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WHATCOM COUNTY COUNCIL
Special County Council

March 15, 2005

Council Chair Laurie Caskey-Schreiber called the meeting to order at 1:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner
Dan McShane
Sam Crawford
Seth Fleetwood
L. Ward Nelson

Absent:

Sharon Roy

1. COUNCIL TO DISCUSS ISSUES AND CONCERNS RELATED TO THE RECENTLY ADOPTED BUILDING AND SUBDIVISION MORATORIUM IN THE LAKE WHATCOM WATERSHED (ITEMS TO BE DISCUSSED INCLUDE: PROCESS, JUSTIFICATION FOR LIFTING THE MORATORIUM, BENCHMARKS, AND PRIORITIZATION OF TASKS) (AB2005-072)

Sylvia Goodwin, Planning Division Manager, submitted information (*on file*). The City and County Interagency Coordinating Team (ICT) is trying to determine exactly how many additional houses can be built in the Lake Whatcom watershed. The number of existing dwelling units are 6,486 as of March 2005. The number of existing building permits in the process totals 410. There are an additional 351 appointments. Only 1,126 additional building permits can be issued, according to current zoning. The total excluded land owned by the City, County, or land with a 25-year non-development agreement due to the sewer hookup. This is the most accurate estimate she's ever had. Some of the 1,126 lots yet to develop may not develop due to a variety of reasons. Only about 80 percent of those with appointments will actually develop.

Caskey-Schreiber asked how many lots have developed on average in the watershed over the last few years. Goodwin stated she has that information, but not with her.

Brenner asked the number of acres and depth of basin two.

Bruce Roll, Assistant Director, stated basin two is 69 feet deep. He will get information on the size of the basin.

Goodwin stated she provided a memo regarding low impact development (LID) examples. It's not new information. Several staff people are at a low impact

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1 development seminar this morning. The County has a grant from the Puget Sound
2 Action Team to work on developing additional low impact development tools for
3 Whatcom County.

4
5 Brenner asked that the development seminar be done in Whatcom County, if
6 it's worthwhile.

7
8 Goodwin stated the grant is more of a technical assistance program, which is
9 a result of the workshop. The Puget Sound Action Team would help the County
10 bring more low impact development regulations into the existing regulations.

11
12 McShane stated the information in the memo would help guide development
13 standards regarding onsite stormwater. Item 19 in the memo, minimal excavation
14 foundation systems, is a technique he's recommended in the past for minimizing
15 concentration of flow on unstable slopes. It works for water quality purposes as
16 well. He asked for a suggestion on where in the code something like this would go.
17 Goodwin stated this issue is addressed somewhat by the tree retention policies.
18 They can go further by limiting the footprint of excavation to the footprint of the
19 house. Staff could develop a formula.

20
21 McShane stated some areas of the watershed have pipes sticking out all over
22 the place that drain foundations and gutters, and are sent into the public
23 stormwater system via a road ditch. That can add to the stormwater problem.
24 Goodwin stated there are examples of ordinances from other counties on how they
25 deal with that issue. It could be applied via a Lake Whatcom overlay. They could
26 discuss it during the next water resources work session.

27
28 Crawford asked where runoff from Sudden Valley properties goes.

29
30 Steve Grieser, Sudden Valley Community Association General Manager,
31 stated it goes into an open ditch system that goes into the lake. Not all of it goes
32 in Austin Creek. Another area drains into an airport strip, which also eventually
33 goes to the lake. The third area is the Beaver Creek and Austin Creek drainages.

34
35 Crawford stated they're starting to look at recommendations for specific
36 retention and detention fixes from a smaller area in the community. He asked if a
37 greater impact is Sudden Valley, which is a much larger development. He asked if
38 Sudden Valley has considered dedicating space or land to retention and detention
39 or talked to engineers to see if that is a worthwhile thing to pursue. Grieser stated
40 the association had an engineering study for a Comprehensive Stormwater
41 Drainage Plan in 1992. The study called for open ditches and onsite stormwater
42 retention pits. The plan outlined certain areas in the valley that can be used to
43 channel the ditch runoff, and develop sediment ponds. There may even have been
44 a pond or two that was done on the golf course. Other than maintaining the
45 ditches as much as possible, the plan hasn't been developed a lot. The potential is
46 there.

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1 Fleetwood stated this fits under the issue of stricter building codes listed as a
2 general response to the moratorium. He asked what staff recommends as a
3 process for coming up with a selection of items that would go into an ordinance that
4 would justify lifting the moratorium. Goodwin stated the Council should provide
5 input to the staff on what items it wants staff to bring forward. Staff also provided
6 several other ideas in the past, which it can bring forward again, such as
7 impervious surface requirements, zoning changes, tree retention, and additional
8 setbacks. Decide what the staff should research so it can get started.
9

10 Fleetwood stated it's up to the Council to decide what it wants, but the
11 Council needs criteria by which it should make that decision. Ensure the Council
12 chooses methods that are best. Develop criteria that will guide the Council in
13 making the best decision.
14

15 Brenner submitted information (*on file*). A company sells solar powered
16 circulators that may solve lake and reservoir problems, specifically with blue-green
17 algae blooms, dissolved oxygen, and phosphorus. The most expensive machine,
18 which covers about 60 acres, is about \$38,000. There is also a package membrane
19 system that treats water. It may clean everything they've been worried about,
20 including arsenic. She asked why the Council has not heard anything about
21 potential solutions such as these. These types of systems could be cost-effective
22 and people would be reassured the lake is clean.
23

24 She was told that the timeframe for the Cable Street retrofit couldn't be done
25 this year. She's talked to engineers who say that the project could be done within
26 one year. She asked why it would take so many years to get the Cable Street area
27 retrofitted. She's amazed at everything available on the market to help clean up
28 the lake.
29

30 Caskey-Schreiber stated the City of Bellingham issued a source water and
31 treatment trends report, which quoted a cost of \$36 million for the membrane
32 system. Clearly, the system in this handout is not for a municipal resource like
33 Lake Whatcom. The resource shown in Councilmember Brenner's handout is for a
34 smaller use. The City of Bellingham did consider that option.
35

36 Roll stated projects the size of the Cable Street retrofit are not single year
37 projects. Staff is working on issuing a request for proposals (RFP), seeking State
38 funding and federal appropriation. He hopes to get design and scope development
39 done this year and construction done next year. The timeframe depends on how
40 big the Council wants that project to be. The level of capture and treatment of
41 runoff is something that is a policy question. By going through this process, they'll
42 get a good handle on what retrofits mean when applied to other urbanized areas in
43 the watershed.
44

45 McShane stated there will be some sort of policy decision on how big and
46 effective this system will be. They can build a system quickly that won't be that
47 effective. The information to look for is regarding water quality that they have, per

1 stream. Find out what streams have problems and what streams don't have
2 problems. There may be places where they don't need to do a lot. Roll stated that
3 is a key piece of the work plan this year. They will go through the exercise of
4 collecting that data. Within the next month, they'll begin to see that information
5 come forward. The goal is to clearly identify the contributors and relative loads,
6 then create the prescriptions that make sense for each drainage. In many cases,
7 there are urbanizing issues or there are forested rural issues. Both of those issues
8 contribute phosphorus, but the strategies for mitigating phosphorus are different
9 from each other. Take the 12 drainages in the watershed, combine them into
10 logical groups, and come up with a prescription for each drainage. This year, the
11 plan is to go through the loading exercise.

12
13 McShane stated a lot of good work is already going on. It will take some
14 time to get things done right. The moratorium is to give the Council time to do
15 interim things until the results of the work helps the Council make better-refined
16 decisions that are more prescriptive to the given circumstances.

17
18 He asked for information on the installation of stormwater treatment systems
19 the City of Bellingham has done.

20
21 Caskey-Schreiber stated that is the exclusive topic for the Joint Lake
22 Whatcom Management meeting.

23
24 McShane stated he drafted a proposed ordinance to work from. The
25 ordinance amends Chapter 20.71. Councilmembers should look through it carefully
26 in conjunction with the low impact development options submitted by the Planning
27 Department. All are interim regulations and should not be considered final
28 ordinances. They can be refined later to be specifically prescriptive to areas in the
29 watershed. The proposed ordinance is something to get the Council started. Roll
30 stated the Council needs to identify gaps in the existing regulations so staff can
31 work on filling those gaps. Analysis on what they have and what works is
32 premature until they understand existing gaps.

33
34 McShane stated they do need to figure out gaps. However, he's concerned
35 administrators will come forward with specific proposals. It's a legislative issue.

36
37 Crawford stated he agrees with Councilmember Brenner on the oxygenation
38 product for the lake. They've been told it will be expensive, but not exactly how
39 expensive. He would like that information. The second item, the water treatment
40 system information, should be left to the treatment providers, City of Bellingham
41 and Water District 10.

42
43 Nelson stated one idea is pre-treatment for areas high in certain
44 contaminants. He asked if they can pre-treat before the water enters the lake.

45
46 Crawford asked for clarification on pre-treatment of stormwater.

47

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1 Nelson asked if staff could look into the machinery and let the Council know
2 whether or not this is a viable option. They continue to look at regulatory practices
3 that involve natural pathways when sometimes manmade structures can expedite a
4 result. He would like to see information on any technology that is available. A
5 question is whether they need to pre-treat water before the water enters into the
6 lake in areas that have a high level of contaminants.

7
8 Caskey-Schreiber stated that relates to the seasonal clearing ban.
9 Contamination prevention is the primary safeguard to public health regarding water
10 systems. Keep the contaminant at the source. Keep the contaminant from
11 entering the system. That is the cheapest option available.

12
13 Nelson asked if there are manmade pre-treatment systems. Goodwin stated
14 it is one of the things staff will look at.

15
16 Nelson asked if there are mechanisms that can go into the streambed to
17 reduce sediment loading. In addition, he asked for identification of critical areas
18 they should focus on. That is more important information the Council needs to
19 have. Roll stated this information will come forward at the water resources work
20 session. He will present loading information and stream basin information at that
21 work session.

22
23 Brenner stated she's not saying they should treat the water. That is the
24 City's responsibility. There are other options. There may be ways to take out
25 arsenic, which would help with the type of contaminants they're worried about.
26 They need to look into the option of the circulator. Keep an open mind about using
27 these kinds of options.

28
29 Fleetwood stated they must establish orderly, rational criteria by which they
30 make their decisions.

31
32 *(Clerk's Note: Councilmembers Fleetwood and Crawford left the meeting)*

33
34 Caskey-Schreiber asked if it would be possible to calculate the amount of
35 impervious surface in the watershed. Goodwin stated that's already been done.
36 Several areas around basin one have around 45 percent or more, and other areas
37 were very low. The overall percentage would stay below the ten percent guideline,
38 but the amount is higher in individual basins.

39
40 McShane stated his proposal is one person's shot to try and meet the criteria
41 the Council established at the last meeting. It was clear the Council needs to
42 update the water resource protection overlay district and other sections of Title 20.
43 Incorporate what they know about low impact development. It may be somewhat
44 extreme, but it's an interim measure they can implement and then pull back when
45 they learn more.

1 There is a fairness issue about impacting new development. Existing
2 development, at some point, will have to do something as well, such as individual
3 retrofitting or paying into a stormwater district. Those who don't contribute to the
4 problem wouldn't have to pay as much into a stormwater district as those who do
5 contribute.

6
7 *(Clerk's Note: End of tape one, side A.)*
8

9 Brenner stated she had no idea Sudden Valley has its own enforcement
10 people and is allowed to cite violators. They're having the same kinds of problems
11 as the County. The amounts of the citations are around \$50, which doesn't cover
12 the cost of staff time and effort. Go through Sudden Valley's regulations and
13 ordinances to see what the association is doing. If Sudden Valley increased its
14 fines, it should be able to take care of violations in Sudden Valley, which has the
15 same power as the county to shut people down. Work more with Sudden Valley to
16 go over these ideas.

17
18 Grieser stated Sudden Valley also has the ability to fine a certain amount per
19 day until the violation is corrected. The Sudden Valley Board of Directors wants to
20 meet with the County Council about work the Board has done.

21
22 Brenner stated she understood that some of the lots in the lot reduction
23 program are going to be sold. Grieser stated they've sold some in the past. If a
24 property is available that is a critical area, the association will trade for the critical
25 area lot with buildable lots that the association owns.

26
27 Brenner asked if any of the lots they're trading are lots that the association
28 worked on obtaining with the County. Grieser stated some lots had transferable
29 restrictive covenant, initially, so they could move the covenant from a lot that the
30 association purchased collectively to a more environmentally sensitive lot.
31 Currently, the lots with the County come with nontransferable restrictive covenants.

32
33 Dennis Jones, Sudden Valley, stated he endorses the 2006 Lake Whatcom
34 Management Program. He hopes Sudden Valley does the same thing.

35
36 Darcy Jones, Jones Engineers, stated the County needs to fix an existing
37 condition. Things the County can do now to clean up the water quality are things
38 the Council should look at. The membrane filtration system is not in the same
39 parameters as the filtering system they're talking about. It sounds like a reverse
40 osmosis system that some jurisdictions use to convert raw sewage to drinking
41 water. That's not the level of treatment the community needs.

42
43 A solution is going to be comprised of a lot of little things combined. There
44 are areas in the northern end of the lake where they need to install better filtration
45 systems. If the Council has the will to do the Cable Street project, it can be done in
46 a year. The technology exists to clean up existing urban areas. One of the first
47 things the Council should do now is a utility local improvement district (ULID). That

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1 is what will stop the pollution now. What happens in the future doesn't cause what
2 is happening now.

3
4 The technology the County needs exists. Lake Sammamish uses a sand
5 filtration system. That is a mechanism they can put in at the Park Place detention
6 pond as a final step. It's not expensive to do. There are many solutions available
7 to clean up existing development. If they can capture it, they can filter and clean
8 it. Capturing it is an engineering solution. Find out where each creek enters the
9 lake and where each storm drain enters each creek. The County staff has maps of
10 all this and can identify those non-point sources, put in a drain, and filter it. It's
11 not that difficult.

12
13 For new construction in the watershed, there is a lot of evidence on
14 suburbanization of a watershed leading to eutrication. He doesn't disagree. Every
15 one of those studies is based on the old way of doing things, not the new way of
16 collecting stormwater and treating it onsite. Best management practices for future
17 development in other jurisdictions can be implemented here. There is technology
18 for new construction to make sure absolutely no stormwater leaves the site. They
19 can do that, and it can be enforced.

20
21 The National Pollution Discharge Elimination System (NPDES) is coming soon
22 to Whatcom County. It has to be implemented. San Diego County started that
23 program five years ago. Everything has to have a stormwater pollution prevention
24 plan and a stormwater management plan. The plans set forth guidelines on what to
25 do in case of a breach. Reports and plans are approved, certified, and monitored.
26 The fine for violation is \$2,500 per day, which is a good deterrent.

27
28 There is technology to clean up the problems that exist. The County has to
29 protect the lake. Have the will to develop solutions. The development industry is
30 willing to help develop solutions if that is what it has to do. The development
31 community has a higher level of technical applications, more than silt fences and
32 hay bales. There are sophisticated solutions that aren't hard to implement. The
33 problem is only that people aren't used to implementing these sophisticated
34 solutions, which include low impact development techniques for ongoing, post-
35 construction stormwater management techniques that exist in perpetuity. Those
36 techniques will minimize the requirement for huge stormwater detention ponds and
37 will increase water quality.

38
39 For now, put sand filters in the Brentwood and Park Place detention ponds.
40 He will provide scientific evidence and reports that the sand filters work.

41
42 Regarding the point system, retain the point system, but it should reflect
43 what's coming up with the NPDES permit and new critical areas ordinance. He has
44 recommendations to simplify it based on soils, slope, and proximity to wetlands.
45

1 Higher violation fees are one tool the County can use. A performance bond
2 could also be required. A performance bond is a self-policing technique to the
3 building standards in terms of stormwater.
4

5 Lance Hillengass, Sudden Valley Board of Directors Member, stated the
6 Sudden Valley Community Association Board of Directors invited the Council and
7 County staff to come to Sudden Valley to view two presentations, one on best
8 practices and one on the research done by professionals.
9

10 McShane stated he would like a hardcopy of the presentation.
11

12 Grieser submitted the information (*on file*).
13

14 Nelson stated there is a process by which the Council agreed to work on
15 items and get information from staff. He wants an opportunity to go over the
16 ordinance Councilmember McShane submitted and collect specific information. He
17 also wants to consider alternative ideas so they can solve immediate concerns and
18 demonstrate to the public that the Council wants to do something.
19

20 McShane stated he is trying to stay true to the commitment councilmembers
21 made to move quickly and take appropriate actions. His proposed ordinance is a
22 first draft. He will bring forward more proposed ordinances soon. Because of the
23 Council's short timeframe, the Council must begin working on these things. His
24 proposal to amend Chapter 20 is an interim step.
25

26 Caskey-Schreiber stated she agrees that they need to get things out there
27 regarding the building moratorium. Someone spoke about addressing stormwater
28 issues. The County will be working on stormwater issues for years. The lake is
29 almost completely built out. This is the County's one opportunity to reduce any
30 further degradation as a result of new construction. The councilmembers should
31 come up with everything they can based on good, proven effectiveness so new
32 construction isn't adding to the existing problem that the County will wrestle with
33 for years.
34

35 Brenner asked the acreage of basin two. Roll stated basin two is between
36 400 and 450 acres.
37

38 Brenner stated she would like the same information on basins one and three.
39 Someone said it will take time to figure out to what level they want to treat
40 stormwater. Government can't ask less of itself than it asks of the public, which
41 now is no increase in pollution. The Council has talked about a net decrease. She
42 wants to capture every drop of pollution. Roll stated they'd have to discuss how to
43 finance and regulate to that level.
44

45 Joe Rutan, County Road Engineer, stated basins one and two are about the
46 same acreage. The Cable Street drainage project is developing into two different
47 projects. One project is the Cable Street retrofit, which retrofits the drainage that

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1 drains the street. If they freed up money and staff time, the County could probably
2 have that done in a year. There is also the Geneva Street drainage project, which
3 catches all of the stormwater. It will identify what pollution is there and how to
4 redirect it.

5
6 Brenner asked if the depths of the basins are the same. Rutan submitted a
7 brochure to Councilmember Brenner with that information.

8
9

10 **OTHER BUSINESS**

11
12 There was no other business.

13
14

15 **ADJOURN**

16
17 The meeting adjourned at 2:20 p.m.

18
19

20
21 _____
Jill Nixon, Minutes Transcription

22
23 The Council approved these minutes on April 12, 2005.

24
25

26 ATTEST: WHATCOM COUNTY COUNCIL
27 WHATCOM COUNTY, WASHINGTON

28
29

30
31 _____

Dana Brown-Davis, Council Clerk

Laurie Caskey-Schreiber, Council Chair