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WHATCOM COUNTY COUNCIL
Special County Council

April 18, 2006

Council Chair Laurie Caskey-Schreiber called the meeting to order at 1:15 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner
Sam Crawford
Seth Fleetwood
Carl Weimer

Absent:

Dan McShane
L. Ward Nelson

OTHER ITEMS

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

Preston Burris, 4 Cedar Place, Sudden Valley, stated he is a signatory to the letter that appears to have generated this emergency. This entire process is disingenuous. It's dishonest to use an excuse for this emergency that fact that citizens are exercising their right, which comes from the State, to bring forward a petition.

The only two elements of an emergency proclamation are the existence of a lawsuit, which was filed some time ago, and his letter.

The first whereas statement in the ordinance is factually incorrect. There was a lawsuit filed regarding the procedures the Council used to make the determination. The right of the citizens to pursue incorporation is a State right, and has nothing to do with the County Council.

In second whereas statement, there is the phrase "the future city of Sudden Valley..." There is no future city of Sudden Valley. There is a process that could, given a number of events, result in a City of Sudden Valley. The statement as it is written is factually incorrect. Watershed issues are very serious. Incorporating the regulatory and land use processes with Sudden Valley's existing architectural standards would create less of an impact on the watershed.

The consequence of this process is to change the zoning to a recreational subdivision. He questions what that means for property values and tax designations. He asked if the County Council will oppose the effort of the Bellingham School District to build an elementary school in Sudden Valley, because it would be the largest single development ever built in Sudden Valley.

This ordinance is retaliatory in nature. If it had not been for his letter, the December timeframe for the expiration of the urban growth area (UGA) would have come and gone. It's specifically intended to squelch debate on the issue.

The County doesn't have the legal or political authority to defend the rights of Sudden Valley to incorporate. The ordinance is entirely suppositional. It's a poor way to

1 govern. There is one reference to the degradation of the watershed. Everything else is
2 procedural and suppositional.

3
4 The third whereas statement is judgmental and pejorative.

5
6 The first finding of fact shows no cause and effect relationship. Scientific evidence
7 shows that basins one and two are worrisome. Sudden Valley is far removed from those
8 basins. There isn't any link in the document that ties Sudden Valley to what the document
9 says will occur.

10
11 The second finding of fact references Sudden Valley's right, as a city, to pursue
12 urban levels of densities greatly in excess of present density targets. What would be greatly
13 in excess isn't defined. A new school would require a rezone that is an increase of land use
14 density.

15
16 The Council can't do what is said in finding three. If there were an incorporated city,
17 that city would have the right to control its land use designation, but that right doesn't
18 ensure that land use density would be increased or decreased.

19
20 The Council is presupposing that everyone who wants to incorporate wants to
21 develop more intensely. However, everyone is concerned about the rate of development
22 and its impacts. The ordinance presupposes a mindset that hasn't been established.

23
24 This ordinance proposes to change the designation from an urban growth area to a
25 residential subdivision. The tax code says it is urban residential. He asked if this ordinance
26 would devalue properties and decrease taxes owed.

27
28 Kalene Drummund, Sudden Valley Community Association Board President, stated
29 the problem is with the recreational subdivision definition. Sudden Valley does not meet the
30 definition. Of all the residents, 72 to 85 percent are full time. The Board is planning for
31 Sudden Valley's future, which doesn't have anything to do with incorporation. They have to
32 know their zoning. The recreational subdivision zone doesn't apply. The area is an urban
33 growth area, whether anyone likes it or not. There are over 5,000 residents. Building is
34 going on out there. It's not right to limit someone's property use. Reconsider the zoning
35 designation, and get together with the Sudden Valley Community Association Board.

36
37 Caskey-Schreiber stated the Council has no choice to revert back to the previous
38 zone. The Council can revisit the zoning designation.

39
40 Hal Hart, Planning and Development Director, stated that assumption is correct. The
41 County can revisit zoning in Sudden Valley. Later the County will look at the appropriate
42 zoning.

43
44 Crawford stated that the Council said Sudden Valley would revert back to its previous
45 zoning when it established the sunset date. The Council hasn't decided that the zone needs
46 to be a recreational subdivision. He asked if they have to accept the wording that says the
47 area goes back to a recreational subdivision. Hart stated that is correct.

48
49 Dan Marantette, Sudden Valley Community Association Board Vice-President, stated
50 the Board would like to discuss the future of Sudden Valley with the Council. It is a
51 licensed, for-profit corporation in the State. The Board members must be cognizant of what
52 it advocates. Not all stockholders are residents. One hundred percent of the membership is
53 registered voters. They are the only community in the state that has voluntarily put 1,333
54 lots into a density reduction program to protect the watershed and create a green belt.
55 That is about \$6 million of assets they voluntarily retired from the corporation.

1
2 Also, they are the only fire-wise community in the state. It has to do with the whole
3 community participating in density reduction and putting in and maintaining good plants
4 that won't burn readily.
5

6 A rural recreational zone, as defined, cannot apply to Sudden Valley. Sudden Valley
7 is too dense and the population is there 100 percent of the time. There is an executive
8 committee of the Sudden Valley Board here right now. That's how much it means to them.
9

10 Fleetwood stated the Council is working on setting a date to meet with the Sudden
11 Valley Community Association Board soon. Marantette stated the Board is not just a
12 property owner's association. It must be careful of what it does, which is to safeguard the
13 assets of the corporation of Sudden Valley, which has a set of trust properties. He would
14 love to discuss that at a joint meeting. The recreational subdivision zone doesn't fit Sudden
15 Valley at all.
16

17 Caskey-Schreiber stated that if there is a better zoning designation, the Council will
18 find it. Marantette stated that Sudden Valley meets the State definition of a UGA. The
19 Board would like to work with the Council.
20

21 Bill Udley, 27 Par Lane, Sudden Valley, stated everyone seems to think that this
22 watershed area will be more polluted if Sudden Valley becomes a city. He can't see any
23 difference whether or not Sudden Valley is an association or a city. It is a municipal
24 governance. It has nothing to do with polluting the lake. The water and sewer district have
25 shown that, as of the end of next year, there will be no more septic systems. That is in
26 contrast to the north end of the lake, where there are many septic systems. The northern
27 portion of the lake, to the east, has the people who are putting things into the lake. Sudden
28 Valley is not polluting the lake.
29

30 This process of changing the County plan doesn't include any due process. Sudden
31 Valley is a UGA by State definition. The County doesn't decide what is a UGA. This County
32 is not following the laws. People aren't given the opportunity to explore the idea of
33 becoming a city. The Council could have let the UGA expire, but it is trying to block the
34 request to become a city. The Council has an agenda.
35

36 Brenner stated she doesn't see that this would cause any reduction in lot value. It
37 may cause an increase in value. The more exclusive something is, the more valuable it is.
38

39 She didn't support Sudden Valley being a provisional UGA to begin with. She isn't
40 thrilled with the way the Council did it. She was told this is the legal way this has to be
41 done. Don't spend any more time and money on considering Sudden Valley as a city.
42

43 She disagrees with the last speaker. It's not just about people's septic systems.
44 There are many rules that have come down from the federal and State governments about
45 stormwater and other things. The more density there is anywhere, the more likely there
46 will be impacts. She can't imagine how a city can be a city without economic development.
47 It's not just a municipal corporation. There must be public services that cost money. Taxes
48 are always higher inside cities than outside the cities.
49

50 She agrees that recreational subdivision or resort recreational zones are not
51 appropriate. There are UGA's that aren't cities. This is the step the County has to take to
52 get back to square one and get to what Sudden Valley really is, which is a UGA. The
53 Council doesn't want to see more density in Sudden Valley.
54

1 She would not oppose a school being built in Sudden Valley. It's very appropriate to
2 have a school out there.

3
4 **Fleetwood moved** to adopt the ordinance.

5
6 Crawford asked the litigation the County is in.

7
8 Fleetwood stated the Clean Water Alliance filed a lawsuit when the Council
9 designated Sudden Valley as an UGA. They were joined by the City of Bellingham as
10 interveners. The County Council has been defending that legislation for a number of years.
11 During that time, a majority of the policymakers on the County Council have opposed it.

12
13 Crawford asked if the County is in litigation to defend its designation as an UGA, or
14 in litigation to defend the rights of Sudden Valley to incorporate. He doesn't know anything
15 about the rights of Sudden Valley to incorporate.

16
17 Royce Buckingham, Senior Civil Deputy Prosecutor, stated the Council is using the
18 word "rights" to mean different things. They aren't talking about the right, legally, for
19 Sudden Valley to incorporate. They are addressing procedural issues in the appeal.
20 Whether or not the residents have the constitutional right is not an issue.

21
22 Crawford stated this ordinance needs to be rewritten. Define the litigation for what it
23 is. Make it a finding. He suggested that they change the second whereas statement to
24 change the words "future city" to "incorporation." There is no future city of Sudden Valley.

25
26 **Fleetwood moved** to amend the second whereas statement to change the words
27 "future city" to "incorporation."

28
29 **Motion to amend carried 4-0 with Crawford out of the room.**

30
31 Crawford referenced the first finding. There isn't a nexus between city-hood and
32 reducing the degradation of Lake Whatcom. There is nothing evidentiary about it.

33
34 In the middle of the second finding, there is inference to Sudden Valley densities
35 becoming more urban if it becomes a city. If they want to talk about rights, the political
36 winds change. The County Council has the right to dictate density. A city of Sudden Valley
37 doesn't have more or less right than the County to set densities. It's not a correct
38 conclusion.

39
40 Brenner stated she disagrees. The County's unincorporated areas aren't supposed to
41 increase density to urban levels. The County is to target unincorporated areas, which aren't
42 supposed to be urban. Urban services and areas are to be targeted to cities. The language
43 says "present."

44
45 Caskey-Schreiber stated she disagrees that the need for the interim ordinance is not
46 factual. For any city to survive, it will need a tax base.

47
48 Crawford stated they don't know that.

49
50 Caskey-Schreiber stated Birch Bay is going through this now. Residents of Birch Bay
51 realize that it will be difficult to incorporate because of a lack of a tax base. They need a
52 commercial and industrial area, which this area doesn't have. Their only option is to make
53 different zoning. Since the area is only platted for residential, one could argue they need to
54 acquire additional land.

1 Crawford stated that this is not an appropriate action for Council. The best
2 government is local government. The Council should do everything it can to help Kendall
3 Valley, Birch Bay, Point Roberts, and Sudden Valley to move to self-governance. He
4 encourages that degree of independence. All the negatives in the findings could be turned
5 into positives with stringent governments. Sudden Valley has come up with stringent
6 guidelines already. They have taken extremely strident measures to protect the
7 environment, water quality, and quality of life far more than County government will ever
8 do. He asked why the Council is opposed to their incorporation. This isn't right.

9
10 Fleetwood stated the people of Sudden Valley are not villains in any way. He is fully
11 aware of many of their programs.

12
13 *(Clerk's Note: End of tape one, side A.)*

14
15 Fleetwood continued to state that Sudden Valley has some programs that are better
16 than County programs. His motivation for bringing this forward is that the Growth
17 Management Act (GMA) and Comprehensive Plan state that urban growth areas must be
18 designated for future increases in urban levels of densities. Other areas in the
19 Comprehensive Plan say that the County does not seek that. The Council, in numerous
20 ways in the past, has expressed that it doesn't want density increases in the future. This
21 isn't about what people are doing today. This is based on the chance that future councils
22 would be obligated to express population projections and would be under a duty to meet
23 those projections in precisely the place they don't want that growth.

24
25 The word "disingenuous" is defined as a lack of candor. He filed an application on
26 time to amend the Comprehensive Plan in December, because it was his right as a
27 councilmember to do so. Other councilmembers expressed their support for his
28 amendment, which got significant play in the press. People knew about it. They spoke
29 about it. This was not an effort to be disingenuous.

30
31 When he read the emergency provisions for amending the Comprehensive Plan, one
32 provision says they can use an emergency provision to resolve pending litigation, which the
33 County in on this very point. It's clearly an appropriate basis to use the emergency
34 provision. The code requires an emergency thereafter to continue it. He filed that
35 appropriately. There was public notice. It is well known by all concerned. He takes
36 exception to the claim that this is disingenuous.

37
38 Pursuant to this process, presently designated development rights won't change due
39 to this ordinance. No land owners with platted, vested rights to build upon will be stopped
40 by this ordinance. It isn't a downzone.

41
42 The purpose of whereas statement five is to talk about having an urban growth area
43 in a place where they don't want it, as specifically discussed in the Comprehensive Plan.

44
45 Caskey-Schreiber stated she supports the ordinance. The GMA, when an area is
46 designated UGA, is the green light for growth. The County is obligated to commit to
47 allowing growth in that area, with the eventual goal of fostering incorporation. However,
48 this UGA lies in a critical natural resource for the wellbeing of the city of Bellingham.
49 Through many sources, they've learned that there are many things that contribute to
50 degradation of a water body. One of them is impervious surface. An impervious surface
51 level over ten percent contributes to degradation in the ocean. The more impervious
52 surface they have around Lake Whatcom, the greater the financial burden. There is a big
53 stormwater problem around the lake they must pay for. In good conscious, they cannot
54 have the UGA out there when they are spending millions of dollars to fix the existing
55 problem around Lake Whatcom. The County is trying to acquire property around the lake,

1 which is the best way to limit degradation. The County is working with the community to
2 reduce impacts.
3

4 This isn't against Sudden Valley. It was a poor decision made in the 1970's. The
5 community has stepped up to the problem with its density reduction program. The
6 community and the County have worked well together in the past. She supports them, and
7 would like to continue working with the community. The Council is trying to balance the
8 needs. In good conscious, the Council cannot allow more growth in this area than what is
9 already platted. The risk is too big that the golf course can be rezoned if the area were
10 incorporated. They've seen it happen in other communities. There are no guarantees.
11 When a city controls it's land base, it controls everything. That's something the Council
12 must consider. Property values will not change at all. If anything, the tax value will be
13 higher. It isn't an issue. This is wise for the County's well-being.
14

15 Weimer stated he supports the ordinance for the reasons stated. He looks forward
16 to the joint meeting with the Sudden Valley Community Association Board. He is impressed
17 with the things Sudden Valley has done. If incorporated, the Sudden Valley Community
18 Association may lose its ability to control that growth, and the city will take on a life of its
19 own. It might be five years or 20 years, but there is concern about growth.
20

21 There was some discussion that this ordinance is in reaction to the petition that was
22 filed. That's not true. The Council discussed this long before the petition was filed. The
23 City of Bellingham asked the County to do something like this, before the petition was filed.
24 This was a Comprehensive Plan amendment docket item since December. There had been
25 much discussion of this before the petition was filed.
26

27 ***Motion to adopt as amended carried 4-1 with Crawford opposed.***
28
29

30 **OTHER BUSINESS**
31

32 There was no other business.
33
34

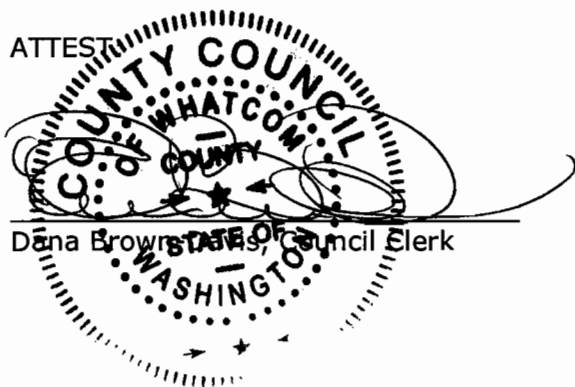
35 **ADJOURN**
36

37 The meeting adjourned at 2:10 p.m.
38

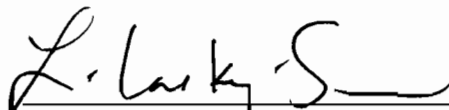
39 
40 _____
41 Jill Nixon, Minutes Transcription
42

43 The Council approved these minutes on May 23, 2006.
44

45 ATTEST

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48
49
50
51 Dana Brown, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Laurie Caskey-Schreiber, Council Chair