

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53

WHATCOM COUNTY COUNCIL  
**Regular County Council**

September 25, 2007

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

Present:

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

Absent:

None

**ANNOUNCEMENTS**

Weimer announced that there was **discussion regarding the confirmation of County Executive Pete Kremen's appointment of David Stalheim to the position of Whatcom County Planning and Development Services Director (AB2007-018) and an update regarding reconveyance of DNR land around Lake Whatcom (AB2007-018)** during the Committee of the Whole meeting.

**SPECIAL PRESENTATION**

**1. COUNTY EXECUTIVE PETE KREMEN TO READ A PROCLAMATION DESIGNATING OCTOBER AS "CONFLICT RESOLUTION" MONTH (AB2007-017)**

Pete Kremen, County Executive, read the proclamation into the record. He presented the director of Whatcom Dispute Resolution Center with the proclamation and introduced center volunteers.

Moon Water, Whatcom Dispute Resolution Center Director, thanked the Council and County Executive.

**MINUTES CONSENT**

***Nelson moved*** to approve Minutes Consent items one through four.

***Motion carried unanimously.***

- 1. SPECIAL COUNTY COUNCIL FOR JULY 24, 2007**
- 2. BOARD OF HEALTH FOR JULY 31, 2007**
- 3. REGULAR COUNTY COUNCIL FOR AUGUST 7, 2007**
- 4. SPECIAL COMMITTEE OF THE WHOLE FOR AUGUST 28, 2007**

1  
2  
3 **OPEN SESSION**  
4

5 The following people spoke:  
6

7 Mike and Mary Hess, 1317 Bonanza Way, Bellingham, stated they request discussion  
8 on the intent of the seasonal land clearing limitations. They are in the middle of building in  
9 the Lake Samish watershed. Their project is stopped due to a decision by the Planning  
10 Department so that there are no exposed soils greater than 500 square feet from April to  
11 September. The ordinance states that clearing activity, as defined in the code, which result  
12 in exposed soils exceeding 500 square feet shall not be permitted from April to September.  
13 They completed clearing activities by the end of August. They went through erosion control  
14 best management practices. They were stopped from putting in foundation footings, but  
15 were stopped after an inspection. There is a discrepancy between clearing regulations and  
16 exposed soils regulations. In order to submit forms, soils have to be exposed at the  
17 building site. It isn't due to a clearing activity. It's due to building. However, exposed soils  
18 aren't allowed. She asked if the intent is to not allow any building after September 1 or to  
19 not allow clearing activities.  
20

21 McShane stated he talked to Mary Hess. They're in a situation where they could  
22 appeal the decision. It sounds like there is an interpretation issue. He doesn't remember  
23 the Council's original intent. The Council has done many land clearing ordinances with  
24 different results over the last six years. A discussion is in order to clarify the Council's  
25 intent. The Council should schedule a discussion for Planning and Development Committee  
26 or Natural Resources Committee.  
27

28 Nelson stated the intent was to require that clearing be done before September,  
29 which would still allow an individual to build.  
30

31 McShane stated that there was also a point system.  
32

33 Brenner stated that the point was to allow building to continue past September, but  
34 not clearing.  
35

36 Caskey-Schreiber stated the intent was that the soil needs to be covered, but  
37 people can still build.  
38

39 April Markowitz, Lake Whatcom Watershed Advisory Board Chair, stated the Board is  
40 strongly in favor of the reconveyance of State Department of Natural Resources (DNR) land.  
41 Bring the lands under local control. The lands will be retained in their natural forested  
42 state, the preferred use of that land. Also, it's really cheap and will be a benefit to the  
43 community.  
44

45 Jim Degolier, 1984 North Mahonia Place, Bellingham, stated he is the President of  
46 the Wildflower Neighborhood Association. His neighborhood of 45 homes is responsible for  
47 a regional drainage retention facility that will be a drainfield for a number of developments  
48 north of them. This facility is managed at their exclusive obligation. However, an 86-home  
49 development immediately to the north will drain completely into this facility. There is  
50 another proposed 77-home development just north of that. Thirty percent of those homes  
51 will drain into their facility. He is in favor of the ordinance regarding Lake Padden. It will  
52 allow protections on the kinds of controls developers can do. His retention facility is not  
53 designed to manage run off from developments that have been completely stripped and that

1 have no erosion controls. The immediate effect on Lake Padden will be catastrophic.  
2 Hundreds of thousands of cubic feet of water will flood into the lake. Ensure that there will  
3 be protections on future development. It directly impacts him and Lake Padden.  
4

5 Marion Beddill, 3600 Seeley Street, Bellingham, stated she supports the ordinance  
6 imposing an interim moratorium on the acceptance of new applications for subdivisions  
7 within the Lake Whatcom Watershed.  
8

9 Regarding the DNR land reconveyance, they need more information on the program.  
10 She asked a series of questions:

- 11 • Who was on the pre-planning committee? Clearly name the agencies and  
12 individual names of people involved in the reconveyance plan.
- 13 • What activities will be permitted on these lands?
- 14 • How will non-permitted activities be enforced?
- 15 • How will they be assured that protections are permanent?
- 16 • Who owns the properties immediately surrounding the transfer properties?
- 17 • How will the access roads be routed and designed?
- 18 • Will other development be encouraged along those roadways once they're  
19 developed?
- 20 • How will the neighboring properties affect the watershed?
- 21 • Which controls will be administered by the County Executive and which  
22 controls will be administered by the Parks Department?  
23

24 Chris Mensch, 1896 Yew Street Road, Bellingham, stated he is in favor of the Lake  
25 Padden protection ordinance. Since 1989, wildlife has disappeared from his nearby three  
26 and a half acres. A lot of clearing has gone on in the watershed. Protect the watershed.  
27 He has witnessed substantial algae blooms in Lake Padden in recent years. The lake is  
28 worth protecting.  
29

30 Betsy Gross, 1949 South Hills Place, Bellingham, stated she is in favor of the Lake  
31 Padden protection ordinance. She lives in the watershed. These proposed changes may  
32 modify how they care for their home and property, but they accept these extra  
33 responsibilities without hesitation. They spend a lot of time at Lake Padden park. Many  
34 different kinds of wildlife use the park. They need clean and fresh water in the watershed,  
35 which will only happen if it's sufficiently protected.  
36

37 Tim Paxton, Clean Water Alliance, stated he is in favor of the reconveyance of the  
38 DNR land. It is an historic prospect for Bellingham and Lake Whatcom. It is a huge step  
39 forward in water quality. The watershed can't stand another 30 miles of new roads and  
40 8,400 acres being logged. Work closely with the City to help pay for the land's  
41 management. It is one of the main beneficiaries. He thanked Linda Marrom and other  
42 citizens for starting this process.  
43

44 Lori Gudmunson, 1939 South Hills Place, stated she is in favor of the Lake Padden  
45 protection ordinance. Algae blooms increase every year. Also restrict fertilizer use similar  
46 to what is done at Lake Whatcom.  
47

48 Carol McDonald, 8174 Mt. Baker Highway, stated she thanks the Council and  
49 Executive for their work on the North Fork Community Resource Center. Support the  
50 authorization request for Stewart+King Architects this evening. She read an email from  
51 Sean Wilson, who strongly supports the project. She also read an email from Norma Otto,  
52 who would like an update on the project. Richard Bunnel also sent an email. Volunteers  
53 can help with the project. Keep the community informed.

1  
2 Linda Marrom, Sudden Valley, stated the original plan was to make the areas  
3 surrounding the Lake Whatcom watershed parkland. Many people have questions about the  
4 severity of damage from parks. People questioned the severity of the 1997 Austin Creek  
5 timber sale, which they stopped. The current DNR Lake Whatcom landscape plan is under  
6 scrutiny from a lawsuit. It includes 45 new roads, with over 30 that will be left. People  
7 should read the DNR Lake Whatcom watershed analysis. She hopes the DNR land  
8 reconveyance goes forward. Get to the point where they have a protected watershed. This  
9 effort was not just from Dan McShane and Pete Kremen. It is from the citizens.

10  
11 Tom Flory, 892 South Hills Drive, stated he is in favor of the Lake Padden protection  
12 ordinance.

13  
14 Sharon Crozier, Bellingham, stated she supports the reconveyance of DNR land. The  
15 access roads put in, and anything else, is done carefully. Roads and sewer lines shouldn't  
16 be any bigger than they need. The County should steward this process and be very diligent.  
17 Make sure later interpretation is clear, so no one encroaches upon the watershed.

18  
19 Gwen Hunter, 2540 Applejack Lane, Bellingham, stated a public utility that removes  
20 gaseous pollutants from the air; collects, purifies, and creates water; appropriates  
21 phosphorus and toxic materials from the soil; provides widespread air conditioning;  
22 produces and distributes oxygen; supplies essential building materials, and; smells good  
23 would be very valuable. Humans are not yet capable of designing such a facility. There is  
24 no alternative to protect the county's forests. They are biogenic public utilities. The  
25 government gives tax credits for this kind of thing.

26  
27 Dave Wallin, 2020 N. Mahonia Place, stated he is a professor of Environmental  
28 Sciences at Western Washington University and has been involved in Pacific Northwest  
29 forest management issues and forestland management discussions for more than ten years.  
30 He supports the reconveyance of DNR land in the Lake Whatcom watershed for the creation  
31 of a park. Residential development in the watershed is the greatest threat to water quality  
32 in Lake Whatcom. Forest land is infinitely more desirable than residential development.  
33 Parkland would be superior to land managed for timber production. Do everything they can  
34 to encourage private forestland within the watershed to continue to be managed for timber  
35 production. However, it's inappropriate to harvest timber from publicly-owned lands in the  
36 watershed. The highest and best use of public forestlands in the watershed is as parkland.

### 37 38 39 **PUBLIC HEARINGS**

#### 40 41 **1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY COMPREHENSIVE** 42 **PLAN TO THE CITY OF EVERSON'S SOUTHEAST URBAN GROWTH AREA FOR** 43 **IMPROVED ACCESS TO THE EXISTING URBAN GROWTH AREA (AB2007-174)** 44

45 Weimer opened the public hearing and the following people spoke:  
46

47 Rollin Harper, City of Everson and Sehome Planning, stated he does not request any  
48 modifications and changes. He thanks the Council for allowing them the extra time and  
49 consideration to go through the City's issues. The process worked well enough.  
50

51 They worked the ordinance out. It protects the County and will work for the City of  
52 Everson. However, they need to revisit the issue of the agricultural buffer so it's not viewed  
53 as arbitrary. There is discussion among the County, cities, and agricultural community.

1 They may find that different circumstances require a different buffer. Move this forward to  
2 concurrency and adoption.

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

5  
6 **McShane moved** to forward for concurrent review and final vote later this evening.

7  
8 **Motion carried unanimously.**

9  
10  
11 **CONSENT AGENDA**

12  
13 **Crawford** reported for the Finance and Administrative Services Committee and  
14 **moved** to approve Consent Agenda items one through five and seven through 17. Item six  
15 was withdrawn from the agenda.

16  
17 **Motion to approve Consent Agenda items one through five and seven**  
18 **through 17 carried unanimously.**

- 19  
20 1. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #07-71 TO**  
21 **THE LOW BIDDER, BRAUN NORTHWEST, FOR THE PURCHASE OF A**  
22 **PRISONER TRANSPORT TRUCK, IN THE AMOUNT OF \$214,795.80 (AB2007-**  
23 **365)**
- 24  
25 2. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO AWARD BID #07-85 TO**  
26 **THE LOW BIDDER, REISNER DISTRIBUTOR, INC., FOR THE ANNUAL SUPPLY**  
27 **OF DELIVERED FUEL SERVICE, IN THE AMOUNT OF \$676,517 (AB2007-366)**
- 28  
29 3. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**  
30 **ECONOMIC DEVELOPMENT INVESTMENT PROGRAM INTERLOCAL LOAN AND**  
31 **GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND THE CITY OF**  
32 **LYNDEN TO SUPPORT FUNDING OF THE WEST LYNDEN INDUSTRIAL ZONE**  
33 **EXPANSION PROJECT, IN THE GRANT AMOUNT OF \$970,952, AND A LOAN**  
34 **AMOUNT OF \$1,941,905 (AB2007-367)**
- 35  
36 4. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**  
37 **AMENDMENT TO AN ECONOMIC DEVELOPMENT INVESTMENT PROGRAM**  
38 **INTERLOCAL LOAN AND GRANT AGREEMENT BETWEEN WHATCOM COUNTY**  
39 **AND THE CITY OF FERNDALE TO PROVIDE ADDITIONAL LOAN FUNDS FOR**  
40 **THE CENTENNIAL RIVERFRONT PROJECT, IN THE AMOUNT OF \$180,458,**  
41 **FOR A TOTAL GRANT IN THE AMOUNT OF \$504,900, AND A REVISED LOAN**  
42 **AMOUNT OF \$1,206,458 (AB2007-368)**
- 43  
44 5. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
45 **CONTRACT AGREEMENT BETWEEN WHATCOM COUNTY AND STEWART+KING**  
46 **ARCHITECTS, INC. FOR CONSULTING SERVICES FOR THE NORTHFORK**  
47 **COMMUNITY RESOURCE CENTER, IN THE AMOUNT OF \$42,400 (AB2007-**  
48 **369)**
- 49  
50 6. **REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A JOINT**  
51 **FUNDING AGREEMENT BETWEEN WHATCOM COUNTY AND US DEPARTMENT**  
52 **OF INTERIOR/US GEOLOGICAL SURVEY FOR OPERATION AND**

1 MAINTENANCE OF TWO STREAMFLOW GAGING STATIONS AT BERTRAND  
2 CREEK, IN THE AMOUNT OF \$37,200 (AB2007-370)  
3

- 4 7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A  
5 CONTRACT BETWEEN WHATCOM COUNTY AND WORK OPPORTUNITIES TO  
6 PROVIDE PATHWAYS TO EMPLOYMENT SERVICES TO ADULTS WITH  
7 DEVELOPMENTAL DISABILITIES, IN AN AMOUNT TO VARY DEPENDING ON  
8 NUMBER OF CLIENTS AND TYPES OF SERVICES AUTHORIZED (AB2007-371)  
9
- 10 8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A  
11 CONTRACT BETWEEN WHATCOM COUNTY AND JAN LOR TO PROVIDE  
12 PATHWAYS TO EMPLOYMENT SERVICES TO ADULTS WITH DEVELOPMENTAL  
13 DISABILITIES, IN AN AMOUNT TO VARY DEPENDING ON NUMBER OF  
14 CLIENTS AND TYPES OF SERVICES AUTHORIZED (AB2007-372)  
15
- 16 9. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A  
17 CONTRACT BETWEEN WHATCOM COUNTY AND KULSHAN SUPPORTED  
18 EMPLOYMENT TO PROVIDE PATHWAYS TO EMPLOYMENT SERVICES TO  
19 ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT TO VARY  
20 DEPENDING ON NUMBER OF CLIENTS AND TYPES OF SERVICES  
21 AUTHORIZED (AB2007-373)  
22
- 23 10. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A  
24 CONTRACT BETWEEN WHATCOM COUNTY AND SERVICE ALTERNATIVES,  
25 INC. TO PROVIDE PATHWAYS TO EMPLOYMENT SERVICES AND COMMUNITY  
26 ACCESS-RETIREMENT SERVICES TO ADULTS WITH DEVELOPMENTAL  
27 DISABILITIES, IN AN AMOUNT TO VARY DEPENDING ON NUMBER OF  
28 CLIENTS AND TYPES OF SERVICES AUTHORIZED (AB2007-374)  
29
- 30 11. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A  
31 CONTRACT BETWEEN WHATCOM COUNTY AND NORTHWEST INDUSTRIES TO  
32 PROVIDE PATHWAYS TO EMPLOYMENT SERVICES TO ADULTS WITH  
33 DEVELOPMENTAL DISABILITIES, IN AN AMOUNT TO VARY DEPENDING ON  
34 NUMBER OF CLIENTS AND TYPES OF SERVICES AUTHORIZED (AB2007-375)  
35
- 36 12. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A  
37 CONTRACT BETWEEN WHATCOM COUNTY AND MT. VIEW GROUP HOME TO  
38 PROVIDE PATHWAYS TO EMPLOYMENT SERVICES TO ADULTS WITH  
39 DEVELOPMENTAL DISABILITIES, IN AN AMOUNT TO VARY DEPENDING ON  
40 NUMBER OF CLIENTS AND TYPES OF SERVICES AUTHORIZED (AB2007-376)  
41
- 42 13. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A  
43 CONTRACT BETWEEN WHATCOM COUNTY AND CURRENT INDUSTRIES TO  
44 PROVIDE PATHWAYS TO EMPLOYMENT SERVICES TO ADULTS WITH  
45 DEVELOPMENTAL DISABILITIES, IN AN AMOUNT TO VARY DEPENDING ON  
46 NUMBER OF CLIENTS AND TYPES OF SERVICES AUTHORIZED (AB2007-377)  
47
- 48 14. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A  
49 CONTRACT BETWEEN WHATCOM COUNTY AND CASCADE VOCATIONAL  
50 SERVICES TO PROVIDE PATHWAYS TO EMPLOYMENT SERVICES TO ADULTS  
51 WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT TO VARY  
52 DEPENDING ON NUMBER OF CLIENTS AND TYPES OF SERVICES  
53 AUTHORIZED (AB2007-378)

- 1  
2 **15. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**  
3 **CONTRACT BETWEEN WHATCOM COUNTY AND WHATCOM COUNTY COUNCIL**  
4 **ON AGING TO PROVIDE COMMUNITY ACCESS-RETIREMENT SERVICES TO**  
5 **ADULTS WITH DEVELOPMENTAL DISABILITIES, IN AN AMOUNT TO VARY**  
6 **DEPENDING ON NUMBER OF CLIENTS AND TYPES OF SERVICES**  
7 **AUTHORIZED (AB2007-379)**  
8  
9 **16. RESOLUTION TO SET HEARING AND NOTICE OF HEARING OF THE SALE OF**  
10 **COUNTY TAX TITLE PROPERTY BY NEGOTIATION – REQUEST #TR2007-02**  
11 **(AB2007-380)**  
12  
13 **17. RESOLUTION TO SET PUBLIC HEARING ON PROPOSAL TO SELL EASEMENT**  
14 **OVER COUNTY PROPERTY TO BAY HORIZONS FOR STORMWATER OUTFLOW**  
15 **AREA (AB2007-381)**  
16  
17

18 **OTHER ITEMS**

- 19  
20 **1. ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, 10<sup>TH</sup>**  
21 **REQUEST, IN THE AMOUNT OF \$5,411,992.00 (AB2007-361)**  
22

23 ***Crawford*** reported for the Finance and Administrative Services Committee and  
24 ***moved*** to adopt the ordinance.  
25

26 Brenner asked the reason why trails are being funded out of the Parks Department  
27 instead of the road fund.  
28

29 Mike McFarlane, Parks Department Director, stated this was a cost-sharing project  
30 between the neighbors and the Parks Department. It's part of the interurban trail that  
31 serves as an access road for a number of residences. The neighborhood gathered funds to  
32 pay for a portion of the project. The County paid for a portion. The cost of the chip seal  
33 came in higher than proposed. This is purely a recreational trail, not a public road.  
34 Recreational trails don't come out of the road fund in this instance.  
35

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

38 McFarlane continued to state that this is not an off-road segment of a County road,  
39 which would be different. This is an existing trail under jurisdiction of City and State Parks.  
40

41 ***Motion carried unanimously.***  
42

- 43 **2. RESOLUTION IN THE MATTER OF CONSIDERING THE VACATION OF A**  
44 **PORTION OF TRIGG ROAD, AN UNOPENED AND UNMAINTAINED ROAD IN**  
45 **WHATCOM COUNTY (AB2007-383)**  
46

47 ***Brenner*** reported for the Public Works and Safety Committee and ***moved*** to  
48 approve the resolution.  
49

50 ***Motion carried unanimously.***  
51

- 52 **3. REPORT ON COMMITTEE DISCUSSION OF THE PLANNING COMMISSION'S**  
53 **RECOMMENDATION REGARDING A REQUEST FROM DUKE**

1           **DEVELOPMENT/LANCE ELLIS TO REZONE 19.5 ACRES ON CHURCH RD. IN**  
2           **THE FERNDALE UGA FROM LTPA TO STPA (AB2007-360)**

3  
4           **Fleetwood** reported for the Planning and Development Committee and **moved** to  
5 uphold the Planning Commission recommendation to deny the rezone.  
6

7           **Motion carried 6-1 with Crawford opposed.**

8  
9           **4. COUNTY EXECUTIVE KREMEN REQUESTS CONFIRMATION OF HIS**  
10           **APPOINTMENT OF DAVID STALHEIM TO THE POSITION OF DIRECTOR OF**  
11           **PLANNING AND DEVELOPMENT SERVICES (AB2007-384)**

12  
13           **Nelson moved** to confirm the appointment.  
14

15           Caskey-Schreiber stated she will vote for this motion. In the future, she would like  
16 the opportunity to participate in the interview process a bit more when the Executive feels  
17 it's appropriate.  
18

19           **Motion carried 6-0-1 with Brenner abstaining.**

20  
21           David Stalheim, Planning and Development Services Director, thanked the Council  
22 for its confirmation.  
23

24           **5. ORDINANCE AMENDING WHATCOM COUNTY CODE, TITLE 20, CHAPTER**  
25           **20.71, 20.80.635, AND 20.80.735, ON AN INTERIM BASIS, TO ADD LAKE**  
26           **PADDEN, AS A WATER RESOURCE PROTECTION OVERLAY DISTRICT,**  
27           **STORMWATER SPECIAL DISTRICT AND WATER RESOURCE SPECIAL**  
28           **MANAGEMENT AREA (AB2007-286A)**

29  
30           **McShane moved** to adopt the ordinance.  
31

32           **Brenner** stated there are three changes here, and she would like to trifurcate them.  
33 She supports one, does not support another, and wants to amend the third. She listened to  
34 what people said and supports protecting the watershed. There is plenty of protection in  
35 the ordinance. In the last part, they require something for Lake Padden that is only  
36 required for drinking water watersheds. In Whatcom County Code (WCC) section  
37 20.80.735, only the two surface water, drinking water watersheds have seasonal clearing  
38 restrictions. Drayton Harbor and Birch Bay don't have those restrictions. She **moved** to  
39 amend 20.80.735(2)(e), "...In the Lake Whatcom and Lake Samish and ~~Lake Padden~~  
40 ~~watersheds...~~" The rest of the ordinance is excellent. She supports restrictions on fertilizer  
41 use and allowing low impact development. However, this arbitrary seasonal clearing thing  
42 won't do anything for the watershed. Also, it's an urban growth area, which is one of the  
43 reasons the Council didn't approve this in the Birch Bay area. It's not necessary.  
44

45           Caskey-Schreiber stated the watersheds differ. The ones that don't have seasonal  
46 land clearing restrictions are saltwater watersheds with estuaries, not freshwater lakes,  
47 which are more vulnerable. It may be a better idea to have seasonal land clearing  
48 regulations on all of the watersheds. There is a benefit to being consistent.  
49

50           Brenner stated the seasonal clearing ordinance is very arbitrary. It used to make  
51 sense and be based on rainfall amounts. Now it's gone beyond that. Now, it's not fair to  
52 the residents.  
53

1 McShane stated the target pollutant for a lake is phosphorus. That's the reason for  
2 the seasonal clearing restrictions in lake watersheds. The loading of phosphorus from runoff  
3 from cleared ground feeds phosphorus into the lake. The lake goes anaerobic over the  
4 summer. The phosphorus feeds the algae cycle in the lake. The soil types in the Lake  
5 Padden watershed are particularly vulnerable to that happening. The reason for seasonal  
6 clearing regulations in Lake Padden is to remove phosphorus loading to Lake Padden.  
7

8 Crawford stated he supports the amendment. Some people are concerned about  
9 how potential future construction would affect stormwater systems in their neighborhoods.  
10 Those concerns should be addressed through development review. If construction  
11 overloads an existing stormwater treatment system in an existing neighborhood, there  
12 should be a way to address that.  
13

14 Also, remove Lake Padden from section 20.80.735(1)(a), which addresses clearing  
15 not associated with development. It makes sense to have the same standard apply by  
16 watershed. It's a good idea to not have the seasonal clearing activity limitations in both  
17 development and non-development situations.  
18

19 This is an urban growth area (UGA). The Council has not chosen to reduce the  
20 density in this UGA. He supports the motion.  
21

22 Brenner stated people can clear when they want to clear, and it doesn't bother her if  
23 no development is involved. She is concerned that people will start a project and then be  
24 delayed for a year. This is not a regular rural area. The County and City decided that this  
25 is an urban growth area. Make sure products and building types are very environmentally  
26 friendly. This is the first opportunity she's had to make changes.  
27

28 Caskey-Schreiber stated she is against the motion to amend. The concern from  
29 those who spoke earlier is because the Council's intent must be clarified. They can still  
30 build. They just need to have their exposed soils covered. The intent was to get people to  
31 clear during the dry months so they can build during the winter. There is no problem with  
32 this language. Any water protection overlay on Lake Padden should be effective. The best  
33 way to be effective is to keep sediments out of the lake. They aren't going to do that by  
34 allowing clearing during the wet months. It's irresponsible to have knowledge about the  
35 effects and not do something to make a difference.  
36

37 Brenner stated the dates are arbitrary. There is not much rain in September or May.  
38 The regulation used to allow those months, and she supported the regulation. Now, people  
39 don't have time to finish their building. There are a lot of protections still in place without  
40 it.  
41

42 Crawford stated it's not as simple as making sure the soils are covered. People  
43 cannot do work during the non-clearing time. It's not practical.  
44

45 Fleetwood stated the reason the Council changed the date from October 1 to  
46 September 1 had to do with the frost, not the rain. Councilmember McShane provided  
47 information for the record to show that plant and grass regeneration was needed during the  
48 month of September to repopulate the groundcover.  
49

50 Crawford stated the Sudden Valley Architectural Committee doesn't allow grass  
51 anyway. They have to have natural vegetation.  
52

1 Fleetwood asked if this was ever in committee. It would be nice to have findings  
2 that support the provisions that people are contesting, to make it stronger. He wants to  
3 support seasonal land clearing. It would have been nice to have a work session on this  
4 item.

5  
6 McShane stated this is an interim, not final, ordinance. There will be a lot of review  
7 of this. It will go to the Planning Commission to be worked through, and then come back to  
8 the Council. An argument can be made that Lake Padden is more sensitive than Lake  
9 Whatcom and Lake Samish, in terms of its risk of harm from residential development. The  
10 existing urban growth area represents about 70 percent of the watershed. Much more area  
11 of the watershed is slated for development. Lake Padden is a much smaller water body. It  
12 gets warmer than the other lakes. It tends to stratify much sooner. The period of being  
13 anaerobic at the lower levels is longer. It is more sensitive to phosphorus loading than  
14 either Lake Whatcom or Lake Samish. This lake is more at risk from becoming degrading  
15 than other lakes. It's a matter of how much they value lakes. If they only value lakes for  
16 drinking water purposes, then they're right. However, it is a major recreational lake for this  
17 community. It's one of the lakes that has a fishing derby for youths. It's a major trout  
18 lake. It warrants protection before they start having problems. A problem already came up  
19 during the environmental impact statement review of the urban growth area. This lake is  
20 degraded and the entire lake is being considered for listing for low developed oxygen, just  
21 like Lake Whatcom.

22  
23 Brenner stated the solution is to plant vegetation that prevents erosion, not grass.  
24 The solutions come from how one build, what one builds, and what is around the building.  
25 Even an interim ordinance creates another year when someone can't do anything on their  
26 property. She wants to protect the watershed, but all three of these are overkill for Lake  
27 Padden.

28  
29 Nelson stated there are many other lakes in the county. He questions why they are  
30 doing things one at a time. He asked why they don't do this for the entire county if this is  
31 an issue.

32  
33 McShane stated he has an environmental impact statement that states this is an  
34 issue in this lake. Maybe they should consider this for other lakes. However, he doesn't  
35 have the information on those lakes. They have information for this lake. There is a  
36 proposal to list this lake as an impaired water body on the 303(d) list for dissolved oxygen  
37 because of urbanization. This lake has been looked at, and there is concern. They can be  
38 proactive with the other lakes. Of the three lakes, this one is at the greatest risk because of  
39 urbanization.

40  
41 Nelson stated they need to stop doing interim ordinances and stop doing it for select  
42 areas. If it's a real concern, get the public in and have a real discussion for all. Otherwise,  
43 the public will get frustrated and they'll receive an adverse reaction.

44  
45 Crawford stated the 303(d) listing includes categories, but it doesn't say why it's  
46 listed. He asked if most lakes in this area have 303(d) listings.

47  
48 ***Motion to amend failed 3-4 with Crawford, Nelson, and Brenner in favor.***

49  
50 ***Brenner moved*** to amend sections 20.71.401 and 20.71.402 to remove setbacks.  
51 They won't be able to do those kinds of setbacks in an urban area. Don't require any  
52 setbacks in an urban area.

1 McShane stated the setbacks came from the Public Works Department, which had  
2 concerns for safety reasons. The committee chose not to change the numbers. It originally  
3 talked about lowering the numbers.

4  
5 Crawford stated the underlying zoning has setback requirements. These sections  
6 don't talk about side yard and rear yard setbacks.

7  
8 Brenner stated this isn't about water protection. This is about setbacks.

9  
10 Weimer stated he shares Councilmember Brenner's concerns. Make sure they don't  
11 create too many limits against densifying in Bellingham. However, this is interim. Direct  
12 staff and Planning Commission addresses that concern in their recommendations.

13  
14 McShane stated there is a reason for going with smaller setbacks. However, the  
15 rationale for these distances was to not go so small that it becomes a safety issue.

16  
17 Brenner stated the safety issue has to do with materials used, not how close  
18 together they are. Materials can be used to prevent safety problems.

19  
20 Crawford stated the setbacks allowed in the water resource protection overlay are  
21 smaller than elsewhere. The water resource protection overlay accomplishes the smaller  
22 setbacks.

23  
24 Brenner stated she doesn't want any setbacks

25  
26 Crawford stated that is a bigger issue.

27  
28 ***Motion failed 1-6 with Brenner in favor.***

29  
30 Crawford asked if the County has ways to address Mr. Degolier's problem.

31  
32 Kraig Olason, Planning and Development Services Department, stated there would  
33 be a drainage review that requires a development to address stormwater. There are  
34 supposed to be design standards for stormwater. Therefore, a development is not supposed  
35 to have impacts off-site beyond a certain storm threshold. The average storm is supposed  
36 to be addressed through the required stormwater retention and detention process.

37  
38 Crawford asked if stormwater runoff from a neighboring development ever happens,  
39 and can these folks have assurance that it won't happen. Olason stated that if it's still  
40 running brown, the controls aren't done. If there's a complaint and problems, the  
41 development will have to upgrade its controls.

42  
43 ***Motion to adopt the ordinance carried 5-2 with Crawford and Nelson***  
44 ***opposed.***

45  
46 **6. RESOLUTION ESTABLISHING REGULAR WHATCOM COUNTY COUNCIL**  
47 **MEETING DATES FOR 2008 (AB2007-357)**

48  
49 ***Nelson moved*** to approve the resolution.

50  
51 Brenner stated the meeting dates should be the first and third Tuesday or second  
52 and fourth Tuesday, so the public knows when to be at the meetings and talk to the Council.

1 It's easier for some other reason not to do that. She asked if the County Council is the only  
2 jurisdiction in the county that does it this way.

3  
4 Fleetwood stated the public isn't beating down the door on those off-Tuesdays. The  
5 public isn't confused by this.

6  
7 ***Motion carried 6-1 with Brenner opposed.***

8  
9 **7. RESOLUTION CERTIFYING AND ACCEPTING THE PROPOSED POLL BOOK FOR  
10 THE NORTH LYNDEN WATERSHED IMPROVEMENT DISTRICT FORMATION  
11 ELECTION (AN IRRIGATION DISTRICT) (AB2007-322B)**

12  
13 ***McShane moved*** to approve the resolution.

14  
15 ***Motion carried unanimously.***

16  
17  
18 **APPROVAL OF THE 2006 COMPREHENSIVE PLAN AMENDMENTS**

19  
20 **1. ORDINANCE ADOPTING AMENDMENTS TO THE COMPREHENSIVE PLAN AND  
21 THE UR AND URM ZONING DISTRICTS RELATING TO LOT CLUSTERING,  
22 RESERVE TRACTS AND WATER AND SEWAGE DISPOSAL FACILITIES  
23 (AB2006-406)**

24  
25 ***McShane moved*** to adopt the ordinance.

26  
27 ***Motion carried unanimously.***

28  
29 **2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY  
30 COMPREHENSIVE PLAN TO THE CITY OF EVERSON'S SOUTHEAST URBAN  
31 GROWTH AREA, FOR IMPROVED ACCESS TO THE EXISTING URBAN GROWTH  
32 AREA (AB2007-174)**

33  
34 ***Fleetwood moved*** to adopt the ordinance.

35  
36 ***Motion carried unanimously.***

37  
38 **3. MOTION AND VOTE TO APPROVE BOTH THE 2006 COMPREHENSIVE PLAN  
39 AMENDMENTS CONCURRENTLY (AB2006-082)**

40  
41 ***Fleetwood moved*** to approve the amendments.

42  
43 ***Motion carried unanimously.***

44  
45  
46 **ADDITIONAL ORDINANCES SCHEDULED FOR ADOPTION**

47  
48 **1. ORDINANCE ADOPTING AMENDMENTS TO THE UR ZONING DISTRICT  
49 RELATING TO ESTABLISHING AN URBAN RESIDENTIAL 6 UNITS/ACRE  
50 DISTRICT AND REQUIRING MINIMUM DENSITIES IN THE UR4 AND UR6  
51 DISTRICTS (AB2007-316)**

52  
53 ***Fleetwood moved*** to adopt the ordinance.

1  
2 Crawford stated he doesn't support the ordinance because he is concerned about the  
3 minimum density requirements. They are not the best way to develop in many situations.  
4

5 Nelson asked if these require a well. He asked what water people must have to get  
6 these in.  
7

8 Kraig Olason, Planning and Development Services Department, stated they will have  
9 to have City water to get density. The point is to try and have reserve areas that remain  
10 after some development is done. It's getting at requiring clustering.  
11

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

14 Olason continued to state that a big issue is five-acre lots spread all over, so nothing  
15 is left to develop.  
16

17 ***Motion carried 6-1 with Crawford opposed.***  
18

19 **2. ORDINANCE TO ADOPT, ON AN INTERIM BASIS, AMENDMENTS TO THE UR**  
20 **AND URM ZONING DISTRICTS IN THE BELLINGHAM UGA RELATING TO**  
21 **DENSITY, LOT CLUSTERING AND RESERVE TRACTS (AB2007-317)**  
22

23 ***Brenner moved*** to adopt the ordinance. A problem with clustering is that one or  
24 two houses were developed in the reserve tract, so redevelopment couldn't happen  
25 efficiently. This ordinance makes it better. It's a good ordinance to have.  
26

27 Crawford stated they are saying people cannot develop at a density less than four  
28 units per acre.  
29

30 Nelson stated this is about wells being taken away after sewer and water is hooked  
31 up. He thought people have to have sewer and water to get this development.  
32

33 Kraig Olason, Planning and Development Services Department, stated a typical  
34 cluster would have to meet the maximum lot size for onsite septic and well.  
35

36 Crawford stated they won't find that in the Bellingham urban growth area. Olason  
37 stated people can use the reserve tract for a drainfield if the lots are very small, for  
38 example.  
39

40 Nelson stated there could be a legal water association with four or five houses on a  
41 well. He asked if there is a legal right to take away a legal water association. Olason stated  
42 they would have to ask legal counsel. They are trying to reduce the area occupied by a  
43 drainfield or a well.  
44

45 Crawford asked if the County will require a hookup when water and sewer are  
46 available on the Mylar. Keep in mind that people can't subdivide in these urban growth  
47 areas anyway. It's not going to happen. It's easier to develop in the rural areas than in the  
48 urban growth areas.  
49

50 Brenner stated it could happen. They were supposed to do clustering, but those  
51 requirements became inefficient. Olason stated the policies for this has been in place since  
52 the Comprehensive Plan was adopted. Whether or not it's likely, the idea is to retain the  
53 bulk of the area for future density.

1  
2 **Motion carried unanimously.**

3  
4  
5 **INTRODUCTION ITEMS**

6  
7 **Caskey-Schreiber moved** to accept Introduction Items one and three through six.

8  
9 **Motion carried unanimously.**

- 10  
11 1. **RECEIPT OF APPEAL OF HEARING EXAMINER'S DECISION ON SHR07-0006,**  
12 **FILED BY NAUMAN (AB2007-363)**
- 13  
14 2. **RESOLUTION ADOPTING THE WHATCOM COUNTY 2008 ANNUAL ROAD**  
15 **CONSTRUCTION PROGRAM (AB2007-382)**
- 16  
17 This item was withdrawn from the agenda.
- 18  
19 3. **RESOLUTION TO SELL COUNTY TAX TITLE PROPERTY BY NEGOTIATION -**  
20 **REQUEST #TR2007-02 (AB2007-380A)**
- 21  
22 4. **RESOLUTION REGARDING THE SALE OF AN EASEMENT BY THE COUNTY ON**  
23 **ITS UNDIVIDED INTEREST IN A PARCEL IN THE BIRCH BAY AREA TO BAY**  
24 **(AB2007-381A)**
- 25  
26 5. **ORDINANCE LIMITING, ON AN INTERIM, THE SIZE OF LARGE COMMERCIAL**  
27 **RETAIL ESTABLISHMENTS IN ORDER TO PROMOTE COMPATIBILITY WITH**  
28 **OTHER JURISDICTIONS WITHIN WHATCOM COUNTY (AB2007-135A)**
- 29  
30 6. **ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF**  
31 **NEW APPLICATIONS FOR SUBDIVISIONS WITHIN THE LAKE WHATCOM**  
32 **WATERSHED (AB2007-158A)**

33  
34 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

35  
36 There were no reports or other items.

37  
38 **ADJOURN**

39  
40 The meeting adjourned at 8:46 p.m.

41  
42   
43 \_\_\_\_\_  
44 Jill Nixon, Minutes Transcription

45  
46 The Council approved these minutes on October 23, 2007.

47  
48 ATTEST:  
49   
50 \_\_\_\_\_  
51 Dana Brown-Davis, Council Clerk

52  
53 WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

54   
55 \_\_\_\_\_  
56 Carl Weimer, Council Chair