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WHATCOM COUNTY COUNCIL
Regular County Council

June 5, 2007

Council Chair Carl Weimer called the meeting to order at 7:01 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner
Dan McShane
Sam Crawford
Seth Fleetwood
Laurie Caskey-Schreiber

Absent:

L. Ward Nelson

FLAG SALUTE

ANNOUNCEMENTS

Weimer announced there was an **update on open and soon to be open collective bargaining agreements (AB2007-018)** in executive session during the Committee of the Whole meeting.

Weimer also announced there was **consideration of an appeal filed by Jonathan Sitkin, Attorney for Whatcom County Fire District No. 21, regarding an application for a zoning conditional use permit to construct a three-story condominium building in the Resort Commercial Zone for Ocean Pointe Condominiums (AB2007-179)** in executive session during the Committee of the Whole meeting.

Brenner moved to uphold the Hearing Examiner's decision.

Motion carried 5-1 with McShane opposed.

SPECIAL PRESENTATIONS

1. EXECUTIVE KREMEN TO PROCLAIM HUNGER AWARENESS DAY (AB2007-017)

Pete Kremen, County Executive, read the proclamation in to the record. He introduced members of the Whatcom Anti-Hunger Coalition and presented the members with the proclamation.

Unidentified speaker, Whatcom Anti-Hunger Coalition, explained the activities and purpose of the coalition.

Brenner asked if the County can contribute to the Small Potatoes Gleaning Project. Kremen stated the administration has looked at how it can justify providing funds to that effort. At this time, the administration isn't able to find an acceptable method of providing funds that the State Auditor would approve. The administration will still continue to try and

1 find a way to work with that organization. They need to be creative and resourceful. He will
2 support the project in any way he legally can.
3

4 **2. EXECUTIVE KREMEN TO PRESENT A CERTIFICATE OF GOOD PRACTICE TO**
5 **COUNTY ENGINEER (AB2007-017)**
6

7 Pete Kremen, County Executive, read a letter into the record from the County Road
8 Administration Board (CRAB) Director Jay Weber. He presented a certificate of good practice
9 to County Road Engineer Joe Rutan for the Engineering Division.
10

11
12 **MINUTES CONSENT**
13

14 **1. REGULAR COUNTY COUNCIL FOR MAY 8, 2007**
15

16 ***Caskey-Schreiber moved*** to approve the minutes.
17

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

20
21 **OPEN SESSION**
22

23 The following people spoke:
24

25 Arthur Wilkowski, 218 Elizabeth Drive, Point Roberts, stated he owns and operates
26 Point Recycling and Refuse Company, the State regulated utility for garbage collection in
27 Point Roberts. In the past eight years with Point Recycling, he has taken a bankrupt and
28 broken down garbage company and transformed it into a modern company. He committed
29 to providing a personal level of service that exceeds all expectations, to know each of his
30 customers, and to treat his customers as friends and neighbors. As the lease operator of
31 the County transfer station, he transformed an under-serviced, poorly built site into a
32 modern station by installing all utilities, a scale house, and scale. He has rebuilt virtually
33 every part of the site. In the past two months, he's spent over \$20,000 on required
34 improvements, bringing his total investment in the site to over \$200,000. He has exceeded
35 his contract operating hours by over 200 percent and all County expectations of investment
36 in order to build a station that his community needs now and into the future. His site is
37 very popular with the community. He's been on the local garden tour and has, at times,
38 been considered Point Roberts' number one tourist attraction.
39

40 At the last Solid Waste Advisory Committee (SWAC) meeting, when he tried to
41 address certain long-term problems with design of the Point Roberts solid waste system,
42 Councilmember Brenner implied that he has lied, committed fraud, stolen from his
43 customers, and failed to fulfill his responsibilities to the community. Councilmember
44 Brenner has asked for his removal as operator of the County transfer station, and even as a
45 State regulated utility. She has done so in a very McCarthian manner, citing certain letters
46 and communications that only she has. She has denied his rights to due process and to
47 explain, defend, or counter her charges against him. In doing so, she has crossed the line
48 from being stubborn and opinionated politician, and has become a callous and abusive
49 tyrant, intent on the destruction of his company. Her personal hostility toward him stems
50 from the numerous times he's argued against her on the SWAC when she has failed to
51 understand the County's proper solid waste authority, responsibilities, and obligations, or
52 when she has attempted to deny her opponents their right to due process and fair
53 representation.

1
2 If it is indeed the County Council's goal to remove him as the operator in Point
3 Roberts, he would hope that the County Council would actually talk to some people about
4 his company and his service. The County Council should talk to its own staff in the Solid
5 Waste Division, the Health Department, the roads department, and the Disposal of Toxics
6 about his commitment to the program. Talk to his customers about the reliable and fair
7 service he has provided. They will find that the vast majority of people in his community
8 consider him to be a hard-working, honest person, and they value his contributions and
9 efforts to serve them. Barbara Brenner has clearly allied herself with a small handful of
10 community troublemakers and bullies that have personal agendas against the local solid
11 waste utility. He is officially requesting, under the Freedom of Information Act, copies of all
12 emails, letters, and notes that Barbara Brenner has received or sent in the past six months
13 concerning his company and solid waste issues in Point Roberts. He requests the
14 opportunity to respond to any allegations made against him, and have everything submitted
15 to the SWAC and Council. He requests that the County attorney review all information to
16 determine if County Council person Barbara Brenner has exceeded her authority or
17 demonstrated unwarranted hostility toward him or his company.

18
19 If the County Council wants to actually deal with solid waste issues in Point Roberts,
20 the service level ordinance and the station lease are the jurisdiction of the County
21 Executive's Office. This issue should be addressed by that office at this time. He requests
22 that County Council person Barbara Brenner, due to demonstrated hostility toward him, be
23 removed from the process until the issue comes before the Council as a whole. He requests
24 that a substitute councilmember be appointed to liaison with the Executive's Office,
25 probably Carl Weimer, because of his significant solid waste expertise.

26
27 Weimer stated he received a letter today from the Solid Waste Advisory Committee
28 asking the Council to go to Point Roberts and hold a semi-official public hearing on some of
29 the same issues.

30
31 McShane asked Mr. Wilkowski when this occurred. Wilkowski stated it was at the
32 last meeting, last month.

33
34 McShane asked if Mr. Wilkowski has seen the minutes of that meeting. Wilkowski
35 stated he has.

36
37 McShane asked if the minutes reflect those statements regarding Ms. Brenner.
38 Wilkowski stated they do.

39
40 Caskey-Schreiber stated this is the first she has heard about this issue. She asked
41 what the problem is. Wilkowski stated Councilmember Brenner doesn't listen. She's a
42 bulldog. He's trying to get a rational discussion about the design of the solid waste system
43 that the County binds him to operate and serve. He operates under intense regulation and
44 constraint by both the County and the State. There are some problems that need to be
45 addressed. He's trying to have a rational dialog about it. Councilmember Brenner's
46 response, every time he's tried to come to the County with issues over the years, is to
47 attack.

48
49 Caskey-Schreiber stated they all make decisions for the Council. Mr. Wilkowski is
50 more than welcome to contact any one of them, and they will try to help him. Wilkowski
51 stated that is why he's here.

52

1 Brenner stated that she never accused Mr. Wilkowski of anything. She said that it
2 shouldn't be their position to take one side's word for anything. She said that repeatedly.
3 If Mr. Wilkowski wants to take that as implying that, that's his problem, not hers. She also
4 received a lot of letters, which she did pass on, and he actually saw them at the meeting
5 because she passed them around to everybody. Somehow, the Solid Waste Division doesn't
6 seem to have them now. She has been trying to locate most of them. She's found, she
7 thinks, most of them.
8

9 She asked if the Solid Waste Division audiotapes the meetings. It's too bad. It
10 doesn't reflect in the minutes. Mr. Wilkowski can accuse her of anything he wants. It goes
11 with the territory. Just because she doesn't agree with his position doesn't mean he is
12 necessarily rational, and she's not. It means they are having a disagreement. She stands
13 by it. The Council has a fiduciary responsibility to the taxpayers everywhere to not just take
14 any provider's word for anything when it's a utility and a monopoly. They are supposed to
15 be there to ensure that the rights of the utility payers are being respected, too. It's not her
16 job to take his word for anything.
17

18 Weimer stated the Council will discuss a SWAC request to have a meeting in Point
19 Roberts. It sounds like some system issues need to be worked through, beside the
20 personality issues.
21

22 Karen Frakes, Prosecutor's Office, stated a verbal public disclosure request isn't
23 sufficient. If Mr. Wilkowski does want documents from the County, County policy requires
24 that he file a written request. All that information is on the County website.
25

26 Johnnie Grames, 1506 E. Maplewood Avenue, Bellingham, stated that when a cow
27 drinks water, it turns to milk. When a snakes drinks water, it turns to poison. He feels the
28 opposite of the previous speaker about Councilmember Brenner. He is glad Councilmember
29 Brenner is his representative.
30

31 In his neighborhood, there are quite a few McShane signs in the right-of-way. When
32 people were voting on the new jail, which is law enforcement and big business, there were
33 quite a few signs in the right-of-way. That sets a bad example. He doesn't want to make a
34 big deal out of it in case he ends up in jail or having to approach the administration.
35

36 A person named Evan Knappenberger is doing a vigil downtown about doing a
37 continuous tour of duty and a Pentagon program where they trap soldiers in the military.
38 He hopes that the Council talks to Mr. Knappenberger. He is very articulate and a dedicated
39 soldier. He comes from a military family. His father and grandfather were war heroes.
40 He did tours of duty in Iraq. He will be downtown until Friday. There will be an op-ed piece
41 in the Bellingham Herald tomorrow. Because of all the resources used for this war, people
42 are affected on all levels. He submitted information on Mr. Knappenberger (*on file*).
43

44 Betsy Putterman, 3694 Birch Terrace Drive, Custer, stated she is a member of the
45 Citizens Commission on Human Rights. She thanked the Council for the work it does.
46

47 One item for consideration before the Council is an increase in the sales tax to fund
48 additional mental health services and substance abuse programs. Everyone is
49 uncomfortably aware in the rise of the number of local homeless and addicts on the streets.
50 There is a public outcry regarding these sad facts. The mental health industry is a wolf in
51 sheep's clothing when it comes to solving these problems. She is speaking about
52 accountability and verifiable results. For many years, the Council has authorized additional
53 funds at the urging of mental health care providers. Yet the problems they are supposedly

1 fixing are only getting worse. Unlike mainstream medical professionals who rely on
2 verifiable medical tests that show with physical evidence that a medical condition exists
3 before any medication can be given, the psychiatric professional merely assumes that the
4 patient has a chemical imbalance, which has caused some sort of problem. There are no
5 blood or other biological tests currently available to support their premise. Their contrived
6 disorders have no science behind them and have been, in fact, merely voted into existence.
7 In the absence of objective scientific evidence, psychiatry has decreed the following to be
8 mental illnesses, for which their tax dollars may be spent: mathematics disorder, sibling
9 rivalry disorder, conduct disorder, and caffeine related disorder. The mental health
10 industry's main solution is to drug, without an accompanying cure. A 2005 study done of
11 King County's mental health results support this fact. She distributed information (*on file*).
12

13 Crawford stated a group of citizens have discussed forming a community committee
14 to have a campaign and advocate that a one-tenth of a cent tax be put on the sales tax to
15 fund mental health and substance abuse treatment in the community. State law allows the
16 County to do that. One of the two ways to create the tax is through a Council majority of
17 five. He told the group he was not willing to go that route. The other way to create the tax
18 is to allow the issue to go to the ballot. He recommended that the group have the debate
19 with the community, and bring the public's awareness and education level up at the same
20 time. In the end, the voter's get to decide if they want to put about \$2 million into the
21 system. This issue has not been brought before the Council.
22

23 Brenner stated this issue was brought up at the last Mental Health Advisory Board
24 meeting. She understood that it would be discussed, but nothing would come forward soon.
25

26 Jack Petree, 2955 Sunset, Bellingham, submitted information (*on file*). The
27 Washington Court of Appeals issued a decision that illuminates issues in Whatcom County.
28 The ten-year review must be completed by the ten-year anniversary of the plan. Counties
29 must address dispersion of growth in the counties. The review's purpose is to bring growth
30 into compliance with the Comprehensive Plan. The County must use the best available
31 information to conduct those reviews. Plans developed to address growth must be
32 reasonably likely to increase consistency with the Comprehensive Plan. The ten-year
33 anniversary was May 2007. Missing that date means that the County no longer qualifies for
34 some grants. The County is out of compliance with its own Comprehensive Plan, based on
35 that decision. In Kitsap County, as in Whatcom County, much more growth than projected
36 was going into the unincorporated county outside of city urban growth areas, and a smaller
37 amount of growth than projected was going into the cities. The urban fringe subarea plan is
38 a separate review. It is supposed to be a preliminary to this ten-year review. The County
39 is supposed to be done with both. The City of Bellingham and the private sector have
40 presented extensive analysis about moving toward compliance. Nothing else has been
41 presented to provide any analysis that would drive any conclusion other than what the City
42 of Bellingham has presented. County decisions have to demonstrate that there is a
43 likelihood of success. They must not present a re-hash of plans already in place. The
44 conclusion is that the County has willfully missed its mandated deadline to accomplish the
45 ten-year review. The Hearings Board has already declared the Bellingham plan compliant.
46 The County can become compliant with the City of Bellingham portion of the plan by
47 adopting Bellingham's approach. No one has presented another analysis that rises to any
48 level required by the court's decision. He encouraged the councilmembers to read what the
49 court has to say and talk to County attorneys. Lots of money is at stake as the County
50 loses its ability to apply for grants.
51

1 Brenner asked if Kitsap County was out of compliance. Petree stated the court found
2 Kitsap County out of compliance with most issues. It was not out of compliance on when
3 the ten-year plan had to be done.
4

5 Brenner asked the remedy. Petree stated they must get the review done now.
6 These things can get done in six months or a year. Whatcom County has been working on
7 the Bellingham plan for almost six years. They haven't even started the ten-year review.
8

9 McShane asked if the Hearings Board ruled on the entire Bellingham plan. Petree
10 stated there was an appeal last year, based on a failure to act in terms of getting the plan
11 done.
12

13 McShane stated the Hearings Board hasn't ruled on Bellingham's methodology,
14 except regarding parks. Petree stated it is beyond appeal now. There was just a ruling on
15 a narrow issue having to do with parks. It is compliant because it can no longer be
16 appealed. It is de facto compliant.
17

18 McShane asked if the Hearings Board ruled on whether the Bellingham plan
19 methodology was compliant. Petree stated he didn't think so. Bellingham's methodology is
20 contained in its Comprehensive Plan. It can no longer be appealed.
21

22 McShane asked if the Growth Management Hearings Board ruled on that issue.
23 Petree stated he is not sure, but he doesn't believe so.
24

25 Bob Wiesen, 3314 Douglas Road, Bellingham, stated they have not finished the ten-
26 year Comprehensive Plan review or Bellingham's urban growth area is causing major
27 problems throughout the rest of the county. The lack of progress by the Planning
28 Commission should be considered un-planning that will have considerable negative impacts
29 on the county in the future. It's time to get real.
30

31 Patrick Alesse, 4825 Alderson Road, Birch Bay, stated he stops in random cities like
32 Woodinville to review their books. Money flows from central areas to outlying areas to
33 support people who can't or don't want to support themselves. Birch Bay should be
34 incorporated, but it's not. The County sent out Hal Hart to help them, and the community
35 really liked him. Now Mr. Hart is working for Woodinville. When there is speculation, there
36 is growth. He is worried about building a system that is so inefficient that the rest of the
37 community will pay for it for a long while. They will have rural areas that fail. The efficient
38 areas will have to bail them out. The County and State and can't take them. Do something
39 with the Growth Management Act. Do whatever they can to keep the outlying areas from
40 being inefficient to service. If they had to pay all their bills, people would think twice about
41 moving out on a five-acre lot. The rest of the community ends up supporting them.
42

43 Gwen Hunter, 2540 Applejack Lane, Bellingham, submitted information (*on file*).
44 Properties on Squalicum Mountain received water availability certifications from Water
45 District 7 in violation of an interlocal agreement with the City of Bellingham. The Council
46 was told that building permits were suspended until issues of water availability have been
47 resolved. However, she learned that deforestation and road construction was continuing.
48 She called the Planning Department and learned that no stop work orders had been issued.
49 After that, Dennis Rhodes called her to say that he had just sent two staff out with stop
50 work orders. She later learned that the only stop work order that was issued involved a
51 parcel that hadn't been platted yet and where Water District 7 planned to locate its illegal
52 water holding tank. Construction on all the other lots has continued. No one is returning
53 her calls. A month's worth of damage has been done to the watershed. She read from a

1 letter from the Planning Department dated May 8, 2007. She asked why the administration
2 is letting people build on Squalicum Mountain with suspended permits and where their water
3 is coming from.
4

5 Nancy Keene, 2104 Crestline Drive, Bellingham, stated a plat once called Winchester
6 Estates asked the City Council twice in the late 1990's for city water. The City Council voted
7 against providing water both times. Then the developer decided to put in 28 houses using
8 community wells. An environmental impact statement on it was done and published. The
9 developer went back to the City Council in 2003 to ask again for city water, to which the
10 City Council agreed and authorized the Mayor to sign an interlocal agreement. The
11 interlocal agreement was signed in 2005. Last week, she asked the City attorneys why they
12 hadn't followed all the steps outlined in the Bellingham Municipal Code regarding public
13 process for extending water into areas outside the urban growth area (UGA). The City
14 responded that the water and sewer codes does not apply when extending city water
15 outside of UGA's. When the City Council declined the service in 1998, it referenced that
16 same section of the code.
17

18 The current status is that the County has issued a fill and grade permit for one of the
19 plats. The Bellingham Planning Department has approved the site plan, which no longer
20 includes trail preservation, which eliminates public access to the Trillium properties that the
21 City purchased. The Bellingham Public Works Department is currently reviewing the
22 stormwater treatment plan. They are going to put a water storage tank on the ridge behind
23 Eagle Ridge. She has three requests. First, review this situation since this is happening in
24 the County's jurisdiction, but it all seems to be occurring through the City of Bellingham's
25 planning process. Second, obtain an outside expert legal opinion on City and County legal
26 rights to control and oversee water districts that provide water to new developments in rural
27 areas outside the UGA's. They are governed by the Growth Management Act. Third, have
28 the City and County sponsor a neighborhood meeting for the residents. She was told by the
29 City attorneys that nothing in the interlocal agreement provides oversight for the
30 stormwater runoff, so the citizens would have to report on non-compliance. Citizens don't
31 know what's required. If the citizens must report compliance, they should be educated
32 about what's required.
33

34 *(Clerk's Note: End of tape one, side A.)*
35

36 Caskey-Schreiber asked if this is not within the Bellingham UGA. Keene asked why
37 it's going through the City planning process.
38

39 Crawford stated it appears that there seems to be an agreement like the one
40 between the City and the Lake Whatcom Water and Sewer District, with Water District 7.
41 There must be some interlocal agreement that requires City approval. Keene stated it isn't
42 vested. It's an interlocal agreement they signed in 1989 that doesn't have a sunset clause.
43 They said that exempts them from the municipal code. That's not the problem. The
44 problem is that this is in the watershed, outside the City UGA, they are going to supply
45 water, they are going to put in 28 houses, and there is no plan for oversight.
46

47 Weimer asked if the City is approving the development and stormwater plans. He
48 asked why the City would be approving site and stormwater plans in the county. Keene
49 stated they've already been approved.
50

51 Crawford stated the City has the ability to turn it down. The City can require a level
52 of review, even though it's not in the City's jurisdiction. He doesn't know if that's what's
53 going on in this case. It's a possibility. Keene stated they didn't do an impact or feasibility

1 statement. The City Council said it would trust staff and authorize the Mayor to enter into
2 an interlocal agreement. They didn't see an impact statement or a feasibility report, and
3 they did not review the interlocal agreement before the Mayor signed it. However, it was
4 signed, and now there is an interlocal agreement among the City, the Water District, and
5 the developer.
6

7 Weimer stated he understands that the City has ability to put conditions on
8 development out there through the interlocal agreement, but they may be in conflict with
9 the County's development standards. Keene stated there is also the problem with
10 oversight.
11

12 Sam Ryan, Planning and Development Services Interim Director, stated this plat has
13 gone through many iterations. It started out as a plat with over 100 lots. There have been
14 many negotiations to reduce it down to the 28 lots. She would like to see Ms. Keene's
15 information. District 10, not District 7, is providing the water to reduce the total number of
16 lot sizes.
17

18 Weimer stated he had a discussion earlier with the administration about whether the
19 City, the County, and the Water District should coordinate Lake Whatcom issues so they
20 avoids enabling growth. A question is whether there would be less growth if the City didn't
21 have the agreement with the Water District because the wells wouldn't go in this dry area.
22 The situation is very convoluted. Keene stated the overarching issue is defining the
23 restrictions from the Growth Management Act that restrict water districts from providing
24 water outside UGA's in rural areas. The Growth Management Act says that it's inappropriate
25 for urban governmental services to be extended to or expanded in rural areas, except for
26 the limited circumstances shown to be necessary to protect basic human health and safety
27 and the environment.
28

29 Ryan stated the attorney at that time was arguing about human life safety, and not
30 using the wells and the water. The situation needs to be looked at.
31

32 Keene stated that if they had done water availability studies out there, they wouldn't
33 approve the wells because most wells in that area run dry in the summer.
34

35 Brenner asked the total acreage. Keene stated there are 47.5 acres.
36

37 Crawford stated they're probably clustered. Keene stated they are not clustered.
38 The developer did short-plats. The separate short-plats are divided into equally-distant
39 quarters, which is causing a problem with wetlands on the site. That's another issue.
40

41 Ryan stated the 28 lots were developed by back-to-back short-plats a number of
42 years ago, with different names on them. Keene stated the plats were from the same
43 family, but with different names.
44

45 McShane stated many things were done here that are a challenge for the Council and
46 the community. This is one mistake from the past. They may have seemed to be the right
47 decisions at that time, based on constraints they were facing. Define the constraints that
48 will be on the buildings on this site. Since this development was approved, there have been
49 significant development regulation changes. A question is how much of that is linked to the
50 original plat agreement. Ryan stated the question is which development regulations are
51 vested to this plat agreement.
52

1 McShane stated there may be limitations on what the County can do. It would be
2 good to have some citizen watchdogs in the watershed. If citizens know what to expect,
3 they can hold the County accountable for making sure that development on this site is done
4 in a way that meets the constraints the County can apply.
5

6 Keene stated the City and County don't seem to be discussing the situation. The
7 County must understand what's going on and know which restrictions will be on the
8 property. Also, she's frustrated that this is happening in the watershed. They all depend on
9 Lake Whatcom water for drinking water. They need to protect the lake.

10
11 Weimer stated Ms. Keene is one of those watchdogs. The question is what the
12 County is going to do with the information it has just received.
13

14 McShane stated the challenge is to find out what the County can do. Because of
15 zoning changes in the watershed, there won't be many more large developments. However,
16 there are these old, vested plats that will develop because of poor decisions made over the
17 years. They should know which development regulations will apply in this particular spot,
18 which may not be the same as other locations. Educate those who will be looking carefully
19 at this plat if it goes forward with development. Make sure it is as protective as possible.
20

21 Weimer stated another issue is that it's illegal to run urban levels of service into rural
22 areas. He is not clear on whether Water District 10 enabling a 28-unit development is
23 considered urban development in a rural area.
24

25 Caskey-Schreiber stated Water District 10 intends to go far and wide in the
26 watershed to provide sewer and water to residential development. They think that will help
27 the lake more than allowing septic systems and wells. They view it as a health and safety
28 issue. The Council may need to investigate whether that's really warranted, and whether
29 the County has any legal recourse against that justification for the District's extension of
30 services. The District has clearly said that their goal is to provide as much service in the
31 watershed as possible.
32

33 Weimer stated he would like to see a good legal decision on that question. According
34 to Growth Management Hearings Board rulings, services can be run to existing
35 developments for public health and environmental reasons, but they can't run it to a
36 development that isn't already there, because a development that isn't there isn't causing
37 environmental or public health issues.
38

39 Brenner stated she understands that they can serve for health and safety reasons.
40 Since the Growth Management Act passed, rules have changed. She thought no one is
41 allowed to provide an urban level of service outside a UGA, unless there is a health and
42 safety reason, but not for new development.
43

44 Karen Frakes, Prosecutor's Office, stated that's generally true, but it's not a simple
45 answer. They have a situation where houses could be developed with septic and wells.
46 There could arguably be the same health and safety justification to avoid that. She doesn't
47 think there is a case that addresses that specific topic.
48

49 Caskey-Schreiber stated this is a rare situation of development around a reservoir.
50 Most people just don't allow that. Therefore, they may have grounds to do what they're
51 doing.
52

1 McShane stated there is a vested plat with a will-serve letter that was approved
2 based on circumstances at the time. The only solution he can see is whether they can go
3 after a plat that was approved, but which is contrary to the Growth Management Act. At
4 the time it was approved, the area was zoned suburban.
5

6 Brenner asked if the Council can get a better, more comprehensive understanding of
7 this situation.
8

9 Royce Buckingham, Prosecutor's Office, stated they will not be able to solve
10 theoretical problems. No case is pending. They don't have facts alleged or any context.
11 They have only one case from which they can speculate. It's hard to work up a legal
12 response.
13

14 Brenner stated she would like to know whether this sounds legal. Something sounds
15 fishy. Buckingham stated staff can work on this outside the context of this meeting.
16

17 Weimer stated the issue falls under the jurisdiction of the Public Works Committee.
18

19 Pete Kremen, County Executive, stated the County and the City need to work more
20 collaboratively on this issue. Both the City and the County have put the Lake Whatcom
21 reservoir and watershed as their highest priority. Whether or not this particular
22 development is legal, and chances are that it is, the fact is that the City and County must
23 work more closely and vigorously on issues like this.
24

25 Weimer stated they need to look into this outside of this Open Session.
26

27 Caskey-Schreiber stated have the attorneys address the question of whether water
28 districts can extend service based on the health and safety argument.
29
30

31 **CONSENT AGENDA**

32
33 ***Crawford*** reported for the Finance and Administrative Services Committee and
34 ***moved*** to approve Consent Agenda items one through three.
35

36 ***Motion carried unanimously.***
37

- 38 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
39 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND ELAKAH**
40 **EXPEDITIONS LLC TO PROVIDE PUBLIC KAYAK CLASSES AND PROGRAM**
41 **ACTIVITIES DURING 2007 (AB2007-251)**
42
- 43
44 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD CONSTRUCTION**
45 **CONTRACT TO LOW BIDDER WILDER CONSTRUCTION CO. FOR CRP**
46 **#907013, WELCOME BRIDGE #332 REHABILITATION - PLANING AND**
47 **REPAVING IN THE AMOUNT OF \$58,645 (AB2007-252)**
48

49 **Addendum:**

- 50 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
51 **CONTRACT WITH THE OWNERS OF TORRE CAFFE' TO MANAGE AND OPERATE**
52 **THE RESTAURANT/DELI ON THE 2ND FLOOR OF THE COURTHOUSE (AB2007-**
53 **256)**

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OTHER ITEMS

- 1. **ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING MAP FROM URBAN RESIDENTIAL - 3 UNITS/ACRE (UR3) TO URBAN RESIDENTIAL - 4 UNITS/ACRE (UR4) IN THE FERNDALE URBAN GROWTH AREA (AB2007-247)**

Fleetwood reported for the Planning and Development Committee and *moved* to adopt the ordinance.

Motion carried unanimously.

- 2. **ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING MAP FROM UR3 TO UR4 IN THE EVERSON URBAN GROWTH AREA AND UR3 TO R5A ADJACENT TO THE EVERSON URBAN GROWTH AREA, ON THE EAST SIDE OF EVERSON-GOSHEN ROAD (AB2007-249)**

Fleetwood reported for the Planning and Development Committee and *moved* to adopt the ordinance.

Motion carried unanimously.

INTRODUCTION ITEMS

Brenner moved to accept the Introduction Items.

Motion carried unanimously.

- 1. **ORDINANCE FOR TEMPORARY INSTALLATION OF STOP SIGNS ON MOSQUITO LAKE ROAD AT BOTH ENDS OF THE WELCOME BRIDGE #332 (AB2007-253)**
- 2. **ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, SIXTH REQUEST, IN THE AMOUNT OF \$1,841,651 (AB2007-254)**

OTHER BUSINESS

Brenner stated she would like to have a public meeting in Point Roberts on the garbage issue, which was the actual request she made to the Solid Waste Advisory Committee. If people have concerns, they should go up there.

Weimer asked if there was Council consent to have a meeting in Point Roberts.

Caskey-Schreiber stated the Clerk of the Council should email the councilmembers with suggested dates.

Weimer stated put off the meeting until at least the middle of July.

1 Crawford asked if they should get a recommendation from the Public Works
2 Committee, since this is a public works issue.

3
4 Brenner stated she wanted the SWAC to go up there or contact the Utilities and
5 Transportation Commission first. The Utilities and Transportation Commission is set up to
6 analyze or audit someone's utility business. When asked, Mr. Wilkowski said the Utilities
7 and Transportation Commission refused. She talked to the spokesman from the Utilities
8 and Transportation Commission (UTC), who said the UTC refused because Mr. Wilkowski did
9 not want an audit or an analysis, but wanted them to advocate for him to the Council.
10 That's not what the UTC does. She feels strongly that they should have some kind of
11 financial analysis before they do much of anything. Mr. Wilkowski is the one who has to ask
12 for it. Mr. Wilkowski can get an audit if he applies for a tariff increase. He can also just
13 request the UTC to do an analysis of his business. It's an important element to have before
14 they make a decision.

15
16 Caskey-Schreiber stated ask the SWAC for a recommendation, and then go from
17 there.

18
19 Brenner stated the SWAC decided to not make a recommendation because they
20 hadn't gone to Point Roberts and didn't have all the information. The Council can't force
21 them to go up there. She recommended that they do that.

22
23 Fleetwood asked if it's necessary to go up there to get the sufficient information to
24 make the decision.

25
26 Brenner stated it's only fair if they are going to do any significant change in garbage
27 service for an area. They should get some input from the people who live there.

28
29 Fleetwood stated he agrees with that. He asked if it's necessary to go to Point
30 Roberts in order to hear from Point Roberts residents.

31
32 Brenner stated not everyone has email. She's gotten phone calls, email, and letters,
33 but it's common courtesy to go up there if they are going to make significant changes.
34 Before that, they still need some kind of an economic analysis, which the UTC does.

35
36 Weimer asked if Mr. Wilkowski is asking for these changes because he says he can't
37 make a go of it economically.

38
39 Brenner stated he is.

40
41 Crawford stated the service provider is requesting a change based on what he thinks
42 is economically practical. If the SWAC did have a recommendation, then the Public Works
43 Department would probably go ahead and write an ordinance for the Council to consider
44 after a public hearing. In this case, the SWAC isn't making a recommendation and isn't
45 interested in going to Point Roberts. All that can come out of a hearing in Point Roberts is
46 that the Council would ask the Public Works Department to write an ordinance.

47
48 Because of Point Roberts' unique location, it's a tough situation. The Council should
49 strongly encourage the SWAC to have a hearing in Point Roberts and then make a
50 recommendation to the Council if changes need to be made.

51
52 McShane stated the SWAC outlined three options in a letter from Rod Pemble, and
53 recommended that the Council have a hearing in Point Roberts on those three options. The

1 Council needs to have an ordinance, or multiple ordinances, to reflect those options. This
2 came up once before when he was on the SWAC. Consider whether this is consistent with
3 the goals of the Solid Waste Plan. The SWAC was silent on that. It's worth hearing from
4 the citizens, which is the advice from the SWAC.
5

6 Brenner stated she suggests that the Council go to Point Roberts to hear from the
7 residents. At the same time, ask Mr. Wilkowski to request a financial analysis of his
8 business from the UTC. She's not comfortable making the decision without someone
9 looking over his shoulder and deciding that this is necessary.
10

11 Caskey-Schreiber stated that if the County contacts with this provider, then it should
12 be the contractor's decision if he needs to do a change of business practice to make it work.
13 The question is whether the County tries to work with the contractor to keep him viable.
14

15 Weimer stated it's complicated because the provider has a G permit, which means
16 he's a State-regulated monopoly.
17

18 Brenner stated that's why it's up to the State to make a determination on financial
19 analysis of whether he's within his bounds to make this request.
20

21 McShane stated SWAC did not make a formal recommendation about UTC analysis.
22 This should be sent to the Public Works Committee, which may have potential appearance
23 of fairness issues. It should go to committee to work on potential language for a hearing.
24 Send the language to the Solid Waste Advisory Committee for a recommendation. The
25 SWAC should say on what it wants the Council to have a hearing. The SWAC is not going to
26 make a recommendation other than the Council should have a hearing. Then have a
27 hearing in Point Roberts about the desires of the residents. After they decide the option, it's
28 up to the UTC to determine the correct rates.
29

30 Caskey-Schreiber stated they should get all the information possible. She is clueless
31 on this process, issue, and situation. She is concerned about the public saying that the
32 service should be left as it is, but the provider not being able to make it work financially.
33

34 Crawford stated that if they do all this in good faith, then the provider has an
35 excellent case with the UTC to raise his rates.
36

37 McShane stated the Public Works Committee and Council should come up with an
38 ordinance, and then run it by the SWAC.
39

40 Brenner stated that the letter from Rod Pemble didn't represent the SWAC, just his
41 own questions. All the letters she received weren't included because staff couldn't find all
42 the letters. It's up to her to locate them. She made copies of the letters and distributed
43 them at the meeting.
44

45 McShane stated a SWAC action item was that Rod Pemble was to write a letter to the
46 Council to request a meeting in Point Roberts.
47

48 Brenner stated this would be scheduled in the Public Works Committee on July 10.
49

50 Weimer stated the Council will host a special Council meeting as the Health Board on
51 June 7. A quorum of councilmembers will be present.
52
53

1 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

2
3 Brenner stated the Women in Timber are having a timber tour on Friday. It's an
4 incredible tour. She encouraged everyone to attend.
5

6
7 **ADJOURN**

8
9 The meeting adjourned at 8:31 p.m.

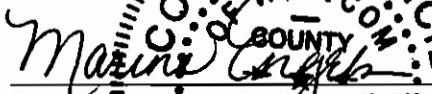
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13 Jill Nixon, Minutes Transcription


14
15 The Council approved these minutes on June 19, 2007.

16
17 ATTEST:

18 WHATCOM COUNTY COUNCIL
19 WHATCOM COUNTY, WASHINGTON

20
21 
22 _____

23 Dana Brown-Davis, Council Clerk



Carl Weimer, Council Chair

