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WHATCOM COUNTY COUNCIL
Regular County Council

October 23, 2007

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

Present:

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

Absent:

None

FLAG SALUTE

ANNOUNCEMENTS

Weimer announced there was a **presentation on a preliminary hydropower permit application for Cascade Creek Hydroelectric Power Project in Petersburg, Alaska (AB2007-429)** during the Committee of the Whole meeting.

Weimer announced the Committee of the Whole also addressed the following items in executive session.

- **Discussion with Senior Deputy Prosecutor Karen Frakes regarding pending litigation (AB2007-018)**
- **Consideration of Motion to Dismiss Appeal (Wynden Holman, Hearing Examiner File No. APL07-0009), filed on behalf of Whatcom County Planning and Development Services (AB2007-386)**

Fleetwood moved to dismiss the Wynden Holman appeal.

Brenner stated it was not submitted in time.

Motion carried unanimously.

- **Consideration of request for reconsideration of Council's decision on appeal (Lake Whatcom Water and Sewer District and Lake Whatcom Residential Treatment Center, Hearing Examiner File No. CUP06-0031), filed by Squalicum Valley Community Association, in conjunction with the City of Bellingham (AB2007-321)**

Crawford moved to deny the request for reconsideration of the Council's decision.

Brenner stated she supports the motion because the Whatcom County Code doesn't allow reconsideration after a final decision has been signed and sent.

1
2 **Motion carried unanimously.**
3
4

5 **MINUTES CONSENT**
6

7 **Brenner moved** to approve the Minutes Consent items.
8

9 **Motion carried unanimously.**

- 10
11 **1. COMMITTEE OF THE WHOLE FOR SEPTEMBER 11, 2007**
12
13 **2. REGULAR COUNTY COUNCIL FOR SEPTEMBER 11, 2007**
14
15 **3. SURFACE WATER WORK SESSION FOR SEPTEMBER 18, 2007**
16
17 **4. COMMITTEE OF THE WHOLE FOR SEPTEMBER 25, 2007**
18
19 **5. REGULAR COUNTY COUNCIL FOR SEPTEMBER 25, 2007**
20

21
22 **OPEN SESSION**
23

24 The following people spoke:
25

26 John Watts, Bellingham City Council Member, stated that in the matter of water
27 extension to the treatment center, the City Council directed the City attorney on three
28 occasions to direct a letter to the County Council. He doesn't know the disposition of those
29 letters or whether they were timely received. The City's concern continues to be with the
30 public process. He is very concerned about the inappropriate, possibly illegal, request to
31 reconsider the Council's decision. The City has a direct interest in the matter. By State law,
32 the County Council Chair can direct the Prosecuting Attorney to submit information to the
33 City in response to the City's request. He is not speaking on behalf of the City. He would
34 like a written explanation of who received the information, when it was received, what
35 information was passed to the County Council, and when this position was taken.
36

37 Lois Garlick, 3014 Lynn Street, Bellingham, submitted and read from a letter
38 regarding the Nexus program at the border and the treatment of U.S. citizens (*on file*).
39

40 Brenner stated that even though they are friendly with them, the people who do this
41 are federal employees. They don't work at the local level. Because they are aware of it,
42 the County should send a letter to their federal representatives to work on and resolve this
43 problem. The County hasn't made a statement yet, which is very appropriate. Also send a
44 letter to the Governor.
45

46 Elliott Smith, 1920 Alabama Street #1, Bellingham, stated a more effective solution
47 may be to write a letter to Consul General Lewis Lukens in Vancouver B.C. and Canadian
48 Consul General Peter Lloyd in Seattle. It may be easier to get things heard between Seattle
49 and Vancouver than between Ottawa and Washington D.C.
50

51 He is writing a masters thesis at Western Washington University on hydroelectricity
52 and Canada-United States relations. He is available to work on this issue.
53

1 Cynthia Flora, Bellingham, stated she lived in Petersburg, Alaska for 20 years. The
2 people in Petersburg have a small environmental footprint. Don't invade one of the most
3 popular recreational sites for Petersburg to feed their thirst for cheap energy when these
4 people have a very small footprint. The people of Petersburg, Alaska are very upset about
5 the proposal with Whatcom County. The site is one of their most popular areas for
6 recreation. The area is pristine. What is being presented as a green alternative has many
7 implications for the people there. Many species of fish and wildlife use the lake. With a 45-
8 foot draw down of the lake, a question is whether float planes can land on the lake. Even
9 though a dam is not planned, there would be construction, pen stocks down tidewater, a
10 five-acre staging area, docks, and power houses. Also, there is no existing connection from
11 Ketchikan to the North American power grid. The residents are upset because they will then
12 be tied to the North American grid and subject to all the ramifications of that unstable grid.
13 Currently, their power grid is very secure. They don't want anyone else on it. Fully
14 investigate the safety record of Whitewater, which is the sister company.

15
16 Johnnie Grames, 1506 E. Maplewood Avenue, Bellingham, stated he was
17 disappointed that there won't be much change in the affairs of local government in the
18 judiciary branch of government. The City attorney decided to go to court and take away the
19 initiative petition on the waterfront so it won't be on the ballot. The judge decided to throw
20 it out. Now, the City is threatening to sue the County over the vague wording of the
21 waterline in the Lake Whatcom watershed. He is quite concerned about that. The Mayor
22 and County Executive have a plan for Lake Whatcom so the City and Council work together.
23 The two Councils will have a meeting with the Water District Commissioners. This lawsuit
24 undermines the atmosphere of that meeting, so they are going in the opposite direction of
25 cooperation with the City and people in the community.

26
27 Patrick Alesse, 4825 Alderson Road, Birch Bay, stated the State of Texas isn't hooked
28 to the National Grid. Don't worry about that. One more dam will stop fish. He asked about
29 nuclear power. It actually works. They are easier to maintain in the long run.

30
31
32 **PUBLIC HEARINGS**

33
34 **1. ORDINANCE APPROVING AN INDIRECT CHANGE IN CONTROL OF**
35 **FRANCHISE-HOLDER GUINNESS COMMUNICATIONS, INC. (AB2007-402)**

36
37 Weimer opened the public hearing and, hearing no one, closed the public hearing.

38
39 ***Caskey-Schreiber moved*** to adopt the ordinance.

40
41 ***Motion carried unanimously.***

42
43 **2. ORDINANCE APPROVING MT. BAKER CABLE, LLC'S PURCHASE OF TELECOMM**
44 **ASSOCIATES, INC. AND THE SUBSEQUENT CHANGE IN FRANCHISE**
45 **OWNERSHIP (AB2007-403)**

46
47 Weimer opened the public hearing and, hearing no one, closed the public hearing.

48
49 ***Caskey-Schreiber moved*** to adopt the ordinance.

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

1 **3. RESOLUTION ADOPTING THE WHATCOM COUNTY 2008 ANNUAL ROAD**
2 **CONSTRUCTION PROGRAM (AB2007-382)**

3
4 Weimer opened the public hearing and, hearing no one, closed the public hearing.

5
6 **McShane moved** to approve the resolution.

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 six and eight through ten. The
15 administration withdrew item seven.

16
17 Brenner withdrew item nine.

18
19 **Motion to approve Consent Agenda items one through six, eight, and ten**
20 **carried unanimously.**

- 21
22 **1. REQUEST BY THE WHATCOM COUNTY HOUSING ADVISORY BOARD FOR**
23 **APPROVAL OF RECOMMENDATIONS FOR FUNDING AND ENTERING INTO**
24 **CONTRACTS FROM 2060 REPAIR & RETENTION RFP #07-77 IN THE AMOUNT**
25 **OF \$115,000 (AB2007-389)**
- 26
27 **2. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ACCEPT A DONATION OF**
28 **.35 ACRES OF LAND (PARCEL #4006350801050000) FOR PARK PURPOSES**
29 **FROM THE GLACIER SPRING PROPERTY OWNERS (AB2007-410)**
- 30
31 **3. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
32 **AGREEMENT BETWEEN THE COUNTY AND THE STATE OF WASHINGTON**
33 **ADMINISTRATIVE OFFICE OF THE COURTS AND WHATCOM COUNTY TO**
34 **PROVIDE FUNDING FOR THE CREATION AND IMPLEMENTATION OF A**
35 **COURT-APPOINTED SPECIAL ADVOCATES PROGRAM IN JUVENILE COURT**
36 **ADMINISTRATION IN THE AMOUNT OF \$100,000 (AB2007-411)**
- 37
38 **4. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A LEASE**
39 **AGREEMENT WITH JOHN VON KRUSENSTIERN FOR WAREHOUSE SPACE TO**
40 **STORE COUNTY RECORDS IN THE AMOUNT OF \$20,864.88 (AB2007-412)**
- 41
42 **5. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
43 **INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE CITY OF**
44 **BELLINGHAM FOR YEW STREET ROAD PHASE II IMPROVEMENTS (AB2007-**
45 **409)**
- 46
47 **6. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
48 **CONTRACT BETWEEN WHATCOM COUNTY AND QWEST CORPORATION FOR**
49 **THE COUNTY'S PABX EQUIPMENT IN THE AMOUNT OF \$45,288 PER YEAR**
50 **FOR FIVE YEARS (AB2007-413)**
- 51
52 **7. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO AN**
53 **INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE LUMMI**

1 **NATION FOR THE HAXTON WAY PEDESTRIAN & BICYCLE SAFETY PROJECT**
2 **IN THE AMOUNT OF \$300,000 (AB2007-414)**

3
4 **8. REQUEST AUTHORIZATION FOR THE EXECUTIVE TO ENTER INTO A**
5 **CONTRACT BETWEEN WHATCOM COUNTY AND WHATCOM CENTER FOR**
6 **EARLY LEARNING FOR CHILD DEVELOPMENT SERVICES IN AN AMOUNT NOT**
7 **TO EXCEED \$112,000 (AB2007-415)**

8
9 **9. REQUEST APPROVAL FOR THE EXECUTIVE TO AWARD BID #07-94 TO SOLE**
10 **BIDDER CLYDE WEST, INC. FOR AN ARTICULATED MOTOR GRADER IN THE**
11 **AMOUNT OF \$249,406.05 (AB2007-416)**

12
13 *Brenner moved* to hold in Finance Committee for two weeks. She received more
14 information during today's committee meeting, and would like to do more research.

15
16 Crawford stated he agrees with Councilmember Brenner.

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

19
20 **10. RESOLUTION AMENDING CRP #905016 FOR THE DRAYTON HARBOR ROAD**
21 **PROJECT AND AWARD OF CONTRACT TO RAM CONSTRUCTION GENERAL**
22 **CONTRACTORS AS LOW BIDDER IN THE AMOUNT OF \$1,243,810 (AB2007-**
23 **430)**

24
25
26 **OTHER ITEMS**

27
28 **1. RESOLUTION TO SELL COUNTY TAX TITLE PROPERTY BY NEGOTIATION,**
29 **REQUEST #TR2007-02 (AB2007-380A)**

30
31 Weimer reported for the Natural Resources Committee and stated there is no
32 recommendation from committee.

33
34 McShane stated the County Treasurer contacted him last week and said she had
35 additional information, but he doesn't have it yet. He talked with County staff Sam Ryan,
36 who had contacted the County geologist, who confirmed that there are no coal beds.
37 However, it's likely that there is hard rock that may be a good aggregate source. There is
38 little high quality bedrock in this county. He hasn't received any more information about the
39 disposition of these mineral rights.

40
41 Weimer stated the Treasurer provided information to the Natural Resources
42 Committee about the history of the property. She didn't have any information about the
43 bedrock.

44
45 Crawford asked why timber is included as part of the resolution. It's clear this is just
46 about the mineral rights. He asked if it goes back to the owner, who has the timber rights
47 anyway. This isn't about timber rights. There would be value to those timber rights.

48
49 *Brenner* stated someone owns the property already, and they want the mineral
50 rights that go with it. The ownership is there. She *moved* to approve the resolution.

1 McShane stated that given the geologic evidence of the area, it's not likely the rock
2 value is only \$412, given the size of the property. It could potentially be worth much more.
3 The County owns the rock currently. He can't support selling it at this time.
4

5 Nelson stated he understands that people in the rural lands are reluctant to give up
6 timber and mineral rights.
7

8 Fleetwood asked if Councilmember McShane proposes to sell the land with an
9 amendment to reserve the rights to bedrock.
10

11 McShane stated the Council is being asked a fiduciary question. It's not a matter of
12 whether or not they are helping someone by giving them the County's right to the minerals.
13 That fiduciary question has not been thoroughly explored. There may be constraints that
14 doesn't allow that use, but he has yet to hear an explanation.
15

16 Fleetwood asked if time is of the essence on this sale.
17

18 Dewey Desler, Deputy Administrator, stated it is not.
19

20 Weimer stated he agrees that it would be nice to make this property whole for the
21 owners, but he would hate for that to be a pit in the future, for which the County may have
22 to pay thousands of dollars for minerals that it sold for \$400.
23

24 ***Brenner withdrew her motion and moved*** to hold in Natural Resource Committee
25 for two weeks.
26

27 ***Motion carried unanimously.***
28

29 **2. RESOLUTION TO SELL AN EASEMENT OF COUNTY-OWNED PROPERTY ALONG**
30 **BIRCH BAY DRIVE TO BAY HORIZONS DEVELOPMENT FOR DEVELOPMENT OF**
31 **STORMWATER OUTFLOW (AB2007-381A)**
32

33 ***Weimer*** reported for the Natural Resources Committee.
34

35 ***McShane moved*** to approve the resolution.
36

37 ***Motion carried unanimously.***
38

39 **3. ORDINANCE INCREASING THE PETTY CASH REVOLVING FUND FOR THE**
40 **WHATCOM COUNTY FERRY BY \$800 FOR A TOTAL PETTY CASH FUND OF**
41 **\$1,800 (AB2007-399)**
42

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

46 ***Motion carried unanimously.***
47

48 **4. ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, 11TH**
49 **REQUEST, IN THE AMOUNT OF \$366,701 (AB2007-400)**
50

51 ***Crawford*** reported for the Finance and Administrative Services Committee and
52 ***moved*** to adopt the ordinance.
53

1 ***Motion carried unanimously.***

2
3 **5. ORDINANCE ESTABLISHING A LEOFF I HEALTHCARE FUND FOR POST**
4 **EMPLOYMENT HEALTH CARE AND LONG-TERM CARE COSTS IN THE AMOUNT**
5 **OF \$3,500,000 (AB2007-401)**

6
7 ***Crawford*** reported for the Finance and Administrative Services Committee and
8 ***moved*** to adopt the ordinance.

9
10 Brenner stated the State legislature did this in the 1970's for six or seven years
11 before it was withdrawn. They have to deal with the expense that was required for those
12 years.

13
14 ***Motion carried unanimously.***

15
16 **6. REQUEST FROM COUNTY EXECUTIVE KREMEN AND MAYOR TIM DOUGLAS**
17 **FOR APPROVAL OF THE REVISED AND RESTATED INTERLOCAL AGREEMENT**
18 **BETWEEN THE CITY OF BELLINGHAM AND WHATCOM COUNTY TO CLARIFY**
19 **PARTICIPATION OF WHATCOM COUNTY'S SMALL CITIES IN THE PUBLIC**
20 **FACILITIES DISTRICT CREATED BY THE CITY OF BELLINGHAM AND**
21 **WHATCOM COUNTY (AB2007-407)**

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

25
26 Brenner asked about Ferndale setting up its own district to do this. She asked if it is
27 possible to include wording that allows the City of Ferndale to withdraw at some point in the
28 future, but requires the City to stay in until the current project is finished. Once they have
29 committed to being in it, they need to stay.

30
31 Crawford stated that if the City of Ferndale does not sign, there is not a full
32 agreement. This gives the County authorization to sign the agreement. Nothing prevents
33 the County from approving that.

34
35 Dewey Desler, Deputy Administrator, stated the legislature requires a project of at
36 least \$10 million for local governments to establish a public facilities district. Not one of the
37 cities can finance a project of that amount alone. Once the City of Ferndale does its
38 investigative work, it will find that this doesn't change the amount of revenue it receives
39 from the State and also that the City wouldn't be able to use the money for anything else,
40 anyway.

41
42 Brenner stated she agrees. However, make a place in the agreement where
43 someone can opt out in the future as long as they stay committed to any project. Desler
44 stated projects have to be established by a certain date and a district has a limited time
45 within which it can use the rebate. Even if Ferndale grows rapidly, it would probably not be
46 eligible to seek the designation to set up a \$10 million project.

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

49
50 **7. RESOLUTION DIRECTING ADMINISTRATIVE SERVICES TO EMPLOY A**
51 **CONTRACTOR TO BID EXCESS MEDICAL PLAN INSURANCE (AB2007-408)**

1 **Crawford** reported for the Finance and Administrative Services Committee and
2 **moved** to approve the resolution.

3
4 **Motion carried unanimously.**

5
6 **8. REQUEST AUTHORIZATION TO PURCHASE A CONSERVATION EASEMENT ON**
7 **THE EBE FARM PROPERTY IN THE AMOUNT OF \$270,400 (AB2007-418)**

8
9 **Fleetwood** reported for the Planning and Development Committee and **moved** to
10 approve the request.

11
12 **Motion carried unanimously.**

13
14 **9. COUNTY EXECUTIVE KREMEN REQUESTS CONFIRMATION OF HIS**
15 **APPOINTMENT OF JEFF CHALFANT TO THE WHATCOM COUNTY MARINE**
16 **RESOURCES COMMITTEE (AB2007-419)**

17
18 **Brenner moved** to confirm the appointment.

19
20 **Motion carried unanimously.**

21
22
23 **INTRODUCTION ITEMS**

24
25 **Caskey-Schreiber moved** to accept the Introduction Items.

26
27 Weimer asked that Introduction Items one and three go into Finance Committee at
28 the next meeting and that there be a public hearing two weeks after that. He wants to
29 discuss tapping into banked capacity to pay for upcoming water programs.

30
31 Nelson stated legal counsel will have to help with that discussion.

32
33 Crawford asked if this delay hinders the County's ability to collect the taxes.

34
35 Brenner stated the Council has until December to approve these taxes.

36
37 Dewey Desler, Deputy Administrator, they have until the end of November, at least,
38 to approve these items.

39
40 **Motion carried unanimously.**

41
42 **1. RESOLUTION AUTHORIZING THE LEVY OF TAXES FOR THE WHATCOM**
43 **COUNTY FLOOD CONTROL ZONE DISTRICT FOR 2008 (AB2007-420)**

44
45 **2. ORDINANCE AUTHORIZING THE LEVY OF TAXES FOR COUNTY AND STATE**
46 **PURPOSES IN WHATCOM COUNTY FOR THE YEAR 2008 (AB2007-421)**

47
48 **3. ORDINANCE AUTHORIZING THE LEVY OF TAXES FOR COUNTY**
49 **CONSERVATION FUTURES PURPOSES FOR 2008 (AB2007-422)**

50
51 **4. ORDINANCE AUTHORIZING THE LEVY OF TAXES FOR COUNTY ROAD**
52 **PURPOSES FOR 2008 (AB2007-423)**
53

- 1 5. RESOLUTION AUTHORIZING THE COUNTY EXECUTIVE TO SUBMIT AN
2 APPLICATION TO THE STATE OF WASHINGTON, OFFICE OF COMMUNITY
3 DEVELOPMENT TO REQUEST \$1,000,000 TO BE APPLIED TO CAPITAL ASSETS
4 FOR THE EAST WHATCOM REGIONAL RESOURCE CENTER PROJECT (AB2007-
5 424)
6
7 6. APPROVAL TO HOLD A PUBLIC HEARING IN ACCORDANCE WITH GRANT
8 REQUIREMENTS OF THE COMMUNITY DEVELOPMENT BLOCK GRANT,
9 OPPORTUNITY COUNCIL'S HOUSING REHABILITATION PROJECT AND
10 AUTHORIZATION FOR THE EXECUTIVE TO SIGN AND SUBMIT THE FINAL
11 GRANT BUDGET AND REPORT (AB2007-425)
12
13 7. ORDINANCE AMENDING THE 2007 WHATCOM COUNTY BUDGET, 12TH
14 REQUEST, IN THE AMOUNT OF \$38,491 (AB2007-426)
15
16 8. ORDINANCE AMENDING THE 2008 WHATCOM COUNTY BUDGET, 1ST
17 REQUEST, IN THE AMOUNT OF \$207,655 (AB2007-427)
18
19 9. REQUEST ADOPTION OF A RESOLUTION VACATING A PORTION OF TRIGG
20 ROAD (AB2007-383A)
21
22

23 **OTHER BUSINESS**

24
25 There was no other business.
26
27

28 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

29
30 Brenner stated she wants to send letters to the Consulate-Generals, their federal
31 representatives, and the Governor regarding the Nexus program.
32

33 Weimer stated those letters can come forward at the next Council meeting.
34

35 Caskey-Schreiber stated the County received a \$75,000 grant from the Northwest
36 Clean Air Agency to match the County's \$75,000 for a new bio-diesel fuel tank.
37 Councilmember Brenner has been advocating for that.
38

39 She has been getting a lot of correspondence from Petersburg, Alaska regarding the
40 **presentation on a preliminary hydropower permit application for Cascade Creek**
41 **Hydroelectric Power Project in Petersburg, Alaska (AB2007-429)**. The Council did
42 not approve this project. This is the first time she's really heard about it. They should have
43 another discussion about it. She asked about the process.
44

45 Dewey Desler, Deputy Administrator, stated this is an application for a preliminary
46 permit. It puts the County in line. They aren't proposing to spend any money at this point.
47 They have to do a lot of research at this point. The administration will request that the
48 Natural Resources Committee take this issue up at its next meeting.
49

50 Regarding Nexus, the administration sent a letter to the Congressional delegation
51 today. He will give the Council a copy of that letter.
52
53

1 **ADJOURN**

2
3 The meeting adjourned at 7:48 p.m.

4
5 
6 _____
7 Jill Nixon, Minutes Transcription

8
9 The Council approved these minutes on November 20, 2007.

10
11 ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

12
13 
14
15 _____
16 Dana Boyd Davis, Council Clerk

17


Carl Weimer, Council Chair