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WHATCOM COUNTY COUNCIL
Regular County Council

June 20, 2006

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

Present:

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

Absent:

None

FLAG SALUTE

ANNOUNCEMENTS

Caskey-Schreiber announced there was **discussion with Senior Deputy Prosecutor Karen Frakes regarding pending litigation (AB2006-018)** in executive session during the Committee of the Whole meeting today.

OPEN SESSION

The following people spoke:

Jack Petree, 2955 Sunset, Bellingham, stated the Council is invited to come to Northwood Hall at 8 a.m. tomorrow to listen to him give a speech to the Realtors Association about the fiscal impacts of development. Studies show that a low density, two units per acre and below, typically costs a community. Also, a high density, 12 to 14 units per acre and more, costs a community. However, density in the middle usually produces a return.

Kris Ungern, 2095 Northshore Road, stated a different Council established a provisional urban growth area for Sudden Valley to save money and avoid doing road maintenance. The recent controversy about Sudden Valley's UGA status is the Council's own making. This is a lesson of how future councils can reverse the direction of today's Council.

The recent Isaacson lawsuit required affected councilmembers to provide an affidavit justifying their actions. During the original Council proceedings, their arguments were not articulated effectively. However, the affidavits were reasonable and well thought out, some would say. It appears that the arguments were developed after the decision was made rather than being a part of the process leading up to the decision.

A Superior Court judge recently reversed the Western Washington Growth Management Hearings Board rulings against Whatcom County arising from the Futurewise lawsuit. The County had responsibility to comply with the Growth Management Act. The

1 County did not appeal the Hearings Board ruling. He asked if they are to infer that the
2 County knew it was not in compliance.

3
4 Larry Quinlivan, 2327 Northshore Road, stated the Council has a thankless job. He
5 is impressed with each councilmember. They are very hard workers. He attended the
6 budget planning meeting today and was impressed with the questions and concerns of the
7 councilmembers.

8
9 Gary Lysne, 2472 Northshore Road, stated he attended the budget planning meeting
10 today. Citizens weren't allowed to speak. He was offended by comments made by Dewey
11 Desler, who made him feel very unwelcome. He applauded the councilmembers for asking
12 tough questions. The cash balance for the general fund as of June 15, 2006 was
13 \$25,698,000. The Council said it wanted a fund balance reserve of at least 15 percent in
14 the general fund. The general fund has a reserve of 30 percent, according to
15 Councilmember Caskey-Schreiber. However, it is really about 40 percent. The combined
16 fund balances total \$64 million. Nearly \$59 million of that is unreserved and available for
17 spending.

18
19 The administration lobbied for emergency funding for emergency medical services,
20 because the County doesn't have enough to fund it. That appears to be false.

21
22 Crawford stated Executive Kremen and Deputy Administrator Desler have offered to
23 have further discussion about this with these gentlemen and Assessor Willnauer.

24
25 Johnnie Grames, 4478 Northwest Drive, stated there are two other branches of
26 government growing exponentially compared to the Council. The Whatcom County Law and
27 Justice Council expects the Council to rubber stamp everything. Contempt for the people is
28 growing. That means they don't respect democracy.

29
30 Doug Robertson, 900 Dupont, stated he represents Fred Bovenkamp at Point Village
31 LLC in Birch Bay. An issue is coming forward regarding transportation and fire services.
32 The Council adopted a subarea plan for Birch Bay. The Horizons at Semiahmoo project was
33 approved last fall. Now, the fire district refused letters of availability unless developers
34 voluntarily pay \$2,500 per unit. This is contrary to the Birch Bay Plan, which says that all
35 fire services can be paid from the growing tax base. The problem is that the Fire District is
36 extracting significant funds away from the County. The Fire District says the plan is
37 incorrect, that it cannot be funded through the tax base, and that they should stop all
38 development until the voluntary fee is paid. The only solution, which the Fire District does
39 not agree to, is to adopt an emergency amendment to the Birch Bay Plan and require the
40 Fire District to undertake planning to determine whether or not the Fire District can serve
41 that area. If the District can substantiate that fire services cannot be met, then include it in
42 the concurrency requirements. Don't allow a third party to take development fees and
43 planning away from the County.

44
45 Caskey-Schreiber asked if Mr. Bovenkamp is not willing to pay the \$2,500 per unit
46 fee. Robertson stated he is willing to pay the fee, once it is adopted through a formal
47 process and incorporated into a community-wide planning document. Instead, the Fire
48 District refuses to cede any control to the County, and requires that it be adopted outside
49 the planning process.

50
51 Nelson stated this is an important issue for the Council to address, if other entities
52 are imposing fees while the Council is trying to develop concurrency. Have a system in
53 place that everyone can agree with.

1 Crawford stated he needs these comments in writing and feedback from staff.
2 Robertson stated he has a letter for the County and the Fire District. This is a very
3 complicated issue.
4

5 Brenner stated she understood that working with the fire districts and school districts
6 is in the process of happening.
7

8 Dennis Jones, 1487 Sudden Valley, stated he thanks the Birch Bay community, Fire
9 District 13, and the Birch Bay Water and Sewer District for everything he's learned. The
10 total maximum daily load (TMDL) study is a positive thing. The sustainability model is the
11 question on the table. When there are multiple jurisdictions, it can be a political nightmare.
12 Have a special district for either Sudden Valley or the watershed. He thanked Whatcom
13 County, Fire District 2, Water District 10 and the people of Sudden Valley for the openness
14 and community. He presented a video.
15

16 Richard Roebuck, 8288 Northwood Road, Everson, stated he went to the site of the
17 proposed casino today. There was no religious ceremony. One can't have a religious
18 ceremony with bulldozers and excavators. He recommended the book Going to Pieces: The
19 Dismantling of the United States of America by Elaine Devary-Willman about long range
20 effect of casinos throughout the country. If the Council is really for agricultural land, there
21 is something it can do to stop it.
22

23 David Lobdell, 8270 Portal Way, Blaine, stated he operates a stone yard in Blaine.
24 He met Friday with his attorney and wetlands biologist, who were retained at the request of
25 the Planning Department. He was told that as long as he worked with the County, there
26 would be no actions taken and he could work through the process. On Monday, he had a
27 County vehicle come onto his property unannounced and an occupant started snapping
28 pictures, which upset his family and caused concern. The occupants said they were there
29 just checking his permits. He spoke to his attorney today, who tried to contact the County
30 with no success. Later in the day, his attorney was told the occupants were working on a
31 citation for him. Later in the afternoon, everything the three professionals had been
32 discussing was upheld by the U.S. Supreme Court. He was told as long as he was working
33 through the process, the County would work with him and there would be not citations. The
34 County staff are using Gestapo tactics. They are operating above and outside the law,
35 without concern of him, his business, and his family.
36

37 Cheri McKay, 6781 Ocean Road, Everson, stated she would talk about mushroom
38 substrate. She put in something regarding the June 8 Planning Commission, which received
39 erroneous information. Those errors regarded the existing use being a nonconforming,
40 grandfathered use. That is incorrect. The attorney also said that his reading of the Growth
41 Management Hearings Board information was consistent with the Planning Commission
42 Chair and Council. He said there was not evidence on the record that the best management
43 practices (BMP's) had been justified for the actions taken on the buffers and setbacks. They
44 must look elsewhere at what others have done. The Growth Management Act authorizes
45 counties to adopt BMP's, but the County doesn't have the resources to do it. Research isn't
46 necessarily a BMP, but can be claimed as one. She thanked the Council for hiring outside
47 counsel to address this for the County. They are going to prepare a line-by-line of the
48 ordinances. She asked for evidence of impacts that would be imposed on the
49 neighborhoods.
50

51 Dewey Desler, Deputy Administrator, stated he would respond to Mr. Lysne's concern
52 regarding the budget meeting this morning. All the meetings are open to the public. There
53 was no intent to preclude or misinform anyone. He responded to a concern expressed by
54 Councilmember Crawford about folks who are concerned about the increasing government

1 taxes. Whatcom County is not increasing taxes, but other taxing districts are. He tried to
2 make that clear. He would be pleased to meet with people to explain the process.
3
4

5 **PUBLIC HEARINGS**
6

7 **1. ORDINANCE ADOPTING A SHORT TERM PLANNING AREA ZONING OVERLAY**
8 **DESIGNATION IN THE FERNDALE UGA, WEST OF VISTA DRIVE (AB2006-**
9 **205)**

10
11 Caskey-Schreiber opened the public hearing and the following people spoke:
12

13 Tom Black, City of Ferndale Planning and Building Director, stated that the visioning
14 workshop was focused on economic development, not on residential densities.
15 Consideration of densities will happen at the beginning of the year. The citizens of the city
16 have not discussed appropriate residential densities. Until that occurs, the County should
17 not dictate residential densities to the City. He supports the Council's previous decision
18 without the condition mandating a particular density.
19

20 To address the County's density requirements, the City is adopting a planned unit
21 development (PUD) ordinance, which allows developers flexibility to increase densities.
22 Also, the City will soon bring forward changes to the zoning ordinance, including new zones
23 with higher densities. The City is amending its multiple residential zones to remove single
24 family dwellings as permitted principal uses, to keep those areas from developing as single
25 family uses. The City is actively promoting greater density. Last, the City is beginning to
26 educate the citizens and decision-makers about the challenges of the Growth Management
27 Act and the paradigm shift that must occur regarding density and zoning issues.
28

29 Fleetwood asked how the City is informing the citizens. Black stated there have
30 been discussions with the City Council in formal workshops about the density issues. Like
31 the citizens, the council members are just starting to grasp the paradigm shift that must
32 occur. They are also discussing the issues in public workshops, which are happening
33 frequently.
34

35 Dennis Jones, 1487 Sudden Valley, stated this is a complex issue in planning. One
36 way to reduce densities is to cluster. The limited areas of more intense rural development
37 (LAMIRDs) is another way to do it. They don't need people attacking people without
38 reading the codes, the plans, and the budgets. Counties just don't come any better than
39 Whatcom County. He doesn't understand the attack.
40

41 Hearing no one else, Caskey-Schreiber closed the public hearing.
42

43 **Brenner** stated she attended the City of Ferndale City Council meeting last night.
44 The members seemed attentive and responsive to the growth-related issue she brought up.
45 They would like to work with the County Council. There seems to be a misunderstanding
46 about why they haven't had a meeting yet. It's something they need to do. The City and
47 County should work together. She **moved** to adopt the ordinance.
48

49 Weimer stated he also attended the Ferndale City Council meeting. He talked to
50 them about the discussions with Mr. Black at the County Council meetings. He was pleased
51 that the council members asked about density requirements. They seem interested in
52 working with the County and wanted to know the status of a joint meeting.
53

1 The cities are trying to protect the characters of their neighborhoods, and push
2 densities to the outer edges. The County is trying to protect the character of the rural lands
3 by forcing infill. In reality, they must deal with continued growth. They can't do that if the
4 cities and County aren't speaking.

5
6 McShane stated he is pleased by what he heard from Mr. Black tonight and about the
7 City Council discussions. He is like the bad cop on this issue.

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

10
11 McShane stated he will vote no, but he's on the fence. There still needs to be that
12 pressure.

13
14 Fleetwood stated he agreed.

15
16 Nelson stated he would support the motion to approve this. The Council has been
17 consistent. He may not agree with the density requirements in rural communities.
18 However, given their vision for the community, there's no way to meet the densities they
19 are considering. He read the community vision. There isn't anything that says the vision is
20 to increase densities and contain them in the urban area. It is more like a small quiet town.
21 He asked how the County gets more specific visions that incorporate the goals and
22 objectives of the County Comprehensive Plan regarding density. Towns should envision
23 what they want to be in the future, not what they are now.

24
25 Caskey-Schreiber stated she likes elements of the vision, but there are conflicts,
26 including the net density. If they truly want those elements in the community, the town
27 must have higher densities so they don't consume land at twice their population growth.
28 There has been much discussion about saving the agricultural base in the county. It's
29 biggest threat is residential housing. Higher density does have a downside. It requires a
30 change in mindset. However, smaller lots make homes more affordable, and it is easier for
31 the City to service. She would like to have seen a density of four to six units per acre.
32 When this comes to a vote, she will vote against it. However, she applauds the City for
33 trying to have a vision for the town.

34
35 Weimer stated it's too bad that this list was included, which seems to be every idea
36 put forward, not a general consensus of the vision. It doesn't reflect a good sense of the
37 vision. The City is starting that now.

38
39 Brenner stated she attended one of the three visioning meetings. Her impression
40 was that people appreciated living there because of the small town lifestyle. There may be
41 a disconnect between some of the Ferndale City Council members and the public. People
42 want to retain some of that small town feeling. In the past, there was an effort to become a
43 big city. The City and its residents should work it out between themselves.

44
45 ***Motion to adopt carried 4-3 with Caskey-Schreiber, Fleetwood, and McShane***
46 ***opposed.***

47
48 **2. ORDINANCE ESTABLISHING A FLOOD CONTROL ZONE DISTRICT SUBZONE**
49 **(AB2006-254A)**

50
51 (Council Acting as the Flood Control Zone District Board of Supervisors)

52
53 Caskey-Schreiber opened the public hearing and the following people spoke:
54

1 Cal Leenstra, 315 Lakeway Drive, Bellingham, stated he just wants to find out what
2 it is.

3
4 Hearing no one else, Caskey-Schreiber closed the public hearing.

5
6 Bruce Roll, Public Works Department, stated this is a response to interest from the
7 State Department of Ecology (DOE) and State Department of Fish and Wildlife to mitigate
8 flows into Friday Creek during late summer. DOE threatened to enforce and not allow any
9 more water withdraws from this lake. Most of the residents around the lake are
10 withdrawing water from the lake itself. The Council established a Lake Samish Lake
11 Management District for establishing a flow augmentation program which came with a one
12 time assessment levied on the district residents. There is no longer any funding left. There
13 is interest in addressing other issues in the watershed, such as stormwater. It makes sense
14 to change the boundaries and establish it as a management area.

15
16 This ordinance establishes the boundaries for the area. In the next month, an
17 assessment will come to the Council to fund the diversion structure maintenance. The
18 assessment has two parts. One part is to deal with flood related issues in terms of
19 augmenting the flows. The assessment may be \$.23 per lake frontage foot. The second
20 part of the assessment would augment the withdraws and mitigate for the withdraws. This
21 assessment would be based on an average household use of 400 gallons. Each household
22 will be assessed \$13.25 annually. The annual revenue stream would be about \$17,000.
23 Undeveloped property will not be affected at this point, but they are included in the
24 boundaries of the district. The intent is a watershed management area.

25
26 **Crawford moved** to adopt the ordinance.

27
28 **Motion carried unanimously.**

29
30 **3. APPROVAL OF DEVELOPER REIMBURSEMENT AGREEMENT PERTAINING TO**
31 **ROADWAY CONSTRUCTION ON WEST ROAD (AB2006-220)**

32
33 Jeff Monsen, Public Works Director, gave a staff report and submitted a map with
34 specific residents names on it so it is clear which parcels are being discussed.

35
36 Caskey-Schreiber opened the public hearing and the following people spoke:

37
38 Nancy Evans, 8920 Portal Way, Blaine, stated she speaks on behalf of the Dakota
39 Creek Community Association and herself. She asked why Whatcom County requires this.
40 This may not fall under the latecomer's fee for reimbursement. The community association
41 properties are already a development. Dakota Creek developers already provided the
42 access necessary to meet their needs. They have already incurred the cost when these
43 properties were developed. They have private roads funded with private funds.
44 Morningstar Ventures should pay the cost of the road, not the Dakota Creek Community
45 Association properties. They will gain when they sell the property they are developing. It is
46 a cost of business. She submitted a map (*on file*).

47
48 Eric Chesterley, 4109 Red Cedar Road, stated the location of his property. When
49 East Road was not developed, everyone now goes through the Dakota Creek Community
50 Association property. He pays an assessment for road repairs and he pays property taxes.
51 Now, he is being asked to pay a latecomer fee. His parents, who were the first to develop
52 in that area, paid to install underground telephone and electric down West Road, through
53 the community, and on Red Cedar Road. His father promoted a local improvement district
54 for water. That benefits Morningstar Developments, yet they didn't pay for any of that.

1 However, Morningstar Development is coming to the residents to pay for the road. When
2 Morningstar asked for access through the Dakota Creek Community Association, they said
3 they would pay for the development of the West Road development, but they're not doing
4 that. He is opposed to the imposition of the latecomers fees.
5

6 Alfred Larsen, Blaine, stated he owns property in the Dakota Creek Community
7 Association. He is opposed to the latecomers fee. He owns four lots. This would be a
8 substantial amount of money. The residents weren't required to upgrade West Road for
9 access. He pays for County roads through his property tax. He didn't receive any
10 notification before this.
11

12 Dale Buys, Reichhardt & Ebe Engineering, stated he works with Morningstar
13 Development. The County staff checked to make sure this development was suitable for a
14 latecomer's agreement. Mr. Chesterley made a local improvement district (LID) for water.
15 The development has paid into that LID to get water shares for the development. If Mr.
16 Larsen is assessed the latecomer's, it's not due payable until the lots are developed, so
17 there is potential for reimbursement.
18

19 Brenner stated that is correct, up to 15 years.
20

21 Buys stated that's correct. A few residents said their lots were burdened through
22 covenants and couldn't be subdivided to the current zoning. The development revised the
23 assessment to remove those parcels from the assessment area.
24

25 McShane asked if some lots that couldn't be divided were removed. Buys stated that
26 is correct. One of those letters was from Mr. Chesterley.
27

28 Caskey-Schreiber asked the number of lots in this development. Buys stated there
29 are six densities.
30

31 Jim Buchanan, Morningstar Development, stated there were six LID's for a total of
32 \$37,000. The development paid those fees. The Dakota Creek Association sits between his
33 property and West Road. All the properties were LID, so everyone benefits from that. They
34 have charged his property \$300 to \$500 per year for road access to come through those
35 roads. He was also charged for road maintenance. The cost of the road was phenomenal
36 because many mistakes were made on the road. He understands that the residents don't
37 want to pay the fee, but the fee won't be required until their land is developed. Last June,
38 he received a letter saying that the road access fee would go from \$400 to \$1,800 per year,
39 to drive through the Dakota Creek roads to his property. He feels like he is being used as a
40 source when they want money, but residents don't want to reimburse him. The road was a
41 one-lane road, and two cars couldn't pass side-by-side. Now, the road is 20-foot road with
42 shoulders. Cars can pass. It is an improvement for everyone.
43

44 Fred Chesterly, 4109 Red Cedar Road, stated he is the past president of the Dakota
45 Creek Community Association. They had an agreement with Morningstar, after it took out
46 \$500,000 of timber and leaving a wasteland, to put the road back in the condition they
47 found it. He discussed the history of the development of the area. Zoning is a farce when
48 the County allows them to sell two- and three-acre lots in a five-acre area. There is an
49 undivided flood plain that they can't use.
50

51 Hearing no one else, Caskey-Schreiber closed the public hearing.
52

53 Crawford asked the location of the development. Monsen indicated the location on a
54 map. He suggested that the Council refer this to committee for discussion and clarification.

1 In the past few years, they've become more aggressive in getting roads upgraded to
2 development standards, as if they were a new subdivision. It is very common to have a
3 substandard road with many users, and to have the next new development bring the road
4 up to standard. This is the one vehicle the new developer has to recoup costs to upgrade
5 the road for all users.

6
7 **Crawford moved** to refer to the Public Works Committee on July 11, 2006.

8
9 Nelson asked if the road improvements are in areas zoned either urban residential,
10 four units per acre (UR-4) or rural, one unit per five acres (R5A), and if those improvements
11 are standard for both zones. Monsen stated these improvements are for rural zoning, not
12 urban density zoning. They are upgrades necessary for basic health and safety and fire
13 access.

14
15 Nelson asked if this is similar to the Mission Road. Monsen stated it is similar.

16
17 Brenner stated she would like a map that includes road names and zoning.

18
19 **Motion carried unanimously.**

20
21
22 **CONSENT AGENDA**

23
24 **Crawford** reported for the Finance and Administrative Services Committee and
25 **moved** to approve Consent Agenda items one through five and seven through 17. The
26 administration withdrew item six. The committee recommends amending item two.

27
28 Caskey-Schreiber withdrew item two.

29
30 **Motion to approve Consent Agenda items one, three through five, and seven**
31 **through 17 carried unanimously.**

- 32
33 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #06-73 TO**
34 **LOW BIDDER, FOSS MARITIME COMPANY, FOR ANNUAL DRY DOCK REPAIRS**
35 **AND MAINTENANCE OF THE WHATCOM CHIEF FERRY, IN THE AMOUNT OF**
36 **\$163,171 (AB2006-265)**
37
38 **2. RESOLUTION ESTABLISHING COUNTY ROAD PROJECT NO. 999022 AND THE**
39 **AWARD OF CONTRACT FOR THE "CABLE STREET, PHASE I - GENEVA**
40 **STORMWATER RETROFITS" AND REQUEST AUTHORIZATION FOR THE**
41 **EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND**
42 **LOW BIDDER, RAM CONSTRUCTION GENERAL CONTRACTORS, INC., FOR**
43 **THIS WORK, IN THE AMOUNT OF \$712,675 (AB2006-266)**

44
45 **Crawford moved** to approve the request with the amendment recommended by the
46 Finance and Administrative Services Committee to amend language, "remove Wall Street
47 from the program and not divert water to Wall Street project 10 until issues to the
48 community are resolved to the satisfaction of the County Council."

49
50 **McShane moved** to strike the amendment.

51
52 (Clerk's Note: End of tape one, side B.)

1 **Crawford amended his motion and moved** to approve the request as presented
2 by administration.

3
4 **Nelson moved** to amend the request to amend language, "remove Wall Street from
5 the program and not divert water to Wall Street project 10 until issues to the community
6 are resolved to the satisfaction of the County Council."
7

8 **Motion to amend carried 4-3 with Caskey-Schreiber, McShane, and Weimer**
9 **opposed.**

10 **Motion to approve the request as amended carried unanimously.**

- 11
12
13 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
14 **CONTRACT BETWEEN WHATCOM COUNTY AND HERRERA ENVIRONMENTAL**
15 **CONSULTANTS, INC., TO DEVELOP A PREFERRED ALTERNATIVE AND**
16 **PROJECT DESIGN FOR THE LOWER CANYON CREEK SALMON HABITAT**
17 **RESTORATION PROJECT, IN THE AMOUNT OF \$94,888 (AB2006-267)**
18
19 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
20 **CONTRACT BETWEEN WHATCOM COUNTY AND COMPASS POINT SURVEY**
21 **GROUP, INC., TO PROVIDE ON-CALL SURVEYING SERVICES FOR THE RIVER**
22 **AND FLOOD DIVISION PROJECTS FOR A PERIOD OF ONE YEAR, IN AN**
23 **AMOUNT NOT TO EXCEED \$75,000 (AB2006-268)**
24
25 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
26 **CONTRACT BETWEEN WHATCOM COUNTY AND PACIFIC SURVEYING AND**
27 **ENGINEERING SERVICES, INC., TO PROVIDE ON-CALL SURVEYING**
28 **SERVICES FOR THE RIVER AND FLOOD DIVISION PROJECTS FOR A PERIOD**
29 **OF ONE YEAR, IN AN AMOUNT NOT TO EXCEED \$75,000 (AB2006-269)**
30
31 **6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
32 **CONTRACT BETWEEN WHATCOM COUNTY AND THE OPPORTUNITY COUNCIL**
33 **TO PROVIDE REPAIR FOR 8-12 MOBILE HOMES FOR INDIVIDUALS OR**
34 **FAMILIES AT OR BELOW 30% OF THE MEDIAN INCOME IN WHATCOM**
35 **COUNTY, UTILIZING WHATCOM COUNTY 2060 FUNDS, IN THE AMOUNT OF**
36 **\$100,000 (AB2006-270)**
37
38 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
39 **COLLECTION AGREEMENT BETWEEN WHATCOM COUNTY AND THE USDA**
40 **FOREST SERVICE, MT. BAKER-SNOQUALMIE NATIONAL FOREST FOR THE**
41 **REPLACEMENT OF THE RAZOR HONE CREEK BRIDGE (MP 2), IN THE AMOUNT**
42 **OF \$90,000 (AB2006-271)**
43
44 **8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
45 **INTERGOVERNMENTAL AGREEMENT BETWEEN WHATCOM COUNTY AND**
46 **WHATCOM COUNTY FIRE PROTECTION DISTRICT NO. 9 FOR FIRE**
47 **PROTECTION SERVICES TO THE PARKS & RECREATION DEPARTMENT**
48 **BUILDINGS AND EQUIPMENT LOCATED WITHIN OR ADJACENT TO THE**
49 **ESTABLISHED BOUNDARIES OF FIRE DISTRICT NO. 9 (AB2006-272)**
50
51 **9. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
52 **RESIDENTIAL LEASE AGREEMENT BETWEEN WHATCOM COUNTY AND ERIN**
53 **EMRY AND JAMES RUSS GOFORTH TO LEASE THE HOUSE LOCATED AT 367**
54 **EAST LAKE SAMISH DRIVE, BELLINGHAM, IN THE AMOUNT OF \$895 PER**

1 MONTH FOR THE PERIOD FEBRUARY 24, 2006 THROUGH FEBRUARY 23,
2 2007 (AB2006-273)
3

- 4 10. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN
5 AGREEMENT AND LEASE BETWEEN WHATCOM COUNTY AND THE POINT
6 ROBERTS PARKS & RECREATION DISTRICT FOR WHATCOM COUNTY TO
7 LEASE A PORTION OF THE POINT ROBERTS COMMUNITY CENTER AS ONE OF
8 ITS SATELLITE FACILITY SENIOR ACTIVITY CENTERS, IN THE AMOUNT OF
9 \$600 PER YEAR FOR FIVE (5) YEARS BEGINNING JANUARY 1, 2006
10 THROUGH DECEMBER 31, 2010 (AB2006-274)
11
- 12 11. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A FARM
13 LAND LEASE BETWEEN WHATCOM COUNTY AND JIM SNYDAR TO ALLOW MR.
14 SNYDAR TO LEASE APPROXIMATELY 80 ACRES OF LAND WITHIN THE
15 BOUNDARIES OF HOVANDER HOMESTEAD PARK IN FERNDALE FOR FARMING
16 PURPOSES IN THE AMOUNT OF \$2,000 PER YEAR FOR ONE FARMING YEAR
17 COMMENCING MAY 1, 2006 AND TERMINATING DECEMBER 31, 2006
18 (AB2006-275)
19
- 20 12. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A REAL
21 ESTATE PURCHASE AND SALE AGREEMENT BETWEEN WHATCOM COUNTY
22 AND LORETTA SIMPSON FOR THE PURCHASE OF HER PROPERTY IDENTIFIED
23 BY TAX NUMBER 380217361542 (AN UNNUMBERED PROPERTY ON MARINE
24 DRIVE, MARIETTA), IN THE AMOUNT OF \$10,000 PLUS CLOSING COSTS
25 (AB2006-276)
26
- 27 13. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO CONTRACT
28 AMENDMENT NO. 5 BETWEEN WHATCOM COUNTY AND LYNN BARTON
29 EXTENDING THE CURRENT CONTRACT THROUGH DECEMBER 31, 2006 AND
30 INCREASING THE MAXIMUM CONSIDERATION BY \$10,700 FOR A TOTAL
31 CONTRACT AMOUNT OF \$21,400 (AB2006-238)
32
- 33 14. RESOLUTION IN THE MATTER OF THE SALE OF SURPLUS PROPERTY AND THE
34 SETTING OF A DATE FOR PUBLIC HEARING THEREON PURSUANT TO WCC
35 1.10 (AB2006-277)
36
- 37 15. RESOLUTION TO SET HEARING TO SELL TAX-TITLE PROPERTY BY PUBLIC
38 AUCTION - REQ. #TR2006-09 (AB2006-278)
39
- 40 16. RESOLUTION TO SET HEARING TO SELL TAX-TITLE PROPERTY BY PUBLIC
41 AUCTION - REQ. #TR2006-10 (AB2006-279)
42
- 43 17. RESOLUTION TO SET HEARING TO SELL TAX-TITLE PROPERTY BY
44 NEGOTIATION TO WHATCOM COUNTY PUBLIC WORKS ROAD FUND - REQ.
45 #TR2006-11 (AB2006-280)
46

47
48 **OTHER ITEMS**
49

- 50 1. ORDINANCE AMENDING THE 2006 WHATCOM COUNTY BUDGET, NINTH
51 REQUEST, IN THE AMOUNT OF \$3,442,842 (AB2006-257)
52

53 *Crawford* reported for the Finance and Administrative Services Committee and
54 *moved* to adopt the ordinance.

1
2 **McShane moved** to amend the ordinance to remove the request for \$50,000 for
3 Engineering/Design at the South Fork Site 1 near the tribal project. The County will have to
4 put a fair bit of money and staff time into the design. There are many flood issues for the
5 County. Staff time going into a project must be considered. They are assuming there will
6 be a lot of mitigation and expense on this project. Say no to this project, which may not
7 happen, before it begins.

8
9 Brenner stated this is a significant expenditure, but she supports it. There was
10 collaboration among the community, staff, and everyone. No one got everything they
11 wanted, but it's important. It will go a long way to protect the area. Stick with it.

12
13 Caskey-Schreiber stated the Whatcom Land Trust said the County did not have
14 jurisdiction over this area.

15
16 Bruce Roll, Public Works Department, stated there is potentially an easement that
17 requires enhancement to the fishery. That would be part of the condition of the project,
18 should it move forward.

19
20 Caskey-Schreiber asked if the Land Trust said it would take a lot of time. Roll stated
21 he recalls that there was a potential easement that would require fishery enhancement.

22
23 Caskey-Schreiber asked if this is necessary to do this project. Roll stated he does.

24
25 McShane asked what public infrastructure, facility, or public good is being protected
26 by a structure at that location. That is the charge of the flood fee that everyone in this
27 committee pays. This is raw and forestland mostly owned by the County. There are no
28 public facilities there. They are asking people throughout this county to put forward money
29 for a project that has no public benefit. It's wrong to spend flood tax dollars in that
30 manner. The project is a long way from any road. The project doesn't meet the geologic
31 test. It's offensive that this project has gone as far forward as it has. If this item isn't
32 removed, he will vote against the entire budget. He's offended that the people who wanted
33 this project have been indulged the way they have been.

34
35 Brenner stated she disagrees with Councilmember McShane. He may be a geologist,
36 but there are people in the area with many years' of understanding of the river. She trusts
37 that understanding and supports the project, which is significant to the area.

38
39 Nelson asked if money from the flood sub-zone district is going into the project. The
40 sub-zone district made this request and dedicated resources to this project. He understands
41 Councilmember McShane's concerns, but this project has gone through the process.
42 Riverberry was an example of a project that benefited only one property. They are not
43 going to have a perfect answer about impacts from river flooding.

44
45 McShane stated he wants to know what public facility or public infrastructure is being
46 protected by this project proposal. He asked the amount of money that the flood sub-zone
47 district will have for this project. The district will not have the money for this project. The
48 district will ask the County to take care of the district's financial responsibility.

49
50 Nelson asked the public benefit to the Tribe's flood mitigation project.

51
52 McShane stated they've already resolved that. They've already mitigated the Tribe's
53 flood project. The County put forward over \$200,000 to mitigate elsewhere on that project.

1 The County already gave money, and now they want money. The County took care of it
2 when it more than resolved the concerns. There is no flood protection there.
3

4 Fleetwood asked if the standard they should consider is whether there is public
5 infrastructure to save. If it is, then the question is whether there is public infrastructure
6 there.
7

8 Jeff Monsen, Public Works Director, stated the standard followed through the project
9 selection processes is that there be a public interest. Because the sub-zone declared a
10 public interest, the project satisfies that test.
11

12 Fleetwood asked where the public interest is. Monsen stated the majority of
13 applicants are individual property owners. A number of applications come from another
14 public entity. Because of the County's process, it gives deference to the Flood Sub-Zone
15 Advisory Committee's declaration of public interest. The public interest, not public
16 infrastructure, is the test.
17

18 McShane asked what would be protected by this project. He asked how much it will
19 cost and how long it will take to be permitted. Monsen stated he doesn't know yet how
20 much it will cost and how long it will take. The easement associated with the Land Trust will
21 complicate the project, but the project will be completed in one form or another. He won't
22 speak for the sub-zone about what is at risk. However, if the river moves out of this
23 channel, it begins a course toward the balance of the Acme Valley. The risk for this
24 happening is there, but it could be this year or in a hundred years. The community has
25 seen this as a priority. The administration supports the position of the flood sub-zone.
26

27 Weimer stated the City made it clear that it doesn't care about protecting its pipe in
28 that location. He is not comfortable with moving forward with this without consulting the
29 Land Trust, who thought it was a significant problem.
30

31 Brenner stated she understood this was the compromise that the Land Trust was
32 okay with. Monsen stated the administration has been talking with the Land Trust. It still
33 has some concerns. He believes there can be a resolution, but there isn't a settlement yet.
34

35 Roll stated that until they do more design work, they won't know what it will take.
36

37 Fleetwood asked if the public interest is defined purely by the wishes of the local
38 people in the area. Monsen stated that is correct.
39

40 Fleetwood asked if it is not based on any evidence or studies that suggest public
41 infrastructure could be damaged or in need of protection. This is a scenario where the basis
42 of the Council's decision is purely based on the opinion of the neighbors that there is public
43 interest.
44

45 Pete Kremen, County Executive, stated this decision was not made just by the
46 neighbors. The recommendation was unanimously made by the three board members that
47 the County Council appointed to the flood sub-zone.
48

49 Fleetwood stated he would like to understand the public interest is that is being
50 protected. Monsen stated the sub-zone members were concerned that, once the river
51 moves through this area, the river would continue toward the town of Acme and damage
52 Mosquito Lake Road. Second, 100 percent of the funds are discretionary. Historically, the
53 river improvement program was to rock a river bank if a citizen requested it. That doesn't
54 happen anymore. The administration had to insist on limiting the scale and number of

1 applications by having a public interest test. They put a great deal of credibility on the
2 recommendation of districts and flood sub-zones. The Countywide Advisory Committee
3 recommended approval as well.
4

5 Caskey-Schreiber asked if there is a problem with waiting to see if mitigation is
6 necessary. Mosen stated that everything in the program can wait. He can only
7 recommend approval because of the deliberation already given to this project.
8

9 Weimer stated he is still concerned about the Land Trust. Also, this project wasn't a
10 priority of the three flood sub-zone committee members. When they were asked the
11 damage that would happen, the committee members said damage would only be to open
12 land. The committee members said the project wasn't their highest priority personally, but
13 it is a high priority of the community, which is why the committee recommended it.
14

15 McShane asked how far Mosquito Lake Road is from this site. Mosen stated it is
16 one to one and a half miles.
17

18 McShane asked the meander bend wavelength on the south fork of the Nooksack
19 River. Mosen stated he doesn't know the bend wavelength.
20

21 McShane stated the Council is the Board of Supervisors. He's been on the
22 Countywide Flood Control Zone District Advisory Committee in the past, and he still attends
23 meetings. It's hard for any group to say no to a community. However, he's familiar with
24 the variety of flood control projects that are pressing. The Nolte Road project from a few
25 years ago is an example. They still have a lot of big projects that the flood staff has to take
26 care of. They get side-tracked by issues like this. This issue is too big of a side-track when
27 there is no real public benefit other than a recommendation from the local district. There is
28 no evidence that any public facility will be damaged. It's all open land. Part of it is owned
29 by the Land Trust. To focus on the real problems on the river, don't become distracted by
30 things like this. The County can't approve every project that comes along. It doesn't have
31 the money.
32

33 Brenner stated the Council may decide it doesn't want to pursue the project after the
34 studies are done. However, there is a certain risk. It is only open land until it gets to the
35 town of Acme. That makes it worth getting the information.
36

37 Nelson stated he didn't like the entire project, including site three. However, he is
38 reflecting the community's desire to protect their assets in the area. That's why the Council
39 should support the project. However, they need a better process. The current process is
40 about specific site locations, not what they are trying to accomplish with flood control,
41 habitat protection, and fish protection.
42

43 **McShane amended his motion** to also include the \$300,00 for the construction
44 project at the South Fork site 1 pipeline revetment, for a total amendment to remove
45 \$350,000 from the request.
46

47 **Motion to amend to remove \$350,000 from the request carried 4-3 with**
48 **Nelson, Brenner, and Crawford opposed.**
49

50 **Nelson moved** to remove construction project at South Fork site 3 in the amount of
51 \$265,000, for the same reasons Councilmember McShane stated. There is no public benefit
52 to infrastructure.
53

1 McShane asked if the County has commitments on that project, in terms of the
2 agreement for the Lummi Tribal Project. Monsen stated that expenditure was integral to the
3 community accepting the Lummi Tribal Project. Site one was important, but site three was
4 critical.

5
6 ***Motion failed 1-6 with Nelson in favor.***

7
8 ***Motion to adopt as amended carried unanimously.***

9
10 **2. ORDINANCE REGARDING PROJECT BUDGET AMENDMENT NO. 4 TO THE 2006**
11 **BUDGET IN THE AMOUNT OF \$577,724 (AB2006-258)**

12
13 ***Crawford*** reported for the Finance and Administrative Services Committee and
14 ***moved*** to adopt the ordinance.

15
16 ***Motion carried unanimously.***

17
18 **3. EXECUTIVE REQUESTS CONFIRMATION OF HIS REAPPOINTMENT OF BESS**
19 **CHRISTMAN TO THE NORTHWEST SENIOR SERVICES BOARD (AB2006-281)**

20
21 ***Fleetwood moved*** to confirm the appointment.

22
23 ***Motion carried unanimously.***

24
25
26 **INTRODUCTION ITEMS**

27
28 ***Brenner moved*** to accept the Introduction Items, including the substitute for
29 Introduction Item one.

30
31 ***Motion carried unanimously.***

32
33 **1. ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTER 10.34 FERRY**
34 **RATES, WHATCOM COUNTY CODE 2006 UNIFIED FEE SCHEDULE (AB2006-**
35 **260)**

36
37 **2. RESOLUTION AUTHORIZING THE SALE OF WHATCOM COUNTY SURPLUS**
38 **PROPERTY PURSUANT TO WCC 1.10 (2006-277A)**

39
40 **3. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION - REQ.**
41 **#TR2006-09 (AB2006-278A)**

42
43 **4. RESOLUTION TO SELL TAX-TITLE PROPERTY BY PUBLIC AUCTION - REQ.**
44 **#TR2006-10 (AB2006-279A)**

45
46 **5. RESOLUTION TO SELL TAX-TITLE PROPERTY BY NEGOTIATION TO**
47 **WHATCOM COUNTY PUBLIC WORKS ROAD FUND - REQ. #TR2006-11**
48 **(AB2006-280A)**

49
50 **6. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
51 **ORDINANCE, SPECIFICALLY ADDING ON-FARM PROCESSING TO CHAPTER**
52 **20.100 - ACCESSORY USES, 20.40.138 - ADMINISTRATIVE USES, DELETING**
53 **20.40.158 ADDING AGRICULTURAL PROCESSING DEFINITION TO CHAPTER**

1 **20.97 - DEFINITIONS AND ADDING LOT COVERAGE RESTRICTION -**
2 **CHAPTER 20.40.450 (AB2006-282)**

3
4
5 **OTHER BUSINESS AND COUNCILMEMBER REPORTS**

6
7 Pete Kremen, County Executive, stated Planner Troy Holbrook has accepted a job
8 with Snohomish County. He will remain working with Whatcom County on urban growth
9 area (UGA) issues on a contract basis. He appreciated and thanked Mr. Holbrook for his
10 wonderful work with Whatcom County.

11
12 The councilmembers thanked Mr. Holbrook for his work.

13
14 Caskey-Schreiber stated Executive Kremen and Dewey Desler attended the EMS
15 Advisory Board Meeting with her on Monday. They approved software for the dispatch
16 center. It should speed up the dispatch process.

17
18 There are several special Council meetings coming up.

19
20 Brenner stated Sustainable Connections is hosting a tour of low-impact development
21 on July 8 and July 9.

22
23 Weimer stated he toured the Portage Bay Shellfish Protection District, which has
24 recently been upgraded. People can take shellfish from there again. He will miss next
25 week's Board of Health meeting because he will be in Washington D.C.

26
27 Kremen stated he went to Washington D.C. last week. He spent three days working
28 with Congress members and other officials on being sensitive to the needs of counties. He
29 also met with White House officials about those sentiments and requests. They brought up
30 four local issues, including the possible land swap for the proposed Nooksack Casino at
31 Northwood Crossing; Bonneville Power Administration rates for Intalco, and; getting some
32 long-term and consistent funding for the drug court.

33
34
35 **ADJOURN**

36
37 The meeting adjourned at 9:15 p.m.

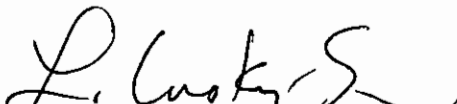
38
39 
40 _____
41 Jill Nixon, Minutes Transcription

42
43 The Council approved these minutes on July 11, 2006.

44
45 ATTEST:

46
47 
48 _____
49 Dana Brown-Darling, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

50 
51 _____
Laurie Caskey-Schreiber, Council Chair