

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2006-468

| CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to: |
|----------------------------------|---------|----------|---------------------------------|-------------|----------------|
| Originator: S. Tang | ST | 11/30/06 | | 12/5/06 | Introduction |
| Division Head: K. Christensen | KNC | 11/30/06 | | 1/16/07 | Public Hearing |
| Dept. Head: J. Monsen | JR | 12/1/06 | | | |
| Prosecutor: D. Gibson | DG | 12/01/06 | | | |
| Purchasing/Budget: B. Bennett | | | | | |
| Executive: P. Kremen | | | | | |

TITLE OF DOCUMENT:

Ordinance re-establishing Drayton Harbor and Portage Bay Shellfish Districts

ATTACHMENTS:

Memo re: Shellfish Protection District Ordinance; Draft Ordinance Amending Whatcom County Code 16.20, Whatcom County Shellfish Protection District

| | |
|--|---|
| SEPA review required? () Yes (X) NO | Should Clerk schedule a hearing? (X) Yes () NO |
| SEPA review completed? () Yes () NO | Requested Date: |

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The attached ordinance re-establishes the Drayton Harbor and Portage Bay Shellfish Districts with a new sunset date of December 31, 2008. Stormwater staff recommends the continuation of the shellfish districts and feels the work of these groups are vital in identifying and addressing pollution sources that are affecting nearshore marine environments. These districts are also essential if we wish to see these downgraded shellfish areas reclassified to approved status and continue to protect those shellfish areas that have been re-opened.

COMMITTEE ACTION:

COUNCIL ACTION:

12/5/2006: Introduced
1/16/2007: Council Adopted 7-0
Ord. 2007-003

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:
95-036, 98-069, 2000-028, 2002-069,
2004-061 Ord. 2007-003

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

1 Sixth Drayton Harbor/ Portage Bay Shellfish Ord. 2007

SPONSORED BY: Consent
PROPOSED BY: Public Works
INTRODUCED: 12/5/06

2
3
4
5
6 ORDINANCE NO. 2007-003

7
8 READOPTING AND AMENDING WHATCOM COUNTY CODE 16.20
9 WHATCOM COUNTY SHELLFISH PROTECTION DISTRICT
10

11 WHEREAS, on July 18, 1995, the Whatcom County Council adopted
12 Ordinance 95-036, creating the Drayton Harbor Shellfish Protection District, with a
13 sunset date of December 31, 1998; and

14 WHEREAS, on March 24, 1998, the Council adopted Ordinance 98-069, approving
15 an updated version of the Recovery Plan and setting a revised sunset date for the
16 Shellfish Protection District of December 31, 2000; and

17 WHEREAS, on June 27, 2000, the Whatcom County Council adopted
18 Ordinance 2000-028, creating a revised sunset date for the Drayton Harbor and Portage
19 Bay Shellfish Protection Districts of December 31, 2002; and

20 WHEREAS, on November 26, 2002, the Whatcom County Council adopted
21 Ordinance 2002-069, creating a revised sunset date for the Drayton Harbor and Portage
22 Bay Shellfish Protection Districts of December 31, 2004; and

23 WHEREAS, on November 11, 2004, the Whatcom County Council adopted
24 Ordinance 2004-061, creating a revised sunset date for the Drayton Harbor and Portage
25 Bay Shellfish Protection Districts of December 31, 2006; and

26 WHEREAS, numerous efforts have occurred in both the Drayton Harbor and
27 Portage Bay Shellfish Districts to eliminate or reduce pollutants that are affecting the
28 shellfish beds, through improved partnerships, cooperative efforts and increased
29 community involvement; and

30 WHEREAS, on October 27, 2003, the Washington State Department of Health
31 reopened approximately 625 acres of Portage Bay shellfish beds, bringing the total area
32 of Portage Bay open for shellfish harvesting to 1,210 acres, and leaving 110 acres in the
33 "restricted" classification; and

34 WHEREAS, on May 4, 2004, the Washington State Department of Health
35 conditionally approved shellfish harvest for approximately 525 acres of Drayton Harbor
36 and left 1975 acres closed to shellfish harvest; and

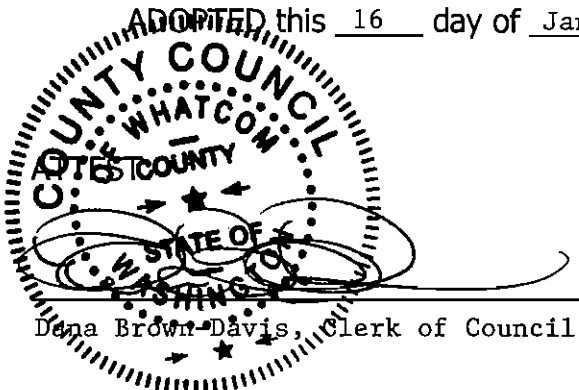
37 WHEREAS, on May 26, 2006, the Washington State Department of Health
38 upgraded approximately 110 acres of the shellfish growing area in Portage Bay from
39 "restricted" to "approved" classification; and

40 WHEREAS, work needs to continue to ensure that approved shellfish harvest
41 areas maintain open status, and remaining closed areas are reopened, and

42 NOW THEREFORE, BE IT ORDAINED by the Whatcom County Council that the
43 Drayton Harbor Shellfish Protection District and the Portage Bay Shellfish Protection
44 District shall be reestablished immediately, with a sunset date of December 31, 2008,
45 all as indicated in Exhibit A to this Ordinance.

46 ADOPTED this 16 day of January, 2007.

47
48
49
50
51
52
53
54
55
56
57
58
59
60
61



Dana Brown Davis, Clerk of Council

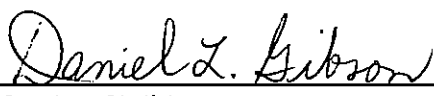
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



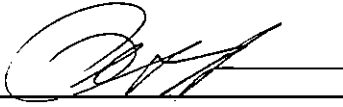
Carl Weimer, Council Chair

APPROVED AS TO FORM:

Approved () Denied



Senior Civil Deputy Prosecuting Attorney



Pete Kremen,
County Executive

Date: 1-17-07

EXHIBIT A

Chapter 16.20 WHATCOM COUNTY SHELLFISH PROTECTION DISTRICTS

Sections:

| | |
|-----------|--|
| 16.20.010 | Establishment and authority of district. |
| 16.20.015 | Purpose. |
| 16.20.016 | Establishment of program. |
| 16.20.020 | District boundaries. |
| 16.20.040 | Revenue authority. |
| 16.20.045 | Collection of charges or rates and exemptions. |
| 16.20.050 | Sunset date and dissolution of district. |
| 16.20.060 | Relationship with other entities. |
| 16.20.065 | Advisory groups. |
| 16.20.090 | Severability. |

16.20.010 Establishment and authority of district.

There is hereby established the Drayton Harbor and Portage Bay shellfish protection districts under the authority of Chapter 90.72 RCW, Shellfish Protection Districts. (Ord. 98-019 Att. C; Ord. 95-036).

16.20.015 Purpose.

The purpose of these districts is to provide services to citizens experiencing nonpoint pollution of surface water drainages and coastal waters and to implement those portions of the Drayton Harbor and Portage Bay closure response strategies necessary to allow removal of the Drayton Harbor and Portage Bay downgrades. (Ord. 98-019 Att. C; Ord. 95-036).

16.20.016 Establishment of program.

The Portage Bay Initial Closure Response Strategy dated February 10, 1998, is hereby adopted as the Portage Bay shellfish protection program. (Ord. 98-019 Att. C).

16.20.020 District boundaries.

The Drayton Harbor shellfish protection district shall be the approximate area included in the Drayton Harbor Watershed and contained within the boundaries that are declared as follows:

Commencing on the forty-ninth parallel at the point dividing the American and Canadian territory in the Gulf of Georgia; thence easterly along said international boundary line to the intersection of Markworth Road; thence southerly along the centerline of Markworth Road to the intersection of Badger Road; thence easterly along the centerline of Badger Road to the intersection of Glendale Road; thence southerly along the centerline of Glendale Road to the intersection of Loomis Trail Road; thence westerly along the centerline of Loomis Trail Road to the intersection of Bob Hall Road; thence southerly along the centerline of Bob Hall Road to the intersection of Birch Bay Lynden Road; thence westerly along the centerline of Birch Bay Lynden Road to the intersection of Woodland Road; thence southerly along the centerline of Woodland Road to the intersection of Harksell Road; thence easterly

109 along the centerline of Harksell Road to the intersection of Enterprise Road; thence
110 southerly along the centerline of Enterprise Road to the intersection of Aldergrove
111 Road; thence westerly along the centerline of Aldergrove Road to the intersection of
112 Olson Road; thence northerly along the centerline of Olson Road to the intersection
113 of Grandview Road; thence westerly along the centerline of Grandview Road to the
114 intersection of Valley View Road; thence northerly along the centerline of Valley View
115 Road to the intersection of Bay Road; thence westerly along the centerline of Bay
116 Road to the intersection of Kickerville Road; thence northerly along the centerline of
117 Kickerville Road to the intersection of Birch Bay Lynden Road; thence westerly along
118 the centerline of Birch Bay Lynden Road to the intersection of Blaine Road; thence
119 northerly along the centerline of Blaine Road to the intersection of Lincoln Road;
120 then westerly along the centerline of Lincoln Road to where it becomes Semiahmoo
121 Parkway; thence following the centerline of Semiahmoo Parkway to the intersection
122 of Drayton Harbor Road; thence following a line running off-shore to the point of
123 origin in the Gulf of Georgia, plotted in such a manner as to follow existing
124 boundaries of land parcels.

125
126 The Portage Bay shellfish protection district shall be the approximate area included in the
127 Nooksack Watershed and contained within the boundaries that are declared as follows:

128
129 Commencing on the forty-ninth parallel at the intersection of Markworth Road;
130 thence easterly along said international boundary line to the easterly section line of
131 Township 41 North, Range 3 East, Section 35; thence southerly along said section
132 line to the intersection of Halverstick Road; thence westerly along the centerline of
133 Halverstick Road to the easterly section line of Township 40 North, Range 3 East,
134 Section 3; thence southerly along said section line to the northerly line of Township
135 40 North, Range 3 East, Section 11; thence easterly along said section line to the
136 easterly section line of Township 40 North, Range 3 East, Section 11; thence
137 southerly along said section line to the intersection of East Badger Road; thence
138 easterly along the centerline of East Badger Road to the intersection of Trap Line
139 Road; thence southerly along the centerline of Trap Line Road to the intersection
140 with the City Limits of Everson; thence proceeding easterly along the City Limits of
141 Everson to the intersection with the City Limits of Nooksack; thence proceeding
142 along the City Limits of Nooksack to the easterly section line of Township 40 North,
143 Range 4 East, Section 31; thence southerly along said section line to the northerly
144 section line of Township 39 North, Range 4 East, Section 5; thence easterly along
145 said section line to the intersection with Nooksack Road; thence southerly along the
146 centerline of Nooksack Road to the intersection with Hopewell Road; thence easterly
147 along the centerline of Hopewell Road to the intersection with Lawrence Road;
148 thence southerly along the centerline of Lawrence Road to the northerly section line
149 of Township 39 North, Range 4 East, Section 21; thence easterly along said section
150 line to the westerly section line of Township 39 North, Range 4 East, Section 13;
151 thence northerly along said section line to the northerly section line of Township 39
152 North, Range 4 East, Section 1; thence easterly along said section line to the
153 westerly section line of Township 40 North, Range 5 East, Section 31; thence
154 northerly along said section line to the northerly section line of Township 40 North,
155 Range 5 East, Section 31; thence easterly along said section to the westerly line of
156 Township 40 North, Range 5 East, Section 28; thence northerly along said section

157 line to the northerly line of Township 40 North, Range 5 East, Section 4; thence
158 easterly along said section line to the westerly section line of Township 41 North,
159 Range 5 East, Section 34; thence northerly along said section to the 49th parallel;
160 thence easterly along the 49th parallel to the easterly section line of Township 41
161 North, Range 5 East, Section 36; thence southerly along said section line to the
162 northerly section line of Township 40 North, Range 6 East, Section 6; thence easterly
163 along said section line to the easterly section line of Township 40 North, Range 6
164 East, Section 5; thence southerly along said section to the northerly section line of
165 Township 40 North, Range 6 East, Section 9; thence easterly along said section line
166 to the National Forest Boundary; thence proceeding southerly along said National
167 Forest Boundary to the boundary between Whatcom County and Skagit County;
168 thence westerly along said County boundary to the westerly section line of Township
169 37 North, Range 5 East, Section 34; thence northerly along said section line to the
170 southerly section line of Township 37 North, Range 5 East, Section 21; thence
171 westerly along said section line to the westerly section line of Township 37 North,
172 Range 5 East, Section 21; thence northerly along said section line to the southerly
173 section line of Township 37 North, Range 5 East, Section 17; thence westerly along
174 said section line to the westerly section line of Township 37 North, Range 4 East,
175 Section 13; thence northerly along said section line to the southerly section line of
176 Township 37 North, Range 4 East, Section 11; thence westerly along said section
177 line to the westerly section line of Township 37 North, Range 4 East, Section 11;
178 thence northerly along said section line to the southerly section line of Township 38
179 North, Range 4 East, Section 15; thence westerly along said section line to the
180 westerly section line of Township North, Range 4 East, Section 17; thence northerly
181 along said section line to the southerly section line of Township 38 North, Range 4
182 East, Section 7; thence westerly along said section line to the westerly section line of
183 Township 38 North, Range 4 East, Section 7; thence northerly along said section line
184 to the intersection of East Smith Road; thence westerly along the centerline of East
185 Smith Road to the easterly section line of Township 39 North, Range 3 East, Section
186 31; thence southerly along said section line to the intersection of Kelly Road; thence
187 westerly along the centerline of Kelly Road to the intersection of Guide Meridian;
188 thence southerly along the centerline of Guide Meridian to the southerly section line
189 of Township 38 North, Range 2 East, Section 1; thence westerly along said section
190 line to the easterly section line of Township 38 North, Range 2 East, Section 11;
191 thence southerly along said section to the southerly line of Township 38 North,
192 Range 2 East, Section 11; thence westerly along said section to the easterly
193 sectionline of Township 38 North, Range 2 East, Section 16; thence southerly along
194 said section line to the intersection with Bellingham Bay; thence recommencing at
195 the westerly section line of Township 38 North, Range 2 East, Section 20 in the
196 Nooksack Delta; thence northerly along said section line to the northerly section line
197 of Township 38 North, Range 2 East, Section 17; thence easterly along said section
198 line to the centerline of the Nooksack River; thence following the centerline of the
199 Nooksack River to the intersection with the City Limits of Ferndale; thence westerly,
200 proceeding along the City Limits of Ferndale to the intersection with Mt. View Road;
201 thence westerly along the centerline of Mt. View Road to the intersection with the
202 City Limits of Ferndale; thence northerly, proceeding along the City Limits of
203 Ferndale to the intersection with Church Road; thence northerly along the centerline
204 of Church Road to the intersection of Aldergrove Road; thence easterly along the

205 centerline of Aldergrove Road to the intersection of Enterprise Road; thence
206 northerly along the centerline of Enterprise Road to the intersection of Harksell
207 Road; thence westerly along the centerline of Harksell Road to the intersection of
208 Woodland Road; thence northerly along the centerline of Woodland Road to the
209 intersection of Birch Bay-Lynden Road; thence easterly along the centerline of Birch
210 Bay-Lynden Road to the intersection of Bob Hall Road; thence northerly along the
211 centerline of Bob Hall Road to the intersection of Loomis Trail Road; thence easterly
212 along the centerline of Loomis Trail Road to the intersection of Glendale Road;
213 thence northerly along the centerline of Glendale Road to the intersection of West
214 Badger Road; thence westerly along the centerline of West Badger Road to the
215 intersection of Markworth Road; thence northerly along the centerline of Markworth
216 Road to the forty-ninth parallel, POB.

217
218 (Ord. 98-019 Att. C; Ord. 95-036).

219
220 **16.20.040 Revenue authority.**

221 The revenue authorities granted under Chapter 90.72 RCW shall be exercised at the discretion
222 of the board of supervisors, which shall be the county council for the operation of these
223 districts. (Ord. 98-019 Att. C; Ord. 95-036).

224
225 **16.20.045 Collection of charges or rates and exemptions.**

226 Property owners within these shellfish protection districts may be assessed charges or rates as
227 allowed by Chapter 90.72 RCW to finance the shellfish protection programs. The owner of any
228 property within a shellfish protection district which is exempt from charges or rates because
229 such property is subject to the National Pollution Discharge Elimination System as specified in
230 RCW 90.72.070 shall demonstrate such exemption annually to the county assessor. If evidence
231 of exemption is not provided, the property will automatically convert from exempt status and
232 the property will be subject to charges or rates. Land exempt from charges and rates as
233 specified in RCW 90.72.070 because of its forest land classification will automatically convert
234 from exempt status if the land classification changes and will be subject to charges or rates.
235 (Ord. 98-019 Att. C).

236
237 **16.20.050 Sunset date and dissolution of district.**

238 The Drayton Harbor shellfish protection district shall be dissolved on ~~December 31, 2006~~
239 December 31, 2008, unless specifically extended by ordinance of the county legislative
240 authority, or upon the removal of the downgrade. The Portage Bay shellfish protection district
241 shall be dissolved and this chapter repealed on ~~December 31, 2006~~ December 31, 2008, unless
242 specifically extended by ordinance of the county legislative authority, or upon the removal of
243 the downgrade. These districts may also be dissolved by the county legislative authority by
244 ordinance. The county legislative authority shall review the continued need for these districts
245 four months prior to their sunset dates. (Ord. 98-069; Ord. 98-019 Att. C; Ord. 95-036).

246
247 **16.20.060 Relationship with other entities.**

248 No program or activity proposed by the district shall replace or consolidate existing activities
249 performed by cities or other non-county provided water-related special purpose districts without
250 their consent. In formulating new programs, consultation and coordination shall occur with
251 cities and other water-related special districts. (Ord. 98-019 Att. C; Ord. 95-036).

253 **16.20.065** **Advisory groups.**

254 The board of supervisors shall appoint advisory committees of not more than eleven members
255 to advise on the overall operations of these districts. Two of the eleven members will represent
256 tribal interests of the Nooksack Tribe and Lummi Nation. In establishing district advisory
257 committees, all members shall have a direct interest in the district. (Ord. 98-019 Att. C; Ord.
258 95-036).

259
260 **16.20.090** **Severability.**

261 If any provision of this chapter is found to be invalid, all remaining provisions shall continue in
262 effect. (Ord. 98-019 Att. C; Ord. 95-036).