **STATE CONTRACT, FROM BUD CLARY OF YAKIMA, IN THE AMOUNT OF**
15 **\$184,000 (AB2005-141)**
16

17 **12. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE**
18 **PURCHASE OF FOUR REPLACEMENT VEHICLES, USING THE**
19 **WASHINGTON STATE CONTRACT, FROM BUD CLARY CHEVROLET, IN**
20 **THE AMOUNT OF \$92,000 (AB2005-142)**
21

22 **13. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
23 **RESIDENTIAL LEASE AGREEMENT BETWEEN WHATCOM COUNTY AND**
24 **WYATT RUSS, ROBBY ADER, AND LUKE SWEDELIUS TO LEASE THE**
25 **HOUSE LOCATED AT 367 E. LAKE SAMISH DRIVE, BELLINGHAM IN**
26 **THE AMOUNT OF \$895 PER MONTH (AB2005-143)**
27

28
29
30
31
32 **OTHER ITEMS**
33

34 **1. RESOLUTION ADOPTING THE PURCHASE OF DEVELOPMENT RIGHTS**
35 **OVERSIGHT COMMITTEE'S RANKING OF APPLICATIONS AND**
36 **AUTHORIZATION TO CONTINUE WITH PURCHASE OF DEVELOPMENT**
37 **RIGHTS ACQUISITIONS FOR ROUND 3, 2004 (AB2005-130)**
38

39 ***McShane*** reported for the Natural Resources Committee and ***moved*** to
40 approve the resolution.
41

42 ***Motion carried unanimously.***
43

44 **2. APPROVAL OF REQUEST FOR A ONE-YEAR PLAT EXTENSION FILED BY**
45 **LOIS MEYERS (LONG PLAT - MEYERS' PLAT, LSS98-007) (AB2005-**
46 **128)**
47

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1 **Fleetwood** reported for the Planning and Development Committee and
2 **moved** to approve the request.

3
4 **Motion carried unanimously.**

- 5
6 **3. ORDINANCE AMENDING TEXT OF THE OFFICIAL WHATCOM COUNTY**
7 **ZONING ORDINANCE, SPECIFICALLY THE ADDITION OF CHAPTER**
8 **20.15 – MUSHROOM SUBSTRATE PRODUCTION FACILITIES SITING**
9 **REQUIREMENTS, ESTABLISHING LOCATIONAL CRITERIA AND**
10 **ZONING DISTRICTS IN WHICH SUCH FACILITIES WILL BE ALLOWED**
11 **(AB2005-105)**

12
13 Fleetwood reported for the Planning and Development Committee and stated
14 this item has been held in committee for two weeks.

15
16 Crawford asked for a legal discussion in executive session in two weeks. He
17 understands the neighborhood association is challenging the prevailing legal opinion
18 on whether or not this can be a part of Title 20.

19
20 Caskey-Schreiber stated legal counsel will review it.

- 21
22 **4. REQUEST CONFIRMATION OF THE EXECUTIVE’S APPOINTMENT OF**
23 **WALTER LOCKWOOD AND GORDON ROGERS TO THE PARKS AND**
24 **RECREATION COMMISSION (AB2005-144)**

25
26 **Nelson moved** to confirm the appointments.

27
28 **Motion carried unanimously.**

- 29
30 **5. REQUEST CONFIRMATION OF THE EXECUTIVE’S APPOINTMENT OF**
31 **BARBARA DYKES TO THE PURCHASE OF DEVELOPMENT RIGHTS**
32 **OVERSIGHT COMMITTEE (AB2005-145)**

33
34 **Brenner moved** to confirm the appointment.

35
36 **Motion carried unanimously.**

- 37
38 **6. REQUEST CONFIRMATION OF THE EXECUTIVE’S APPOINTMENT OF**
39 **JANET JENSEN TO THE DEVELOPMENTAL DISABILITIES BOARD**
40 **(AB2005-146)**

41
42 **Roy moved** to confirm the appointment.

43
44 **Motion carried unanimously.**

45
46
47 **INTRODUCTION ITEMS**

1
2 ***Nelson moved*** to accept the Introduction Items.
3

4 ***Motion carried unanimously.***
5

- 6 **1. ORDINANCE AMENDING 2005 WHATCOM COUNTY BUDGET, REQUEST**
7 **NO. 3 (AB2005-147)**
8
- 9 **2. ORDINANCE REMOVING AN EXISTING SCHOOL SPEED LIMIT ON**
10 **SILVER LAKE ROAD (AB2005-148)**
11
- 12 **3. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
13 **ORDINANCE, TITLE 20, CHAPTERS 20.37 – POINT ROBERTS**
14 **TRANSITIONAL ZONE (TZ) DISTRICT, 20.71 – WATER RESOURCE**
15 **PROTECTION OVERLAY DISTRICT, AND 20.97 – DEFINITIONS TO**
16 **CLARIFY REQUIREMENTS AND STANDARDS FOR CLUSTER**
17 **SUBDIVISIONS (AB2005-149)**
18
- 19 **4. ORDINANCE ACCEPTING AND ADOPTING THE SOUTH PORTION OF**
20 **LAKEVIEW STREET AS A WHATCOM COUNTY ROAD (AB2005-150)**
21
- 22 **5. ORDINANCE AMENDING THE TEXT OF THE RESIDENTIAL RURAL,**
23 **RURAL AND RESORT COMMERCIAL ZONING DISTRICTS AND THE**
24 **DEFINITION OF “PUBLIC WATER” IN THE OFFICIAL WHATCOM**
25 **COUNTY ZONING ORDINANCE (TITLE 20) (AB2005-151)**
26
- 27 **6. RESOLUTION REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT**
28 **FUNDING APPLICATION (AB2005-152)**
29
- 30 **7. ORDINANCE AMENDING WHATCOM COUNTY CODE, TITLE 16, ON AN**
31 **INTERIM BASIS TO PROVIDE ADDITIONAL REGULATORY**
32 **PROTECTION FOR WETLANDS AND GEOLOGICAL HAZARD AREAS**
33 **(AB2005-127)**
34

35
36 **OTHER BUSINESS**
37

38 Fleetwood stated the **resolution initiating Comprehensive Plan and**
39 **zoning amendments for 2005 (AB2005-084)** has been in the Planning
40 Committee for a number of months. The items were all finalized today, and will
41 come forward to the Council in two weeks.
42

43 Nelson stated the Finance and Administrative Services Committee discussed
44 office space concerns with Deputy Administrate Dewey Desler, who will continue to
45 provide information in committee. If councilmembers are interested in this issue,
46 they may want to attend the committee meetings.
47

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REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

Caskey-Schreiber stated the Council has a Water Resources work session on Tuesday, March 22 at 10:00 a.m. and a Parks Department meeting at 1:30 p.m. On March 23 at 6:30, the Council has a Joint Lake Whatcom Management meeting with the City and Water District 10 to discuss stormwater around Lake Whatcom.

Caskey-Schreiber stated councilmembers had a good experience last week lobbying for the county in Washington D.C.

ADJOURN

The meeting adjourned at 8:57 p.m.

Jill Nixon, Minutes Transcription

The Council approved these minutes on April 12, 2005.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Laurie Caskey-Schreiber, Council Chair