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WHATCOM COUNTY COUNCIL
Regular County Council

July 24, 2007

Council Chair Carl Weimer called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

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

Absent:

None

FLAG SALUTE

ANNOUNCEMENTS

Weimer announced that two items discussed during the Committee of the Whole meetings today will be addressed early in this meeting, after the Open Session.

MINUTES CONSENT

1. BOARD OF HEALTH FOR JUNE 26, 2007

Caskey-Schreiber moved to approve the minutes.

Motion carried 6-0 with Brenner out of the room.

OPEN SESSION

The following people spoke:

Michelle Luke, 3342 Sunrise Cove, Lummi Island, stated she supports accepting the grant money for a new ferry. There is no better idea.

Johnnie Grames, 1506 Maplewood Avenue, stated he is going to oppose the candidacies of those on the Council who are running for office, due to the way he has been treated by the Council and by the County. He is an activist. He is opposed to the status quo. He has family here. He has watched Lake Whatcom deteriorate. They are not addressing what will happen with Lake Whatcom, which doesn't get a chance to rest and recuperate. This area is economically healthy. In the coming campaign, he will oppose the status quo.

Candy Jones, 5450 North Nugent, Lummi Island, stated she is a parish nurse on Lummi Island. She is in favor of the Council accepting the State's grant for the new ferry. She is concerned about health care for disabled persons on the island. One cannot get a

1 wheelchair on the current ferry. It would be a big mistake to not accept the grant money
2 for the new ferry.

3
4 Donna Macomber, 159 Larson Road, Bellingham, stated do not expand the urban
5 growth areas (UGA's) at all. The City's land use analysis was done backwards, by starting
6 with the areas they wanted and making sure the numbers of acres needed matched those
7 areas. The math numbers are fuzzy to make the numbers in compliance with the City's
8 Comprehensive Plan. The City is still out of compliance because the City can't pay for the
9 parks. When negotiating with the City, the Council should remember that it represents the
10 county taxpayers. The Council has enough information and evidence to not expand the
11 UGA. The five-year review areas should be left rural and not called five-year review areas
12 in the future. Areas zoned rural, one unit per five acres (R5A) and one unit per ten acres
13 (R10A) were never meant to be annexed into the city.

14
15 Bob Bowman, 3074 Long Vista Drive, Lummi Island, submitted and read from his
16 testimony (*on file*). Both he and his wife are retired and need to be able to attend doctor
17 appointments and other things. They desperately need a new ferry.

18
19 Jack Petree, 2955 Sunset, Bellingham, stated that the State mandate is to address
20 planning for 20 years. Even if the City is wrong about its safety factor, it isn't off by 33
21 percent. Accept what the City wants, and call it a 20-year supply. Then they will be more
22 compliant. He asked why the Council is working on a 15-year plan.

23
24 The definition of sprawl is consistently misrepresented community-wide. The safety
25 factors discussed have been random. Sprawl is defined as low density, automobile-
26 dependent development. Compact, smart-growth development in the County's economic,
27 transportation, and population core, which has been rejected in this proposal, is not sprawl.
28 It's what they're supposed to be developing. Instead, they've spread out most of the
29 people across the county because the County refuses to allow Bellingham a land supply to
30 provide for single family housing. To stop sprawl, think about facts instead of emotions.

31
32 Clayton Petree, 2219 F Street, Bellingham, stated the Urban Land Institute (ULI)
33 describes the effects of sprawl as isolated land uses and a lack of transportation alternatives
34 that force long car trips to schools, employment, stores, and community activities. In
35 Whatcom County, the job, services, and retail center of the county is in Cordata North. The
36 farther development is from that center, the more sprawl that could occur. A resident with
37 a minimal commute and living in a high frequency route will be more likely to use public
38 transit. Residents of outlying communities will make longer trips. A family will require a
39 less efficient form of transportation. Don't continue to allow dispersion throughout the
40 county to increase pollution in the county. He asked why compact Leadership in Energy and
41 Environmental Design (LEED) standard development that is as close as possible to the
42 county center is called sprawl. The Council must accommodate for 20 years, not 15 years,
43 which guarantee continued sprawl in the county.

44
45 Fred Haskins, 4754 Aldrich Road, stated he is concerned about expanding the urban
46 growth area (UGA) in terms of traffic and roads. The new D.R. Horton development in the
47 city will affect the county. He would like more neighborhood support. The residents don't
48 know whether or not they will be annexed into the city. A safety factor of zero to 25
49 percent is a very wide spread. Don't accept the City's ultimatum.

50
51 David Thurman, 1417 Mill Avenue, Bellingham, stated the City has three
52 responsibilities before it expands outward. One responsibility is that it must provide enough
53 housing to keep young people here. The development in Fairhaven by the Land Trust is a

1 good example of that. The City is not funding the needed infrastructure. Bellingham has
2 not kept its commitment to densify within the city limits before pressuring the County to
3 allow Bellingham suburbs to be built on lands in the county that are nearly empty. It seems
4 that the required infill will require city residents to feel pain that can be temporarily avoided
5 by supporting unrestricted growth outside the city limits. He observes that the City of
6 Bellingham doesn't have the political will to infill before expanding. Hold the city of
7 Bellingham accountable for its actions.
8

9 Polly Hanson, West Shore Drive, Lummi Island, stated she wants clear calculations
10 about the number of extra runs the new ferry would make. Schedule staggered staff dinner
11 hours. If the County raises fares, it will create a gated community for those who can afford
12 to live there. The only alternative to that is some sort of free bus service from all roads on
13 the island all the way into town. The propulsion design of the new ferry is unsafe. For
14 public transportation, think safety. The passenger area should be in the center of the ferry
15 due to keeping balanced during storms.
16

17 Art Anderson, Whatcom County Flood Control Zone District Advisory Committee and
18 Deming Diking District member, stated he asks for Council support of the proposal for the
19 Diking District this evening. Taxpayers support these projects.
20

21 Nancy Ging, Tuttle Road, Lummi Island, stated the cost of the new ferry is
22 astronomical compared to the need and total Public Works Department budget. The cost is
23 about \$15 million for the boat and the dock work. The State proposes to pay \$8 million.
24 That amount doesn't include \$12 million in debt reduction and an increase in operating
25 expenses. She asked about maintenance costs for the Whatcom Chief. Do not vote on this
26 until the current design can be evaluated more. This expense will visit 1,000 people, plus
27 summer-time visitors. The crew thinks the best solution is to get another vessel about the
28 same capacity as the Chief, possibly used, to run during peak hours in alternate directions.
29 It can be used as backup during dry dock.
30

31 Rick Cantman, Mt. Baker School District Superintendent, stated he is extremely
32 impressed with today's Sheriff's Office hostage simulation at Kendall School. Also, he
33 supports the levee repair proposal from the Deming Diking District. The district has
34 provided excellent support and technical advice to the school district regarding the portion
35 of the dike that protects downtown Deming. The school has been threatened by a couple of
36 significant floods. The Diking District commissioners walk the dike in the middle of the night
37 to keep an eye on extreme situations. The commissioners have provided tremendous
38 support and have respect from the local residents.
39

40 Cindy Lucas, 4981 East 26th Drive, Bellingham, stated she does not support
41 expanding the urban growth area out to Smith Road. First, the City has a history of building
42 before there are adequate roadways. Scheduled improvements will only fix the current
43 problems, not account for new development. Second, the neighborhood has a rural
44 character. The King Mountain area is the lesser of two evils, if one has to develop.
45

46 John Lesow, 317 Madrona Place, Point Roberts, submitted information (*on file*).
47 Bellingham's urban growth area proposal has not changed in the last four years. He
48 supports the County Planning Commission recommendation. Only rich people from
49 California can afford to move to Whatcom County. There are limits to the number of people
50 they can accommodate.
51

1 Nelda Sigurdson, 5171 Ferndale Road, stated she has lived along the Nooksack River
2 for over 80 years. Don't change the agreement with the Army Corps of Engineers. Take
3 whatever help the Corps will give to the County. They need to save the farmland.
4

5 Fred Kinney, 4164 Legoe Bay Drive, Lummi Island, stated the Council should accept
6 the grant for the new ferry. This decision has little to do with the design of the boat, which
7 can be modified. The question tonight is whether the County wants help replacing the
8 Whatcom Chief or pay for the new boat itself. The Chief is getting old. The hull is
9 deteriorating. There have been eight leaks in the last two years. The lanes are narrow and
10 not compliant with Coast Guard standards. If more complaints are filed, the Coast Guard
11 will undoubtedly require single-lane loading on the boat. Many surveys and studies support
12 the need for a new boat, which must comply with current Americans with Disabilities Act
13 (ADA) requirements and Coast Guard safety standards.
14

15 Art Thomas, 2620 Island View, Lummi Island, stated he is not an engineer.
16 However, the grant for the new ferry can help solve ADA issues and safety issues. The
17 County has been dealing with this issue for years. The County has spent hundreds of
18 thousands of dollars and thousands of staff hours on this issue. The issues aren't political,
19 they're safety issues.
20

21 Doug Sande, 5376 Mariotta Road, Deming, stated he has lived on his property for
22 about 60 years. Has concerns about the Williams-Sande stretch. There are weak spots in
23 the area. There was a \$160,000 fund from the Corps of Engineers. The County would fund
24 \$40,000 to fix the problem. Some people are done throwing money at that stretch of the
25 river. However, that stretch of the river has the highest rate of drop over nearly all the
26 rivers on the North American continent. They have to protect that. His farm originally had
27 120 acres. Now, there is about 65 farmable acres. It's a misconception that the County
28 and Diking District put in the levee on his property. It was all done by the Soil Conservation
29 Service in 1991. The County spent no money on it. He read resolution 91-073, which lists
30 the purpose of the fee. Since 1991, a lot of the maintenance hasn't been done. Fifty
31 percent of the County flood fee was transferred to the Water Resource fund in 1998. The
32 flood fee converted to a tax, reducing the amount from \$4.2 million to \$2.6 million in 2004.
33 In that account, there should be \$3 million to \$5 million. The district is asking for only
34 \$40,000. He's asked for an accounting of that account twice, and never got it. Approve the
35 agreement with the Army Corps of Engineers for rehabilitation of the Sande-Williams levee.
36

37 *(Clerk's Note: End of tape one, side A.)*
38

39 David Hunter, Bellingham, stated the Council has made a decision that it will take to
40 the City of Bellingham without having good public discussion. The Council is starting its
41 negotiation with the City at the place where it would like to end the negotiation. That's not
42 right, because the County will end up with a safety factor higher than what it wants through
43 the negotiation process. The Planning Commission suggested a zero percent safety factor.
44 That is where negotiations should begin.
45

46 Steve McMinn, 600 - 15th Street, stated he also has a place on Lummi Island. He
47 agrees with Polly Hanson about scheduling the ferry crew. Once they figure out the true
48 costs, they will find that it is fiscally irresponsible to replace the ferry.
49

50 Hugh Beattie, 2104 McKenzie, Bellingham, asked where the county is going to grow.
51 They must hold the line on annexations and UGA's. The whole city should have to vote on
52 an annexation. Bellingham needs to grow up, not out.
53

1 Dominique Zervas, 709 DuPont Street, stated she represents the Larrabee Springs
2 development and other clients who own land in the county and city. She submitted
3 information (*on file*). She referenced a memo from Council Policy Analyst Rebecca Craven
4 regarding the 20-year land supply. Councilmembers indicated that they understood that
5 Ms. Craven recommends that they go with the 15-year process. The Growth Management
6 Act and the Countywide Planning Policies require that they plan for a 20-year population. A
7 2006 docket item was to extrapolate the adopted 2022 population projections to 2027. The
8 docket item failed.

9
10 Bob Tull, 709 Dupont Street, stated he represents Larrabee Springs development.
11 The Council has made a decision on the Bellingham urban growth area at the committee
12 level and the Committee of the Whole level without any public hearing process. He's not
13 sure the councilmembers have had a chance to get through the written testimony or the
14 City's plan and rationale. The purpose of the Growth Management Act is to calculate
15 deliberately what communities need to accommodate people. Bellingham is trying to infill.
16 It does not want to wreck the neighborhoods, which must be preserved. The City has not
17 asked for enough land. The County Council has headed in a direction opposite from where
18 the Growth Management Act would have them go. The County Council can't negotiate the
19 realities of why they are supposed to do growth management.

20
21 Ken Mann, 710 E. Maryland Street, Bellingham, stated he is surprised that there was
22 no public hearing on the Bellingham urban growth area that is different from the one
23 recommended by the Planning Commission. They are just going straight to a negotiation
24 with the City. The Council has diverged substantially from the Planning Commission
25 recommendation. The Council must have a public hearing or go into the negotiation with
26 the Planning Commission's recommendation. The Planning Commission spent two years
27 and hundreds of hours on this issue. The zero percent safety factor is reasonable.

28
29 Ted Mischaikov, 501 Fern Road, Bellingham, stated he represents the Larrabee
30 Springs development. The County hasn't done its own analysis, which is why there isn't
31 Council consensus. There hasn't been a meaningful critique of Bellingham's analysis. He
32 sat through the Planning Commission analysis, which was amateur. The Planning
33 Commission chose safety factor numbers randomly. The Planning Commission made
34 decisions that would have required the City of Bellingham to give land back to the County.
35 The analysis was not completed. The Council never received findings of fact, and had to
36 direct the Planning Commission to complete its work, after over 40 meetings on this issue.
37 It was not a good process. It is not appropriate for the County Council to begin negotiations
38 with the City by aiming low. This is not a fight with the City of Bellingham. The City and
39 County are serious decision-making bodies, the two largest entities in Whatcom County, and
40 have a responsibility to do this professionally. That means looking at a good data set with a
41 meaningful analysis and asking tough, professional questions that can be answered by
42 people who know what is going on. This is an opportunity to work together. The City is the
43 County's best partner in this process. Don't go into this with the mindset that it's going to
44 be a fight with Bellingham. The real safety factor is opportunistic and aggressive. It's also
45 a balance of where growth goes and how it works best.

46
47 Dave Pros, 1466 Roy Road, stated the City made a bad population choice and caused
48 it to put inappropriate population densities in the areas where the people cannot vote for
49 City officials, which is the Bellingham urban growth area, against the wishes of the County
50 citizens who live in the urban growth areas. There are locations where the projected
51 population can be accommodated in a way that benefits a much greater percentage of the
52 citizens than what is in the current plan. The small downtown core areas are the places to

1 direct population. Many counties tell the cities how much population to accommodate
2 without all this effort.

3
4 Chris Hatch, Whatcom County Flood Control Zone District Advisory Committee,
5 stated he and the advisory committee supports Sande-Williams levee repairs. The
6 infrastructure is part of an integral flood program for Whatcom County.
7

8
9 **OTHER ITEMS**

10
11 **5. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO AN**
12 **AGREEMENT BETWEEN THE WHATCOM COUNTY AND CRAB IN ORDER TO**
13 **RECEIVE CFCIP FUNDS TO CONSTRUCT A FERRY VESSEL REPLACEMENT OF**
14 **THE WHATCOM CHIEF IN THE AMOUNT OF \$8,150,000 IN TWENTY ANNUAL**
15 **PAYMENTS OF \$407,500 (AB2007-311A)**

16
17 ***Crawford moved*** to approve the request.

18
19 Brenner stated she will support the motion. It's very important to move
20 toward Americans with Disabilities Act (ADA) compliance and resolve other safety
21 issue. Make sure the door is still open to change if they find out the design is not the
22 safest.
23

24 Caskey-Schreiber stated she will abstain from the vote because she needs
25 more information on the longevity of what they have now.
26

27 Weimer stated he will continue to vote against the motion because he has
28 significant questions about the costs of refurbishing the ferry, the cost of a small
29 ferry, or the cost of a used ferry. He's looked through the record and can't find that
30 the Council ever got any of those comparisons. He could have been brought around
31 to voting in favor of this by the next meeting.
32

33 ***Brenner moved*** to table.

34
35 ***Motion failed 3-4 with Fleetwood, Brenner, and Weimer in favor.***

36
37 ***Motion carried 5-1-1 with Weimer opposed and Caskey-Schreiber***
38 ***abstaining.***

39
40 **4. RESOLUTION INITIATING RECONCILIATION OF DIFFERENCES WITH THE**
41 **CITY OF BELLINGHAM RELATING TO LAND CAPACITY ANALYSIS, PROPOSED**
42 **UGA ZONING, AND UGA BOUNDARY ADJUSTMENT OF THE BELLINGHAM**
43 **SUBAREA (AB2007-318)**

44
45 ***Fleetwood moved*** to approve the resolution.

46
47 Weimer stated there is a substitute resolution.

48
49 Brenner stated she's bothered by the comments from some of the Planning
50 Commissioners. The information from the Planning Commission has been helpful to her.
51 However, the Council has its own public process. She asked why the Council would want to
52 have a public hearing on the Planning Commission's recommendation before the Council can
53 make changes, to get more information about where the City is at. It may turn out that the

1 County is closer to the City's recommendation, and then they don't have to do that twice. It
2 doesn't mean they are short-circuiting any public process. It's offensive that anyone would
3 say the Council is short-circuiting public process if it doesn't hold a hearing on what they
4 want. The Council goes forward with its own processes. They've had lots of public
5 meetings. There will be at least one public hearing. This will be talked about a lot more.
6 It's a very open process. She would like to know where the City of Bellingham is before the
7 Council continues. She is in favor of talking to the City before going through all the public
8 processes. It makes things more efficient for people who want to talk to the County
9 Council. They'll have a better idea of the parameters of what the County Council is talking
10 about. She isn't getting all she wants from the resolution, but she will support moving it
11 forward to the City for reconciliation.

12
13 **McShane** stated he is not opposed to having a public hearing. They have a
14 tremendous record. He's not sure a public hearing will sway him too much. As politicians,
15 they are responsive to the public in the end, however. This is a unique situation.

16
17 The newspaper coverage on the Committee's actions hasn't been great. A lot of
18 people in the public really have no idea of what the Council proposes. The Council proposal
19 is to be more aggressive about having less development in the watershed. The exposure
20 has been minimal. Until tonight, the County Council hasn't had any public discussion about
21 it. There could be some benefit to that. He **moved** to hold a public hearing on this
22 resolution before negotiations begin with the City of Bellingham. Because this is a
23 resolution, the Council won't have to have yet another public hearing if it makes changes to
24 the resolution. The Council could make changes to the resolution based on what it hears
25 from the public. The City can benefit from this process, as well. It's been a long time since
26 there's been a public hearing on this issue. A public hearing may help the City as well.

27
28 Brenner stated she supports the motion to have a public hearing.

29
30 Nelson stated he agrees with having a public hearing. Public education is important.
31 Have a discussion with the media to make sure they're aware of the public hearing. When
32 an issue reaches the pocketbook is when they'll hear people talk about affordable housing
33 and other things. The public won't really talk about safety factors, zones, and watersheds,
34 unless they're financially affected. The elected people have a responsibility to listen to as
35 many people as possible.

36
37 Caskey-Schreiber stated they've had a lot of public input. There were 40 Planning
38 Commission meetings on this topic. The Council has also had public comment during open
39 session. It would be premature to have a public hearing now, because this may totally
40 change during negotiations with the City. She thought they would have a public hearing on
41 the result of the City and County negotiation. It's confusing to the public. It's more
42 confusing by giving mixed signals about when the public's input is really needed. The
43 Council needs to hear about the final product from the public. Anything before that is just
44 posturing.

45
46 Crawford stated he agrees with Councilmember Caskey-Schreiber. He doesn't agree
47 with the direction that the Council is taking on this issue. However, he has a lot of respect
48 for the process and the community. The next logical step seems to be to sit down with the
49 City Council. The Council could have had hearings all along the way, with every change.
50 There will be more changes. He will vote against the resolution because he's opposed to the
51 direction its going. However, having a hearing at this point is counterproductive. Instead,
52 hash things out with the City and see where the County lands. At some point, the Council
53 will have a big public hearing on this. At that point, it will be a weighty decision for all.

1
2 Fleetwood stated he agrees that there has been an enormity of public process for
3 years. They have been inundated with testimony from many different people, representing
4 many different points of view, for a very long time. It's silly to suggest that the Council isn't
5 sure about where the public is at on this issue or that it doesn't understand the opinions of
6 the Planning Commission and its members. Right now, they're trying to satisfy a provision
7 negotiated between the City and the County, found in the interlocal agreement. Through
8 this resolution, the Council is expressing the current majority opinion. It allows the Council
9 to work with the City to see if they can reach agreement on some issues. There will be a
10 public hearing after that. He supports approving the resolution tonight.

11
12 Weimer stated he's cynical that they will hear new information from the public during
13 a hearing. However, he's been on the side of the public enough to know that the Council
14 may not be willing to make any changes once its reached agreement with the City. He
15 supports the motion to have a public hearing.

16
17 **McShane restated his motion** to hold the item in Council and have a public
18 hearing in two weeks.

19
20 **Motion carried 5-2 with Crawford and Caskey-Schreiber opposed.**

21
22 Fleetwood stated he voted to hold in committee. If that's the will of the Council,
23 then so be it.

24
25 *(Clerk's Note: The Council took a break from 8:32 p.m. to 8:38 p.m.)*

26
27
28 **PUBLIC HEARINGS**

29
30 **1. ORDINANCE AMENDING WCC 11.32, BOATING AND SWIMMING, SPECIAL**
31 **RESTRICTIONS (AB2007-284)**

32
33 Weimer opened the public hearing and the following people spoke:

34
35 Mike Webb, Emerald Lake Property Owners Association President, stated the
36 Association's Board, which represents about 315 property owners, voted unanimously to
37 support this ordinance. They thought there was an ordinance already adopted prohibiting
38 this use, but they found out that there isn't. The community is historically used to a ban on
39 motor boats. They would like to protect the lake's water quality.

40
41 *(Clerk's Note: End of tape one, side B.)*

42
43 Jay Sozanski, Emerald Lake Way, stated he supports the ordinance. He described
44 the issue of how this came forward. Historically, no motors have been allowed on the lake
45 for the protection of the lake. The lake is small, and doesn't flush well. The lake is 30 feet
46 at it's deepest, so motor boating is dangerous to swimmers and landowners with docks.
47 Also, signs around the lake have prohibited motorized boats for years.

48
49 Dan McMullen, resident, stated he lives near the lake. He supports the ordinance. It
50 would be dangerous to children swimming in the lake if there were any motors other than
51 electric motors. The lake is shallow. It would be difficult to control the boats.

1 Robin McConnell, 1641 Diamond Loop, Bellingham, stated she is an Emerald Lake
2 Property Owners Association member and supports the ordinance. It's a small lake. The
3 impact of allowing motorboats would be negative on the community, water quality, and
4 safety of swimmers.

5
6 Jody Landreneau, 1635 Emerald Lake Way, stated he supports the ordinance. He is
7 a Emerald Lake Property Association board member. It would be dangerous to allow
8 motorboats on the lake because of the lake's size. Many people swim, fish, and float on the
9 lake. Motors will contribute to pollution, lakeshore erosion, and other problems.

10
11 Hearing no one else, Weimer closed the public hearing.

12
13 **Crawford moved** to adopt the ordinance. He described the history of the issue.
14 The County passed the first swimming and boating ordinance on December 6, 1960.
15 However, that ordinance did not include restrictions on Toad Lake. There was never a
16 problem with gas-powered boats until this summer. The administration suggested that it
17 will get signage up there. They will also need to educate people who abuse the law.

18
19 This is a very situation from Lake Whatcom. Toad Lake has not traditionally and
20 historically been used for recreational purposes requiring non-electric motorized boats and
21 watercraft. He thanked the association members and board for their assistance. There is
22 unanimity among the community members to support this ordinance. The people who are
23 abusing this may not be from that area.

24
25 **Motion to adopt carried unanimously.**

26
27 **2. ORDINANCE AMENDING WHATCOM COUNTY CODE, TITLE 20, CHAPTER**
28 **20.71, 20.80.635, AND 20.80.735, ON AN INTERIM BASIS, TO ADD LAKE**
29 **PADDEN, AS A WATER RESOURCE PROTECTION OVERLAY DISTRICT,**
30 **STORMWATER SPECIAL DISTRICT AND WATER RESOURCE SPECIAL**
31 **MANAGEMENT AREA (AB2007-286A)**

32
33 Weimer announced that since they haven't received the State Environmental Policy
34 Act (SEPA) determination from the Planning Department, action cannot be taken on the
35 ordinance tonight. He opened the public hearing and the following people spoke:

36
37 R. Perry Eskridge, Whatcom County Association of Realtors Government Affairs
38 Director, stated he doesn't know what the boundaries of the Lake Padden watershed are.
39 Staff must have clear boundaries to enforce the ordinance.

40
41 Also, he doesn't know what problem needs to be solved. He's never heard anything
42 about Lake Padden being polluted. This ordinance may be required, but they must have
43 more information about the problem before making a decision.

44
45 Housing affordability is also an issue. Each layer of regulation only adds to the cost
46 of housing. Let the Planning staff do their work to bring back a proposal for everyone to
47 work on.

48
49 Mary Dickinson, Building Industry Association Governmental Affairs Director, stated
50 this interim ordinance is premature. There is no map or list of coordinates establishing the
51 watershed. They don't know the boundaries. Part of the watershed is located in the city of
52 Bellingham. She doesn't know if there has been any discussion with the City staff. No
53 studies or documents have been referenced regarding environmental degradation. She is

1 concerned that the ordinance can be challenged. The Council should send to the Planning
2 Department to docket and do a comprehensive ordinance that way. Don't do an interim
3 ordinance that isn't complete. It's difficult to respond to this because the SEPA official
4 hasn't issued findings.

5
6 Hugh Beattie, Bellingham, stated it's not that hard to figure out where a watershed
7 is. Google Earth will show the elevations and where the watershed is. Any competent
8 geologist can tell them where a watershed is located. Adopt the ordinance.

9
10 Dave Pros, 1466 Roy Road, Bellingham, stated he supports the ordinance. He liked
11 the idea of removing these areas from the urban growth area (UGA). As soon as an area is
12 annexed, the zoning can change. Hopefully these protections will stay in place to protect
13 this valuable resource. Lake Padden is a great place. Do everything they can to protect it
14 for the future.

15
16 Hearing no one else, Weimer closed the public hearing.

17
18 McShane stated he's not sure why or how the SEPA checklist fell through the cracks.
19 It was submitted to the Planning Department about four weeks ago. The boundary of the
20 watershed is shown on a map he has available to anyone who wants one. One could make
21 reference to the City's environmental impact statement (EIS), which said that the State
22 water quality assessment lists Lake Padden and Connolly Creek on the 303(d) for poor
23 water quality due to temperature, dissolved oxygen, and fecal coliform. They have an
24 opportunity to put in regulations to protect the lake before real harm is caused, rather than
25 waiting too long.

26
27 **Brenner** stated that Councilmember McShane had assured her that this has nothing
28 to do with reducing density and everything to do with low impact development. However,
29 this indirectly has everything to do with making it extremely difficult to develop in this area.
30 This has been done in other areas where they want to reduce density. This is not an area
31 that the Council has chosen to reduce density. It's part of the urban growth area. She will
32 wait until the final product comes out to see whether or not she will support it. She doesn't
33 support doing this as an interim ordinance. She **moved** to table until the Comprehensive
34 Plan amendment comes back to the Council. Staff shouldn't have to go through the process
35 twice.

36
37 **Motion failed 3-4 with Nelson, Brenner, and Crawford in favor.**

38
39 **3. RESOLUTION AMENDING THE 2007 ANNUAL CONSTRUCTION PROGRAM**
40 **REGARDING NEW ROADWAY ON TIMSON WAY FROM WEST ILLINOIS TO**
41 **MARINE DRIVE (AB2007-296)**

42
43 Weimer opened the public hearing and the following people spoke:

44
45 Bob Morse, 817 Queen Street, Bellingham, stated he is in favor of the resolution. A
46 constraint he's had to his business over the years has been the establishment of truck
47 routes there. This road has been a dream for many years. It would be a route to take
48 heavy trucks out of that neighborhood. It would be a much quieter neighborhood. The
49 roads weren't constructed for his trucks in the first place. There are no sidewalks. Thank
50 goodness he's never had an accident in that neighborhood. A few years ago, the
51 Bellingham Technical College gave support to his efforts by putting into its master plan the
52 fact that West Illinois Street is a major avenue for its campus, and began to lobby for this
53 connector. When this is done, his trucks will have direct access to Bennett without going by

1 any residences. They've cobbled together enough money from a number of sources to pay
2 for it. His company has contributed private money. The college is in favor of the plan, also.

3
4 Hearing no one else, Weimer closed the public hearing.

5
6 Crawford stated he recently took on a project on the east end of West Illinois Street.
7 He may have a conflict of interest and will recuse himself from voting, since there may be
8 some indirect benefit.

9
10 Joe Rutan, Public Works Department, stated that the State County Road
11 Administration Board (CRAB) requires a unanimous vote of the Council to amend the
12 resolution.

13
14 Karen Frakes, Prosecutor's Office, stated that it appears Councilmember Crawford
15 has a conflict and can't vote. Therefore, it would be unreasonable to say that it can't be a
16 unanimous vote. If the rest of the Council votes, that would be sufficient.

17
18 Crawford stated he is appealing a decision regarding a subdivision in front of the
19 City's hearing examiner in August. He will assist a client in arguing the justification for the
20 subdivision. He'll have to think about whether or not he uses the road improvement as a
21 justification for the subdivision.

22
23 Fleetwood stated it's conceivable that the subdivision could go forward with or
24 without the road improvement. If that's the case, Councilmember Crawford doesn't have a
25 conflict.

26
27 Crawford stated he won't know that until the Hearing Examiner decision.

28
29 Brenner stated it would improve Councilmember Crawford's chances with the Hearing
30 Examiner if the road were to go through.

31
32 Nelson reported for the Finance and Administrative Services Committee.

33
34 ***Motion carried 6-0-1 with Crawford abstaining.***

35
36
37 **CONSENT AGENDA**

38
39 ***Nelson*** reported for the Finance and Administrative Services Committee and ***moved***
40 to approve Consent Agenda items one through four and six through eight. Item five comes
41 forward with no recommendation.

42
43 ***Motion to approve Consent Agenda items one through four and six through***
44 ***eight carried unanimously.***

- 45
46 **1. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
47 **CONTRACT BETWEEN WHATCOM COUNTY HEALTH DEPARTMENT AND**
48 **MERIDIAN SCHOOL DISTRICT FOR "PROJECT ALERT" SUBSTANCE ABUSE**
49 **PREVENTION SERVICES IN THE AMOUNT OF \$20,000 (AB2007-303)**
50
51 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
52 **CONTRACT BETWEEN WHATCOM COUNTY HEALTH DEPARTMENT AND BIG**
53 **BROTHERS, BIG SISTERS OF NORTHWEST WASHINGTON TO CONDUCT**

1 "SCHOOL BUDDIES PROGRAM" FOR SUBSTANCE ABUSE PREVENTION
2 SERVICES IN THE AMOUNT OF \$20,000 (AB2007-304)
3

4 3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN
5 ANNUAL CONTRACT BETWEEN WHATCOM COUNTY AND EDUCATIONAL
6 SERVICE DISTRICT 105 (HIDTA GRANT FISCAL AGENT) TO PROVIDE
7 PARTIAL FUNDING OF DRUG COURT CASE MANAGER IN THE AMOUNT OF
8 \$30,000 (AB2007-305)
9

10 4. REQUEST RATIFICATION OF THE 2007 - 2010 CORRECTIONS DEPUTIES
11 COLLECTIVE BARGAINING AGREEMENT (AB2007-306)
12

13 5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A
14 CONTRACT FOR SERVICES BETWEEN WHATCOM COUNTY AND INTEGRAL
15 CONSULTING FOR THE SWIFT CREEK WETLAND PLAN AND TECHNICAL
16 REVIEW OF THE EPA RISK EVALUATION PROJECT IN THE AMOUNT OF
17 \$56,559 (AB2007-307)
18

19 *Nelson moved* to approve the request.
20

21 *Motion carried 6-0-1 with McShane abstaining.*
22

23 6. REQUEST APPROVAL FOR THE EXECUTIVE TO INCREASE THE EXPENDITURE
24 FOR ROAD MAINTENANCE PRODUCTS FROM ALPINE PRODUCTS BY \$175,000
25 (AB2007-308)
26

27 7. REQUEST APPROVAL FOR THE EXECUTIVE TO ENTER INTO AN INTERLOCAL
28 AGREEMENT BETWEEN WHATCOM COUNTY AND THE CITY OF BELLINGHAM
29 FOR DESIGN AND CONSTRUCTION OF WEST ILLINOIS/TIMSON WAY
30 (AB2007-309)
31

32 8. REQUEST APPROVAL FOR THE EXECUTIVE TO ENTER INTO A UTILITY
33 CONSTRUCTION AGREEMENT BETWEEN WHATCOM COUNTY AND THE POLE
34 ROAD WATER ASSOCIATION FOR WORK ASSOCIATED WITH THE HANNEGAN
35 ROAD/SR544 SIGNALIZATION PROJECT IN THE AMOUNT OF \$85,923.23
36 (AB2007-310)
37

38
39 **OTHER ITEMS**
40

41 1. ORDINANCE INCREASING WHATCOM COUNTY PUBLIC WORKS
42 ENGINEERING'S PETTY CASH REVOLVING FUND BY \$100.00, FOR A TOTAL
43 PETTY CASH FUND OF \$300.00 (AB2007-297)
44

45 *Nelson* reported for the Finance and Administrative Services Committee and *moved*
46 to adopt the ordinance.
47

48 *Motion carried unanimously.*
49

50 2. ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, EIGHTH
51 REQUEST, IN THE AMOUNT OF \$547,532 (AB2007-298)
52

1 **Nelson** reported for the Finance and Administrative Services Committee and **moved**
2 to adopt the ordinance.

3
4 **Motion carried unanimously.**

5
6 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
7 **COOPERATIVE AGREEMENT BETWEEN WHATCOM COUNTY AND THE ARMY**
8 **CORP OF ENGINEERS FOR LEVEE REHABILITATION ON THE SANDE-**
9 **WILLIAMS LEVEE IN THE AMOUNT OF \$200,000 (AB2007-295A)**
10 **(RECONSIDERATION OF THIS ITEM REQUESTED BY THE FLOOD CONTROL**
11 **ZONE DISTRICT ADVISORY COMMITTEE)**
12

13 **Nelson** reported for the Finance and Administrative Services Committee and stated
14 this moves forward with no recommendation from the committee. He **moved** to approve
15 the request.
16

17 Crawford stated he understands the concerns about this issue. However, there is a
18 good value to using the Army Corps of Engineers matching funds. The cost to the County is
19 \$40,000, but it will be reimbursed \$8,000 from the diking district. The net cost to the
20 County will be \$32,000. The community has historically chosen to protect this land in this
21 way. Although it is not without challenges and issues, abandoning these two sites is not
22 appropriate. He supports the motion.
23

24 Caskey-Schreiber stated her concerns won't go away. With this expense, the County
25 will have paid over \$1 million on this levee. That would be great if it had a good result for
26 the properties protected. However, she's concerned about the property on the other side of
27 the river. They must address the big picture. She asked if there is County policy on how
28 much they invest in one levee system. One question is about how much contribution they
29 expect from the districts. Historically, the district has contributed about five percent. She
30 will support the motion.
31

32 Brenner stated this request is about this levee. It's not unusual to spend this kind of
33 money on all the levees. The flood fee has been raided for other issues and has changed to
34 a tax for other things. The initial reason for the flood fee was for projects like this. If the
35 County were to establish a meander line, the property owners downstream would
36 completely lose their property, with or without the levee. They have farmland. This
37 protects farmland. They must balance the concerns.
38

39 **McShane moved** to amend so that Diking District 2 would reimburse the County
40 \$25,000 instead of \$8,000. The project cost is \$200,000. Now, the Corps would pay
41 \$160,000. The County would pay \$40,000, and be reimbursed \$8,000 from Diking District
42 2. It's more even. If the diking district is that enthusiastic about this project, it should pay
43 more for it, given the unwillingness to set the river management line that would be more
44 cost-effective. There is a lot of discussion about one person downriver who has been
45 impacted by this structure. More than one person has been impacted. The Diking District
46 said it's made efforts to deal with properties on the other side of the river. This issue came
47 up quite some time ago. He hasn't seen any action concerning the other side of the river at
48 all. Indeed, a tremendous amount of sediment has been sent into the river from erosion on
49 the south side of the river already. It's occurring in another location as well, immediately
50 across from site two. A huge volume of the sediment going into the Nooksack River delta
51 comes from this very project. Those bluffs are 50 to 100 feet high. They will collapse into
52 the river much sooner than they would otherwise, because of this project. He prefers that
53 the Diking District pays the entire \$40,000. However, the district has only \$38,000 in hand

1 now. Another \$2,000 is coming in the second half collections. The district has almost all
2 the money, however he understands that it has other dikes to maintain. The diking districts
3 should take more responsibility, like they did in the past. Since the County created this
4 fund, it is readily bailing out the districts.
5

6 Nelson stated that if that's the case, the County should change it's match policy for
7 districts throughout the county. The policy should be equal to all.
8

9 Brenner stated this is a five percent match, which is usual. This particular district
10 and area has been picked on a lot. They are doing a good job. They did a lot of the work
11 before the flood fee was enacted. The flood fee was not about bailing people out. It was
12 about doing projects for which this fits perfectly. The citizens of Whatcom County voted to
13 do that. The citizens didn't vote on the change.
14

15 Crawford stated the local match is 20 percent of the total project cost. In turn, the
16 County's decided that the diking district will pay 20 percent of the County's contribution.
17 They're talking about a very tiny percentage of the County's total flood fee. However,
18 \$8,000 is a considerable amount of the district's assets. The current match amounts are
19 appropriate.
20

21 Caskey-Schreiber stated staff has looked at what has gone into each reach of the
22 river. Reach four, the Deming to Everson Bridge reach has received more \$5.4 million.
23 Reach three, Everson Bridge to Guide Meridian, has received \$2.2 million. She asked why
24 the cost per riverbank mile in reach four is significantly higher than in reaches one through
25 three.
26

27 Crawford stated the reason is because reach four is the choke point in the river.
28

29 *(Clerk's Note: End of tape two, side A.)*
30

31 Crawford continued to state that beyond the choke point, the river gets wide again.
32

33 Caskey-Schreiber stated that is Councilmember McShane's point about why it's so
34 important to get meander lines in that area. They are going to keep spending money on
35 this until they get those lines. That's the frustration.
36

37 Fleetwood asked if there are projects or plans for the Diking District's \$38,000, with
38 which they would interfere.
39

40 Art Anderson, Deming Diking District Commissioner, stated the district contracts for
41 brush work. He hasn't received that bill yet, which will be between \$6,000 and \$8,000.
42 They save some money for emergencies.
43

44 Caskey-Schreiber stated she doesn't disagree with Councilmember McShane.
45 However, she doesn't want to miss the opportunity. She will vote against the motion so
46 they can take advantage of the match and get this project going. This channel migration
47 zone needs to be established. The Council should hire a consultant if necessary. Work on
48 this as soon as possible.
49

50 Nelson stated the voters have said what they intend. The County must maintain its
51 established policies. If they want to change the policy, then have that discussion. He would
52 rather spend money on protecting agricultural lands than on losing more agricultural lands.
53 Any meander lines can have impacts to a lot of agricultural lands in that area. The County

1 spends a lot of money trying to buy up agricultural lands. Here, the river can wipe them all
2 out in one flow.

3
4 Caskey-Schreiber stated there is a forestry use on the other side that is being wiped
5 out.

6
7 McShane stated he appreciates that they are losing other lands and resources. It's
8 clear the councilmembers understand that something needs to be done here. However, the
9 voters' intent is being misrepresented. The County Council approved a flood hazard
10 reduction program. Setting the channel migration areas or river management zones was
11 part of that program. That work has been held up because of flood modeling that isn't
12 complete. They have the data in this area to simply establish a river management zone.
13 The public expected that, because the public expected the money to be spent wisely. This
14 project has been an unwise project from the beginning. The total the County has spent is
15 \$590,000, but the taxpayers have paid much more than that. Not included in this figure is
16 the cost of lost resource lands elsewhere. Those lost resource lands were quite significant.
17 Also not included is the damage done to fisheries and future impacts caused by this
18 structure. They need to move forward with coming up with a reasonable approach. He's
19 tired of how long it's taken. There must be willingness and guts to do this, rather than
20 dodging the bullet and continuing to fund projects that are wrong. There is a way to move
21 back levees. If the Corps looked at the science and at this area, it would clearly recognize
22 the issue of the choke point. This is a super choke point. It is now narrowed to one-tenth
23 the width of the valley. They know that the river has meandered over that, over a period of
24 time. Don't forget this issue. The data is there to make the decision if the people have the
25 courage to make that decision. The Diking District will not like moving the levee back. The
26 Council must set a policy that a district pays the full freight if it does not want to cooperate
27 with the line. If they don't take action on this soon, he will bring it forward. This is a shift
28 in revenue from one part of the community to the other.

29
30 Brenner stated this Council has shown its willingness to do a lot of good things. It's
31 not that she doesn't have courage. She looks at this differently. She doesn't agree. The
32 properties are lost with or without this. Part of the property is that they aren't doing what
33 they used to do on the river. Plenty of good agricultural land will get washed away if they
34 just do a meander line. They must find a balance.

35
36 ***Motion to amend failed 1-6 with McShane in favor.***

37
38 ***Motion to approve carried 6-1 with McShane opposed.***

39
40 **6. COUNTY EXECUTIVE KREMEN REQUESTS CONFIRMATION OF THE**
41 **APPOINTMENT OF KEATS GARMAN TO THE MARINE RESOURCES COMMITTEE**
42 **(AB2007-312)**

43
44 ***Brenner moved*** to confirm the appointment.

45
46 ***Motion carried unanimously.***

47
48 **7. COUNTY EXECUTIVE KREMEN REQUESTS CONFIRMATION OF THE RE-**
49 **APPOINTMENT OF GLEN HALLMAN AND CLIFFORD HENSEL TO THE**
50 **NORTHWEST SENIOR SERVICES BOARD (AB2007-313)**

51
52 ***Nelson moved*** to confirm the appointment.

1 **Motion carried unanimously.**

- 2
3 **8. COUNTY EXECUTIVE KREMEN REQUESTS CONFIRMATION OF THE RE-**
4 **APPOINTMENT OF ROBIN HALLIDAY TO THE BELLINGHAM-WHATCOM**
5 **PUBLIC FACILITIES DISTRICT (AB2007-314)**

6
7 **Caskey-Schreiber moved** to confirm the appointment.

8
9 **Motion carried unanimously.**

- 10
11 **9. RESOLUTION CONCURRING WITH AND GRANTING APPROVAL OF WRIA 1**
12 **DETAILED IMPLEMENTATION PLAN (AB2007-319)**

13
14 **Brenner moved** to approve the resolution.

15
16 Weimer stated that he will support this as long as they don't call it the
17 Comprehensive Watershed Management Plan, because there is nothing comprehensive
18 about it.

19
20 **Brenner moved** to request that the Planning Unit revisit the issue of identifying in
21 the minutes the name or caucus of those who speak. The current method of minutes is not
22 in the public spirit. Some Planning Unit members agree that names should be identified. At
23 the very least, put the name of the caucus. They said this was decided by consensus, but
24 at least four caucus members don't agree.

25
26 **Motion failed 3-4 with Fleetwood, Brenner, and Nelson in favor.**

27
28 **Motion carried unanimously.**

29
30
31 **INTRODUCTION ITEMS**

32
33 **Nelson moved** to accept the Introduction Items.

34
35 **Motion carried unanimously.**

- 36
37 **1. ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, NINTH**
38 **REQUEST, IN THE AMOUNT OF \$189,759 (AB2007-315)**
- 39
40 **2. ORDINANCE ADOPTING AMENDMENTS TO THE UR ZONING DISTRICT**
41 **RELATING TO ESTABLISHING AN URBAN RESIDENTIAL 6 UNITS/ACRE**
42 **DISTRICT AND REQUIRING MINIMUM DENSITIES IN THE UR4 AND UR6**
43 **DISTRICTS (AB2007-316)**
- 44
45 **3. ORDINANCE TO ADOPT, ON AN INTERIM BASIS, AMENDMENTS TO THE UR**
46 **AND URM ZONING DISTRICTS IN THE BELLINGHAM UGA RELATING TO**
47 **DENSITY, LOT CLUSTERING AND RESERVE TRACTS (AB2007-317)**
- 48
49 **4. ORDINANCE TO ADOPT A MINOR ADDITION TO THE CITY OF EVERSON**
50 **SHORT TERM UGA FOR PUBLIC ROAD RIGHT-OF-WAY AND STORMWATER**
51 **DETENTION FACILITY (AB2007-174)**
- 52
53

1 **OTHER BUSINESS**

2
3 There was no other business.
4
5

6 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

7
8 Caskey-Schreiber stated she had a discussion with the Humane Society. They are
9 pleased with the progress of the negotiation with the County administration.
10

11 Dewey Desler, Deputy Administrator, stated this is a large program. They are
12 converting it from one organization to a completely different organization. They've been
13 trying to make sure they do this negotiation appropriately and legally. He's had good
14 cooperation with both the Humane Society and Security Specialists Plus (SSP).
15

16 The Humane Society has asked that the County cover their costs up to the point
17 where they start delivering the service later this fall. They have to hire and train staff and
18 acquire equipment during that time. In the meantime, SSP will continue to provide the
19 service until the Humane Society takes over the service formally. The most effective way to
20 do that would be to develop an agreement to cover the actual costs that they negotiate in
21 advance during that transition period. Then, develop a new agreement for about 14 months
22 with the Humane Society for the service.
23

24 The County doesn't have anything budgeted for this transition or the additional cost
25 of providing the service through the Humane Society. Given the normal County budget
26 process, he asked to use the existing animal control budget authority to develop an
27 agreement to come to the Council in September to handle the transition cost. Also, there
28 will be a hearing in September on the transition cost and the additional cost associated with
29 the implementation of this program. They must work through the technical processes
30 during the Council's hiatus. That is how the administration will proceed if the Council has no
31 objections.
32

33 ***The Council concurred.***

34
35 Brenner stated the Building Industry Association held a half-day workshop for
36 buildings regarding the Built Green program. They used a lot of information from the State.
37 She went on a tour in Skagit County of green modular buildings. The Puget Sound Action
38 Team produced low impact development techniques for Puget Sound. Whatcom County
39 doesn't have to reinvent the wheel. The methods are already there. Whatcom County can
40 incorporate it by reference in the County Code, and move forward on low-impact
41 development. The work has already been done.
42

43 Weimer stated he attended the State Auditor's exit interview. Whatcom County
44 doesn't really have anything to correct. There were no findings at all.
45

46 Crawford stated the he serves on the WhatComm Administrative Board. The Board
47 agrees on a consultant to do a study of radio interoperability in the county. This report says
48 it will cost \$11 million. They will have to talk about that. There may be efforts to get
49 federal funding from the Department of Homeland Security in Washington D.C.
50

51 The State Department of Natural Resources (DNR) North Fork off road area was the
52 last remaining public off road vehicle (ORV) use area in the county. It was recently closed.
53 Now, they've received more complaints about ORV riding on private property. He and

1 Councilmember Brenner would like to meet with members of the Mt. Baker Motorcycle Club
2 to see if there are solutions for this that other jurisdictions have used. They will work on it
3 through the Noise and Nuisance Ordinance, and not burden the Planning Department any
4 further.

5
6
7 **ADJOURN**


8
9 The meeting adjourned at 9:50 p.m.

10
11 
12 _____
13 Jill Nixon, Minutes Transcription

14
15 The Council approved these minutes on September 11, 2007.

16
17 ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

18
19 
20
21
22 _____
23 Dana Brown, Director of Council Clerk



Carl Weimer, Council Chair