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2
3 WHATCOM COUNTY COUNCIL
4 **Regular County Council**
5

6 June 6, 2006
7

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

10 Present:

11 Barbara Brenner
12 Dan McShane
13 Sam Crawford
14 Seth Fleetwood
15 Carl Weimer
16 L. Ward Nelson
17
18

Absent:

None
19

20 **FLAG SALUTE**

21
22
23 **ANNOUNCEMENTS**
24

25 Caskey-Schreiber announced there was discussion on a **request for authorization**
26 **for the Executive to execute an exchange of quit claim deeds to resolve a property**
27 **dispute and clear the title for both parties (AB2006-242)** during the Committee of the
28 Whole meeting.
29

30 Caskey-Schreiber announced there was also **discussion regarding mushroom**
31 **substrate litigation (AB2006-018)** in executive session during the Committee of the
32 Whole meeting.
33

34 ***Nelson moved*** to request the Administration to extend a request to the Growth
35 Management Hearings Board for a continuance on the compliance date and hearing, and
36 request the Planning Commission to get back to the Council within the 45-day period
37 necessary for this compliance date and hearing, so the Council can have a hearing and
38 respond.
39

40 ***Motion carried unanimously.***
41
42

43 **MINUTES CONSENT**
44

45 ***Benner moved*** to approve the Minutes Consent items.
46

47 ***Motion carried unanimously.***
48

- 49 **1. SURFACE WATER WORK SESSION FOR MAY 16, 2006**
50
51 **2. SPECIAL COUNCIL FOR MAY 16, 2006**
52
53

1 **OPEN SESSION**
2

3 The following people spoke:
4

5 Kris Ungern, 2095 Northshore Road, stated there have been property tax increases
6 by the County. His assessed value has increased 2.5 times since 1987. Taxes and
7 government spending are out of control. The County has reserves far in excess of rainy day
8 needs. The County is getting free money by not adjusting property taxes for new
9 construction.
10

11 Abigail Patten, 5937 Lawrence Road, stated she is a proud Tribal member of the
12 Nooksack Indian Tribe. As a tribal member, she found out her six-month old son is able to
13 become a Tribe member. The Tribe has done a lot for the community and the tribal
14 members. She is in favor of the casino proposed.
15

16 Tim Paxton, 2120 Ellis, Bellingham, stated there is an article in the Whatcom Watch
17 on Lake Whatcom. It is a report by Robin Matthews. The County Council, and the Board of
18 Health, should look at the downward trends. Whatever has been tried to remediate the
19 situation hasn't worked. The County hire an outside expert to take a look at the trends.
20

21 Johnnie Grames, 4478 Northwest Drive, stated the County took his son out of his
22 home without a hearing or without any evidence. He filed public disclosure requests for the
23 records. Superior Court blocked his due process appeal three times. He filed another public
24 records request about N.F. Jackson. He received the job description for N.F. Jackson. He
25 has been doing about seven jobs, but is only paid one salary. The County has been taking
26 away all N.F. Jackson's duties from him and giving them to other people, but he doesn't
27 know who.
28

29 Dennis Jones, 1487 Sudden Valley, read the general goal from the 1982 adopted
30 goals and policies for Lake Whatcom. There were 21 goals that is a 21-point program. It
31 has been scoped down to ten issues plus administration. Consider funding the program.
32

33 Harry Cooper, Sr., Nooksack Tribe, Tribal Member, Past Council Chairman, listed his
34 experience. He was instrumental in getting the casino at Deming started. They faced a lot
35 of opposition then, as they are now. They have done a lot of work to get this done. He
36 would like to see the casino go through without any more hassle. It will employ many
37 people.
38

39 Tom Williams, Everson, stated he represents a group opposed to the Nooksack
40 Tribe's new casino. Pass Barbara Brenner's proposed resolution opposing the casino. He
41 objects to the location in agricultural land. Roads are not built to handle the amount of
42 traffic a casino would generate. He is disappointed with the way the proposal was
43 announced by the Tribe. The people of the community were not included in the discussion
44 and planning. He is worried about the long-term plans. It will be a big development right
45 in the middle of agricultural land.
46

47 Jesse Larson, 3210 Orleans, Bellingham, stated she is an Alternative Humane
48 Society volunteer. She read a statement prepared by Vicki Niles regarding Security
49 Specialist Plus (SSP). SSP has been hard to work with and does not work with other animal
50 rescue groups. The Humane Society has been very good to work with. Consider the
51 animals when making this decision. Contract with the Humane Society. No one has gotten
52 any real assistance from SSP.
53

1 Sharon Crozier, Bellingham, stated the April Markowitz report is based on Robin
2 Matthew's studies. She has a high level of alarm. Basin three was mentioned several times
3 in this report. It is on its way out. Property values will drop. High levels of carcinogens
4 have been detected. There has been no noticeable decrease. Draw attention to this issue
5 again. If they really care about what needs to be done, they can do it. Help the City do the
6 right thing for the watershed.

7
8 Cheryl Sparling, 1832 Pine Circle, Lynden, read a letter written by Henry Bierlink in
9 support of the resolution opposing the Nooksack Tribal casino in the north county area. He
10 is opposed because it is a non-agricultural use of farmland.

11
12 Fred Hanko, 410 West 3rd Street, Nooksack, stated he is opposed to the siting of the
13 casino. It is in prime agricultural land and is on the Sumas aquifer. It is close to the
14 schools. There will be extra traffic on the road. There will be a liquor license. They have a
15 responsibility to protect the children and the water.

16
17 Herman Almojera, 4753 Valley Highway, Deming, stated he has been a member of
18 this community for many years. His family was raspberry farmers until suppliers wouldn't
19 buy berries from farms less than 20 acres. That changed how Whatcom County farmed.
20 Little farmers were not protected. Now he farms lavender. The Nooksack casino has helped
21 the economy.

22
23 David Lobdell, 8170 Portal Way, stated he is here to demand better government.
24 Cut the budget for the department of poor planning and over regulation. He has a stone
25 yard and wants to run an open-air business, which sits on an aquifer, with minimal impact.
26 The Planning Department wants him to put pavement under and a roof over his business
27 because of the greed and the desire of government to take away rights and dreams. He
28 has a good family that works hard and doesn't deserve the government. The Council needs
29 to cut the budget and control the staff. The citizen does not count. Start representing the
30 people.

31
32 Dr. Kathryn Mason, Animal Cruelty Awareness International Director, Bellingham,
33 submitted her testimony (*on file*). A main concern of humane groups is the compassionate
34 care of animals. It is much cheaper for counties and cities when they don't own the animal
35 facility. Humane Societies and animal control services benefit from funds that only go to
36 humane societies. She encourages the merger of animal control services and the Humane
37 Society.

38
39 John Harder, 6305 Vista Drive, Ferndale, asked if the councilmembers received the
40 letter he sent out.

41
42 Anna Brewer, 6429 George Road, Everson, stated she is a Nooksack Tribe Member.
43 The casino property has been in trust since 1986 and hasn't been used as agricultural land
44 since the 1970s. The Tribe gets its revenues from the casinos, and it helps a lot of people.
45 The comments about the Tribe have become personal, and are not about the casino. It has
46 rights, and treaties are in place. The Tribe is sovereign. Development is going to happen in
47 the county. The 2010 Olympics are coming quickly. Lynden is right next to the border.
48 The Nooksack Tribe has said it will mitigate any impacts.

49
50 Paul Isaacson, 3940 Isaacson Road, stated he commends the previous speaker who
51 defended her tribe. She is a minority and so is he. The Council seems to chip away at
52 minority groups. Today he filed a motion for reconsideration on the lawsuit. He will move
53 forward with other actions. He would like to see the Council govern, not rule. People

1 should work together. His family has received hundreds of calls in support of what he's
2 done, because they feel they're alienated into small groups and picked upon as minorities.
3 The Council burdens small groups whose voices aren't very loud.

4
5 Art George, 6429 George Road, Everson, stated he is a past chairman of the
6 Nooksack Tribe.

7
8 *(Clerk's Note: End of tape one, side A.)*
9

10 George continued to state that his main concern is the resolution against another
11 government. It is wrong for one government to write a resolution against another
12 government. They need to work together through something like the Centennial
13 Accord. In the 1960's, tribal land was eroding, but the County did nothing. However, the
14 County is quick to save agricultural land.

15
16 Sherman Polinder, 670 Polinder Road, Lynden, stated he serves on the Ag
17 Preservation Board. Approve the resolution. There has not been adequate dialog about the
18 casino. He has asked to sit down with the Tribal Council. He acknowledges that the Tribal
19 friends came first. Then came agriculture, then towns, then cities. If agriculture is not
20 allowed to flourish, the tribes, fish, and streams will suffer.

21
22 Halverstick Road is a two-lane road that is an agricultural corridor. When casino
23 traffic occupies this road, it will be an invitation for disaster. He asked the Tribe to
24 reconsider and the Council to take a strong stand.

25
26 Patrick Check, Nooksack Tribe Administrator, stated the Tribe started with .9 acres in
27 Deming. The property in at Northwood is trust land. It was put in trust for them in the
28 1980's. They did not select the land. The Tribe has met the legal requirements of the
29 federal government. The Tribe announced this project two weeks ago, followed by a
30 feasibility study, design and engineering, and an environmental assessment. The Tribe met
31 with local officials before announcing the project to the media.

32
33 The negative rhetoric has increasingly become less about the project and more about
34 the Tribe. They understand folks in the surrounding area may not be happy about the
35 project. However, the Tribe has a small tax base. The Tribe has offered to work with the
36 County and local governments. He hopes they can work together without any more
37 rhetoric.

38
39 Patrick Alesse, 2825 Alderson Road, stated gambling is not gaming. It is a false
40 economy because nothing is produced. It is a false hope. They should produce a real
41 product. The government should help those who are disadvantaged.

42
43
44 **PUBLIC HEARINGS**
45

46 **1. ORDINANCE ENACTING AN INTERIM TEXT AMENDMENT TO AMEND THE**
47 **WHATCOM COUNTY COMPREHENSIVE PLAN MAP AND ASSOCIATED TEXT**
48 **PROVISIONS TO RESCIND THE URBAN GROWTH AREA DESIGNATION FOR**
49 **SUDDEN VALLEY (AB2006-132A)**
50

51 Caskey-Schreiber opened the public hearing and the following people spoke:
52

1 Tim Paxton, 2120 Ellis, Bellingham, stated this started in 2001 and was long
2 overdue. Hopefully the Boundary Review Board will not go forward with the annexation.
3 The rescind process is very important to protect the public drinking water source.
4

5 Sharon Crozier, Bellingham, stated she urges the Council to rescind the urban
6 growth area (UGA) designation. She thanked the councilmembers for their open-
7 mindedness.
8

9 Dennis Jones, Sudden Valley, stated he is in favor of rescinding the UGA.
10

11 Larry William, Bellingham, stated he was a resident of Sudden Valley for seven
12 years. An environmental impact statement has not taken place regarding the development
13 of a city. In 1967, a clay sewer pipe with a shelf life of 50 years was laid. They're almost
14 to the end of the 50 years. It needs a major update. Sudden Valley was put in as a
15 recreational community. The roads are not up to city standards.
16

17 Hearing no one else, Caskey-Schreiber closed the public hearing.
18
19

20 **CONSENT AGENDA**

21

22 ***Crawford*** reported for the Finance and Administrative Services Committee and
23 ***moved*** to approve Consent Agenda items one through eleven.
24

25 Caskey-Schreiber withdrew item nine.
26

27 ***Motion to approve Consent Agenda items one through eight, ten, and 11***
28 ***carried unanimously.***
29

- 30 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #06-06**
31 **AND ENTER INTO A CONTRACT WITH LOW BIDDER, LIGHT DOCTOR, LLC,**
32 **FOR THE LIGHTING RETROFIT AT THE PUBLIC WORKS CENTRAL SHOP, IN**
33 **THE AMOUNT OF \$38,374.53 (AB2006-243)**
34
- 35 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #06-68**
36 **AND ENTER INTO A CONTRACT WITH LOW BIDDER, SAHLBERG EQUIPMENT,**
37 **FOR THE PURCHASE OF A REPLACEMENT ROADSIDE TRACTOR MOWER, IN**
38 **THE AMOUNT OF \$63,582.35 (AB2006-244)**
39
- 40 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ACCEPT A GRANT FROM**
41 **THE WASHINGTON STATE DEPARTMENT OF ECOLOGY TO PREPARE A**
42 **DETAILED IMPLEMENTATION PLAN FOR WRIA 1 WATERSHED MANAGEMENT**
43 **PLAN, IN THE AMOUNT OF \$100,000 (AB2006-245)**
44
- 45 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
46 **CONTRACT BETWEEN WHATCOM COUNTY AND ISLAND COMMUTER SERVICE**
47 **FOR A TEMPORARY PASSENGER FERRY BETWEEN GOOSEBERRY POINT AND**
48 **LUMMI ISLAND, IN THE AMOUNT OF \$50,000 (AB2006-246)**
49
- 50 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
51 **STANDARD CONSULTANT AGREEMENT BETWEEN WHATCOM COUNTY AND**
52 **SHEARER DESIGN LLC FOR THE DESIGN OF THE MOSQUITO LAKE ROAD**

1 MIDDLE FORK BRIDGE NO. 140 REHABILITATION, IN THE AMOUNT OF
2 \$492,053.10 (AB2006-247)
3

4 6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO
5 SUPPLEMENTAL AGREEMENT #3 BETWEEN WHATCOM COUNTY AND KPFF
6 CONSULTING ENGINEERS FOR ADDITIONAL CONSTRUCTION SUPPORT
7 SERVICES TO REPLACE HIGH BRIDGE NO. 115 ON LAKE WHATCOM
8 BOULEVARD, IN THE AMOUNT OF \$84,682.04 (LOCAL MATCH OF
9 \$16,936.41), FOR A TOTAL CONTRACT AMOUNT OF \$528,755.34 (LOCAL
10 MATCH OF \$105,751.07) (AB2006-248)
11

12 7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO CONTRACT
13 AMENDMENT #2 BETWEEN WHATCOM COUNTY AND THE STATE OF
14 WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES OFFICE OF
15 JUVENILE JUSTICE EXTENDING THE CURRENT CONTRACT TO JUNE 30TH,
16 2007 AND PROVIDES FOR AN ADDITIONAL INCREASE OF FUNDS IN THE
17 AMOUNT OF \$28,375, FOR A TOTAL OF \$114,850 (AB2006-249)
18

19 8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO
20 INTERLOCAL AMENDMENT #5 REGARDING ANNEXATION AND
21 DEVELOPMENT OF PROPERTIES WITHIN THE FERNDALE URBAN GROWTH
22 AREA (BLOMQUIST ANNEXATION) (AB2006-250)
23

24 9. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO CONTRACT
25 AMENDMENT #1 CONTINUING THE PROVISION OF ANIMAL CONTROL
26 SERVICES IN WHATCOM COUNTY THROUGH JUNE 30, 2009 AND
27 INCREASING TOTAL COMPENSATION (AB2006-251)
28

29 *Crawford moved* to approve the request.
30

31 Caskey-Schreiber stated she is against the proposal. She was disappointed in the
32 process. The service and the community would be better-served by a non-profit agency. -
33 They would put the animal welfare above all. A non-profit would be more expensive
34 because it knows it needs more staff to do a good job, especially with enforcement. That
35 has been a huge problem in the past. It's been a difficult road with Security Specialists Plus
36 (SSP). They have improved their services, but the County, citizens, and animals are better-
37 served by the Whatcom Humane Society. Either decline the contract or extend it for only
38 three months.
39

40 Nelson stated he is in favor of the contract proposal. The process became
41 politicized. Years ago, the Humane Society was the service provider. He had more calls
42 from citizens in the rural community who expressed grievances, especially in the
43 reservation and Kendall areas. SSP took over, and he has not had any indication there
44 have been problems. He hasn't had any complaints or calls from the community about
45 animal control issues. SSP has been instrumental in helping the County and community in
46 saving animals. He understands the concern about having a non-profit provide protection.
47 However, the request for proposals (RFP) came back inadequate and unresponsive to
48 concerns he has, which is protecting all citizens of the County, including residents in
49 Peaceful Valley, Point Roberts, Paradise, and other distant areas.
50

51 Brenner stated she is in favor of the contract. There were things lacking with SSP,
52 but it was not a lack of concern on the part of people at SSP. It was because the County
53 was not paying enough for the services it demanded. She contacted SSP several times and

1 recommended that they ask for budget amendments, but the Council never received them.
2 There was a lack of funding to provide services. With this new contract, the County
3 provides ample funding for the things that were brought up. Regarding the Humane Society
4 contract, the County can't commit to open-ended contracts of any sort. There were parts of
5 the proposed contract with Humane Society where the Humane Society would decide when
6 and where there was a problem, and the County had to pay the cost, no matter what.
7 That's the job for the Sheriff's Office. It wasn't negotiable. Also, the Humane Society may
8 need to change things that would cost the County money, without County approval. It is
9 not the kind of contract that the County can sign on to. With more money to SSP, they will
10 see an improvement. She likes the Humane Society, and her family got their dog from
11 there.
12

13 Crawford stated he agrees with Councilmember Brenner about the challenge for SSP
14 to meet the various desires and needs of the community while being fiscally responsible.
15 He only recalls two non-major issues that came up with SSP. They were both worked out.
16 The Rustands have been excellent vendors for the County. He is relieved they are willing to
17 take this on for another three years. They didn't intend to do that. Approve the contract.
18

19 McShane stated the key part of the contract is the oversight of the contract. The
20 Council is not able to do that. This is an issue on which the people have very strong
21 opinions. He asked that the Administration tracks how the contract is being carried out,
22 and that they do it transparently. He hopes SSP will do that as well. It will be scrutinized.
23 The better scrutinized it is, the less likely they end up with these kinds of controversies.
24 He wishes the contractor and administrator the best of luck. Involve volunteers if they can.
25

26 Caskey-Schreiber stated there have been several instances, including Kendall Watch,
27 when people have called her because they've been told that SSP doesn't go to that area.
28 Kendall has an enormous problem with packs of dogs running around. Many citizens don't
29 feel safe. She hopes they get more staff. The Whatcom Humane Society has a strong
30 volunteer base. SSP has been poor in developing that volunteer base.
31

32 ***Motion carried with 5-2 Fleetwood and Caskey-Schreiber opposed.***
33

34 **10. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A LEASE**
35 **AGREEMENT BETWEEN WHATCOM COUNTY AND BIRCH BAY LIONS CLUB,**
36 **KATHY BERG, PRESIDENT, TO LEASE THE 2-STORY BUILDING ON 7467**
37 **GEMINI STREET, BLAINE, WASHINGTON, LOCATED WITHIN BAY HORIZON**
38 **PARK FOR THE OPERATION OF A HOSTEL FACILITY (AB2006-252)**
39

40 **11. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ACCEPT THE DONATION**
41 **OF PROPERTY FROM MARBLE FALLS, LLC TO BE USED AS THE LOCATION FOR**
42 **A REGIONAL RESOURCE CENTER (AB2006-253)**
43

44
45 **OTHER ITEMS**
46

47 **1. RESOLUTION SCHEDULING A PUBLIC HEARING CONCERNING THE**
48 **ESTABLISHMENT OF A FLOOD CONTROL ZONE DISTRICT SUBZONE (AB2006-**
49 **254) (Council acting as the Flood Control Zone District Board of Supervisors)**
50

51 ***Crawford*** reported for the Finance and Administrative Services Committee and
52 ***moved*** to approve the resolution.
53

1 **Motion carried unanimously.**
2

3 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO EXECUTE AN EXCHANGE**
4 **OF QUIT CLAIM DEEDS TO RESOLVE A PROPERTY DISPUTE AND CLEAR THE**
5 **TITLE FOR BOTH PARTIES (AB2006-242)**
6

7 **Weimer moved** to approve the request.
8

9 **Motion carried unanimously.**
10

11 **3. RESOLUTION OF CONCERN REGARDING THE PROPOSED SITE FOR A THE**
12 **NOOKSACK TRIBAL CASINO (AB2006-240)**
13

14 **Brenner moved** to approve her version of the resolution. She is not aware of
15 anything outside the issues she raised in her resolution. Her intention is clear. There is
16 nothing adversarial, negative, or demanding. A resolution is a statement of the Council's
17 position. She supports negotiations and discussions. She wishes the Council was notified in
18 a timely manner. In the past, all issues with the Tribe were discussed before anything
19 major happened. She read the resolution into the record.
20

21 Crawford stated that there is an amended version of the resolution with three
22 changes, which opens the door for the Tribe and the County to talk.
23

24 **Caskey-Schreiber moved** to amend the resolution because the County does not
25 have jurisdiction. One of the biggest impacts will be to traffic. It will be a concern from the
26 roads. Figure out what needs to be done to make traffic flow safer for residents and
27 farmers. The best way to do that is not to dictate to the Tribe to stop, but to enter into a
28 government-to-government agreement that includes mutual respect. The Tribe has said it
29 is willing to do this and to mitigate for lost farmland, to mitigate the traffic. She has no
30 reason to believe they won't. Bank on their generosity as they go into this venture. Her
31 goal is to mitigate the concerns of the county citizens. Amend

- 32 • the title, "Joint Resolution of Concern Regarding the Proposed Site of the
33 Northwood Nooksack Tribal Casino" and
- 34 • language, "Now, Therefore, Be It Resolved that the Whatcom County Council
35 looks forward to conducting a joint meeting with respectfully calls on the
36 Nooksack Tribe to enter into discussions with Whatcom County to protect,
37 possibly through mitigation measures, resources lands and aquifer recharge
38 areas before any further development of the proposed casino occurs, and"
- 39 • language, "Be It Further Resolved that the Whatcom County Council respectfully
40 calls on and the Nooksack Tribe to will enter into discussions with Whatcom
41 County regarding ongoing growth management issues including traffic, air, and
42 water pollution, and protection of resource lands with regards to growth
43 management related issues such as traffic impacts, air quality, and potential
44 groundwater impairment." and
- 45 • to add a signature line for the Nooksack Tribe Chair.
46

47 Crawford stated the major changes are that this amendment does not specify that
48 this will happen before development occurs, and makes this a joint resolution.
49

50 Brenner stated she appreciates all the work Councilmember Caskey-Schreiber has
51 done. The resolution doesn't dictate. It is a request. If they believe there shouldn't be
52 discussion before development occurs, then support the amendment. If they believe
53 discussion needs to happen before development begins, then approve her resolution.

1
2 (Clerk's Note: End of tape one, side B.)
3

4 Brenner continued to state that she would rather have discussions before
5 development occurs.
6

7 Nelson stated he respects the Tribe, but is concerned at the lack of open dialog. The
8 Council is being asked to respond to something that is already done. He recognizes the
9 Tribes sovereignty. However, he must also represent the non-Tribal people of Whatcom
10 County. The Council must be firm in what it believes and how it represents its constituents.
11

12 Caskey-Schreiber stated the County has no jurisdiction. If they truly want to get
13 something for the citizens that the Council represents, then the Council must work with the
14 Tribe in a government-to-government manner to work it out. Councilmember Brenner's
15 resolution will end that chance. The best they can do is establish a working relationship and
16 get some mitigation from it.
17

18 McShane stated he will support the amendments, but that doesn't mean he will
19 support the resolution. In an intergovernmental dialog, perception is everything.
20 Councilmember Brenner doesn't recognize the different perception from who she is aiming
21 this resolution toward. The Tribe doesn't see it that way, so it's critical that the Council not
22 do it this way. Councilmember Caskey-Schreiber is attempting to make the resolution more
23 respectful. This resolution causes enormous harm.
24

25 Brenner stated the resolution is not a dictate. Don't make it personal by calling it a
26 dictate, which it's not. One of the Tribal members told her he felt it was respectful. People
27 can interpret things any way they want, especially if they keep being told it is a dictate.
28 Nothing in the resolution prevents further discussions. The Council must say what it
29 believes.
30

31 Crawford stated he is against the motion to amend. They have a responsibility to
32 state clearly and concisely how the greatest number of the public feels. The
33 councilmembers were elected to represent the citizens. This resolution is respectful. As
34 long as he tries his hardest to be respectful, he can't control what the other party thinks or
35 feels. The Council's first responsibility is to tell the truth and make sure it's understood.
36

37 His concern about Councilmember Caskey-Schreiber's amendments is that the
38 motion to amend would shut the door to discussion with the Tribe. However, they can't
39 control whether or not the Tribe decides to have discussions. The County Council respects
40 them immensely, but it must say things as it sees them.
41

42 Fleetwood stated he will recuse himself from the decision because he is a contract
43 employee for the Nooksack Tribe and a Tribal advocate.
44

45 Weimer stated the resolutions are both very respectful. This is basically a land use
46 question. Protecting agricultural land is one of the Council's highest priorities. They would
47 like to have time to understand what is going on and to have a discussion with the Tribe.
48 He wants those discussions to happen before construction begins. He will vote against the
49 amendments.
50

51 Caskey-Schreiber stated a joint resolution is the only way to go if the Council wants
52 to have a discussion. Councilmember Brenner's version will seal the fate of the residents of
53 that area.

1
2 McShane stated they should be discussing the amendments. A joint resolution is a
3 very different approach than a Council resolution.
4

5 ***Motion to amend failed 2-4-1 with McShane and Caskey-Schreiber in favor***
6 ***and Fleetwood abstaining.***
7

8 Brenner stated she was comfortable with Councilmember Caskey-Schreiber's
9 amendments, other than saying the Council doesn't have a position on when the discussion
10 takes place. There should be a discussion before anything happens. She doesn't know if
11 the Nooksack Tribe would agree to a joint resolution. Discuss a joint resolution separate
12 from her resolution.
13

14 Nelson stated the Tribe may have solutions for protecting resource lands. This is
15 merely saying the Tribe and County must start talking now. He is very concerned about the
16 impacts of this project. This resolution can go forward to find solutions.
17

18 McShane stated he is against Councilmember Brenner's resolution. The Nooksack
19 Tribe reservation is down to .9 acres. The treaties granted tribal rights many years ago.
20 Whatcom County received rights from the treaties, also. Much agricultural land has been
21 taken up by economic development, creating an enormous tax base. The Tribe's ability to
22 succeed has changed in a world that has changed dramatically, but the Tribe agreed to
23 allow them to come here peacefully. They should be comfortable with the Tribe's economic
24 development and their sovereignty. He very strongly believes in Tribal sovereignty. He is
25 grateful for the rights people were given by the Tribes to live here peacefully.
26

27 Brenner stated this doesn't take anything from the Tribe. The resolution
28 acknowledges their treaty rights and sovereignty. There is a good possibility they can work
29 out a land swap through the Governor's office. Everyone has a stake in a win-win solution.
30 Everyone acknowledges there could be a better location.
31

32 Crawford stated this is not an issue of tribal sovereignty. He assumes that when the
33 treaties were signed, they couldn't possibly have envisioned what society would be like
34 today. The Tribe doesn't really want to site the casino at this location. However, they don't
35 really have a choice. This resolution is saying they will talk about it. This casino is a
36 cultural and environmental disaster in the making. The Tribe will be willing to talk to the
37 Council about that.
38

39 Caskey-Schreiber stated she met with the Tribe yesterday, and they discussed the
40 land swap idea. It would take too much time and require too many hoops to go through for
41 three to five years, with an uncertain outcome. It's not a reality.
42

43 Brenner stated she has no intention of holding anything up for three to five years.
44

45 Pete Kremen, County Executive, stated he wanted to address the statements
46 regarding a possible land swap. He has pursued the possibility of acquiring some land on
47 the outskirts of Sumas for a land swap. He contacted Congressman Larson and the
48 Governor's Office, and it would take a minimum of two years. Only three land swaps have
49 occurred in the history of the United States. It would not be an easy thing to do. He talked
50 with the Tribe, and they were reluctant because of the time involved.
51

52 Crawford stated they need to keep all the alternatives open at this point. This
53 resolution does that.

1
2 Nelson stated the Tribe said this did not fall under the State's jurisdiction, because it
3 was no different from the gambling already allowed.
4

5 Kremen stated the State does not regulate a class two operation.
6

7 Edward Wurtz, Nooksack Tribe General Counsel, stated this project is for a class two
8 casino, which is like a bingo hall. The State allows non-profits to operate bingo halls. There
9 would be slot machines that resemble class three, but that run on a bingo system. If the
10 Tribe were to locate any place that is not on trust land, they would be under State
11 jurisdiction and couldn't have slot machines.
12

13 Brenner stated that a request should be presented to the State to do a land swap
14 with the tribal rights being transferred with the land. It wouldn't even take a year. It would
15 take a change in the law, but the need isn't unique to Whatcom County. The State can
16 make exceptional rules for exceptional cases.
17

18 Caskey-Schreiber stated putting forth a position ends the discussion. The Tribe is
19 willing to appease the community it is likely to dwell in. She doesn't want to give false hope
20 that this project will be stopped.
21

22 Brenner stated the resolution is not about stopping the project. Not all the doors are
23 shut to negotiation for a win-win solution.
24

25 Weimer stated the two resolutions are similar. There is no disrespect in either of
26 them. They are asking for a discussion to understand the project better. He prefers a joint
27 resolution that says there will be discussion before the building goes up.
28

29 McShane stated the notion of a joint resolution is a reason to vote down this
30 resolution. He supports the idea of a joint resolution more than this resolution. Reject this
31 resolution, approve a joint resolution.
32

33 ***Brenner moved*** to amend"

- 34 • the title, "Joint Resolution of ~~Concern~~ Regarding the Proposed Site of the
35 Northwood Nooksack Tribal Casino" and
- 36 • language, "Now, Therefore, Be It Resolved that the Whatcom County Council
37 looks forward to conducting a joint meeting with respectfully ~~calls on~~ the
38 Nooksack Tribe to enter into discussions with Whatcom County to protect,
39 possibly through mitigation measures, resources lands and aquifer recharge
40 areas ~~before any further development of the proposed casino occurs, and that~~
41 ~~these discussions take place before further development of the site occurs and"~~
- 42 • language, "Be It Further Resolved that the Whatcom County Council respectfully
43 ~~calls on~~ and the Nooksack Tribe ~~to will~~ enter into discussions with Whatcom
44 County regarding ongoing growth management issues including traffic, air, and
45 water pollution, and protection of resource lands with regards to growth
46 management related issues such as traffic impacts, air quality, and potential
47 groundwater impairment." and
- 48 • to add a signature line for the Nooksack Tribe Chair.
49

50 Caskey-Schreiber asked for the Tribal perspective on Councilmember Brenner's
51 proposal.
52

1 Unidentified Nooksack Tribe representative stated the resolution is unnecessary. The
2 Tribal Council has reached out and said it will work with the County Council. The
3 councilmembers have made their points.
4

5 Brenner stated the resolution is necessary and is important because the County
6 Council represents the entire county. She respects the goodwill of the Tribe. It is important
7 for the Council to let everybody know what the Council's position is.
8

9 Crawford asked for clarification of the amendments to the Now Therefore Be It
10 Resolved statements.
11

12 Brenner restated the amendment.
13

14 ***Motion to amend carried 4-2-1 with Caskey-Schreiber and McShane opposed***
15 ***and Fleetwood abstaining.***
16

17 ***Motion to approve the resolution as amended carried 4-2-1 with Caskey-***
18 ***Schreiber and McShane opposed and Fleetwood abstaining.***
19

20 **4. REQUEST CONFIRMATION OF EXECUTIVE KREMEN'S APPOINTMENT OF JON**
21 **KOMOROWSKI TO THE POSITION OF PUBLIC DEFENDER (AB2006-256)**
22

23 Pete Kremen, County Executive, stated the long-time Public Defender of Whatcom
24 County, Jon Ostlund, has decided to end his time with Whatcom County. He has served for
25 nearly 24 years.
26

27 *(Clerk's Note: End of tape two, side A.)*
28

29 Kremen continued to state that Mr. Ostlund has served on the Board of Governors,
30 State Bar, Sentencing Guidelines Commission, and other organizations. Jon Komorowski
31 will be the new Public Defender. He has been an employee of Whatcom County since 1982.
32 He's served as the Chief Deputy to the Public Defender. He has an excellent reputation.
33 Throughout his career in public service, he's been a team player. As their public defender,
34 Jon Komorowski will contribute positively to the administration of justice in Whatcom
35 County.
36

37 Jon Ostlund, Public Defender, stated Jon Komorowski was the first person he hired
38 when he started the office in 1982. He will do a wonderful job for the County. He is
39 grateful, humbled, and honored to have served the County and people of the County.
40

41 He had three goals when he started this office. He thinks they've met those goals.
42 Whatcom County has the reputation of having one of the best public defender offices in the
43 state. They've been able to do that only through the support of the County Executives and
44 County Councils.
45

46 ***Fleetwood moved*** to confirm the appointment.
47

48 ***Motion carried unanimously.***
49

50 Brenner stated she is impressed with Jon Komorowski, and thanked him for doing
51 this. Whatcom County is fortunate that someone of his caliber is willing to do this job.
52

1 **5. APPOINTMENT OF DAVID WILLIS TO THE SEWAGE CONTROL APPEALS**
2 **BOARD (AB2006-262)**

3
4 *McShane moved* to appoint David Willis.

5
6 *Motion carried unanimously.*
7

8
9 **INTRODUCTION ITEMS**

10 *Brenner moved* to accept the Introduction Items. Item four is withdrawn.

11
12 *Motion carried unanimously.*
13

- 14
15 **1. ORDINANCE AMENDING THE 2006 WHATCOM COUNTY BUDGET, NINTH**
16 **REQUEST, IN THE AMOUNT OF \$ 3,442,842 (AB2006-257)**
- 17
18 **2. ORDINANCE REGARDING PROJECT BUDGET AMENDMENT NO. 4 TO THE 2006**
19 **BUDGET IN THE AMOUNT OF \$577,724 (AB2006-258)**
- 20
21 **3. ORDINANCE ESTABLISHING A FLOOD CONTROL ZONE DISTRICT SUBZONE**
22 **(AB2006-254A) (COUNCIL ACTING AS THE FLOOD CONTROL ZONE DISTRICT**
23 **BOARD OF SUPERVISORS)**
- 24
25 **4. ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTER 10.34 FERRY**
26 **RATES, WHATCOM COUNTY CODE 2006 UNIFIED FEE SCHEDULE (AB2006-**
27 **260)**
- 28
29 **5. APPROVAL OF DEVELOPER REIMBURSEMENT AGREEMENT PERTAINING TO**
30 **ROADWAY CONSTRUCTION ON WEST ROAD (AB2006-220)**

31
32
33 **OTHER BUSINESS AND COUNCILMEMBER REPORTS**

34
35 Brenner stated Delta's inaugural flight is tomorrow at noon at the airport. Everyone
36 is invited to attend. Also, there is a Pandemic Flu Task Force meeting tomorrow. It would
37 be helpful to have people, including councilmembers, there. Last night, the Bellingham City
38 Council, on the advice of the Fire Chief and Mayor, put out an intent to withdrawal from the
39 emergency management services process and interlocal agreement. One reason was that
40 they've learned how unprepared they are. However, the County Executive formed this task
41 force to include people countywide, including the City staff. Everything the City talked
42 about as concerns are things that the task force is addressing. If people were at that
43 meeting, the City would know how integrated the approach is.
44

45 Weimer stated he attended a Birch Bay planning session. Students from Western
46 Washington University unveiled a central Birch Bay Plan, which is wonderful. Birch Bay
47 seems to be leading the way in planning its own future.
48
49
50

1 **ADJOURN**

2
3 The meeting adjourned at 9:30 p.m.

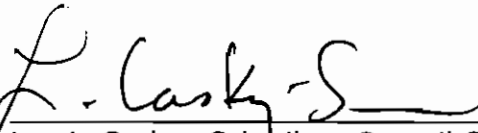
4
5 
6 _____
7 Jill Nixon, Minutes Transcription

8
9 The Council approved these minutes on July 11, 2006.

10 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

11
12 
13
14
15
16 _____
17 Dana Brown-Davis, Council Clerk



Laurie Caskey-Schreiber, Council Chair