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WHATCOM COUNTY COUNCIL
Regular County Council

March 27, 2007

Council Chair Carl Weimer called the meeting to order at 7:03 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner
Dan McShane
Sam Crawford
Seth Fleetwood
Laurie Caskey-Schreiber
L. Ward Nelson

Absent:

None

FLAG SALUTE

ANNOUNCEMENTS

- 1. CONSIDERATION OF AN APPEAL OF THE HEARING EXAMINER'S DECISION ON A CONDITIONAL USE PERMIT (CUP06-0021) REQUESTED BY KINDER MORGAN CANADA, FILED BY EC HOFFMAN TRUST (AB2006-472)**

Weimer stated the Committee of the Whole discussed this item in executive session.

Nelson moved to uphold the Hearing Examiner's decision.

Motion carried 6-1 with McShane opposed.

Weimer stated the Committee of the Whole held a **discussion with Senior Deputy Prosecutor Royce Buckingham regarding pending litigation (AB2007-018)** in executive session.

MINUTES CONSENT

Fleetwood moved to approve the Minutes Consent items.

Motion carried unanimously.

- 1. COMMITTEE OF THE WHOLE FOR FEBRUARY 27, 2007**
2. REGULAR COUNTY COUNCIL FOR FEBRUARY 27, 2007

OPEN SESSION

The following people spoke:

1 Kris Ungern, 2095 North Shore Road, Bellingham, stated a new **interim ordinance**
2 **imposing a moratorium on the acceptance of new applications for subdivisions**
3 **within the Lake Whatcom Watershed (AB2007-158)** is being introduced on the Council
4 agenda this evening. This began in January, 2005. He asked when the moratorium will
5 end. The public needs to know the status of promised efforts to evaluate the impact of
6 future development on water quality, as measured by phosphorus loading and dissolved
7 oxygen. Further development is being held hostage by the long-promised, but never-
8 ending, total maximum daily load (TMDL) study. He asked the status of the Stormwater
9 Management Plan, the transfer of development rights (TDR) program, zoning density and
10 development standard review within the urban growth area (UGA), and land acquisition
11 program. He asked why they would exempt larger parcels. Cluster development for large
12 subdivisions seems to be a bigger issue than the small lots affected by the moratorium. The
13 Council must do a better job of informing the public and hold public hearings before
14 adopting the controversial ordinances.
15

16 Jack Petree, 2955 Sunset Drive, Bellingham, submitted a map of the Yew Street
17 Road area (*on file*). Annexation will be difficult in that area due to parcelization. In 1997,
18 the Comprehensive Plan assumed that 75 percent of all the parcels in the urban growth area
19 would be developed, occupied and annexed at a density of four to 18 units per acre.
20 However, a small part of the urban growth area (UGA) developed at an average of two units
21 per acre. People moved out to the county instead of the City and urban growth area. In
22 2002, they decided that 85 percent of the parcels would fully develop at a density of six to
23 24 units per acre. However, people are still moving out of Bellingham to areas in the
24 county.
25

26 Mauri Ingram, Trillium, submitted a letter (*on file*) and stated she will speak on the
27 Comprehensive Plan docket applications 2007-L and 2007-M. She read her letter into the
28 record.
29

30 Don Shepherd, 4518 Wall Street, Bellingham, stated he thanks the Council and
31 Executive for their help. They live in a democratic system. Wall Street belongs to all of
32 them. He asked the Council to do what the Executive wants done on Wall Street.
33

34 Andy Mesches, Cabrant Road, Everson, stated a great quantity of muddy water is
35 rushing down a hillside onto his property. A business card from a forester with Sierra Pacific
36 was left on his door. There is a deep, new gully that cuts into his land. Farther upstream,
37 on Sierra Pacific land, a culvert has been positioned directly at his property. A stream has
38 been redirected onto his property, forcefully depositing mud and water on his property and
39 eroding the hillside. Because of the new stream placement, setback requirements make any
40 additions to his one-bedroom house impossible. The State Department of Natural
41 Resources (DNR) denied jurisdiction, which is why he is here. He has not found any
42 application on the part of Sierra Pacific to do this. The representative of Sierra Pacific has
43 tried to negotiate with him about where and how to put the stream on his own land, which
44 is ridiculous. The Council should exercise oversight, prevent further damage, and rectify
45 what has been done.
46

47 Pete Kremen, County Executive, stated it was brought to his attention that there is
48 some severe erosion in this area on Saturday morning. He has talked to the Sierra Pacific
49 representative. He is not impressed with Sierra Pacific's response so far. He's talked with
50 Bill Wallace at the DNR today. There is definitely a problem. They are working on a
51 solution.
52

1 Patrick Alesse, 4825 Alderson Road, Birch Bay, stated there are stormwater
2 problems all over the county. A bunch of agencies have fowled up, and everybody blames
3 everyone else. Don't allow the previous speaker to get stuck in his situation.
4

5 Jack Kintner, Point Roberts Press, stated the Council and Executive are on the right
6 course regarding animal control. They must observe due process. Also, there is a need for
7 oversight and also need for speed and dispatch. The family he wrote about is still spending
8 the night in their driveway. It doesn't have a lot to do with Security Specialists Plus (SSP),
9 but somebody needs to be able to help right away. There are many animals in Whatcom
10 County. They need due process to select the right contractor, and they need oversight over
11 whoever is doing the work. Support the letter that Councilmember Caskey-Schreiber will
12 present.
13

14 Sharon Crosier, Bellingham, stated many people are waiting for the total maximum
15 daily load (TMDL) study, for many different reasons. The nature of an emergency
16 moratorium is that it has an urgency. Don't apologize for doing the right thing. The
17 mistake was in allowing a well-organized opposition to make them back down. Prevent the
18 demise of the city's drinking water. Stop the idea that the watershed is a toy or a place to
19 make money. Protect the Lake Whatcom watershed and drinking water.
20
21

22 **PUBLIC HEARINGS**
23

24 **1. ORDINANCE ESTABLISHING THE BIRCH BAY WATERSHED AND AQUATIC**
25 **RESOURCES MANAGEMENT DISTRICT (AB2007-113A)**
26

27 (Council acting as the Flood Control Zone District Board of Supervisors)
28

29 Weimer stated the hearing was left open from the meeting on March 13.
30

31 The following people spoke:
32

33 Dennis Corfee, 920 Jersey Street, Bellingham, stated he owns property at North Star
34 Road. The people of the Birch Bay community will enjoy the benefit of this district and
35 should pay for it, not the people in the Ferndale area or others who are a long way away.
36

37 Rick Thorinson, 3609 Grandview Road, stated he recently drove around Birch Bay. It
38 is much different, with much more construction than before. Trillium is planning a large
39 construction project. He lives four miles away. The density at his house is one house per
40 five acres to one house on 100 acres. They don't much affect the stormwater. He was told
41 that this is everyone's problem, and there will be projects that will affect him, but he
42 doesn't believe that will happen. This is a group of Birch Bay folks trying to solve problems
43 in Birch Bay, caused by rampant development in Birch Bay. People who won't receive a
44 benefit are being asked to pay.
45

46 Patrick Alesse, 4825 Alderson Road, Birch Bay, stated the district has a wide area
47 because it is the drainage area. Birch Bay does pay for things that the residents don't
48 benefit from. Everyone must work together. There is farmland near Birch Bay that have
49 caused torrents of water in the ditches that go into Terrell Creek. He's seen more water
50 surging down Terrell Creek, even though they are put into holding ponds. He was
51 disappointed with how the Hearing Examiner handled the whole thing. Stormwater is a real
52 problem. People resist it.
53

1 Keats Garmon, 8710 Ortell Drive, Blaine, stated he supports the formation of the
2 district. It will be effective in preventing further deterioration of the bay and to reduce
3 damage to residents' properties. There may be a need to amend the boundaries to not
4 include people who are already taxed for stormwater in another district, but go forward with
5 establishing the district now.
6

7 Two recommendations in the Stormwater Management Plan should be implemented
8 immediately because of large impacts of ongoing develop in the area. The
9 recommendations are for a tree removal and retention ordinance and a low impact
10 development ordinance. Council action on these two items will help to reduce future
11 negative impacts of development.
12

13 The next controversial issue will be about the assessments needed to pay for the
14 district's improvement activities. Some residents in the district may already pay taxes for
15 stormwater control in their area, through ditch district fees. It would be unfair to tax these
16 residents twice.
17

18 Eliminate the taxes that Birch Bay watershed residents pay for Nooksack flood
19 control as the new district assessments are implemented. Do not tax them twice for the
20 same kind of service.
21

22 Create a tax appeal procedure for residents of the proposed district, based on
23 income, significant and effective property owner improvements in stormwater control, and
24 other reasons. One idea is to reduce or eliminate assessments of owners with large open
25 space tracts, as an incentive to not convert these area for development.
26

27 Ellie Friedlob, 6934 Holeman Avenue, stated she supports the plan. Include the
28 entire Whatcom County in the process. The Birch Bay resource belongs to everyone, not
29 just the people who live around Birch Bay.
30

31 Mike Winters, 6255 North Star Road, stated there are more issues than just
32 stormwater. The Birch Bay group has come up with better ideas about how they will impact
33 people who are farther away. People who are farther away from the bay appreciate that.
34 The problems with the bay may also be caused by failing septic systems and other
35 problems. It's not just about stormwater. He suggested that the County look at what
36 Pierce County has done to capture stormwater. They are viable options to slow down
37 stormwater going into Birch Bay. For instance, buy property and put in regional retention
38 ponds. Have the new construction pay a user fee so the County can get its money back.
39 New development should pay for it. Also, the Washington State University Beach Watchers
40 program could be involved in Birch Bay.
41

42 Hearing no one else, Weimer closed the public hearing.
43

44 Weimer stated this ordinance is to just set the district boundary. The County is in
45 the process of hiring a consultant to develop fees for the district.
46

47 Brenner stated she would like to hold this item until they can work with the
48 consultant and have the fee formula in place. She went to a meeting about this last week,
49 and all they talked about was this happening in Birch Bay. The notice that went out said
50 that they want the input of Birch Bay residents. This is a good opportunity to reach out to
51 the rest of the watershed. Make sure there is a level of comfort about what's going on
52 before defining the boundary.
53

1 Nelson asked staff if there are any other senior districts in the area.

2
3 **Crawford moved** to adopt the ordinance.

4
5 Bruce Roll, Public Works Department, stated there are other districts in this area.
6 The intent of this district is to implement this plan. The other districts have other goals and
7 charges. There is no intent to double tax anyone. Staff intends to work with the other
8 districts. However, there are shared responsibilities and goals in place to enhance and
9 support a watershed approach to managing Birch Bay water.

10
11 Nelson stated he agrees with Councilmember Brenner's concerns about involving the
12 local community. It seems like they are putting the cart before the horse. He questions
13 how much involvement there has been with the people who are not directly in the Birch Bay
14 community. They need to have that process in place.

15
16 Crawford stated he is in favor of the ordinance. When dealing with the fee structure,
17 create a tiered fee structure, depending on distance from the bay. He asked if the State law
18 allows such a tiered fee structure in that way. Roll stated those options are on the table for
19 consideration. There must be a nexus about what is financially acquired from each person
20 in the district, no matter where they are, and its relationship to the service provided.

21
22 *(Clerk's Note: End of tape one, side A.)*

23
24 Roll continued to state that they must legally demonstrate that they are providing a
25 service for all the individuals who are assessed. The tiered approach is often used in areas.

26
27 This is a novel approach to setting up a stormwater utility. Most stormwater utilities
28 are set up by political boundary. However, this is the best approach because they are
29 managing the watershed. They are dealing with how everyone in the watershed influences
30 water quality throughout the watershed.

31
32 Weimer asked if setting boundaries needs to be done before working with the
33 consultant. Roll stated they can delay this, but it will be difficult to write the scope of work
34 without the boundaries. Annually, they will readopt these assessment structures. The
35 Council can change the assessment structure and boundaries every year.

36
37 McShane stated he supports adopting the area. Include the comments they received
38 about determining appropriate and equitable fees. He has concerns about the fee structure
39 in terms of distance. The fee should be different for properties with impervious surface
40 versus rural, five acre parcels that can fully disperse their stormwater. The fee should be
41 less for people who voluntarily do tree retention for the purpose of stormwater reduction.
42 He asked that minutes from all Council meeting discussions be included in the consultant's
43 information.

44
45 Caskey-Schreiber stated that everyone needs to get involved. It needs to be a
46 watershed approach. Don't adjust the boundary to meet political needs. A watershed is
47 what it is. Get everyone involved in the solution. She doesn't think it will be as
48 burdensome as they think. No matter what the Council does, there are always people who
49 come late to the table and say they didn't know about it. She doesn't know how to get
50 around that.

51
52 Brenner stated she agrees that a watershed boundary is the best way to do the
53 district. However, this was done for and by the Birch Bay community. She appreciates

1 their work, but the plan doesn't talk about anything outside of the Birch Bay community,
2 other than what flows into Birch Bay. There is no discussion of anything away from the
3 Birch Bay community. There should be a level of trust by the people who have not been
4 included. The notice never mentioned those who live in the Ferndale area or other areas.
5 The people need to feel ownership of this district by the time the Council begins dealing with
6 the assessment.

7
8 Weimer stated he agrees that it needs to be a watershed approach.

9
10 Nelson stated part of the area lies in an industrial zone. He asked if those owners
11 will also be involved. They have much impervious surface. Roll stated all the parcels in the
12 management area were sent notices. There is a lot of work to do pertaining to the
13 industries, especially if the fee is based on amount of impervious surfaces. Some of them
14 already have their own discharge permits, and other things. There will need to be a lot of
15 discussion about what is fair to charge those who have existing stormwater facilities.

16
17 Nelson stated it's important to have a process. Create a mechanism to allocate
18 funds according to a priority.

19
20 Brenner stated the language in the notice that went to the owners invites the
21 "affected people in the Birch Bay community." It should invite people in the Birch Bay
22 watershed, not the Birch Bay community. People in Ferndale don't live in the Birch Bay
23 community. They wouldn't pay attention to a notice like this. She will not support this
24 ordinance. She supports what is going on with the Birch Bay community. This is a perfect
25 opportunity to let those outside the community, but in the watershed, have time to find out
26 what's going on. She doesn't know if they would agree in the end, but the Council has lost
27 the trust of those people.

28
29 Nelson stated he trusts that there will be a good process in the community. He will
30 support the ordinance.

31
32 ***Motion to adopt carried 6-1 with Brenner opposed.***

33
34
35 **CONSENT AGENDA**

36
37 ***Crawford*** reported for the Finance and Administrative Services Committee and
38 ***moved*** to approve Consent Agenda items one through ten.

39
40 Weimer withdrew item ten.

41
42 Brenner withdrew item eight.

43
44 ***Motion to approve Consent Agenda items one through seven and nine***
45 ***carried unanimously.***

- 46
47 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #06-119 TO**
48 **THE LOWEST BIDDER, BLYTHE PLUMBING & HEATING, INC. FOR**
49 **REPLACEMENT OF THE AIR COOLED CHILLER AT THE COURTHOUSE, IN THE**
50 **AMOUNT OF \$99,446.16 (AB2007-161)**
51
52 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #07-18 TO**
53 **THE LOWEST BIDDER, WHATCOM BUILDERS, INC. FOR ANNUAL HOT MIX**

1 ASPHALT PRELEVEL PROJECTS, IN THE AMOUNT OF \$507,975.30 (AB2007-
2 162)

- 3
4 3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
5 CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND LAKE WHATCOM
6 CENTER TO SUPPORT THE ADMINISTRATIVE COST OF PROVIDING 40
7 SPONSOR BASED SHELTER PLUS CARE RENTAL UNITS FOR INDIVIDUALS
8 WITH MENTAL HEALTH NEEDS, IN THE AMOUNT OF \$24,960 (AB2007-163)
9
- 10 4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
11 CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND WHATCOM
12 COUNSELING & PSYCHIATRIC CLINIC TO PROVIDE ONGOING MENTAL
13 HEALTH PROGRAMS AND SERVICES, INCLUDING JAIL CASE MANAGEMENT
14 PROGRAM, ADMINISTRATION OF A HOUSING VOUCHER PROGRAM,
15 GLADSTONE HOUSE, AND PEER COUNSELOR OUTREACH PROJECT, IN THE
16 AMOUNT OF \$121,778 (AB2007-164)
17
- 18 5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
19 CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND WHATCOM
20 COUNSELING & PSYCHIATRIC CLINIC TO PROVIDE ONGOING MENTAL
21 HEALTH PROGRAMS AND SERVICES, INCLUDING ELDER-GATEKEEPER
22 SERVICES AND AN ACTIVITY CENTER AT THE RAINBOW CENTER, IN THE
23 AMOUNT OF \$118,809 (AB2007-165)
24
- 25 6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
26 CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND CATHOLIC
27 COMMUNITY SERVICES OF WESTERN WASHINGTON NORTHWEST TO
28 PROVIDE CASE MANAGEMENT AND MENTAL HEALTH SERVICES TO FAMILIES
29 THAT ARE NOT ADDRESSED THROUGH EXISTING SYSTEMS, IN THE AMOUNT
30 OF \$30,900 (AB2007-166)
31
- 32 7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
33 CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND SUN
34 COMMUNITY SERVICES TO PROVIDE SUPERVISED RESIDENTIAL BEDS FOR
35 MENTALLY ILL OFFENDERS, REFERRED BY THE JAIL DIVERSION PROJECT,
36 IN THE AMOUNT OF \$90,000 (AB2007-167)
37
- 38 8. RESOLUTION AMENDING CRP NO. 999022 FOR PHASE II – CABLE STREET
39 RECONSTRUCTION AND REQUEST AUTHORIZATION FOR THE EXECUTIVE TO
40 APPROVE AWARD OF CONTRACT TO COLACURCIO BROTHERS, INC. AS LOW
41 BIDDER IN THE AMOUNT OF \$2,235,560.50 (AB2007-168)
42

43 *Crawford* reported for the Finance and Administrative Services Committee and
44 *moved* to approve the request.
45

46 Nelson stated he's already stated his reason for not approving this resolution.
47

48 Brenner stated the Council gave the administration direction to work with the
49 neighbors on a solution. The people from the administration who were supposed to be the
50 experts told the Council that they had worked out a solution with the neighbors that would
51 provide the same benefit for the money spent. She doesn't like either of the solutions.
52 They are both experimental and are multi-million dollar projects. Since the two options are

1 almost equal, do what the neighbors want. The road is too narrow for the swale. Do not do
2 the swale. It will create a hazard in that area.

3
4 Crawford stated he does not support the swale option, but understands that the
5 project needs to be done. They've had lengthy discussions over the past months, and the
6 majority of the Council is resolute in it's decision about swale option on Wall Street, so he
7 will support the entire contract award.

8
9 Brenner stated she tried to implement low impact development options for people in
10 the Lake Whatcom watershed for years. This is the perfect example of where she can't get
11 something like that, that has a low or no cost to the County, through. Now, the engineers
12 are developing big experimental projects that cost millions of dollars.

13
14 ***Motion to approve carried 5-2 with Brenner and Nelson opposed.***

15
16 **9. RESOLUTION TO SCHEDULE A PUBLIC HEARING CONCERNING ONE-WAY**
17 **DETOURS RELATED TO THE CABLE STREET RECONSTRUCTION PROJECT**
18 **(AB2007-169)**

19
20 **10. RESOLUTION TO SET HEARING TO DECLARE PROPERTY LOCATED AT 2158**
21 **SOUTH NUGENT ROAD, LUMMI ISLAND, AS SURPLUS (AB2007-153)**

22
23 ***Crawford*** reported for the Finance and Administrative Services Committee and
24 ***moved*** to approve the resolution.

25
26 ***Brenner*** stated there was a presentation in the Public Works Committee. Initially,
27 the people with the Lummi Island Community Land Trust had an option to buy the Carlisle
28 property at a discounted price. The County took over that discounted option with the
29 understanding that the Land Trust would be able to use the house. The County purchased
30 the properties with road funds. Now, the administration is saying that the house can't be
31 used for the Land Trust's purposes because those purposes aren't allowed by the road fund.
32 The Land Trust has always said what it wanted to use the house for, but the County never
33 said in the beginning that the house couldn't be used for those purposes. The committee
34 would like more information to see if there is a way that the Land Trust can use the
35 property, at no cost to the County, for the public purposes that it intended. She ***moved***
36 ***to hold*** in Public Works Committee until they get those answers.

37
38 Weimer stated he will support the motion. There was a lot of discussion in
39 committee about whether the land swap was in good faith, and whether the proposal for
40 public use of the house was in good faith. No one seemed to know about how the use of
41 the road fund to buy the house would impact the Land Trust's ability to use the house until
42 after the proposals came in.

43
44 ***Motion to hold in committee carried 4-3 with Nelson, McShane, and***
45 ***Crawford opposed.***

46
47
48 **OTHER ITEMS**

49
50 **1. ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, THIRD**
51 **REQUEST, IN THE AMOUNT OF \$1,223,888 (AB2007-154)**
52

1 **Crawford** reported for the Finance and Administrative Services Committee and
2 **moved** to adopt the substitute version of the ordinance.

3
4 **Motion carried unanimously.**

- 5
6 **2. REQUEST CONFIRMATION OF EXECUTIVE KREMEN'S APPOINTMENT OF**
7 **KATHLEEN MARSHALL TO THE WHATCOM COUNTY ETHICS COMMISSION**
8 **(AB2007-170)**

9
10 **Brenner moved** to confirm the appointment.

11
12 **Motion carried unanimously.**

- 13
14 **3. REQUEST CONFIRMATION OF EXECUTIVE KREMEN'S APPOINTMENT OF**
15 **MICHAEL ANDERSON TO THE ANIMAL CONTROL ADVISORY COMMITTEE**
16 **(AB2007-171)**

17
18 **Caskey-Schreiber moved** to confirm the appointment. She asked if this committee
19 will begin to meet again.

20
21 Pete Kremen, County Executive, stated he contacted the Whatcom Humane Society
22 Director Penny Cistero a few weeks ago about restarting the committee. They are trying to
23 get the vacant positions filled, including the veterinarian positions. There are two slots for
24 two veterinarians. One veterinarian position is still open.

25
26 Caskey-Schreiber stated that a veterinarian from Ferndale who spoke at the last
27 Council meeting volunteered. Kremen stated he would accept her application. Someone
28 from the Humane Society may also be interested.

29
30 Brenner stated Nancy Williams may be interested. She is an excellent veterinarian.
31 Kremen stated those people need to send in applications. Anyone can apply.

32
33 **Motion carried unanimously.**

- 34
35 **4. REQUEST CONFIRMATION OF EXECUTIVE KREMEN'S APPOINTMENT OF**
36 **SUSAN KIRSCH TO THE AGRICULTURE ADVISORY COMMITTEE (AB2007-**
37 **172)**

38
39 **McShane moved** to confirm the appointment.

40
41 Crawford asked about the residency requirements for this position.

42
43 Pete Kremen, County Executive, stated the position is for a citizen at-large, and is all
44 encompassing.

45
46 **Motion carried unanimously.**

- 47
48 **5. REQUEST CONFIRMATION OF EXECUTIVE KREMEN'S APPOINTMENT OF**
49 **FRANCES ARMINTROUT TO THE DEVELOPMENTAL DISABILITIES BOARD**
50 **(AB2007-173)**

51
52 **Crawford moved** to confirm the appointment. She is an amazing person who is
53 worthy of this position.

1
2 Weimer stated he agrees with Councilmember Crawford. She came to meetings for
3 a year when she wasn't a member of the board. Now she wants to be re-appointed.
4

5 ***Motion carried unanimously.***
6

7 **6 RESOLUTION INITIATING COMPREHENSIVE PLAN AND ZONING**
8 **AMENDMENTS FOR 2007 (AB2006-090)**
9

10 McShane reported for the Natural Resources Committee on the following items:

11
12 Docket #2007-E: Update Comp. Plan for consistency with Parks, Recreation, and Open
13 Space Plan
14 (Committee recommends initiation)
15

16 ***McShane moved*** to docket.
17

18 ***Motion carried unanimously.***
19

20 Docket #2007-G: Comprehensive Agricultural Program Update
21 (Committee recommends initiation)
22

23 ***McShane moved*** to docket.
24

25 ***Motion carried unanimously.***
26

27 Docket #2007-H: Agriculture to Rural Forestry for 39.5 acres on the Saxon Road
28 (Committee recommends initiation)
29

30 ***McShane moved*** to docket.
31

32 Crawford stated he will vote for docketing, with reservations. He will look closely at
33 the rural forestry use. When they allowed for retreats and meeting centers with overnight
34 accommodations in the rural forestry zone, it was for specific educational purposes for
35 forestry practices, not general environmental issues. He is concerned that, they will need to
36 take a good look at the code to understand why they should take agricultural land out of
37 agriculture and move this into the rural forestry zone.
38

39 McShane stated the committee considered this carefully. It is a wrinkle in the
40 agriculture and forestry issue. The property has high quality soils, but it also has a lot of
41 steep slopes. It's a split parcel. Another issue that came up was about creating an
42 additional development density. There was some thought of having approval conditioned.
43 The applicant has no desire to create a new building site, and is talking about having a
44 conservation easement to prevent that development in the future. The zoning change may
45 not have any impact on the actual land use, other than to the nonconforming use permit.
46

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

49 Docket #2007-I: Agriculture to Everson UGA for approximately 5.5 acres
50 (Committee does not recommend initiation)
51

52 ***McShane moved*** to docket. He is opposed to the motion.
53

1 **Motion failed 1-6 with Crawford in favor.**

2
3 Docket #2007-J: Agriculture to Lynden UGA for approximately 12 acres (Committee
4 recommends initiation)

5
6 **McShane moved** to docket.

7
8 Nelson stated make sure that the Planning Commission and staff make sure that the
9 urban growth areas contain all the infrastructure of a development.

10
11 **Motion carried 6-1 with Caskey-Schreiber opposed.**

12
13 Docket #2007-K: Rural Forestry to R10A for 20.11 acres on Paradise Valley Road
14 (Committee does not recommend initiation)

15
16 **McShane moved** to docket. He is opposed to the motion.

17
18 **Motion failed unanimously.**

19
20 Docket #2007-O: Various text amendments related to the Lake Whatcom Watershed
21 (Committee recommends initiation)

22
23 **McShane moved** to docket.

24
25 **Motion carried unanimously.**

26
27 Brenner reported for the Public Works and Safety Committee on the following items:

28
29 Docket #2007-D: Birch Bay Subarea Plan (Committee recommends initiation)

30
31 **Brenner moved** to docket.

32
33 **Motion carried unanimously.**

34
35 Docket #2007-F: Comprehensive Concurrency Management Program (Committee
36 recommends initiation)

37
38 **Brenner moved** to docket.

39
40 **Motion carried unanimously.**

41
42 Docket #2007-O: Fire protection and EMS in the Birch Bay UGA (Committee
43 recommends initiation)

44
45 **Brenner moved** to docket.

46
47 **Motion carried unanimously.**

48
49 Fleetwood reported for the Planning and Development Committee on the following
50 items:

51
52 Docket #2007-A: Bellingham Subarea Plan (Committee recommendation to be
53 announced)

1
2 **Fleetwood moved** to docket. The Committee recommends initiation.

3
4 **Motion carried unanimously.**

5
6 Docket #2007-B: 10-year UGA Review (Committee recommendation to be announced)

7
8 **Fleetwood moved** to docket. The Committee recommends initiation.

9
10 **Motion carried unanimously.**

11
12 Docket #2007-C: Foothills Subarea Plan (Committee recommends initiation)

13
14 **Fleetwood moved** to docket.

15
16 **Motion carried unanimously.**

17
18 Docket #2007-L: Bellingham UGA Study Area – 2,200 acres on Galbraith Mountain
19 (Committee does not recommend initiation)

20
21 **Fleetwood moved** to docket. He is opposed to the motion.

22
23 **Motion failed unanimously.**

24
25 Docket #2007-M: The following amendments are proposed for the Cherry Point area:
26 Cherry Point Major/Port Industrial UGA to Birch Bay UGA – 1,034 acres; Heavy Impact
27 Industrial to UR4 – 857 acres; and Heavy Impact Industrial to Light Impact Industrial – 177
28 acres (Committee does not recommend initiation)

29
30 **Fleetwood moved** to docket. He is opposed to the motion.

31
32 **Motion failed unanimously.**

33
34 Docket #2007-N: Residential to General Commercial (E. Pole Road) (Committee does not
35 recommend initiation)

36
37 **Fleetwood moved** to docket.

38
39 **Motion failed 3-4 with Fleetwood, Crawford, and Nelson in favor.**

40
41 Docket #2007-P: Cherry Point Pier Policy (Committee recommendation to be
42 announced)

43
44 **Fleetwood moved** to docket. The Committee recommends initiation.

45
46 **Motion carried 6-1 with Nelson opposed.**

47
48 *(Clerk's Note: Discussion of the docketed items continued under Other Business.)*

49
50
51 **PLEASE ADD TO COUNCIL, CORRESPONDENCE APPROVAL**

1 **1. LETTER PROPOSED BY COUNCILMEMBER FLEETWOOD REGARDING**
2 **NORTHWEST STRAITS FOUNDATION FUNDING (AB2007-029)**

3
4 *Fleetwood moved* to approve the letter.
5

6 Crawford stated he is against the letter. There is a problem down there. They have
7 the most amount of money to spend, ever. Yesterday, the House passed a \$4 billion
8 overage for the next two years. He questions whether it's responsible to support another
9 \$1 million request on this. He would have to know more about it. In the meantime, the
10 State House of Representatives' action yesterday was irresponsible.

11
12 Brenner stated she is in favor of the letter. It's a good expenditure of money.
13

14 McShane stated he supports the letter. Puget Sound, as a resource, generates
15 revenue on an annual basis, in the amount of approximately \$2 billion to \$4 billion. They
16 aren't investing enough money in this area, given the economic return it provides. It's time
17 to seriously invest in that resource.
18

19 Pete Kremen, County Executive, asked if the Council would allow him to sign the
20 letter. He has a close relationship with Representative Prentice.
21

22 *(Clerk's Note: End of tape one, side B.)*
23

24 Kremen continued to state that his relationship may help get a positive response.
25

26 Fleetwood stated he would be happy to include Executive Kremen's signature.
27

28 ***Motion carried 6-1 with Crawford opposed.***
29

30 **2. MEMO PROPOSED BY COUNCILMEMBER CASKEY-SCHREIBER REGARDING**
31 **ANIMAL CONTROL (SSP) CONTRACT**
32

33 Caskey-Schreiber stated she has been contacted by many people. She's expressed
34 her concerns to the Executive, Council, and to the public about the current animal control
35 contract with Security Specialists Plus (SSP). It's important for the Council to say how it
36 feels on this issue, for the record. It's been well-documented that the current provider is
37 not doing an adequate job. Continuing an association with this organization will create
38 future liabilities. She would like to send her proposed memo to the County Executive about
39 terminating the contract with SSP for animal care, as Sheriff Elfo has recommended.
40

41 Pete Kremen, County Executive, stated they have been working on terminating the
42 contract with SSP for quite some time. The Sheriff's report was written at his request.
43 However, Sheriff Elfo advised Councilmember Caskey-Schreiber to not try to over-expedite
44 the termination of the contract, so there would be a seamless transition and so the County
45 can provide animal control and animal shelter services to the community.
46

47 Caskey-Schreiber stated Sheriff Elfo did not advise her against that. The Sheriff just
48 said that the current date they're working on, September 30, is probably the soonest that
49 they could take over services.
50

51 Brenner stated the memo just says that the Council agrees with the Sheriff's
52 recommendation. It doesn't include a date.
53

1 Crawford stated the memo is not necessary. He thanked Sheriff Elfo for expressing
2 his position with candor in the memo. However, they are aware there are many sides to
3 these issues. They don't need to dissect the whole thing. The current contractor was
4 reluctant to renew the contract this year, and informed the County it would not renew the
5 contract. The County had to convince the contractor to enter into the contract. With the
6 latest round of events, it reinforced to the contractor a sense of regret that they'd agreed to
7 the contract. Nonetheless, the contractor is working with the Executive and Sheriff toward
8 a resolution. He respects the County administration for putting forward the best foot they
9 can, in a positive way, to meet the needs of animal control in Whatcom County. It's not
10 necessary for the Council to have some ceremonial or symbolic gesture of doing something.
11 If the Council wants to specifically address the regulatory processes by which it handles
12 animal control, then gather suggestions and put them on the table. The administration may
13 want to come forward with some suggestions at some point. The contractor has some ideas
14 on how the County can make animal control enforcement better. In the past, he's said that
15 the details of that are best left to the administration to bring forward as recommended
16 changes in legislation. Changes should come from the Executive's Office. They are seeing
17 proactive, responsible action on this issue by the County Executive's Office. He's not
18 interested in making a ceremonial vote of endorsement of the Sheriff's recommendation.

19
20 **Brenner** stated it's not anything ceremonial. She **moved** to amend the first
21 sentence to read "The Whatcom County Council endorses Sheriff Bill Elfo's recommendation
22 and the support from the County Executive to terminate the contract with Security
23 Specialist Plus (SSP) for animal control and care services for Whatcom County." The memo
24 is saying that the Council supports the Executive and Sheriff on this issue.

25
26 **Caskey-Schreiber accepted** the motion as a friendly amendment.

27
28 Weimer stated he supports this memo. They all want to have a seamless transition.
29 This memo doesn't try to push anything forward that may create a transition that isn't
30 seamless. It may be ceremonial, but the Council opinion will be on the record.

31
32 Fleetwood stated he has great respect for Councilmember Caskey-Schreiber, but this
33 seems to be an administrative function. He will support the memo, since they are including
34 reference to the Executive. They are endorsing a now factual comment. He questions the
35 fundamental purpose of the memo.

36
37 Caskey-Schreiber stated she gets calls from the public every day who want to know
38 where the Council stands and its role. This memo expresses the Council's stance. The
39 Council will support the termination of this contract. It is no longer a provider that the
40 Council can rely on to provide this service. It's been proven year after year. She's tired of
41 this, and wants to get it done. She's advocating for getting a different provider. In 2006,
42 their statistic was 1,000 animals. The prior five years, it was 2,000 animals per year. She
43 questions what is going on. This is a growing population in Whatcom County. Many people
44 are having problems with this organization, including the woman who waited two weeks for
45 animal control to show up and investigate the pit bull that chased her three-year old child.
46 When that pit bull gets a hold of the child, the woman will sue Whatcom County.

47
48 Nelson stated Whatcom County had similar problems years ago. The Council had to
49 make a tough decision. No one said anything bad about anything. The County went out for
50 a contract to see if someone would provide better services. SSP stepped forward and
51 helped to resolve these problems. In that time, the County has grown, and SSP has
52 continued to meet that need. He was approached several times about concerns of
53 inadequate funding and capacity for them to keep meeting that need. He should have

1 perhaps worked harder with the administration to increase their funding and meet the
2 growing needs of the community, so they wouldn't have this travesty. He feels bad that the
3 contractor had to go through this problem. He feels worse that they have to deal with this
4 now, in this fashion, instead of dealing with it as they did in the past, in a professional
5 manner. The Council should let the administration put out a contract and do its job, instead
6 of trying to make it into an arena. He apologizes for that.

7
8 Brenner stated the people from SSP came to her about funding, too. In all fairness,
9 they spoke to her about not having the resources to do a number of things. She is aware of
10 those issues. At the time, she said that something needs to come forward from the
11 administration. This memo isn't anything more than a statement for the councilmembers to
12 give to the public when they call. She needs to be able to say something to the public when
13 they call.

14
15 ***Motion carried 5-2 with Crawford and Nelson opposed.***

16
17
18 **INTRODUCTION ITEMS**

19
20 ***Brenner moved*** to accept the Introduction Items.

21
22 ***Motion carried unanimously.***

23
24 Weimer stated Introduction Item number one was withdrawn from the agenda.

- 25
26 **1. RESOLUTION TO SELL SURPLUS PROPERTY LOCATED AT 2158 SOUTH**
27 **NUGENT ROAD, LUMMI ISLAND, WA (AB2007-153A)**
28
29 **2. ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF**
30 **NEW APPLICATIONS FOR SUBDIVISIONS WITHIN THE LAKE WHATCOM**
31 **WATERSHED (AB2007-158)**
32
33 **3. ORDINANCE LIMITING, ON AN INTERIM BASIS, THE SIZE OF LARGE**
34 **COMMERCIAL RETAIL ESTABLISHMENTS IN ORDER TO PROMOTE**
35 **COMPATIBILITY WITH OTHER JURISDICTIONS WITHIN WHATCOM COUNTY**
36 **(AB2007-135A)**
37
38 **4. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY COMPREHENSIVE**
39 **PLAN TO THE CITY OF EVERSON'S SOUTHEAST URBAN GROWTH AREA, FOR**
40 **IMPROVED ACCESS TO THE EXISTING URBAN GROWTH AREA (AB2007-174)**
41
42 **5. ORDINANCE DESIGNATING TEMPORARY ONE-WAY DETOURS RELATED TO**
43 **THE CABLE STREET RECONSTRUCTION PROJECT (AB2007-169A)**
44

45
46 **OTHER BUSINESS**

47
48 There was no other business.

49
50
51 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**
52

1 McShane stated a citizen has made ongoing comments about not taking any action
2 or making any efforts on the subdivision moratorium in the Lake Whatcom watershed. The
3 Planning and Development Committee has actually made a fair bit of progress regarding the
4 issues around the Bellingham urban growth areas and perhaps establishing new urban
5 growth boundaries within the watershed and an overlay zone that would address that issue.
6

7 Also, Andrew Mesches spoke at open session regarding stormwater runoff onto his
8 property. He was contacted as a consultant by Mr. Mesches, and didn't know this would
9 lead to a situation where the County has jurisdiction. It was a State Department of Natural
10 Resources (DNR) jurisdictional issue. An interim stream with a significant flow of water was
11 diverted from one drainage to a completely new location, which is on his property. He
12 hopes that his circumstances are taken seriously. There are two members of the Forest
13 Practices Board in Whatcom County. The Board looks at forest practices and how they are
14 implemented. He's not sure whether it's okay to divert a stream to a new location. There
15 are impacts to Mr. Mesches and other folks who live downstream, including someone with
16 an existing water right, who had the creek moved away from their water right. The Forest
17 Practices Board may need to take a field trip to this location. There are other issues as well.
18 This is a fundamental issue. He was surprised at how slowly it's being dealt with.
19

20 Pete Kremen, County Executive, stated some of the landowners in that area have
21 experienced erosion due to recent heavy rains. He talked to representatives from Sierra
22 Pacific and DNR. They have shown concern and seem somewhat motivated to resolve the
23 issue. The Planning and Development Services Department is also working to resolve this
24 problem.
25

26 Weimer stated he is hosting a forum from 6:30 p.m. to 8:30 p.m. on April 12
27 regarding the idea of unincorporated area councils. Everyone is invited. The idea came
28 from residents on Lummi Island who are interested in better organizing themselves into one
29 voice. People in King County, who are doing this, will talk with them at the forum about
30 their experiences. Cathy Berg will also talk about Birch Bay's activities. The impetus will be
31 on the different unincorporated areas to form their own structure, if it gets that far.
32

33 Dewey Desler, Deputy Administrator, stated he would provide an update on the
34 animal control issue. The Executive's Office, Sheriff's Office, and SSP have been working on
35 issues. They met today. They've agreed to transition to a new animal control service
36 provider. The administration has initiated the process to seek a new provider through a
37 request for qualifications (RFQ) process. The administration expects to recommend to the
38 Council a contract to deliver solid and positive animal shelter and animal control services
39 into the future. SSP has agreed to work in a supportive and cooperative manner with the
40 new animal services provider. In the coming weeks, his office and Sheriff Elfo will work
41 closely with Mr. Gardner from SSP to improve animal control services and ensure active
42 coordination with the Sheriff's Office personnel.
43

44 **OTHER ITEMS**

45 46 **6. RESOLUTION INITIATING COMPREHENSIVE PLAN AND ZONING** 47 **AMENDMENTS FOR 2007 (AB2006-090)** 48


49 Weimer stated that fees are associated with Docket items 2007-H and 2007-O. The
50 applicants of those docket items need to let the County know about whether or not they
51 want a fee waiver.
52
53

1 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

2
3 Brenner stated she attended a attended green building presentation at the Building
4 Industry Association today, regarding light, porous, insulated concrete. They can be made
5 into walls, and would cut down on a lot of noise between buildings. It's another element to
6 help people with auditory screening.
7

8
9 **ADJOURN**

10
11 The meeting adjourned at 9:01 p.m.

12 

13
14
15 Jill Nixon, Minutes Transcription

16
17 The Council approved these minutes on April 10, 2007.

18
19 ATTEST:

20
21
22
23
24
25 

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Carl Weimer, Council Chair