

WHATCOM COUNTY COUNCIL  
**Planning and Development Committee**

February 14, 2006

Committee Chair Seth Fleetwood called the meeting to order at 3:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:  
Barbara Brenner  
Dan McShane

Absent:  
None

Also Present:  
Carl Weimer  
Laurie Caskey-Schreiber  
Sam Crawford

**COMMITTEE DISCUSSION ONLY**

**1. RESOLUTION INITIATING COMPREHENSIVE PLAN AND ZONING AMENDMENTS FOR 2006 (AB2006-082)**

Docket # 2006-I: Density and Clustering in UGA's

29 Matt Aamot, Senior Planner, stated that if a urban residential site is in either a long-  
30 term planning area or a short-term planning area without water and sewer, then the  
31 proposal is to require a gross density of one dwelling unit per ten acres instead of five  
32 acres. The idea is to not split them up to preclude future urban development. Also, the  
33 minimum reserve tract would have to be 90 to 95 percent of the lot, not 80 percent of the  
34 lot.

35 ***Fleetwood moved*** to recommend docketing to the full Council.

36 Brenner asked if someone could have a density of one unit per five acres, with a  
37 reserve tract of 90 or 95 percent of the lot. Aamot stated it may be difficult to fit all the  
38 water, sewer, and other things on the lot. That concern would be discussed during this  
39 process.

40 ***Motion carried unanimously.***

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44 Docket # 2006-U: Add a goal to create a long-range land use directive

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46 Troy Holbrook, Senior Planner, stated this item is to revise policy 2A-1. It means  
47 legacy planning for 50 to 100 years.

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49 Dave Pros, applicant, stated it's difficult to keep in mind the big plan. There isn't a  
50 long range view in which to put individual decisions in a context. Having a long range plan  
51 is a good idea. He hopes the Council will generate a long range view of the county. The  
52 growth now creates many different problems. Part of a legacy plan could include new  
53 cities. A legacy plan allows the County to be proactive. His application suggests

components of a possible legacy plan. He will talk with the Executive in a few days about creating a Blue Ribbon Commission to generate a long-range plan. There may be an initiative to generate a long range plan.

Fleetwood asked if the application is to just amend the goal, or also generates actions. Pros stated the application is to create a long range goal and create a committee to develop the plan. If docketed, the long range planning process will start.

Fleetwood stated many people in the community have expressed this idea. He doesn't have a problem docketing it. He senses this isn't the type of item that would require a great deal of staff time. Holbrook stated this item would take about 30 hours of staff time. This is mostly a goal with some policies. It's not a work product.

Brenner stated a visioning process took more than 30 hours. The application is to form a committee and engage in a visioning process. She won't support that. Pros stated he would like the Planning staff to tell them the best way to develop the plan. Then the Planning Commission and Council can look at the proposal. He would like something to give to the development community that is consistent and predictable. This may just be a limited process that includes a staff person, a representative from the Building Industry Association, and another with a more balanced view. Those people can go into communities and take a survey of where the community wants to grow.

Brenner stated she would support this if there is flexibility in how involved it gets. Pros stated one of the efforts could be to update the visioning process.

Brenner stated the visioning document isn't outdated, it just lacks specifics.

29 Bill Hinely, 2676 Donovan Avenue, Bellingham, stated governments in Europe are  
30 requiring efficiencies in housing structures, parks, greenways, bike transportation corridors,  
31 and other amenities. Look at those examples. The emphasis is reconnecting with the  
32 ecological treasures they have and creating a more idealized community over 100 years.  
33 This kind of thinking isn't coming from this planning. Whatcom County has a fairly clean  
34 slate to work from. Start looking at those options. Docket the proposal.

35 Jack Petree, 2955 Sunset Road, Bellingham, stated the County is four or five years  
36 late in doing the work it is supposed to do to update the Comprehensive Plan. A legacy  
37 plan will take a lot of time and effort. Get the job done that they are supposed to do now.  
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39 **Fleetwood moved** to recommend that this item be docketed. He appreciates Mr.  
40 Petree's comments, but having a long range plan is a good thing. The County is working  
41 on completing the Growth Management Act (GMA) update requirements. A long range plan  
42 won't interfere with that.  
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44 McShane stated he likes the concept. The goal of having a legacy plan should be  
45 decided first. First, define what they want the plan to be. There are more people in this  
46 community than Mr. Pros who are raising this very issue. The project of developing a  
47 legacy plan must have well-defined goals. If it is in the Comprehensive Plan now, they  
48 would spend a lot of time trying to decide what it should be.  
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50 Brenner asked Mr. Pros to come to the Council with examples of how the visioning  
51 plan is outdated. The visioning plan lacks specifics. She's not comfortable supporting the  
52 item.  
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**Motion failed 1-2 with Fleetwood in favor.**

Docket # 2006-V: Add a goal - Building Permit Allocation Policy I

Dave Pros, 1466 Roy Road, Bellingham, submitted information (*on file*). The County Council must plan for 64,000 people to move here in the next 20 years. That is about 1,400 units per year countywide. According to Planning Department information, the County issued 5,795 permits. If docketed, Planning staff would provide a more refined process of how this would work. This policy is a tool that allows the County to get control of growth. It has been used successfully in Mt. Pleasant, South Carolina. His handout is a list of benefits of building permit allocation. The population increase at the same rate as the in the past 19 years would result in a population of 692,000 in 2064. In one hundred years, the population, at the current growth rate, will be 1,842,519.

This amendment does not eliminate one house. All this amendment does is ask that the population limit is allotted equally over the next 20 years. The plan is for more orderly growth. This would help solve the problem of vested lots. It provides consistency and predictability. This is not against the Growth Management Act, according to the letter from the State Department of Community, Trade, and Economic Development (CTED). This is not bad planning, which some people will say. Bad planning is allowing unplanned growth, which is what they have now. People's taxes will grow tremendously to pay for the infrastructure for growth that is out of control.

Caskey-Schreiber asked the permit level per year right now given the growth projections. Pros stated it would be around 1,400 building permits per year. The building permits totaling 5,800 is just unincorporated areas. It doesn't include the permits from the cities.

29 Crawford stated the suggestion is for the Council to take a different view of the  
30 planning process. Population projections are the Council's best guess of what the  
31 population will be based on certain factors. The suggestion is that the Council will use  
32 population projections as a method of growth control. Pros stated that the County needs a  
33 change in the way it looks at the process to go from unlimited and uncontrolled growth to  
34 growth they can pay for, allows the quality of life, and shows allegiance to current  
35 residents. The proposal is to move from an uncontrolled to a controlled situation.  
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37 Crawford stated there is a level of regulatory growth now that is already  
38 overwhelming and overburdening. He asked who should have control. Pros stated the  
39 people in the county should have control. That's why he recommended a legacy plan. The  
40 Council has the ability to determine the number. Make the number real. Right now, the  
41 number has no meaning for anything other than planning.  
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43 Crawford asked if the Council legally has the ability to determine what the planning  
44 number is and how many people will live here. Pros stated the Council has the ability to  
45 pick a growth projection that is based on an actual number. Now, the number that is  
46 picked doesn't have anything to do with the real growth. There are two choices. One  
47 choice is to continue with the current growth philosophy. Another choice is to control the  
48 growth. The Council is obligated to follow what the Comprehensive Plan says about  
49 growth.  
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51 Crawford stated he doesn't agree.  
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Brenner asked Mr. Pros to explain the difference between docket item 2006-V and 2006-W. Pros stated one item is tiered building permit allocation to allow a certain number of permits for affordable housing. All affordable home permits would be purchased by people who want to live in those houses, not by the developers. Tiered permitting is constitutional. It's done in South Carolina.

Crawford stated that in the State of Washington, any building permit allotment scheme was based on the lack of ability to provide utilities only, not based on a population projection made up by a legislative body.

Fleetwood asked David Hunter how his proposal fits into this.

David Hunter, resident, stated his proposal isn't a Comprehensive Plan change. The larger issue raised by Mr. Pros might relate to his and the Planning Commission's recommendation. The committee can safely address one issue in one way and address the others in another way.

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

Hunter stated his proposal is to establish in rural areas only a building permit allocation process for that area alone, that is consistent with the population projection. That process is something that can be done independent of the larger question. Mr. Pros recommendations include the urban growth areas (UGA's) which are much more complex.

Holbrook stated there is a difference between this amendment and Mr. Pros's amendment. This includes the UGA. CTED says GMA is silent on permit allocation. To explore this, staff will have to see if GMA goals are consistent. CTED posed additional questions that need to be answered. CTED says Whatcom County will have to work with neighboring Skagit County. He submitted and read from the letter from CTED (*on file*).

Bob Wiesen, 3314 Douglas Road, stated he is opposed to the docket item. Figure out some way to be equitable. When the supply is restricted, the price will go up. Affordable housing won't be used. They need affordable housing.

Peter Roberts, Whatcom County Association of Realtors, stated he is opposed to the docket item. These amendments don't protect property owners or widen the opportunity to own property. He submitted a letter (*on file*). Realtors question government's authority to deny the people's rights to build a home on property they own. The proposals aren't in step with the GMA. They don't promote economic growth, protect private property owners from discriminatory actions, provide just compensation, or comply with substantive due process. A reduction in housing supply forces housing prices to increase, reducing affordable housing options. Define affordable housing before allocating permits for it.

McShane asked if the Association of Realtors has a definition of affordable housing. Roberts stated it does not.

This proposal will artificially limit revenue for business connected to the home building industry. Do not docket items 2006-V and 2006-W.

Jack Petree, 2955 Sunset Road, Bellingham, stated he is opposed to the docket item. Ask staff to provide accurate building permit information for the last few years. Mr. Pros's numbers aren't correct. Docketing this item would demand that the Council entirely rewrite the Comprehensive Plan. Projections are a tool they use to do good planning. They

are not maximums or minimums. This proposal takes away opportunity for rational planning. The County is five-years late doing the five-year review. It won't stand any court scrutiny.

John Lesow, 317 Madrona Place, Point Roberts, stated he is in favor of docketing 2006-V and 2006-W. The City of Sammamish have worked on similar problems. If something like this is passed, the County will get sued. The question is whether this is the right thing to do. This is GMA compliant. The GMA is silent on permitting. The County will allow 59 permits per year for the rural, unincorporated areas only, not the entire county. Staff said it will take 75 hours to work on the building permit allocation proposal. If the County had a building permit allocation program, it wouldn't spend so much time dealing with other issues. Incremental allocation to deal with this has been around for some time. A GMA-compliant mechanism that is supported by the Planning Commission would make it easier to deal with growth. They can't build their way to affordability. The Whatcom County growth rate is 1.7 percent, but the building rate is much higher than that. They're talking about second homes for investments. Don't overextend the land supply. A building allocation system is a good place to start. It was generated from the people.

Bill Geyer, 1008 - 16<sup>th</sup> Street, Bellingham, stated he is opposed to the docket item. State of Washington land use law distinguishes between discretionary and nondiscretionary permits. If a community properly plans and lays out its zoning classification and the utilities to serve those locations, then a project should move forward. Those proposals generally don't have to come before a body for approval. Discretionary permits must be reviewed and can be turned down. Most building permits are nondiscretionary. Those permits can't be metered. Nondiscretionary building permits are not under the Council's control. The Council will have to provide findings that show risk to public health and safety when people build in compliance with building regulations. The Council must address how this proposal is or is not compliant with the Whatcom County Charter section 1.11.

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Carol Handy, 325 Van Wyk Road, stated she is opposed to the docket item. Her land is designated agricultural, but it has very poor soil. Last year, an emergency moratorium caused a lot of building permit applications. Too many things are happening behind closed doors. Government is supposed to be transparent. Everyone who owns a home has to pay taxes. Builders and developers pay for their impacts. The County should have tried to limit growth ten years ago. Limiting the number of houses will make it impossible for her grandkids to afford a house.

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Lincoln Rutter, 8373 Semiahmoo Drive, stated he is in favor of docketing the item. There is a problem he'd like to understand. Docketing will be the best way to understand it. Of all American households, 33 percent have more than 40 percent of their total disposal income pledged to their mortgage. Anything over 28 percent is a problem. Many home purchases did not include a down payment. Of all homes purchased, 25 percent were purchased for speculation, not to be lived in. Bellingham is the 16<sup>th</sup> most overheated market in the country. That means speculation is even more. Many people are taking out second mortgages based on artificially inflated home values. Many large companies in the country are laying off employees and filing for bankruptcy. The illness is globalization. In Birch Bay, 2000 building permits were issued. The number of unoccupied homes is massive. The idea is that wealthy people are going to buy these homes in Birch Bay. However, the Federal Reserve raised interest rates to slow speculative pricing in home values. The population growth rate is 1.7 percent in Whatcom County. The home building rate is 3 percent in Whatcom County. Twice as many homes are being built as are occupied. There is an economic problem here. Docket the item instead of making it a work

plan so the Planning Department must address the issue. There are 900 code violations outstanding because there isn't any enforcement staff available to work on it.

Bill Hinely, 2676 Donovan Avenue, Bellingham, stated the Council should docket the items. In free enterprise, they are supposed to let people buy and sell what they want to. However, it doesn't work that way. The most vocal proponents of capitalism are only that way when they're winning. When they're not, they demand that the government take control to keep the playing field in their favor. That is what is happening now. Decisions will be made on who builds where in the county. The question is who decides and how. Under the present plan, the decision-makers are the person who thinks they want to live in Bellingham, a developer who is willing to build a house, and the land seller. A more rational approach is to continue to discuss the kind of place they want to live. The elected officials are to help the people with that process. Make rational decisions about what is built and where it is built. There is no harm in discussing the proposals to revise a system that isn't working.

Patty Rutter, 8373 Semiahmoo Drive, stated there are three examples of things that have happened recently in Whatcom County. The current committee has been elected to ensure the citizens have clean air, clean water, safe roads, and safe harbors. First, Dakota Creek is so polluted due to runoff from Lynden that there is a special study going on.

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

Patty Rutter continued to state that residents have been working for years to clean up Drayton Harbor. Many fishermen make a living off of that sea. Dakota Creek, as it empties into Drayton Harbor, is a huge threat. They can't tell what the contaminants are.

29 A second example is that the fire chief has said they can no longer provide fire  
30 service in Whatcom County with a good response time. Insurance companies will increase  
31 rates if this isn't addressed. Committees are trying to resolve the problem. The fire houses  
32 can't support the growth in Birch Bay. There aren't fees tied to development on the front  
33 end. People expect to have fire protection services when they move into a home. People  
34 expect to send their children to the local school, whether or not funding was provided for  
35 that service.

36 Third, there is a long traffic backup every day for people who try to drive between  
37 Bellingham and areas in the county.  
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39 Those three factors indicate something isn't being done right. The building industry  
40 hasn't acknowledged the problem of growing so quickly and hasn't come up with alternative  
41 suggestions for building permit allocation. They have a responsibility to the citizens who  
42 live here today. Docket the items from Dave Pros.  
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44 James Stanford, 1841 Front Street, Lynden, stated none of the Comprehensive Plan  
45 docket item applications maintains and protects the current level of property ownership.  
46 All the applications diminish property ownership. There is a cost of time and money for  
47 every permit that comes before the Council. Developers aren't raking in large profits at the  
48 expense of the public. The developers have to compensate for the impacts to the  
49 community. The County has already approved 25 percent of the growth that is budgeted  
50 for the next 20 years. It is taking a year or more for plat approval. Developers must  
51 develop to the latest County and State standards. Think about the property owner who  
52 pays taxes but has no options.  
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Jo Slivinski, 6163 Semiahmoo Lane, stated no one wants to deny individual property owners the right to develop. However, huge developers, not 4,000 new home owners, are coming in and building. The people developing the land are not going to live on the land. They are going to develop, make a profit, and sell the houses as speculative real estate. Birch Bay lacks infrastructure for the 4,000 new homes being developed. Docket both of these items to investigate the situation.

Diana Kirkheim, Land Use Attorney, Bellevue, stated she represents the Building Industry Association of Whatcom County. Case law indicates that the County has an obligation to accommodate growth. The Growth Management Act (GMA) is designed to manage growth, not stop growth. They must be consistent with the goals of the GMA. The letter from the State Department of Community, Trade, and Economic Development (CTED) raises concerns about this issue. This will create problems with neighboring jurisdictions. It artificially denies housing supply, which escalates housing costs. Property owners will not have predictability, which is a legal right. Vested rights will be jeopardized. The Constitution protects peoples' rights to use their properties. The County will not be immune from liability.

Bill Henshaw, 2653 North Park Drive, Bellingham, stated some of the extra supply being built is by people who have second homes here. House prices are accelerating. People are buying their houses for retirement. The median price of a home should fall at a level that a buyer with a medium income can afford. Whatcom County has experienced a lot of economic growth in the past year. That explains the demand for housing. The people in Washington aren't buying on speculation. This allocation system would put affordable housing businesses out of business.

Skylar Dartt, 3129 Brandywine Court, Bellingham, stated he is a local builder. They won't know what the population growth will be in a year. Don't determine how many new people can reside in Whatcom County. The Council must support the building department. Instead of this, make sure that the building department and the Public Works Department have the resources they need. People who own property must be able to use that property as the rules allow. Metering permits will drive up the prices. People need to pay more to provide services that people need.

Dana Quam, Bellingham, stated the U.S. Constitution gives people the right to build on their properties, unless there is a legal reason not to that is for the better good of all. People who will get in line to build first are those who are knowledgeable of the process. Individuals and families will be denied their rights to build. The proposal won't provide affordable housing, so the courts will strike it down. Don't docket the item. Consider something less restrictive that still protects the quality of life they want to protect.

Luke Kaemingk, 2724 E. Crestline Drive, Bellingham, stated they can't predict what will happen in 20 years. The building industry is subject to supply and demand. Limiting housing artificially will cause prices to go up. That won't help affordable housing.

David Hunter, 819 Mason Street, Bellingham, stated docket these items. The benefit of docketing this potentially useful tool in creating a deliberative process for development in Whatcom County. The purpose behind this is concern about how growth occurs in Whatcom County. His proposal has to do with just the rural areas. Everyone is alarmed about the level of development in the rural community in Whatcom County. One suggestion for coping with the level of development is permit allocation. The reason for permit allocation is environmental. They want to protect certain resources. The question is whether they use all the tools available.

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2 The reason the Council created population projects was to have a guideline for  
3 planning development. That's the starting point, not the ending point. If the population  
4 increase is more than projected, the Council won't have been able to plan for it. Create  
5 certainty that County is planning for infrastructure, schools, and all services are provided  
6 by making the projections consistent with what actually occurs. The Council hasn't tried to  
7 limit growth beyond what is projected. The Council isn't attempting to prevent growth.  
8 The Council is attempting to establish growth at the level it projected. There is a reason for  
9 looking at this item. The Council may choose not to use the tool. Find out what is  
10 available and what makes sense by forwarding the items for docketing.

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12 Andrew Lohrer, 3523 Redondo Way, Bellingham, stated don't docket these items.  
13 This is wrong. The Council doesn't have the right to stop or limit growth this way. He  
14 believes in the free market.

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16 Michelle Moline, 3244 Carrington Way, Bellingham, stated she just bought a five-  
17 acre parcel on which she wants to build. Figure out exactly how many parcels that are out  
18 there that could ever be issued a permit. That is exactly the maximum without rezoning.  
19 As a property owner, she would like enough warning to make a decision.

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21 Paul Schissler, 215 W. Holly Street, Bellingham, stated he represents the Kulshan  
22 Community Land Trust. They can see the growth pattern over the last 15 years. Housing  
23 affordability has gotten worse, despite all efforts. The U.S. Census Bureau says one-third  
24 of the households in this county don't have housing they can afford, which is 30 percent of  
25 income. Home ownership patterns are worsening. Fewer than 50 percent of the  
26 households in Bellingham now are not homeowners, for the first time in history. The  
27 private sector cannot solve this problem alone. The public sector must do everything it can  
28 do. Try some new things. Now, people can't afford homes at or below the median income.  
29 The median income is \$50,000. Half the households have an income that is less. The  
30 median price of a home is \$269,900. Market incentives are pushing builders to build  
31 homes in that range. What they've been doing in the past isn't working. If the County is  
32 going to consider a building permit allocation system, it must provide a range of housing  
33 costs that match the demographics of the jobs that are here now or are going to come  
34 here. This will continue to be a place to where people want to move. Issue building  
35 permits that are affordable at a certain income range. Reserve half the permits for the  
36 range they need. As supply and demand works now, it doesn't deliver a home at \$150,000  
37 or less, which is where the demand is.

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39 Pros stated the correct number of permits in the county is 1,400, not 5,800. They  
40 don't know what the number is in the cities.

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42 Hart submitted the total number of plat applications submitted since the beginning  
43 of 2006 (*on file*).

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45 McShane stated he is not inclined to put these forward as part of a Comprehensive  
46 Plan amendment.

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

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50 McShane continued to state he is not opposed to permit allocation. There are strong  
51 suggestions in the rural area and affordability. It doesn't require a Comprehensive Plan  
52 amendment to address those issues. It would take a very long time to go through the  
53 process on these items. One of the biggest problems they have is that the current

1 Comprehensive Plan is very flawed regarding zoning in many areas. Focus on crafting  
2 plans where the zoning matches the projected growth plans. The population projection for  
3 the rural area is very low. To protect resource lands, they may need to address zoning.  
4 They must address concurrency and zoning without this thrown in.  
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6 The current Comprehensive Plan allows them to address housing affordability in a  
7 different way. They don't need a Comprehensive Plan amendment for permit allocation.  
8 **He moved** to recommend docketing item 2006-V, but will vote against it.  
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10 Brenner stated she would like the county to stay the same, but this doesn't seem  
11 fair. County problems have to do with implementation. The Prosecutor is not inclined to  
12 prosecute property code violations. Metering isn't going to change that. The people in the  
13 urban growth area are heavily impacted and have no predictability. Metering won't solve  
14 that problem. There must be a good relationship and good agreements with the city. This  
15 isn't the solution.  
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17 Fleetwood stated he has reservations about the viability of it and more questions  
18 than answers. He will support the motion. Under Growth Management, the County is  
19 obligated to accommodate a certain amount of growth, which is the population projection.  
20 He is persuaded to give this further consideration.  
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22 Some people said that supporting this doesn't follow substantive due process. When  
23 rapid development severely lowers the quality of public services, it constitutes a sufficient  
24 basis to at least consider invoking powers to protect health, safety, and welfare. That  
25 doesn't mean he will necessarily support it when it comes back, but he will considering.  
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27 Brenner stated the Planning Department staff is extremely overloaded. It would be  
28 fine if all councilmembers take time to research the possibility of metering. Going through  
29 the process with staff will take a long time. This could be scheduled next year. Staff  
30 should spend time on concurrency issues and impact fees instead of metering.  
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32 **Motion failed 1-2 with Fleetwood in favor.**  
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34 Docket # 2006-W: Add a goal - Building Permit Allocation Policy II  
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36 See Docket #2006-V for discussion of and testimony given on this item.  
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38 **McShane moved** to recommend docketing to the full Council.  
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40 **Motion failed 1-2 with Fleetwood in favor.**  
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42 Docket # 2006-X: Add a policy regarding UGA density  
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44 Fleetwood stated this would be held in committee for two weeks.  
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46 Docket # 2006-AA: Add a goal regarding the creation of a one-mile or greater buffer  
47 around cities  
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49 Fleetwood stated this would be held in committee for two weeks.  
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51 Docket # 2006-BB: Add a policy regarding the establishment of a Design and Review Board  
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53 Fleetwood stated this would be held in committee for two weeks.

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**OTHER BUSINESS**

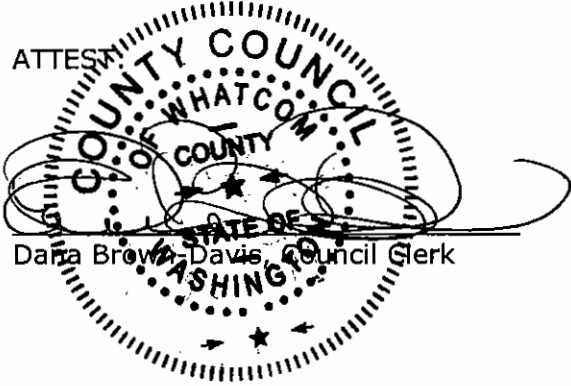
There was no other business.

**ADJOURN**

The meeting adjourned at 5:50 p.m.

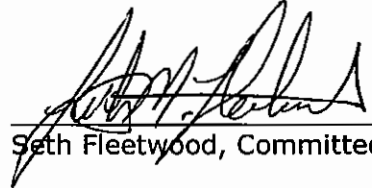
  
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Jill Nixon, Minutes Transcription

ATTEST



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Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

  
\_\_\_\_\_  
Seth Fleetwood, Committee Chair