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1 Tim Paxton, Clean Water Alliance, stated the County Council approved a
2 Sudden Valley urban growth area (UGA) amendment in 2001. Sudden Valley board
3 members are moving to become a city. A city in Sudden Valley is beyond the
4 control of the County. Such a city would be able to upzone, build, and construct in
5 the reservoir. Rescind the UGA ordinance. There is a lot of evidence that the
6 reservoir is failing. It's becoming urgent for people to develop out there. Such a
7 city can develop a lot of housing. When it runs out of tax money, it could return
8 responsibility to the County and City of Bellingham.

9
10 Dennis Jones, 1487 Sudden Valley, stated the Sudden Valley Community
11 Association is reporting tonight to Sudden Valley Board of Directors. The City of
12 Sudden Valley Committee recommends to the board to initiate the process for
13 Sudden Valley to become a city. Put a wooden stake put through this attempt.

14
15 At the last meeting, the Council passed a revised land clearing ordinance. It
16 contained an exception for homes under 2,500 square feet. That is not in keeping
17 with the County's watershed goals, plans, purposes, or even the need for affordable
18 housing in this community. Silver Beach residents showed what happens on lots of
19 those size. One could clear cut a lot that is 4,500 square feet. Now, they're razing
20 Silver Beach homes to put in these mega boxes.

21
22 An affordable house is 1,500 square feet, maximum. Watershed cooperative
23 management can only be done one way, as a combined district with the City, Water
24 District, and Fire District. Construct a watershed district.

25
26 Crawford asked if the Sudden Valley Board wants to become a city. Jones
27 stated they will acknowledge it, but won't fund it at this time. They will go for a
28 city in 2006. He would like an alternative district created.

29
30 Russell Weston, 2223 Cody Evan, Bellingham, stated he is the Whatcom
31 County Grange Deputy for Washington State. Regarding the **ordinance amending**
32 **the official Whatcom County Zoning Code, Chapter 20.80.800 – Livestock**
33 **Regulations (AB2005-316)**, it's not necessary to stipulate the number of animals
34 allowed on ten acres or less. There are already regulations for animal abuse and
35 nuisance situations. Repeal the ordinance. Allowing the use on a small farm will
36 help the agricultural industry and 4H students.

37
38 Larry Helm, 2660 East 41st Terrace, stated he agreed with the previous
39 speaker regarding the **ordinance amending the official Whatcom County**
40 **Zoning Code, Chapter 20.80.800 – Livestock Regulations (AB2005-316)**.
41 There are many 4H and Future Farmers of America (FFA) projects on small
42 acreages in this county. This ordinance will run a lot of kids out of the program.
43 Repeal the ordinance. There are already other laws to take care of the issues.

44
45 Diana Dawn, P.O. Box 4433, Bellingham, stated they all need to learn what is
46 happening on the planet. If they continue to build on watershed and critical areas,

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1 there could be the same or greater destruction than what has happened with
2 Hurricane Katrina. Learn from history.

3
4 She is the president of 4H, which gives children the opportunity to become
5 responsible, healthy, and aware adults. There are not that many things for children
6 in the community to help them become responsible young adults.

7
8 She asked where is the accountability regarding the Padden Creek building
9 that is not up to code. She asked what it teaches the young children when they
10 pass an ordinance and then break it. The County Council and City Council should
11 begin to be honest human beings. If they pass an ordinance, then obey it.

12
13 John Hymas, 1316 - 23rd Street, stated permit allocations are sometimes
14 called metering. He is concerned about the frightening rate of projects that are
15 being vested by the City of Bellingham and Whatcom County before the
16 Comprehensive Plan and the Critical Area Ordinance are passed. A land rush is
17 going on. A permit allocation program works in cities around the country. Look
18 into this.

19
20 The subject of Sudden Valley has come up. He is a certified arborist that
21 does a lot of tree consultation in the county. He is amazed at what is happening on
22 some of the slopes. Tree removal for the house footprint is one thing, but there is
23 a need for more training for heavy equipment operators and developers. Large
24 trees are being damaged unnecessarily.

25
26 Marian Beddill, 3600 Seeley, Bellingham, stated do not allow a city in the
27 Lake Whatcom watershed. It's not rational, reasonable, or proper to put a city in
28 the watershed. The County Council must take action to stop the development of
29 that area. Only a few property owners, builders, and developers would benefit.
30 Right now, it means big bucks for them. However, it passes the buck to future
31 generations, who will have to respond to and clean up the mess. A city in the Lake
32 Whatcom watershed is simply wrong.

33
34 Richard Roebuck, 8288 Northwood, Everson, stated the **ordinance**
35 **amending the official Whatcom County Zoning Code, Chapter 20.80.800 –**
36 **Livestock Regulations (AB2005-316)** would hurt 4H and FAA programs.
37 Children would not be able to participate in 4H and FFA programs.

38
39 Fleetwood reported for the Planning and Development Committee on the
40 **ordinance amending the official Whatcom County Zoning Code, Chapter**
41 **20.80.800 – Livestock Regulations (AB2005-316)**. The committee
42 recommends that the ordinance be remanded back to the Planning Commission to
43 consider repeal. Staff and committee members agree that it's appropriate to begin
44 discussion of remanding the ordinance. If the County Council is not ready to
45 remand the ordinance back to the Planning Commission, then the committee
46 recommends holding the ordinance in committee for two weeks. The committee

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1 would like that time to give people an idea of why the committee recommends
2 repeal.

3
4 Since the original ordinance was passed, a number of other ordinances have
5 been written that deal with the same issue. The question now is whether the
6 livestock ordinance is even necessary anymore.

7
8 Tony Torretta, 3770 Aldergrove Road, Ferndale, stated he is an agriculture
9 advisor in a local high school. The **ordinance amending the official Whatcom**
10 **County Zoning Code, Chapter 20.80.800 – Livestock Regulations (AB2005-**
11 **316)** would negatively effect those students. They work hard to find agricultural
12 land for projects in the community. There are issues of losing agricultural land to
13 residential development. The students are very concerned what will happen to
14 their livestock. From 1992 to 1997, Whatcom County lost 11 percent of its
15 agricultural land. According to statistics, all Whatcom County agricultural land will
16 be gone in 50 years. A total of \$240 million is produced on those agricultural lands.
17 That amount is multiplied four to seven times in the communities. That production
18 is higher than what a home would produce on that same land. Encourage the
19 people who are preserving hobby farmland. Repeal the livestock ordinance.

20
21
22 **OTHER BUSINESS**

23
24 **ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
25 **CODE, CHAPTER 20.80.800 – LIVESTOCK REGULATIONS (AB2005-**
26 **316)**

27
28 Brenner stated she wants to rescind the ordinance. The Planning
29 Commission is already overloaded. A remand would send it back to them to review
30 it in a different way. She respects the Planning Commission, but the Council could
31 hold a hearing itself. She would like to have a hearing and then make a decision.

32
33 Roy stated that she agrees with Councilmember Brenner. The Planning
34 Commission will feel obligated to fine-tune the ordinance and send it back to the
35 County Council. The question is whether Whatcom County really needs this
36 ordinance at all.

37
38 Fleetwood stated the Planning Commission was never asked about the option
39 of repealing the ordinance. The Planning Commission is not necessarily set in its
40 decision. He proposes a remand so that everyone is considered.

41
42 Crawford stated he is not in favor of reviewing the ordinance at the Council
43 level. It should go back to the Planning Commission. Come up with a proposal that
44 people can understand, without leaving the old law on the books.

45
46 Nelson stated the original ordinance was because there was not any
47 protection in place. Staff needed a tool to prevent small hobby farms from

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1 affecting critical areas. Now, farm plans are required. If this is remanded to the
2 Planning Commission, the question is what the commission would review. The
3 question is whether there are already ordinances that address the issues.
4

5 Brenner stated staff said today that this might be an ordinance whose time
6 has come and gone. The issues are covered in other ordinances. This ordinance
7 does not deal with best management practices. It is only a "one size fits all"
8 solution dealing with animal units, which may or may not have anything to do with
9 best management practices. The Planning Commission has a lot on its plate. It's
10 true that rescinding the ordinance was not what the Planning Commission dealt
11 with. However, the Planning Commission made the ordinance more stringent
12 instead of just scrubbing it. Along the line, someone said that it doesn't work. Free
13 up the Planning Commission to work on other issues.
14

15 Hal Hart, Planning and Development Services Director, stated the ordinance
16 has gone through the system. The Planning Commission added to and subtracted
17 from the ordinance.
18

19 Nelson asked if staff agrees that the necessary protections for the small lots
20 in the community exist elsewhere. Hart stated he wasn't present for the
21 committee's discussion.
22

23 McShane stated he supports sending the ordinance back to the Planning
24 Commission, because it was a major deviation from the original intention to scrub
25 the ordinance. The scrub was to provide clarity to staff, who responds to
26 complaints about animals. There may be other regulations to cover the issues,
27 making this ordinance unnecessary, but they don't know for sure. The Council
28 could do that evaluation itself, but they have a Planning Commission to have that
29 extra layer of review. There is no rush on it.
30

31 Crawford stated the origin of the proposed change was from the enforcement
32 staff, who tried to make it easier.
33

34 Amy Pederson, Planning, stated the Planning Commission was originally
35 tasked to do a code scrub. The language was not clear enough for staff. The staff
36 wanted the language improved. The possibility of striking the language altogether
37 was not even considered. It was not in the scope of the Planning Commission's
38 task. After this afternoon's discussion, repeal became a possibility. The thought
39 was to send the ordinance back to the Planning Commission to identify whether or
40 not there are other ordinances that adequately address complaints. If there are,
41 they can determine whether or not it is feasible to repeal the ordinance.
42

43 ***Fleetwood moved*** to remand the ordinance back to the Planning
44 Commission to consider the question of whether it is appropriate to repeal
45 Whatcom County Code 20.80.800, the livestock section. The object is to establish
46 an orderly means to consider this question. Remanding to the Planning

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1 Commission is one means. It is appropriate. The Council is open to considering
2 repeal, which is what people want.
3

4 Caskey-Schreiber stated she is in favor of remanding the ordinance to the
5 Planning Commission. There is a group of people who supported the stricter
6 measures. They tried to write this ordinance to address problems in Kendall, but
7 they may not have considered that this ordinance applies countywide. If there is a
8 particular issue with enforcement and problems in Kendall, get at it another way.
9

10 Brenner stated nuisance laws are on the books. If there is a genuine
11 nuisance problem, it's a civil matter. Keep the County out of it. If there is a public
12 health issue, public health laws are on the books. Those kinds of issues are already
13 covered. Anyone raising livestock must adhere to best management practices.
14

15 Nelson stated he is ready to repeal the ordinance now. Over the years, he's
16 seen enough evidence in the regulations to protect property and the functional use
17 of land in the rural areas for agriculture. He's never liked this section of the code.
18 It's too hard to interpret and evaluate.
19

20 McShane stated that since the repeal is to a section in Title 20, it has to go to
21 the Planning Commission in the process for making amendments to the zoning text.
22 The Council would not be able to docket the item until the end of next June.
23

24 Crawford asked what ordinance would address an issue of 100 cows on a
25 one-quarter acre lot.
26

27 Nelson stated the farm would have to have a farm plan, which would not
28 allow that density of livestock.
29

30 Brenner stated there are nuisance and feed lot ordinances. One hundred
31 cows on a one-quarter acre lot would be considered a feed lot. Farms still have to
32 have best management practices, which considers whether or not the farm is a
33 nuisance. If the farm is not allowed to operate in a way that is safe for the
34 environment and public health, it wouldn't be allowed to operate.
35

36 She doesn't understand why this has to go through the Planning Commission
37 again. It's already been to the Planning Commission, and was forwarded to the
38 Council. The Council is changing what the Planning Commission wanted to do. By
39 law, the only thing they have to do is have a public hearing.
40

41 Caskey-Schreiber stated they are taking a large section of the code and
42 deleting it. That is an enormous change.
43

44 *(Clerk's Note: End of tape one, side A.)*
45

46 Brenner stated the section of the code is not that big.
47

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1 *Motion to remand with conditions carried 6-1 with Brenner opposed.*
2
3

4 **CONSENT AGENDA**
5

6 *Nelson* reported for the Finance and Administrative Services Committee and
7 *moved* to approve Consent Agenda items one through eight and ten through 15.
8 Item nine was referred to the Council Public Works and Safety Committee.
9

10 *Motion to approve Consent Agenda items one through eight and ten*
11 *through 15 carried unanimously.*
12

- 13 1. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ACCEPT GRANT**
14 **FUNDS TO COMPLETE THE PURCHASE OF THE TERRELL CREEK HERON**
15 **COLONY PROPERTY IN THE AMOUNT OF \$49,000 (AB2005-342)**
16
- 17 2. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
18 **INTERLOCAL COOPERATION AGREEMENT BETWEEN WHATCOM**
19 **COUNTY AND THE CITIES OF WHATCOM COUNTY FOR THE PURPOSE**
20 **OF DEFINING THE DISTRIBUTION OF FUNDS RECEIVED FROM A ONE-**
21 **TENTH OF ONE PERCENT SALES TAX INITIATIVE FOR COUNTYWIDE**
22 **EMERGENCY MEDICAL SERVICES (AB2005-343)**
23
- 24 3. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO**
25 **CONTRACT AMENDMENT #2 BETWEEN WHATCOM COUNTY AND**
26 **EBENAL GENERAL FOR CENTRAL SHOP ALTERATIONS FOR**
27 **INSTALLATION OF FIRE WALL SEPARATION, PAVING, PROX CARD**
28 **READER INSTALLATIONS, LOCKSETS REPLACEMENT, MODIFICATION**
29 **OF LEVER HANDLE GUARD, AND EXTENSION OF ORIGINAL**
30 **CONTRACT EXPIRATION DATE AND COSTS AND TIME IMPACTS IN AN**
31 **AMOUNT NOT TO EXCEED \$41,484.59 PLUS TAX, FOR A TOTAL**
32 **AMENDED CONTRACT AMOUNT OF \$280,214.59 PLUS TAX (AB2005-**
33 **344)**
34
- 35 4. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
36 **COLLECTIVE BARGAINING AGREEMENT BETWEEN WHATCOM COUNTY**
37 **AND THE WASHINGTON STATE NURSES ASSOCIATION FOR THE TERM**
38 **OF JANUARY 1, 2005 THROUGH DECEMBER 31, 2007, WHICH**
39 **REPLACES CONTRACT #200212018 (AB2005-345)**
40
- 41 5. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO APPROVE THE**
42 **PURCHASE OF 15 LAPTOP COMPUTERS AND RELATED ACCESSORIES**
43 **FOR USE IN SHERIFF VEHICLES, FROM VENDOR DAYTECH, INC., IN**
44 **THE AMOUNT OF \$81,258.67 (AB2005-346)**
45
- 46 6. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #05-**
47 **71 TO THE SOLE RESPONSIVE BIDDER, SMITH'S DETECTION, FOR A**

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- 1 **PORTABLE HAZARDOUS CHEMICAL IDENTIFIER, IN THE AMOUNT OF**
2 **\$44,703.38 (AB2005-347)**
3
- 4 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #05-**
5 **73 TO THE SOLE RESPONSIVE BIDDER, SAHLBERG EQUIPMENT**
6 **COMPANY, FOR A SINGLE AXLE TRUCK WITH AN ASPHALT POTHOLE**
7 **PATCH UNIT, IN THE AMOUNT OF \$140,939.47 (AB2005-348)**
8
- 9 **8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #05-**
10 **74 TO THE LOWEST RESPONSIVE BIDDER, VALLEY FREIGHTLINER,**
11 **FOR A 5-YARD DUMP TRUCK WITH A SANDING UNIT, IN THE**
12 **AMOUNT OF \$120,667.86 (AB2005-349)**
13
- 14 **9. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
15 **AGREEMENT BETWEEN WHATCOM COUNTY PUBLIC WORKS AND**
16 **REUSE WORKS TO FACILITATE A REDUCTION IN THE VOLUME OF**
17 **WHITE GOODS IN THE WASTE STREAM AND SUBSEQUENT**
18 **REFURBISHMENT OF THOSE ITEMS FOR REUSE, IN THE AMOUNT OF**
19 **\$25,000 (AB2005-350)**
20
- 21 **10. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
22 **AGREEMENT BETWEEN WHATCOM COUNTY AND THE STATE OF**
23 **WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES TO**
24 **PROVIDE FUNDING FOR OUTREACH LINKAGE, VACCINES FOR**
25 **CHILDREN, INTERPRETER SERVICES, MEDICAID CLIENT OUTREACH**
26 **AND ABCD DENTAL PROJECT, IN THE AMOUNT OF \$550,000**
27 **(AB2005-351)**
28
- 29 **11. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
30 **AGREEMENT BETWEEN WHATCOM COUNTY AND WESTERN**
31 **WASHINGTON UNIVERSITY, COLLEGE OF BUSINESS AND**
32 **ECONOMICS, SMALL BUSINESS DEVELOPMENT CENTER TO DEVELOP**
33 **A 5-YEAR COMMUNITY PHYSICIAN RECRUITMENT PLAN WITH**
34 **WHATCOM ALLIANCE FOR HEALTH CARE ACCESS, IN THE AMOUNT OF**
35 **\$35,000, WITH \$40,000 BEING DONATED BY ST. JOSEPH HOSPITAL,**
36 **FOR A TOTAL AMOUNT OF \$75,000 (AB2005-352)**
37
- 38 **12. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
39 **AGREEMENT BETWEEN WHATCOM COUNTY AND THE LATIMORE**
40 **COMPANY, LLC TO CONDUCT AN ANALYSIS THAT WILL FIND WAYS**
41 **TO IMPROVE THE PREDICTABILITY, EFFICIENCY AND**
42 **COLLABORATION OF THE COUNTY'S PERMIT PROCESS, IN THE**
43 **AMOUNT OF \$25,000 (AB2005-353)**
44
- 45 **13. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
46 **AGREEMENT BETWEEN WHATCOM COUNTY AND OLYMPIC SECURITY**
47 **SERVICES, INC. FOR SECURITY SCREENING SERVICES IN THE**

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1 WHATCOM COUNTY COURTHOUSE, IN THE AMOUNT OF \$128,500
2 (AB2005-354)

3
4 14. RESOLUTION AUTHORIZING THE EXECUTIVE TO ENTER A PURCHASE
5 AND SALE AGREEMENT BETWEEN WHATCOM COUNTY AND J. LOCH
6 TRIMINGHAM TO PURCHASE PARCELS 380430 523021 0000, 380430
7 540021 0000, AND 380430 560021 0000, IN THE AMOUNT OF
8 \$500,000 PLUS EXPENSES (AB2005-355)

9
10 15. RESOLUTION TO SET HEARING TO SELL TAX-TITLE PROPERTY BY
11 NEGOTIATION TO WHATCOM COUNTY PUBLIC WORKS, REQ. #01-05
12 (AB2005-356)

13
14
15 OTHER ITEMS

16
17 1. RESOLUTION AUTHORIZING APPROVAL BY THE WHATCOM COUNTY
18 COUNCIL TO PROVIDE FOR SUBMISSION TO THE QUALIFIED VOTERS
19 OF THE COUNTY A PROPOSITION AUTHORIZING A LOCAL SALES AND
20 USE TAX OF ONE-TENTH OF ONE PERCENT AS ALLOWED UNDER RCW
21 82.14.450, WITH TWO-THIRDS OF THE PROCEEDS TO BE USED FOR
22 FUNDING COUNTYWIDE EMERGENCY MEDICAL SERVICES AND ONE-
23 THIRD OF THE PROCEEDS TO BE USED FOR CRIMINAL JUSTICE
24 PURPOSES (AB2005-336)

25
26 *Nelson* reported for the Finance and Administrative Services Committee and
27 *moved* to approve the resolution.

28
29 Fleetwood asked whether a committee is ready to go to campaign for this
30 proposition.

31
32 Dewey Desler, Deputy Administrator, stated there is.

33
34 Nelson stated the money could only be used for emergency management
35 and criminal justice, as required by law. He asked if a separate fund is required.
36 Desler stated the emergency medical services (EMS) fund is defined in the plan. All
37 of those funds would go into an EMS fund that the County would create. The
38 criminal justice funds would go into the general fund, but they have to account for
39 the new expenditures to the State auditor.

40
41 *Motion carried unanimously.*

42
43 2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY
44 COMPREHENSIVE PLAN MAP AND THE WHATCOM COUNTY ZONING
45 MAP FROM SUBURBAN ENCLAVE/RR2 TO PUBLIC RECREATION/ROS
46 FOR APPROXIMATELY 47 ACRES WITHIN THE CHUCKANUT-LAKE
47 SAMISH SUBAREA (AB2005-084A) (PLEASE NOTE – THIS ITEM WAS

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1 **PREVIOUSLY NUMBERED INCORRECTLY AS AB2005-335; THE**
2 **CORRECT NUMBER IS AB2005-084A)**

3
4 *Fleetwood* reported for the Planning and Development Committee and
5 *moved* to send the item forward to the concurrency public hearing.

6
7 Brenner stated this is public land already. It's not private property.

8
9 *Motion carried 6-1 with Nelson opposed.*

10
11 **3. APPOINTMENTS TO THE WHATCOM COUNTY COMMUNITY NETWORK,**
12 **APPLICANTS: KAREN HOLMES, HEATHER SHEPHERD (AB2005-335)**

13
14 *Fleetwood moved* to appoint Karen Holmes and Heather Shepherd.

15
16 *Motion carried unanimously.*

17
18 **4. APPOINTMENT TO THE WHATCOM COUNTY HORTICULTURAL PEST**
19 **AND DISEASE BOARD, APPLICANT: ADAM ENFIELD (AB2005- 364)**

20
21 *Brenner moved* to appoint Adam Enfield.

22
23 *Motion carried unanimously.*

24
25
26 **PUBLIC HEARINGS**

27
28 **1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY CRITICAL**
29 **AREAS ORDINANCE, WCC CHAPTER 16.16 – CRITICAL AREAS AND**
30 **ASSOCIATED PROVISIONS OF WCC TITLE 2, CHAPTER 2.33, AND**
31 **WCC TITLE 20 (AB2005-226)**

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

34
35 Tom Pratum, 2241 Northshore Road, stated he thanked the councilmembers
36 and staff members for their hard work. He has a few issues with the Council in
37 regards to the ordinance. Most issues are in his previous letters to the Council.
38 One issue is with allowing of the view corridor to be maintained in perpetuity to be
39 an exempt activity. It's possible that critical areas could be destroyed over time.
40 They are making a view that didn't exist before. He encourages the Council to
41 adopt the ordinance, but he doesn't want it to become too permissive.

42
43 Britta Eschete, 1302 Skagit Street, Mt. Vernon, People for Puget Sound,
44 submitted information (*on file*). She described her organization. She supports the
45 adoption of the ordinance. It provides a fair and reasonable approach to allow local
46 jobs and housing growth to continue, while protecting Puget Sound water quality,
47 forage fish spawning habitat, and other natural shoreline characteristics. She

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1 supports the protections in the ordinance for streams, wetlands, and flood plains.
2 This ordinance will help save marine resources for future generations.
3

4 Robyn duPre', RESources for Sustainable Communities Executive Director,
5 stated she is a member of the citizens advisory committee that worked through the
6 critical areas ordinance. She is happy to see it come forward. It has had extensive
7 public process and is one of the best reviewed ordinances ever in Whatcom County.
8 The ordinance is the result of rigorous technical review. The County's staff and a
9 technical advisory committee that included a variety of agencies reviewed the
10 ordinance. She described the citizen advisory committee. The ordinance allows
11 reasonable use of the land while protecting important natural assets upon which
12 they all depend. She encourages the Council to adopt the ordinance.
13

14 Wendy Steffensen, North Sound Bay Keeper, stated she was a member of
15 the citizens advisory committee that spent almost a year reviewing this draft. The
16 ordinance now is not what a conservationist would want, but it is flexible. The
17 flexibility concerns her. They will have to trust the County staff to hold the line and
18 enforce the ordinance, because so much flexibility has been built into it. This is the
19 compromise the stakeholders have come up with. Adopt the ordinance.
20

21 Mary Dickinson, Building Industry Association Governmental Affairs,
22 submitted and read from her testimony (*on file*). She is disappointed no review of
23 the fiscal impact has been made. They need clarification on certain points in the
24 ordinance. First, a concern is the definition of land use intensities. The Department
25 of Ecology document is only a guideline. An objection to land use intensities is
26 equity. It is not equitable that a small development is not the same as the Bellis
27 Fair parking lot. She questions how intensities will be reconciled with Growth
28 Management Act (GMA) housing requirements. Define high density as four to six
29 units per acre, which is similar to the GMA definition of density. If that fails, then
30 land use intensities should be based on impervious surface, which is in line with
31 other ordinances. The community can work together to refine the ordinance.
32

33 Dan Warner, 3854 Squalicum Lake Road, Pro-Whatcom Chairman, stated he
34 has an issue with hobby farms. The technical administrator shall have the authority
35 to increase the width of a habitat conservation area on a hobby farm on a case-by-
36 case basis. The hobby farm is only affected when near a stream. The Whatcom
37 Conservation District provides free assistance to farmers and hobby farmers on how
38 to operate the farm. Pro-Whatcom generally thinks this ordinance is good. Tonight
39 is an opportunity to affect what will happen to the County for the next generation.
40

41 Larry Helm, 2660 East 41st Terrace, stated he is working within the process
42 and is very happy with all of the changes. Staff has made economic considerations
43 for the small farmer. However, the document excludes the Natural Resource
44 Conservation Service standards from the requirements. Nationwide, that is the
45 benchmark everyone uses. Make sure people at the Natural Resource Conservation
46 Service are okay with this document.
47

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1 Richard Baila, 1303 East Maplewood, stated he doesn't feel the ordinance is
2 in proper balance. Balance the rights and responsibilities of the community with
3 the rights and responsibilities of the individual property owners and taxpayers.
4 How this is done will influence voters and legislators. The critical areas ordinance is
5 extreme. Don't adopt it as written.
6

7 Rich Hackett, 3103 Loomis Trail Road, Custer, stated he is a small land
8 owner. Take a look at dry streams. Dakota Creek has water in it for only short
9 periods of time.
10

11 Bob Wiesen, 3314 Douglas Road, stated there will be some consequences for
12 small farmers. Make sure the rural rules apply to those small farms. He asked why
13 a farm community can get by with narrow grass buffer when small property owners
14 must have large setbacks. There is inconsistency, especially with the class four
15 wetlands, which will have an impact on the buildable land supply.
16

17 Hudson Dodd, Conservation Northwest, 1208 Bay Street, Bellingham, stated
18 he supports the Whatcom County critical areas ordinance. He described his
19 organization. Whatcom County is the last county in Western Washington to retain a
20 nature wildlife and citizens who recognize the value of wildlife. Homes are not
21 being built in harm's way. Risk of future loss of life due to landslides is decreasing.
22 The County is reducing flood risk by allowing the force of floods to dissipate over
23 natural flood plains. The County rates wetlands according to function. However,
24 the rules for wetland, wildlife corridors, tree retention, and protection of water
25 quality need improvement. Choose the sensible path and hold firm. Wetlands,
26 water quality, and wildlife must be protected. Adopt the ordinance.
27

28 Jim Johann, 1405 E. Illinois Street, Bellingham, submitted information (*on*
29 *file*) and stated the ordinance has serious constitutional problems. He has a
30 problem with the part of the critical areas ordinance that says people must trust
31 County staff. That is against the U.S. and Washington State Constitutions. The
32 proposed critical areas ordinance states the technical administrator must provide
33 reasonable notice to enter the property. The CAO does not say they shall not
34 invade property. The ordinance must say that County staff will not invade private
35 property without a warrant.
36

37 John Lesow, 317 Madrona Place, Point Roberts, submitted information (*on*
38 *file*) and stated he supports the critical areas ordinance generally. Article Three,
39 Geographical Areas, item f should apply to properties that are beside and below the
40 parcel being altered on a slope. On item h, shorten the text to the first sentence
41 only. The last sentence could be interpreted to allow gunnite and retaining walls on
42 a slope, which can eliminate the necessary function of feeder bluffs to provide sand
43 for beaches.
44

45 They live in an area with frequent landslides, even in dry weather. The
46 County has legal liability if they don't take great care in permitting the construction
47 of homes on cliffs. Restrict development in unstable cliff areas.

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1
2 Bob VanWeerdhuizn, 7026 Noon Road, stated he is in favor of the ordinance.
3 Stay farm friendly. There are only 154 dairy farms left in Whatcom County. He is
4 concerned about beaver dams. The beavers have a great habitat to work with now
5 that buffers are required. However, they can flood a farm overnight. A farmer
6 should not be fined because of beavers. Farmers do practice best farm
7 management practices.

8
9 Dave Ewoldt, 1811 Eldridge Avenue, Bellingham, stated there are too many
10 loopholes in the ordinance. Loopholes include judging the importance of a wetland
11 based on square footage, not limiting impervious surfaces in watersheds, and not
12 leaving trees on lots to control water runoff and flooding. They need to protect
13 critical areas. Without a healthy and productive natural environment, they won't be
14 able to have any development. They simply must not deny what is going on in the
15 world today. Pay more attention to these crisis. In the near future the entire
16 biosphere will be a critical area.

17
18 Greg Waters, 860 Coho Way #16, stated they are in the middle of one of the
19 largest development booms they've ever seen. There are not any spare critical
20 areas. They need to protect them now or lose them forever. Provide wildlife
21 corridors. Protect all wetlands, which prevent flood damage to homes and lives.
22 Require a good number of trees left on rural lots and limit impervious surfaces in
23 the watersheds to replenish aquifers and keep streams and coastal waters clean.

24
25 Doug Stark, 2813 Birchwood Avenue, Bellingham, stated his home was
26 flooded due to the amount of impervious surfaces. He appreciates the value of
27 wetland buffers for economic and environmental reasons. He recognizes the
28 importance of buffers. He supports the plan.

29
30 Dianna Dawn, P.O. Box 4433, Bellingham, stated she would like to see this
31 ordinance adopted and carried out. She moved here from Seattle because
32 Bellingham is like Seattle was when she was a child.

33
34 *(Clerk's Note: End of tape one, side B.)*

35
36 Dawn continued to state that she wants to live with quality people, quality
37 land, quality water, and quality hearts.

38
39 Marian Beddill, 3600 Seeley Street, Bellingham, stated she supports the
40 ordinance as brought forward. She agrees with the earlier comments of Robyn
41 duPre' and Wendy Steffensen. Regarding enforcement, look seriously at budget
42 and staffing to be able to enforce this ordinance. This has a lot to do with water.
43 There is a difference between flood control and flood hazard management. She
44 supports flood hazard management. Manage the likelihood and severity of harm
45 that comes when a flood happens. One can't control a flood. However, one can
46 plan and make requirements so that things in the way of a flood suffer little harm.
47 There is a risk of lahar and evulsion of the Nooksack River in the Everson area.

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1
2 Jason VanderVeen, 1428 East Pole Road, Everson, stated that as a dairy
3 farmer, he supports this ordinance. It will go a long way in keeping agriculture in
4 Whatcom County.

5
6 Richard Roebuck, 8288 Northwood Road, Everson, stated he supports the
7 critical areas ordinance. Consider the constitutional rights of the small farmer.
8 Keep farming going in this community.

9
10 Betty Shaw, 4372 Francis Avenue, King Mountain, stated they are in the
11 middle of a development boom. This is important. Once the animals, water, and
12 other things are gone, they cannot be replaced. Please enforce the ordinance.

13
14 John Hymas, 1316 - 23rd Street, Bellingham, stated he used to earn his
15 livelihood as a commercial fisherman. Now he is employed in salmon habitat
16 restoration. There is evidence from the 1400's that laws to preserve salmon have
17 failed. Salmon runs have been driven to extinction. They may depend on healthy
18 salmon runs in their future. Ecologically, everything is connected. Nothing kills
19 salmon species like unregulated development. He supports the ordinance. There is
20 an ecological limit to growth and development. Determine whether their present
21 situation is sustainable before the next critical areas ordinance update. Don't refer
22 to other municipalities for critical areas ordinance guidance or a narrow view of the
23 Growth Management Act. Listen to good science. Protect stream buffers, aquifers,
24 steep slopes, lakes, shorelines, farms, and forests. Encourage pervious asphalt and
25 concrete and beaver deceivers.

26
27 Russ Weston, Whatcom County Grange Deputy, stated the ordinance
28 language suggests it will not impose economic hardships. However, farm plans for
29 small farms cost nearly as much as farm plans for large farms. Exempt small farms
30 with less than one animal per acre from farm plans to preserve future farmers and
31 the longevity of the agricultural community.

32
33 Second, update the website with the most current draft. He understands
34 that the draft they're handing out tonight is not current.

35
36 Richard Gilda, Jensen Road, Bellingham, submitted and read from
37 information (*on file*) and stated the Council should take comment tonight and hold
38 over the public hearing. This ordinance will be hard on the small landowner, low-
39 income homebuilder, and 4H and FHA programs. Regulation without education is a
40 waste and does not work well. Holding over this hearing will allow others to review
41 and make comment. Any more proposed changes should be made available to the
42 public.

43
44 Darcy Jones, 4164 Meridian Street #200, Bellingham, submitted information
45 (*on file*) and stated he thanked the Council for reviewing his comments. An
46 environmental impact statement should have been prepared. An inventory of
47 existing County resources also should have been done. Establish baselines to

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1 evaluate cumulative impacts, which is a strong recommendation in the Department
2 of Ecology (DOE) guidance documents.

3
4 Make one change to Whatcom County Code 16.16.275, regarding non-
5 conforming structures that have been damaged or destroyed. If a home is
6 damaged, the owner should be able to fix it to the condition it was.

7
8 His main concern with the ordinance is regarding the land use intensities.
9 Best available science does not support the classification of land use intensities.
10 The sources cited to not establish background for the land use intensities. Instead
11 of land use intensity, bring these classifications of intensity into compliance with the
12 Growth Management Act.

13
14 Bill Hinely, 2676 Donovan Avenue, Bellingham, stated he thanked the Council
15 for the work it did. Please enforce the ordinance. He is concerned they are moving
16 too slowly to protect the global environment. A lot of the troubles can be traced to
17 human activity. They must get people out of their cars and move into compact
18 villages. Put the environment first.

19
20 Andrea Hood, 3558 Cody Avenue, Bellingham, stated she works at the
21 Conservation District. The Council should adopt the ordinance. Also provide the
22 resources to implement and enforce the ordinance. In particular, she's concerned
23 about conservation planning on agricultural lands (CPAL). It is an improvement
24 over the old critical areas ordinance. Regulation based on impact is good. The
25 conservation program has been on the books since 1997. Just because it was on
26 the books doesn't mean it worked. The Conservation District has not provided free
27 assistance with farm plans for six months because of lack of funding. The
28 Washington State Conservation Commission provides funding for high density
29 feeding operations. Adopt the ordinance, but back it up with resources. Do
30 proactive public outreach, technical assistance, staffing, staff training, enforcement,
31 and tracking.

32
33 Crawford asked if \$3,000 for hobby farm plan sounds accurate. Hood stated
34 everyone's conservation plans are different.

35
36 David Haggith, 5685 Bench Lane, Everson, stated he represents the Dairy
37 Federation and he was a member of the citizens advisory committee. He worked
38 with many organizations to get their input and approval.

39
40 The key change for agriculture is the change to small farm plans and hobby
41 farms. In the past, the small farmers didn't step up to get farm plans. In most
42 instances, a simple map and checklist will suffice. He supports the ordinance as it
43 stands. The Growth Management Act addresses the economic impacts. The critical
44 areas ordinance does not. To sustain agriculture, it is critical to address poor
45 drainage.

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1 Ellen Gray, FutureWise, stated she thanks the Council and staff. The
2 ordinance is good for the environment and good for the taxpayers. It will save the
3 taxpayer money. Studies have looked at the value of wetlands for flood protection.
4 Protecting wetlands for flood protection is a smart and economic thing to do.
5 Please take enforcement to heart. A position called watershed keeper is funded by
6 a tax on impervious surface. Those watershed keepers track what is happening in
7 the watersheds. Work on countywide, consistent stormwater management. Do
8 more work on the wildlife corridor.
9

10 Debbie Vanderveen, 1428 E. Pole Road, stated she strongly supports the
11 ordinance. It is good for farmers and hobby farmers, 4H, FFA, and the kids.
12

13 Roger Almskaar, 3610 Meridian, Land Use Consultant, submitted information
14 (*on file*) and stated the current and proposed critical areas ordinances are
15 complicated because the three levels of government, federal, state, and county,
16 don't always agree. He moved here to get away from the sprawl. They have to
17 realize there are costs to preserving the habitat. The real argument is over the low
18 value habitats and wetlands. He disagrees that the low value wetlands are
19 valuable. They have little function or value. The ordinance has some good points,
20 but focus on the intensity categories. He'd never heard of the Department of
21 Ecology model until he looked at the Whatcom County draft. It is overkill. Housing
22 costs are up because of excessive and convoluted regulation. Take time and have a
23 work session on this.
24

25 David Murralt, P.O. Box 5327, Bellingham, stated protecting the environment
26 is important. He has to look at the financial impact on his small business and
27 employees. Eliminating affordable housing drives service people out into the
28 county to buy homes that are affordable. In the end, it will cost everyone a lot
29 more. They shouldn't destroy wetlands, but the Council should take a closer look at
30 this. He's not sure the financial impact on the community is being acknowledged.
31 No one has yet said they are uncomfortable with their property values.
32

33 Patrick Alesse, Alderson Road, Birch Bay, stated there is a relationship
34 between economics and critical areas. If they take care of the environment, the
35 environment will take care of them. Live with nature. The ordinance will not make
36 people pay more for their homes.
37

38 Rob Horgen, 611 East Hemmi Road, Lynden, Whatcom County Grange
39 President, stated growth has affected the areas where most people have come
40 from. When the value of the production of the land is outpaced by growth, the land
41 will be developed for other uses. Every time they add another cost to agriculture,
42 such as the cost of a farm plan, it's another dig at the profit of agriculture.
43 Consider carefully adding any further costs to agriculture. The Conservation District
44 might be informative and educational, but he would like kids to have hands-on
45 experience with animals. Don't take away the opportunity for those children.
46

47 Hearing no one else, Caskey-Schreiber closed the public hearing

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1
2 **Roy moved** to approve the ordinance.
3

4 From the memo to the Whatcom County Council from Planning Director Hal Hart
5 dated September 5, 2005 regarding Proposed Amendments to the July 26, 2005
6 County Council Recommended County Critical Areas Ordinance (CAO):
7

8 **Brenner moved** to amend WCC 16.16.235(J)(4), "...Hydraulic Project
9 Approval (HPA), **if required**, from the..." The County is not allowed to require a
10 hydraulic permit approval. Only the Washington State Department of Fish and
11 Wildlife is allowed to require it.
12

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

15 Brenner continued to state that the section as written looks as if the County
16 requires permit approval, whether or not the Department of Fish and Wildlife
17 requires it. This amendment makes it clear that the County doesn't require the
18 permit.
19

20 **Motion carried unanimously.**
21

22 **Brenner moved** to amend WCC 16.16.240(D), "...to assure conformance
23 with this chapter. **The Technical Administrator and/or Hearing Examiner shall**
24 **render a final decision in accordance with the timelines established in WCC**
25 **2.33.090 and WCC 20.92.430, as applicable.** All decisions of the Technical
26 Administrator and Hearing Administrator may be appealed **pursuant to WCC**
27 **20.84.240 and 20.92.600.**" Quite a few people were concerned about timeframes.
28 They felt it would be helpful to list in the ordinance what the timeframes are. This
29 amendment gives people the reference to locate the timelines.
30

31 **Motion carried unanimously.**
32

33 **Brenner moved** to amend WCC 16.16.250, "**E. Upon the applicant's**
34 **request, the Technical Administrator shall provide brief written findings of fact to**
35 **support the decision made.**" There was a concern that an applicant would get a
36 decision with no explanation, which should be done anyway.
37

38 **Motion carried unanimously.**
39

40 Crawford stated that amendment is very good. In his experience,
41 explanations may not be as elaborate as they should be.
42

43 **Brenner moved** to amend WCC 16.16.260(C), "...performance standards
44 identified in the mitigation plan, **or** does not provide adequate replacements for the
45 functions and values of the impacted critical area, ~~or otherwise warrants additional~~
46 ~~monitoring.~~" There isn't any additional monitoring that could be done that isn't
47 covered beyond the first two monitoring conditions.

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1
2 **Motion carried unanimously.**
3

4 **Brenner moved** to amend WCC 16.16.260(F)(2)(e), "...WCC 20.88. The
5 County Council may require mitigation for the loss of agricultural lands." The
6 language removed is duplicative.
7

8 Caskey-Schreiber stated she is against the motion. It won't hurt to repeat
9 the statement because they need to pay attention to it. This could result in more
10 money coming into the Purchase of Development Rights (PDR) program, which
11 could bank dollars for other areas.
12

13 **Motion carried 4-3 with Caskey-Schreiber, McShane, and Fleetwood**
14 **opposed.**
15

16 **Brenner moved** to amend WCC 16.16.270(A)(2)(b), "...and/or revision of
17 road and/or lot layout project design;" One could have more than just a lot layout.
18 The project could be something like a subdivision.
19

20 **Motion carried unanimously.**
21

22 **Brenner moved** to amend WCC 16.16.275(C), "Non-conforming structures
23 that are destroyed or damaged by fire,..." A damaged property may not require a
24 complete rebuild. Any property that does require a complete rebuild would be
25 considered destroyed.
26

27 **Motion carried unanimously.**
28

29 **Brenner moved** to amend WCC 16.16.275(C)(1), "The reconstruction
30 process is commenced..." There may be problems with insurance paying off in time
31 to commence reconstruction in time to meet the deadline. The amendment includes
32 the process of dealing with the insurance company so that the project is moving
33 along.
34

35 **Motion carried unanimously.**
36

37 **Brenner moved** to amend WCC 16.16.290(5), "...by a court of competent
38 jurisdiction. Upon request, the County may provide a sample conservation plan,
39 exclusive of site- or property-specific information, to give general guidance on the
40 development of a conservation plan."
41

42 Caskey-Schreiber asked if an example plan would be misleading because
43 each plan is so customized.
44

45 Jeff Chalfant, Senior Planner, stated an example plan is appropriate. It
46 wouldn't provide any property details. It could just be a sample plan that shows a
47 list of best management practices (BMP's) that could be employed.

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1
2 **Motion carried unanimously.**
3

4 **Brenner moved** to amend WCC 16.16.610(E)(1), "The wetland does not
5 provide **significant** suitable breeding habitat for **native** amphibian species..." This
6 amendment makes it more specific about what they really want to protect.

7
8 **Motion carried unanimously.**
9

10 **Brenner moved** to amend WCC 16.16.630(C)(1), "The standard buffer shall
11 be based on the intensity of the adjacent **proposed** land use and the functions and
12 values..." This amendment changes the language to what it was supposed to be in
13 the first place.

14
15 **Motion carried 6-1 with Crawford opposed.**
16

17 Crawford stated they're talking about the wetland. The land use they're
18 talking about is adjacent to the wetland.

19
20 Brenner stated the next item in the memo is a scrivener's error in WCC
21 16.16.710(A).

22
23 **Brenner moved** to amend Article 8 - Definitions, "Buffer (the buffer zone)"
24 means the ~~vegetated~~ area adjacent..." There are areas such as geologically
25 hazardous areas with an adjacent area that may not be vegetated.

26
27 **Motion carried unanimously.**
28

29 **Brenner moved** to amend Article 8 – Definitions, " "Watershed"
30 means...Frasier River, **Samish River, Coastal**)." This amendment will be important to
31 anyone who is working in the basin. She asked that all four basins be included.

32
33 **Motion carried unanimously.**
34

35 From the memo to the Whatcom County Council from Planning Director Hal Hart
36 dated September 12, 2005 regarding Proposed Amendments to the July 26, 2005
37 County Council Recommended County Critical Areas Ordinance (CAO):

38
39 **Brenner moved** to amend WCC 16.16.100, "**(F) Consistent with Whatcom**
40 **County's high standard of staff conduct, County staff observe all applicable Federal**
41 **and Washington laws regarding entry onto privately owned property.**" This is in
42 response to testimony about trespass laws. It acknowledges that staff obeys all
43 laws regarding entry onto private property.

44
45 McShane stated he is curious about what this has to do with purpose and
46 intent. Chalfant stated he had a hard time finding the right location for this
47 language.

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1
2 **Motion carried 6-1 with McShane opposed.**
3

4 **Brenner moved** to amend WCC 16.16.235, "...Notification shall be
5 submitted to the Technical Administrator at least ten (10) full business days prior to
6 initiating work. Unless otherwise specified, notification shall be valid for one year
7 per activity provided that there is no change in the scope of the project including,
8 but not limited to, the location and/or extent of the activity allowed under the
9 notification process. Upon receipt of the notification...." This was originally intended
10 to give notice. As long as the person stays within the project scope, it is allowed
11 after ten days of notification.

12
13 **Motion carried unanimously.**
14

15 **Brenner moved** to amend WCC 16.16.235 to add language at the end of
16 the section, "View areas established under this section shall be considered lawfully
17 established and may be maintained as provided for in 16.16.230.B." Once there is a
18 lawfully established view area, the property owner may prune and maintain it
19 according to the code referenced. That was the intent all along.

20
21 **Motion carried unanimously.**
22

23 **Brenner moved** to amend WCC 16.16.260(B)(3), "The mitigation plan shall
24 be prepared by a qualified professional, provided that the Technical Administrator
25 may waive the requirement to hire a qualified professional to prepare a mitigation
26 plan when the required mitigation involves standard planting or enhancement
27 practices. The waiver shall not be granted for mitigation practices involving wetland
28 creation, rehabilitation, and/or restoration. (4) The mitigation plan and shall contain
29 the following information: a. A description and scaled drawings...."

30
31 McShane asked for an example of a circumstance where that might happen.
32 Chalfant stated one instance would be when there is a buffer encroachment that
33 required mitigation that involves reestablishing the riparian corridor through just
34 planting trees.

35
36 McShane stated he hopes the amendment doesn't cause people to be
37 unrealistically optimistic about how easy it could be to do mitigation. Chalfant
38 stated that is the reason for the second sentence included in the amendment. Also,
39 it depends on staff availability. Staff may waive the requirement, but doesn't have
40 to if there are no staff resources to help someone with the project.

41
42 Nelson stated he is concerned that mitigation plans would have adverse
43 effects on other property owners. Just because an evaluation is required, a
44 neighboring property owner is not assured that the mitigation plan won't encroach
45 onto the neighboring property.

46
47 **Motion carried unanimously.**

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1
2 Margaret Clancy, Adolfson Associates, stated that if the concern is regarding
3 implications of a buffer impacting an adjoining property, language is in the code that
4 says mitigation activities cannot create a buffer encumbrance on an adjacent
5 property. This language about the effects of mitigation on adjoining properties has
6 to do with things like placing hard woody debris in a stream affecting hydrologic
7 processes. Impacts have to be disclosed, evaluated, and addressed in the
8 mitigation plan.

9
10 Crawford asked if mitigation to move a wetland closer to the edge of the
11 property, thereby creating the need for a buffer for the neighbor, is precluded.
12 Clancy stated it is precluded.

13
14 Nelson asked what happens if there is an effect to the neighboring property
15 in five years or so which creates the need for a buffer. Clancy stated the neighbor
16 won't be affected by a buffer. One can't create a wetland close enough to the
17 property line so that the required buffer would extend onto the neighboring
18 property. In a case where that wetland location would be ideal except for the buffer
19 encumbrance, the County has authority to approve a lesser buffer on the mitigation
20 site to prevent the buffer from extending onto the neighboring property.

21
22 Nelson asked if the property owner would have to have a buffer that's large
23 enough to address wetland runoff. Clancy stated there generally isn't runoff from
24 the wetland. They have to address the effects of runoff from the property
25 development through the stormwater provisions.

26
27 Nelson asked for the code citation that prohibits a property owner from
28 changing the wetland structure so that the new drainage pattern creates a wetland
29 in the neighboring yard. He's seen that happen before, and it was legal.

30
31 Caskey-Schreiber stated they would continue with the amendments while
32 staff finds the correct citation.

33
34 ***Brenner moved*** to amend WCC 16.16.620(H), "Stormwater management
35 facilities, limited to detention/retention/treatment ponds...." Stormwater
36 management facilities are also about retention, as well as detention. There is a
37 slight difference between the two.

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

40
41 Roy stated her problem with subsection WCC 16.16.260(b)(4)(g) is that the
42 language sounds too wishy-washy. Requiring an evaluation of impacts doesn't mean
43 impacts are prohibited. It just means the impacts are looked at. There must be
44 some sort of language on how to address the impacts.

1 **Brenner moved** to amend WCC 16.16.260(B)(4)(g), "...to address such
2 impacts. **Mitigation projects shall not result in adverse impacts to adjacent property**
3 **owners."**

4
5 Crawford asked if the amendment would prohibit a property owner with three
6 adjacent parcels from doing anything on one parcel that would affect the other
7 parcels.

8
9 Brenner stated it would not. The language specifies adjacent property
10 owners.

11
12 **Motion carried unanimously.**

13
14 Nelson asked for clarification on the definition of a wetland. He asked if
15 wetlands are defined to support a certain type of vegetation. Chalfant stated they
16 are.

17
18 Nelson asked why section 16.16.630 says that buffer standards may be
19 increased when the buffer lacks adequate vegetation. Chalfant stated that section
20 has to do with the wetland buffer, not the wetland itself. The wetland itself has to
21 support the vegetation, but the buffer may not have vegetation.

22
23 Clancy stated the wetland has to meet the criteria for soils, vegetation, and
24 hydrology. The buffer adjacent to the wetland does not have to meet those same
25 criteria.

26
27 Crawford stated this regulation goes too far in terms of mitigation ratios. A
28 150-foot buffer on a class III wetland is not practical. Category IV wetlands
29 shouldn't be identified. They need to question the overall function of a category IV
30 wetland to begin with. They may be able to become buildable parcels with no
31 mitigation. There is quite a bit of concern regarding the authority given to the
32 Technical Administrator, including private property search. There needs to be more
33 specific restraint on how far the Technical Administrator can go. Because of these
34 concerns, he will vote against the ordinance.

35
36 Brenner stated some of those concerns were solved by the amendments just
37 approved, including wording about search and seizure with a warrant. It covers
38 any possibility of illegal trespass.

39
40 The Technical Administrator will be a qualified staff. The ordinance provides
41 much flexibility for the applicant and Technical Administrator to work out
42 something. There is now an appeal process to the Planning and Development
43 Services Director, which avoids spending a lot of money on the appeal process if it
44 can be handled at that level.

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1 The person with a problem on his farm went through this ordinance and said
2 this ordinance would have been better than the old ordinance. The person supports
3 this new ordinance.
4

5 Someone testified that no one complains when their property values go up.
6 Her property values go up and she complains because her taxes go up, too. That
7 concern is only an issue when someone wants to sell a property. Ninety-nine
8 percent of those issues have to do with the way someone's property is assessed.
9 The main result of people who move to the area and pay top dollar for housing is
10 higher assessments for everyone. The County doesn't have control over that.
11

12 These rules will provide clarity and predictability for everyone. The Planning
13 Department will have to budget for more staff, but this is one of the best pieces of
14 legislation she's worked on. She thanked staff and the contractor for their hard
15 work.
16

17 Crawford stated they must also thank Councilmember Brenner for her hard
18 work, even though he differs from her philosophically.
19

20 McShane stated many people worked hard on this, including people in the
21 community. There is impact from runoff as development occurs and as wetlands
22 get filled in. Category IV wetlands may have little function, but they help buffer
23 severe flooding events. The frequency of damaging flooding and erosion is
24 lessened if they take care of the storage capacity, as small as it may be. The
25 storage capacity is accumulative. Protect them as much as they can.
26

27 Nelson stated he would vote against the ordinance. He has fundamental
28 differences with the wetland identification, particularly class IV wetlands and
29 agricultural practices. However, the Council worked diligently on this ordinance for
30 a long time. He appreciated the Council who considered the public's issues.
31

32 Caskey-Schreiber stated she thanked the public for sharing their viewpoints
33 on the ordinance. It helps the process.
34

35 ***Motion to adopt the ordinance as amended carried 5-2 with Nelson***
36 ***and Crawford opposed.***
37

38 **INTRODUCTION ITEMS**

39
40
41 ***Brenner moved*** to accept the Introduction Items. Item eight is withdrawn
42 from the agenda.
43

44 ***Motion carried unanimously.***
45

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- 1 1. RECEIPT OF REQUEST FROM JOHN COX, JONES ENGINEERS, FOR
2 EXTENSION OF THE PRELIMINARY PLAT APPROVAL OF GOVERNOR
3 ROAD PHASE II (AB2005-363)
4
- 5 2. RESOLUTION TO SELL TAX-TITLE PROPERTY BY NEGOTIATION TO
6 WHATCOM COUNTY PUBLIC WORKS, REQ. #01-05 (AB2005-356A)
7 (HEARING TO BE SCHEDULED)
8
- 9 3. ORDINANCE AMENDING THE 2005 WHATCOM COUNTY BUDGET,
10 REQUEST #9, IN THE AMOUNT OF \$397,705 (AB2005-358)
11
- 12 4. ORDINANCE ESTABLISHING A FEE FOR MANDATORY ARBITRATION
13 TO OFFSET THE COST OF THE PROGRAM (AB2005-359) (HEARING TO
14 BE SCHEDULED)
15
- 16 5. ORDINANCE TO AMEND A PORTION OF THE OFFICIAL WHATCOM
17 COUNTY ZONING ORDINANCE, CHAPTER 20.97 – DEFINITIONS AND
18 20.40.250 – MINIMUM LOT SIZE AND LAND SUBDIVISION (AB2005-
19 360)
20
- 21 6. ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO LAKE
22 WHATCOM WATER & SEWER DISTRICT (AB2005-361) (HEARING TO
23 BE SCHEDULED)
24
- 25 7. ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO THE
26 HILLTOP WATER OWNERS ASSOCIATION (AB2005-362) (HEARING
27 TO BE SCHEDULED)
28
- 29 8. WHATCOM COUNTY PLANNING COMMISSION'S RECOMMENDATION
30 ON A PROPOSED COMPREHENSIVE PLAN AMENDMENT FOR CHERRY
31 POINT URBAN GROWTH AREA EXPANSION (TERASEN PIPELINES)
32 (AB2005-084B)
33

OTHER BUSINESS

34
35
36 There was no other business.
37
38

REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS

39
40
41 There were no reports or other items.
42
43

ADJOURN

44
45
46 The meeting adjourned at 10:05 p.m.
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.

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Jill Nixon, Minutes Transcription

The Council approved these minutes on September 27, 2005.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Laurie Caskey-Schreiber, Council Chair