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WHATCOM COUNTY COUNCIL
Special County Council

May 10, 2005

Council Chair Laurie Caskey-Schreiber called the meeting to order at 1:30 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner
Dan McShane
Seth Fleetwood
Sharon Roy
L. Ward Nelson

Absent:

Sam Crawford

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

Analiase Burns, Common Ground Environmental, stated she is a wetland biologist, landscape designer, and a Leadership in Energy and Environmental Design- (LEED) accredited professional. She handed out information (*on file*). She interacts frequently with many in the development industry.

There is great pressure for allowing development in the watershed and great interest in responsible development. There are several types of site disturbance. One type is to clear an entire property for commercial or residential use, with the rest of the property landscaped. Many times that happens in a high density area with small lot sizes. That is a phasing issue. The question is whether the developer will clear the entire area at once, or in sections as the property is developed. A second issue is sprawl. The question is whether they are building out into areas that maybe shouldn't be developed, sprawling into agricultural and forest areas, and putting a strain on infrastructure. A third type of site disturbance is trying to preserve open space for various purposes, such as habitat, recreation, or quality of life. That's different from phasing and sprawl.

Regarding reducing site disturbance, many programs and rating systems focus on low impact development, but all have impacts. The question is how to reduce site disturbance in the first place. Don't clear the area, pick the wrong site, and then build a green house. Instead, pick the right area first, develop and clear land the right way, and then talk about the structures. When they talk about rural areas, some have already been cleared. Few have undisturbed sites. Today, talk about keeping what is left. The LEED process has some strengths and some

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1 shortfalls. It is very weak on site selection and land disturbance. They're working
2 on it for future versions of LEED. Move to the discussion of how to not disturb
3 sites.

4
5 She read from her handout about nonprofit source pollution, tree retention,
6 and tree canopy coverage. People seem to agree that less site disturbance is
7 better, but people tend to develop with site disturbances. She spoke with many in
8 the development industry. Logistical constraints are always talked about. There
9 are engineering issues, such as topography and matching grades for stormwater
10 and erosion control. Those are site-specific issues. Another issue is infill. If there
11 is a lot of development around the site, one may be required to do more clearing
12 than preferred. That is a site specific issue, but it is not always an issue.

13
14 Project phasing is when a developer clears the entire site eventually. Build
15 roads first, and houses later. Clear only what will be developed right away. That
16 causes extra costs for the developer. Phasing has only a cost issue. In that
17 instance, develop infrastructure, but not the housing site. The additional cost of
18 \$2,500 is partly economy of scale and damage to the new infrastructure when the
19 lots are developed later in the phase. Phasing takes a lot more planning.

20
21 Lack of market demand is the number one cause of no phasing. From a
22 construction perspective, developers can phase a project if asked, but are not
23 asked to. She read the remaining list of constraints from the handout. The County
24 may need to review some of the impervious surface requirements. The number
25 one issue for developers is the uncertain permitting timeline. Permitting delays
26 cost the developer money. Developers are careful to not delay the permitting
27 process. There must be enforcement certainty to avoid cost differentials between
28 developers. Incentives are the most powerful tool in permitting. Developers want
29 the permitting time reduced and certainty of the permitting process. Developers
30 also want reduced impact fees and a volume based stormwater fee. The Puget
31 Sound Action Team developed a low impact development guidance manual
32 referenced in the State Department of Ecology stormwater manual. The low impact
33 development manual can be adopted by local jurisdictions. It provides credits for
34 low impact development techniques. The City of Bellingham is considering adopting
35 the manual.

36
37 Agency staff must support the developers who want to do low impact
38 development. Have someone on staff who can champion a development process
39 through the County process. The City of Seattle has a program to do this. There
40 can be a list of pre-approved contractors who are proven to not need a lot of
41 enforcement. That can be controversial in the contracting community. The City of
42 Redmond has a program like that.

43
44 Other counties have adopted low impact development codes. Enforcement
45 and inspection need to be consistent. Have a way for people to figure out how to
46 develop with low impact development standards. Teach people how to do
47 something different. Appropriate staffing for the County is critical. She read the

1 keys for success. Look holistically at how they want the county to develop as a
2 whole.

3
4 Mark Buehrer, 2020 Engineering, stated he is a professional civil engineer.
5 He began his company out of his frustration with conventional designs. The
6 projects he does have been with sustainable or low impact development techniques.
7 He has done LEED and low impact development projects all over the country.

8
9 Caskey-Schreiber stated the Council is trying to figure out if there are low
10 impact development applications to adopt and mandate in the Lake Whatcom
11 watershed.

12
13 Fleetwood asked if there are any low impact development ordinances from
14 other jurisdictions that are considered the best. Burns stated the ordinances get
15 better with time. There are things they can learn from and adapt to this area.
16 Tailor an ordinance to this area and its infrastructure, soils, and economy. There
17 isn't a silver bullet solution. There is a good body of ordinances to look through.
18 It's important to coordinate with the cities so there is consistency for the private
19 sector. There is a grant with the Puget Sound Action Team to do that exact thing.
20 Work within that framework instead adding another jurisdiction that is working on
21 the same thing.

22
23 Buehrer stated they can pick the techniques that will fit Whatcom County. In
24 general, the low impact development principals fit everywhere because they are
25 economical and environmentally friendly.

26
27 Nelson stated the standards should apply equally countywide. He asked for
28 cost comparisons of low impact development versus regular development for
29 different size homes and lots, particularly entry-level housing. Buehrer stated that
30 for a particular project he did, the costs using small rain gardens and infiltration
31 around a site versus the costs of the conventional design was half. There are
32 savings because the site has overlapping areas that serve more than one purpose.
33 On residential projects, the overall cost for low impact development is much less.

34
35 Nelson asked if low impact development for single-family residences wouldn't
36 be a burden and change the value of the house. Burns stated it wouldn't, for
37 construction costs.

38
39 Buehrer stated that typically, one is building less infrastructure, which results
40 in less cost.

41
42 Burns stated there is a difference between construction cost and design cost.
43 Construction costs for low impact development are less. However, developers don't
44 understand the process. If there is any way low impact development will delay the
45 permitting process, they will shy away from it. There has to be a way for projects
46 to go through the permitting process at least as fast. It is better to have an
47 incentive to reduce the permitting process with low impact development.

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1
2 Brenner stated she also heard the biggest concern is about permitting. She
3 asked why the Council wouldn't just adopt the Puget Sound Action Team manual.
4 She asked if there is something different about Whatcom County. Buehrer stated it
5 gets back to how the standards are interpreted by staff and developers. When
6 presenting a project for permitting, he references the design to the Ecology
7 manual. He has to educate the permitting agency that will hopefully be agreeable
8 to the design alternative. Even if adopted soon, it still takes time to implement.
9

10 Brenner stated the frustration is with the permitting process. She asked how
11 they get there without taking years. Buehrer stated the path the Council is on now
12 helps. There has to be education and interpretation of any new regulations and
13 standards.
14

15 Burns stated there is something to be said for staff support. It comes down
16 to people at the Planning Department. They will work hard to do their jobs. They
17 must know they will be supported when advocating for a project that is a better
18 project. It comes down to integrating the Planning and Public Works Departments.
19

20 Buehrer stated staff won't resist any changes, and things will work out okay.
21

22 Roy asked how big a change it will be for someone who has been trained as a
23 traditional planner or engineer. She asked if this will be in conflict with their
24 training and if they'll need to be retrained. She asked if the County will need to set
25 up in-services or consultants. Buehrer stated the basics are engineering and
26 estimating runoff proposals. Instead of collecting water in a centralized approach,
27 it's collected in small scale systems. The engineering knowledge that exists is the
28 same.
29

30 *(Clerk's Note: End of tape one, side A.)*
31

32 Buehrer continued to state it will take training and education, and agreement
33 among the engineers and staff.
34

35 Burns stated it takes a while for traditional developers to warm up to the
36 idea. It takes about a year for someone to be aware and read the information. The
37 second step is having confidence in the jurisdiction to approve this type of
38 development. The technical issues themselves are minor.
39

40 Caskey-Schreiber asked if there is any one low impact development
41 technique the Council can adopt for the watershed that can be applied watershed-
42 wide right now. Burns stated the worst thing they can do is throw something out
43 that is not well thought out, so it tarnishes peoples' opinion of low impact
44 development. Have a thoughtful, integrated approach that fits with all the other
45 pieces. Start a public relations (PR) campaign to make people aware of low impact
46 development and know that the County supports it. Begin making low impact
47 development the status quo.

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1
2 Buehrer stated the King County Council did three development projects with
3 the low impact development approach to see how they work. Whatcom County can
4 learn from what everyone else is doing. The County staff understands these
5 concepts.

6
7 Burns stated have some demonstration projects.

8
9 Caskey-Schreiber asked if there are projects with builders certified in low
10 impact development. Buehrer stated his contractors must have experience in low
11 impact development techniques. The designers have to be LEED-certified. The
12 contractors have to be LEED-certified.

13
14 Burns stated certain manufacturers have certified installers for their product.

15
16 Buehrer stated that for things like building smaller roads, the contractors
17 already know how to build roads.

18
19 Fleetwood stated the Council created a framework for responding to the
20 moratorium. The main point was to review and try to establish stricter building
21 codes. He's frustrated that they are not getting on with it. Today, the Council
22 should leave this meeting knowing they've initiated something that will lead to a
23 draft low impact development ordinance. Staff indicated in the past that it can
24 work on this sort of thing. He asked how staff can proceed.

25
26 Bruce Roll, Assistant Director, stated staff could bring forward proposals.
27 They must be very thoughtful. That's no small task. He and Mr. Hart can come up
28 with a proposal and timeline. The Council can spend a few minutes next week
29 talking about it at the work session.

30
31 Kurt Baumgarten, Planner I, stated there is a process underway right now.
32 It won't come forward by next month. It may come up forward to the Technical
33 Advisory Committee by the end of the summer. He can't see how the process can
34 happen faster. He's glad to hear the Council is supporting it, but is concerned
35 about the Council interjecting something into the process.

36
37 Caskey-Schreiber asked if the Council should let that process play out. She's
38 comfortable with that. Baumgarten stated he can bring the Council regular updates
39 on the status of the process. The goal now is to come up with a set of development
40 standards that is similar between the City and County, where the staff can be
41 assured the developers choose low impact development and who really intend to
42 follow through with it. Then, Council can apply those regulations anywhere it sees
43 fit.

44
45 Burns stated the Council can still take other actions that won't disturb that
46 process. Allow demonstration projects that are joint ventures between a private
47 developer and the County. Through that process, the staff and developer will learn

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1 about low impact development, what parts of the codes are a problem, and the
2 difference between a design and the actual product.

3
4 Nelson stated they must incorporate low impact development into
5 retrofitting. He asked if low impact development has been successful for
6 retrofitting. Burns stated she is working on one project now, a single family home,
7 to restore the shoreline. The owner wants it to be a demonstration project. It
8 would be a great opportunity for the County and State to show what is right in the
9 development world. They're learning that no regular person would want to do this
10 because it costs so much.

11
12 Nelson stated that person might want to do a retrofit if there is some sort of
13 incentive. Reward people for those retrofitting activities. He asked if anyone talked
14 to the Building Industry Association (BIA) about these issues and how the BIA can
15 encourage its members to get on board. Burns stated the BIA has a Built Green
16 program.

17
18 Buehrer stated the City of Portland has incentives. Incentives are a simple
19 way to get environmental benefits and benefits to the developer.

20
21 Nelson stated the cost is prohibitive. He asked the root cause of reducing
22 the amount of people who want to participate. He would like that information from
23 the building industry.

24
25 Brenner stated she would like the Council to do something now, while staff is
26 going through the low impact development standard process. Another frustration is
27 with the requirement for wider roads. There are ways to accommodate the
28 concerns for wider roads.

29
30 Regarding the tax incentive, a Focus Northwest workshop was about what to
31 do to retrofit and save money on utility bills. BIA Executive Director Bill Quehrn
32 said builders will fight low impact development standards at first, but will eventually
33 see the benefits when they get used to it.

34
35 Burns stated the BIA realizes this is a marketable product. If they can
36 support their members and distinguish their members from the crowd, it creates an
37 exciting market. The BIA is excited about it because it makes sense and it can
38 make money.

39
40 Buehrer stated a way to promote the idea is to put something out there that
41 says the County Council supports it and will support demonstration projects.

42
43 Caskey-Schreiber suggested a field trip at the end of the summer to the site
44 being developed at Lake Whatcom.

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1 Burns stated Whatcom County has some great projects locally. They must
2 do the right PR to educate the general public. No one does that kind of public
3 relations better than Sustainable Connections.
4

5 Roy asked if the County could facilitate the permitting process more quickly.
6 She asked what it means practically for the County to show support for a
7 demonstration project. Buehrer stated the Council could come up with an interim
8 ordinance that shows the County is going to eventually go this way, and it's not just
9 talk.

10
11 Caskey-Schreiber thanked the presenters.
12

13 Amy Pederson, Planner II, stated she needs specifics on what to take to the
14 Planning Commission regarding the seasonal land clearing requirements.
15

16 Roy stated she thought the Council voted on the seasonal land clearing.
17 There was no vote on the point system.
18

19 Caskey-Schreiber stated the Planning Commission was going to look at the
20 dates, see if there is any flexibility that can be allowed, and then figure out if it is
21 something the Council should adopt permanently. The Council did not decide
22 anything on the point system.
23

24 She would like to hear ideas from staff about how to facilitate demonstration
25 projects. Baumgarten stated the Council could do a resolution or offer a small
26 grant.
27

28 Nelson stated that if the Council wants to see a demonstration in the
29 watershed, it would be a way to allow someone to proceed with a development
30 despite the moratorium.
31

32 Brenner stated Ms. Burns said the Council could work with the Puget Sound
33 Action Team code review process, and there is a grant available. Baumgarten
34 stated Whatcom County, along with other jurisdictions in the Puget Sound, already
35 received this technical assistance grant.
36

37 Brenner stated Focus Northwest picked a site to do a low impact
38 development home, including the interior of the home. She asked to keep an eye
39 on that project.
40

41 Burns stated she is working on that project, and will keep the Council
42 updated.
43

44 Roy stated an interim ordinance is too complicated, but she likes
45 Councilmember Nelson's criterion for getting around the moratorium, especially if
46 they can specify the runoff limit.
47

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1 Pederson stated most of the low impact development practices are an option
2 in the current regulations. There aren't a lot of additional low impact development
3 concepts they can add for Lake Whatcom. There really are a lot of low impact
4 development options now.

5
6 Caskey-Schreiber asked if the new critical areas ordinance will incorporate
7 low impact development standards. Pederson stated it will.

8
9 Nelson asked if a short plat or subdivision in Lake Whatcom has incorporated
10 those low impact development options. Pederson stated all subdivisions have those
11 options available.

12
13 Baumgarten stated the developer has the option of applying the low impact
14 development standards up front or recording them on the deed so they must be
15 done when the lot is developed.

16
17 Brenner stated she would like to go on a tour of sites in the county.
18

19
20 **OTHER BUSINESS**

21
22 There was no other business.
23

24
25 **ADJOURN**

26
27 The meeting adjourned at 2:55 p.m.
28

29
30 _____
31 Jill Nixon, Minutes Transcription
32

33 The Council approved these minutes on May 24, 2005.
34

35 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

36
37
38
39
40 _____
41 Dana Brown-Davis, Council Clerk

Laurie Caskey-Schreiber, Council Chair