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WHATCOM COUNTY COUNCIL  
**Regular County Council - Evening Session**

June 23, 2009

Council Chair Seth Fleetwood called the meeting to order at 6:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner  
Bob Kelly  
Sam Crawford  
Carl Weimer  
Laurie Caskey-Schreiber  
L. Ward Nelson

Absent:

None

**FLAG SALUTE**

**ANNOUNCEMENTS**

**OPEN SESSION**

The following people spoke:

Dave Pros, 1466 Roy Road, Bellingham, stated ask the Planning Department Director to stop working on a 20-year planning population projection. They're not necessary at this time. Inform the citizens on this matter and then get input from the citizens. Don't do visioning without public participation.

**PUBLIC HEARINGS**

**1. ORDINANCE LIMITING TOTAL ANNUAL REAL ESTATE PROPERTY TAX INCREASES, INCLUDING THE USE OF BANKED CAPACITY, TO 1% PER YEAR UNLESS APPROVED BY A MAJORITY VOTE OF THE PEOPLE (AB2009-160A)**

Fleetwood opened the public hearing, and the following people spoke:

Robin Williams, 1518 Harksell Road, Ferndale, stated he is against raising taxes. They are taxed enough already. Many people in the community, including seniors and beginning workers, have to live on a budget. The Council should ask people before creating more taxes. The County must live within its means. Observe the one percent limit on property taxes, and ask the public for anything more.

Brett Bonner, 3025 Ellis Street, Bellingham, stated the Council should be open on this issue. He asked when giving the people the right to vote became a negative, partisan issue. The public should have the right to vote on raising property taxes. The Council should get public input on raising taxes.

1 Councilmembers have said that this system is a representative democracy.  
2 However, that ignores a fundamental right of the people to petition the government,  
3 according to the County Charter.  
4

5 The County Council lawyer said he believes the measure is not consistent with State  
6 law. However, there is ample precedent saying that Charter counties have powers beyond  
7 the State in matters of local concern.  
8

9 Side with the people and pass this ordinance. Don't let partisanship, fear, or legal  
10 technicalities stand in the way. Trust the citizens to have the wisdom to make informed  
11 decisions. Give them the right to vote.  
12

13 James Twining, 2010 Valley Brook, Bellingham, stated the government and economic  
14 systems are based on private property rights. Other systems include socialism. A system  
15 that could be called "communitarianism" combines aspects of private- and state-owned  
16 property. It vests ownership in the individual and empowers government to make decisions  
17 regarding its use. The property owners of Whatcom County reject socialism and  
18 "communitarianism." They are in favor of free enterprise, capitalism, and private property.  
19 The citizens reject government assertions on how the citizens can use their own property,  
20 government trespass on property, building permit conditions, and onerous property tax  
21 increases without a vote.  
22

23 Jim Malin, 244 Summerland Road, Bellingham, stated he supports the ordinance.  
24 Citizens are saturated with taxes. They need spending controls. Governments are spending  
25 money on unnecessary things. People are losing their homes and having trouble keeping  
26 food on the table. Businesses are closing. This is why citizens want to cap government's  
27 ability to take more money.  
28

29 Joe Wilson, 3239 Chandler Parkway, Bellingham, stated he advocates for democracy.  
30 People no longer trust the government to make responsible decisions. The issue of taxes is  
31 the most important issue, especially during these economic times. Justify a new tax, and  
32 then allow the people to vote on a tax increase. Get citizens involved in the process. They  
33 are responsible enough to vote for new taxes when required.  
34

35 Don Hansey, 907 41<sup>st</sup> Street, Bellingham, submitted and read from his testimony (*on*  
36 *file*). Home Rule Charter counties have the right to the mini-initiative. The purpose of the  
37 initiative is to bring forward the will of the people. The legal opinion on this mini-initiative  
38 was based on the county commissioner form of government, not a Home Rule Charter  
39 county rule. He supports the ordinance.  
40

41 Lincoln Rutter, 8373 Semiahmoo Drive, Blaine, stated he is against the ordinance  
42 because it ties the hands of government. Don't limit taxation to a number that is arbitrary  
43 and capricious. Nothing is logical about a one percent limit. Instead, make developers pay  
44 the cost of their real estate speculation. Property taxes are driven by the taxing districts in  
45 the county. Fifty percent of the public's cost should be borne by these developers. That  
46 would raise more revenue and lower the burden on the taxpayers.  
47

48 Chet Dow, 5491 Woodfern Way, Bellingham, stated let the voters have a decision on  
49 raising taxes. This is a way to give citizens more control. The Council should have asked  
50 for an advisory vote before it raised taxes last year. The County Charter gives citizens the  
51 right to petition the government. Allow the voters a say in how they want things done.  
52

1 Pat Soll, 1369 Chuckanut Crest Drive, Bellingham, stated the Council should vote in  
2 favor of the ordinance. There is no reason for his property taxes to increase 22 percent  
3 without his input.  
4

5 Larry Helm, 2660 E. 41<sup>st</sup> Terrace, Bellingham, stated over 3,000 signed the petition.  
6 It's bothersome when the County attorney tries to thwart citizen participation in  
7 government. The people are trying to talk to the Council. Don't try to find ways to get  
8 around the situation.  
9

10 Wendy Harris, Bellingham, stated the mini-initiative would force the County to raise  
11 taxes to avoid forfeiting its banking capacity. They are in desperate need of a tax increase.  
12 She is opposed to the ordinance because the initiative isn't legally enforceable. Approving  
13 the initiative would waste time and money. Federal law takes precedent over State law,  
14 which takes precedent over local law. The initiative can't override a State law. Elected  
15 officials should make decisions based on the long-term interest of the general public. They  
16 have the ability to see the entire picture. The community is not best-served when  
17 individuals act only in their short-term self-interests. Infrastructure is crumbling. This  
18 county has a lot of personal wealth. Protect natural resources and pay for necessary capital  
19 facilities. Raise taxes to provide a high quality of life in Whatcom County.  
20

21 Randy Elmore, 2185 Squalicum Mountain Road, Bellingham, described the history of  
22 the right to private property. The right to tax property is also the right to take property.  
23 The County Council has been very disciplined in not increasing property taxes. In tough  
24 economic times, the temptation to use banked capacity is strong. More than 4,000  
25 taxpayers in the county ask the Council to allow them to vote on any tax increase beyond  
26 one percent per year. He supports the ordinance and the initiative.  
27

28 Michael Gleason, 4761 Mosquito Lake Road, Deming, asked if the State would strike  
29 down the ordinance if adopted. He asked why this ordinance would be considered illegal.  
30 His property taxes total three months of the social security he receives. Cut spending  
31 instead of raising taxes and raising revenue. He supports the ordinance and the initiative.  
32

33 Art Thomas, 2620 Island View Lane, Lummi Island, stated it doesn't matter whether  
34 or not anyone supports the concept. The issue is about going to the people to find out if  
35 they support the tax increase. Allow the community to vote on the issue. Talk about  
36 whether citizens have a right to vote on this issue.  
37

38 Richard May, Box 294, Custer, stated use the one percent allowed increase every  
39 year, and save the money as a nest egg, rather than charging larger increases all at once.  
40 Allow the people to choose whether the Council will charge a one percent increase each year  
41 or a larger increase all at once.  
42

43 Elisabeth Britt, 1403 Northshore Drive, Bellingham, stated she brought a thank you  
44 card to the Council for holding the line on property taxes for the last several years. She is  
45 against the mini-initiative. The Council has the authority to raise taxes when needed. Don't  
46 tie the Council's hands if it needs to raise taxes.  
47

48 Bob Wiesen, 3314 Douglas Road, Ferndale, stated people can't trust the Council  
49 anymore. The Council took away the Executive's veto power over the flood tax. Even  
50 though they've held down increases in the past, it may not do that in the future. He would  
51 like to know the Council's attitude toward future taxes. The Council thinks it knows better  
52 than the citizens.  
53

1 Dave Pros, 1466 Roy Road, Bellingham, stated he believes in representative  
2 democracy, as long as leadership represents the preferences of the people. In order to  
3 represent those preferences, the Council must ask the citizens what they want. Let the  
4 community vote. The next few years will be tough. It will be better if the Council asks the  
5 people what they want before making major decisions.  
6

7 Joe Elenbaas, 600 E. Smith Road, Bellingham, stated he agrees with Don Hansey's  
8 comments. He worked with Mr. Hansey on the original Charter. The initiative process sold  
9 the public on the idea of being a Charter county. The initiative process is a means of giving  
10 guidance to the Council. He served on the Board of Freeholders and all three Charter  
11 Review Commissions. The message has been consistent. No one wants to change the mini-  
12 initiative process. The Council shouldn't deny opportunity to their constituents to provide  
13 advice and a directive. Don't deny the citizens a right to give their opinion. He supports  
14 the ordinance.  
15

16 Fleetwood stated the Council will switch to the urban growth area (UGA) hearing for  
17 now, until 7:30 p.m. Then the Council will resume the public hearing on this item.  
18

19 *(Clerk's Note: The public hearing continued, below.)*  
20

21 **2. RECEIPT OF PUBLIC AND AGENCY TESTIMONY ON THE INITIAL URBAN**  
22 **GROWTH AREA (UGA) PROPOSALS RECEIVED BY WHATCOM COUNTY (UGA**  
23 **REVIEW IS BEING COMPLETED FOR ALL CITIES WITHIN WHATCOM**  
24 **COUNTY, AS WELL AS THE UNINCORPORATED URBAN GROWTH AREAS FOR**  
25 **BIRCH BAY, COLUMBIA VALLEY, AND CHERRY POINT) (AB2009-052D)**  
26

27 Fleetwood opened the public hearing, and the following people spoke:  
28

29 Lincoln Rutter, 8373 Semiahmoo Drive, Blaine, stated this will have a greater impact  
30 on taxes than the mini-initiative. Urban growth areas (UGAs) should not be so large. He  
31 submitted a court decision that says the Birch Bay Community Plan determines whether the  
32 fire station has the capacity to service the people who live in the district. The Birch Bay  
33 plan says citizens have to pay for upgrades to the fire station so Birch Bay can have a 4,700  
34 acre urban growth area. Birch Bay is an unincorporated area with no capability to raise tax  
35 revenue and no commercial areas to generate sales taxes. House values in the area are  
36 decreasing. The County is asking Birch Bay to become the fastest growing area in the  
37 county, with no means for raising taxes. Don't include the West Blaine forested area in the  
38 UGA.  
39

40 Heather MacKay, 863 Main Street, Lynden, stated don't allow ongoing, incremental  
41 decreases to agricultural lands and increases to urban growth. Plan for the cities parallel  
42 with natural resource land and agricultural lands together. Don't approve expansion of  
43 urban growth areas as proposed because they impact agricultural land and natural  
44 resources. Use existing tools more and develop new tools to implement urban growth  
45 policies.  
46

47 Keats Garman, 8710 Oertel Drive, Blaine, stated don't make the West Blaine area a  
48 UGA. Without this area, the City of Blaine has adequate room to grow. West Blaine isn't  
49 necessary to meet population projections. It has no water or sewer services. Police and  
50 other services aren't nearby. The projected increase of population can't be served with out  
51 new or upgraded roads. The increase will create urban sprawl. Encourage infill first. There  
52 will be negative environmental impacts from future development. It will create more

1 stormwater runoff and will contribute to water quality pollution. Remove West Blaine from  
2 the UGA, and downzone it to rural.  
3

4 Richard Banel, 8525 Juniper Place, Maple Falls, stated he supports alternative Y and  
5 Director Stalheim's proposal for the Columbia Valley UGA. It will filter new growth into the  
6 sewer district service area, encourage capital infrastructure investment, and reduce  
7 development pressure on surrounding rural lands. The proposal provides is adequate to  
8 accommodate planned growth. Keep the comment period for this proposal open for another  
9 week.  
10

11 Gail Garman, 8710 Oertel Drive, Blaine, stated she asks the Council to remove from  
12 the UGA and downzone to rural, one unit per five acres (R5A) the West Blaine area. The  
13 East Blaine area meets the criteria for UGA consideration and accommodates planned  
14 growth. Also, West Blaine does not meet the criteria because new roads would be  
15 necessary, it's not located adjacent to public facilities, and does not have water and sewer  
16 service. The Blaine City Council proposes retaining the West Blaine UGA because of the  
17 long-standing expectation that Trillium Corporation will do a planned development there.  
18 There are already stormwater problems with this area, and it just is being used as  
19 agricultural land. The stormwater damage from such a development will be overwhelming.  
20 Remove the West Blaine area from the UGA.  
21

22 Lesa Starckenburg-Kroontje, Lynden, submitted and read from her testimony (*on*  
23 *file*). Restore the portion of the Koetje property that was not included in the UGA originally.  
24 It was mistakenly not included, and got lost in the docket process.  
25

26 An area adjacent to the city limits is between Bensen Road and Double Ditch Road.  
27 Proceed to the north, through those properties, as the city grows. It will allow the City to  
28 address flooding issues. Start from the southern end, and move north.  
29

30 Both of these areas are included in the City's proposal.  
31

32 Simi Jain, Zender Thurston PS Attorney, stated she represents Robert Matuchek in  
33 Geneva. The Council removed his properties from the UGA in 2008, based on inaccurate  
34 information. Fix the mistake and put the southern part of the block back into the UGA to  
35 correct the error, even though the City Council proposal is to not include any new UGA  
36 areas. The area already has development and small, urban lots. The change would be  
37 insignificant to the UGA, but will allow Mr. Matuchek to develop his property.  
38

39 Brady Webb, 1216 St. Paul, Bellingham, stated Foothills planning has been difficult  
40 for County staff. Through the process, Mr. Aamot conducted himself in a professional  
41 manner. He also commends Planning Director David Stalheim for his leadership and work  
42 on the supplemental environmental impact statement (EIS) and allowing public input. He  
43 thanked the Planning Commission for its time spent on Foothills issues. The members were  
44 open-minded.  
45

46 He's frustrated that two years of planning occurred without resulting in a more  
47 reasonable, practical approach for providing the necessary services to Columbia Valley. It  
48 was a policy mistake ten years ago to make this an urban growth area. Create a  
49 commercial node combined with the resource center across from Paradise. UGA proponents  
50 consistently voted for a grocery store and other services. It's unfortunate that the needs of  
51 the developers were misconstrued with the needs of the people. With all due respect, he is  
52 disappointed in the lack of foresight of the long-term needs. The clustering proposal for an  
53 additional 300 homes is a joke.

1  
2 Wendy Harris, 3925 E. Connecticut Street, Bellingham, stated the County should  
3 restrict the size and population of UGAs as much as possible. Put more emphasis on  
4 protecting sensitive watersheds located in the proposed UGAs. At some point, the County  
5 will reach a point when it can no longer sustain growth without destroying the natural  
6 resources upon which it depends. The Growth Management Act (GMA) does not recognize  
7 that. Adopt the most restrictive growth policies. Give priority to drinking water sources.  
8 Revoke the Geneva and Hillsdale UGAs. Bellingham does not intend to annex these areas.  
9 UGAs are created with the intent for annexation. Bellingham has no updated shoreline  
10 master program. Not all lakefront properties have been properly restricted. Give careful  
11 consideration to Drayton Harbor also. The interurban conservancy area should remain  
12 rural.

13  
14 Rebecca Boonstra, 682 Sprague Valley Drive, Maple Falls, stated she supports  
15 alternative Y and the proposal for the Columbia Valley UGA, as presented by Director  
16 Stalheim.

17  
18 John McLaughlin, 221 Highland Drive, Bellingham, stated to avoid excessive  
19 development in rural areas, the solution is not to expand urban growth areas. The solution  
20 is to implement policies to shift development to urban areas. The draft EIS (DEIS) did not  
21 consider many impacts on the watersheds or climate change. Go with the most  
22 conservative approach possible until they can look at those impacts. Most of the  
23 watersheds will be severely degraded and impaired. They will likely lose salmon from most  
24 of the watersheds in the County.

25  
26 John Lesow, Whatcom County, stated population projections have not been given  
27 enough consideration. County officials are providing County land for the benefit of affluent  
28 Canadians for second homes. Scale back the UGAs.

29  
30 Cathy Lehman, Futurewise Whatcom, stated work to protect rural and agricultural  
31 land. She thanked the County Planning staff for their hard work. Don't expand UGAs into  
32 urban lands of agricultural significance. Reject the requests of the City of Everson and City  
33 of Lynden.

34  
35 Jack Hovenier, Sand Road, Bellingham, stated he submits the proposal submitted by  
36 Director Stalheim for the Columbia Valley UGA. The subarea plan is vital. Columbia Valley  
37 needs jobs and economic development. They don't have the correct zoning to create jobs.

38  
39 Fleetwood stated we are going to go back to the mini-initiative public hearing as we  
40 stated earlier.

41  
42 *(Clerk's Note: The public hearing continued, below.)*

43  
44 **1. ORDINANCE LIMITING TOTAL ANNUAL REAL ESTATE PROPERTY TAX**  
45 **INCREASES, INCLUDING THE USE OF BANKED CAPACITY, TO 1% PER YEAR**  
46 **UNLESS APPROVED BY A MAJORITY VOTE OF THE PEOPLE (AB2009-160A)**

47  
48 *(Clerk's Note: Discussion continued from earlier.)*

49  
50 Dennis Jones, 1487 Sudden Valley, Bellingham, stated it is the most political and  
51 least productive initiative he has seen. Washington is not one of the most taxed states in  
52 the Union. The least progressive form of tax in Washington State is the property tax. He is  
53 against the mini-initiative.

1  
2 Patrick Grover, 3965 Loomis Trail Road, Blaine, asked if they are going to vote for or  
3 against the people's right to govern the country. Voting down this initiative is to say the  
4 people don't have a right to have a say in their government.  
5

6 Mark Flanders, 1609 F Street, Bellingham, stated he thanks the Council for not  
7 raising property taxes for the last 12 years. Don't hamstring the Council. Keep up the good  
8 work. Let the people they elect do the job. They don't need to make an initiative every  
9 time someone wants to be opposed to a tax.

10  
11 Diane Foster, Bellingham, stated she is opposed to the initiative. She thanked the  
12 Councilmembers for stretching the tax dollars during these times of crisis. They get a  
13 bargain for the tax dollars they spend.

14  
15 Hearing no one else, Fleetwood closed the public hearing.

16  
17 **Brenner moved** to adopt the ordinance.

18  
19 Caskey-Schreiber stated she is against the ordinance. She originally was in favor of  
20 this initiative. However, supporting it is the easy way out. It is in conflict with State law,  
21 according to the County's attorney. Regardless, they are taking away the County's ability to  
22 engage in adaptive management. Personally, she could live with that. However, she can't  
23 commit future decision-makers to a formula that is a recipe for disaster. She asked what  
24 happens if there is a major economic crisis. It will bind the hands of government to be  
25 responsible to the people.

26  
27 She is not a tax person. She's supported three increases during her time on the  
28 Council, including the increase to the mental health sales tax. If they spend a little now,  
29 they can save a lot later. Another tax she supported was the conservation futures fund,  
30 which was voted down, to save farmland and protect the agricultural industry. The third tax  
31 she voted for was the flood fee. It was a difficult decision. She argued for lowering the tax  
32 as much as possible, while providing funds for State mandates to clean up water bodies in  
33 the county. If they don't, the County will be noncompliant and lose other State and federal  
34 funding.

35  
36 Elected officials don't enjoy this. However, she also can't ignore looming problems  
37 that will cost more if not addressed. These are tough decisions. She hears the citizens and  
38 feels the same economic stress. This isn't the right way to address it. The County is  
39 healthy. They've been mindful of the burden on taxpayers. Other commissioners around  
40 the state think they're crazy for not taking the one percent per year. She's willing to try  
41 and make the budget work without that if possible. She won't support this ordinance.

42  
43 Nelson stated he supports the ordinance. When he ran for office, they were  
44 automatically taxing at 106 percent every year. He promised to not go above 100 percent  
45 each year, and to maintain the budget, just like a home budget. Don't overextend. When  
46 he started on the Council 16 years ago, there were no reserves. The current administration  
47 and previous councils worked hard to create the reserves that they're now using. Soon,  
48 those reserves will be gone.

49  
50 The public concern is justified. The County should be able to operate within its  
51 means. The County's request for a tax increase for the jail failed originally. The County put  
52 together a revised plan that made sense to the public, who then supported it. The public  
53 also supported the emergency medical services (EMS) funding once it was properly planned.

1  
2 They are obligated to make decisions out in the open, not in a vacuum. People just  
3 want an opportunity to be heard. People want to work in a format where everyone trusts.  
4 He will maintain the public's trust. The public is in favor of helping when they know what  
5 the funding is for. They must work together. Make sure there is a plan that makes sense  
6 to the public.  
7

8 Brenner stated this is an easy decision for her. A property tax is the most regressive  
9 taxing system in this country.  
10

11 It is the Prosecuting Attorney's opinion that the ordinance is illegal. Before she was  
12 on the County Council, she was an activist. An initiative she proposed was said to be  
13 unconstitutional. A big law firm in Seattle took the case pro bono because it was so  
14 important. It was passed by an overwhelming majority. It was appealed to the Ninth  
15 Circuit Court, and won at every level. Attorneys have opinions. They're not always right.  
16

17 The idea of representative democracy doesn't mean that a person is only  
18 represented at the ballot box every four years. They should have a stronger recall process.  
19 If elected officials lose the public's trust, they should be recalled at any point. Represented  
20 government should be heavily tinged with many public votes.  
21

22 This mini-initiative wasn't meant to be the big issue. The public has supported  
23 almost every vote to raise money.  
24

25 The idea that raising taxes equals a high quality of life has no logic. Getting into  
26 debt doesn't make someone a better person. There is a balance.  
27

28 The current economic climate is just the beginning, and will get worse. There will  
29 have to be much more discipline. She can still find nonessential things in the budget. This  
30 is a minor request.  
31

32 Because this is a mini-initiative, the Council can change its mind in the future. This  
33 is about whether or not the Council trusts people. Pass this to give people reassurance.  
34 Times are tough.  
35

36 Fleetwood stated he isn't basing his decision on whether or not this is legal. There  
37 are other substantive reasons for supporting it. The question of whether an initiative can be  
38 used for certain subject matter has been asked in the past. The Council therefore asked  
39 that question this time. The County attorney didn't have an ax to grind or a predetermined  
40 outcome. He expressed the answers he found.  
41

42 Mr. Bonner wrote a thoughtful article in the newspaper. The property tax funds the  
43 general fund and all the services that make up the County government. People vote for the  
44 councilmembers to look closely at a whole range of things and balance a complex set of  
45 government services. They can't do that by throwing something out to the voters, who  
46 don't have the full context of all information on all the things that need to be balanced to  
47 make quality decisions. He is opposed to the ordinance.  
48

49 People say everything can be addressed by cutting more from the budget. There is a  
50 highly refined system of delivering government services. One can't just go in and find more  
51 fat. This is a very lean a system. Every now and then, they have to increase taxes a little  
52 bit to pay for those services.  
53

1 Weimer stated he is against the ordinance. At first, it seemed like much ado about  
2 nothing. He doesn't mean that the public's concern about taxes is nothing. He pays \$2,400  
3 in property taxes per year, which is painful. He couldn't figure out why the mini-initiative is  
4 aimed at County government, which hasn't raised property taxes in 12 years. They've only  
5 raised one property tax since he has been on the Council, which was the flood fund, which is  
6 a different branch of government. Every other taxing jurisdiction in the county has raised  
7 property taxes. Some of them routinely take the one percent every year. This is focused  
8 on the one group that hasn't used its taxing capacity when all the other groups have.  
9

10 People are so upset about the flood tax, and have said it is a whopping 30 percent  
11 increase. Actually, the increase on his home, which is close to the norm, that amounts to  
12 \$7 per year. The percentage is high, but the amount is low. It's lucky they did that last  
13 year because of the flood that hit in January. If not, the flood fund would have been under  
14 the emergency level this Council had set for years.  
15

16 Also, they have the ability to respond to legal mandates from the State to clean up  
17 Lake Whatcom and other watersheds. The tax increase is minimal. It amounts to the cost  
18 of a latte' every three or four months.  
19

20 He supports the public's right to govern. The Council has to read through and  
21 understand a lot of information every week. The UGA discussions will have a bigger impact  
22 to the public's taxes than this mini-initiative. It's very complicated. The public elect the  
23 Councilmembers to make decisions, and they have a right to govern by not reelecting  
24 officials they don't like. That's how representative government works. Trying to get the  
25 public involved with every major issue would be unrealistic and burdensome. It would cost  
26 a lot of money to run these elections all the time. The councilmembers routinely make  
27 decisions on \$6 million road improvements and \$12 million ferries. He asked at what level  
28 the Council would take things to a vote each time. The Councilmembers are elected to  
29 study and make decisions on these things. He will vote against the ordinance.  
30

31 Kelly stated he is against the ordinance for many of the same reasons. Originally, it  
32 seemed a bit obvious that this was in conflict with the way the State legislature is set up  
33 and the way they address taxes. He works for a Tribal government, which must work with  
34 the federal government. Here, the County government must take issues to the State  
35 legislature.  
36

37 The State legislature has given the County its mandate. It may not seem clear to  
38 everyone who has testified tonight. However, not one attorney has given a different legal  
39 opinion about this initiative. It's not a cop out to base the decision, in part, on the fact that  
40 this appears to be inconsistent with State law. Much of what the County Council does deals  
41 with mandates. The Council must act responsibly in the fact of these mandates.  
42

43 Another concern is that other elected governments routinely collect their banked  
44 capacity each year. This potentially is a move to do that.  
45

46 The County faced a flood issue this year. He's very concerned about the effect this  
47 initiative would have to address a flood. They are not done dealing with flooding, but that  
48 doesn't mean they will fix the issues with taxes. He will vote against the ordinance.  
49

50 Crawford stated he agrees with the other comments made in favor of the ordinance.  
51 The people gave their reasons tonight. He supports the ordinance. The community owes  
52 Mr. Bonner a debt of gratitude. This was brilliantly conceived and written. It makes sense.  
53 It's what the majority of the people want. He would like to have some kind of Proposition

1 13 here in the State of Washington to really protect people. It puts the onus on new  
2 construction, because it's all valued at the higher value, which other people aren't getting  
3 hit with. This was a great start. He's sorry the majority doesn't see that. Don't give up.

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

6  
7 ***Crawford*** stated a supermajority of the County Council can put something on the  
8 ballot. That has to be submitted by the County Auditor by July 1 or July 15. He ***moved*** to  
9 submit this ordinance to the Auditor for a vote of the people in November at the general  
10 election.

11  
12 Weimer stated he is against the motion. Things in the ordinance conflict with the  
13 County Charter. The Council would have to decide by July 1 every year whether to raise  
14 taxes, but the Executive doesn't have to put forward a budget until October.

15  
16 Crawford stated this is not a dilemma at all. When they faced the EMS levy and jail  
17 tax, the administration had to prepare an optional review, which wasn't a major ordeal.  
18 They didn't know which budget they would work on until they knew the will of the people.  
19 If they anticipate going to the people with a tax increase during a budget cycle year, they  
20 could prepare a contingency. They've done it before. It doesn't violate the Charter.

21  
22 Caskey-Schreiber stated Attorney Randy Watts repeatedly states that the conflict  
23 with State law is that it's a binding agreement. It's illegal with the Charter.

24  
25 Kelly asked if there is a legal opinion that conflict with Mr. Watts' opinion. If Mr.  
26 Watts' opinion was wrong, the Council would have been inundated by opposing opinions.  
27 He has not heard one rebuttal from an attorney. There is no use to set up a costly situation  
28 that is inconsistent with State law. He is against the motion.

29  
30 Brenner stated opinions are just that. They aren't the law. Some opinions have  
31 been incorrect. State law allows the County to limit itself. This could be changed at any  
32 time if it's found invalid. If nothing else, it would be a great advisory board. If necessary,  
33 something could be tweaked without tweaking the intent. The mini-initiative is different  
34 from a regular initiative.

35  
36 Crawford stated the purpose of the mini-initiative process is not for the citizen to go  
37 hire an expensive attorney to get the document into an acceptable format that someone will  
38 probably challenge anyway. That's not what the Charter put this forward for.

39  
40 Nelson stated that if future councils question the legality, those councils can  
41 challenge that legality. Since this Council has stated it's obliged to manage money and  
42 finances, this should not be a problem. The Council should be willing to get the public's  
43 advice through a vote. He doesn't understand what they're afraid of. They face legal  
44 challenges every day. If they want to err on one side or another, always err on the side of  
45 the public.

46  
47 Caskey-Schreiber stated they also have to err on the side of saving taxpayer money.  
48 The County attorney feels this is illegal. Don't take the County down the path of  
49 unnecessary lawsuits. She will honor the attorney's advice.

50  
51 Fleetwood stated the folks who did the mini-initiative got a sufficient number of  
52 signatures, which constitutes about three percent of the population. He respects that effort.  
53 It forced a vote. The Council voted. That's the way the process is designed. The vote

1 happened to fail. There is another citizen-driven petition process to put something on the  
2 ballot for November. That didn't happen. That effort could have been made. Everything is  
3 working just as it's supposed to. The Council expressed its opinion on the subject.  
4 Councilmember Crawford's goal to have a vote seems as though it's a political device in an  
5 election year. He would love to see a different majority on this Council, which is his right.  
6

7 Brenner stated the entire reason this was done as a mini-initiative was because of  
8 the respect the citizens have for the fact that it is not appropriate for an initiative. It is only  
9 the power of the Council, not the general public, to make this decision. A vote of the public  
10 is a good idea. Find out if this is really the opinion of a minority or majority of the people.  
11 If it's a majority, take it at least as an advisory vote. An ordinance can be changed at any  
12 time. Times are scary. People want reassurance. There isn't a lot of trust out there. The  
13 Council should keep earning trust. If done at general election time, the cost will be \$2,000  
14 to \$3,000 or less. The cost isn't huge when weighed against public trust. Put it on the  
15 ballot.  
16

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

18 *(Clerk's Note: The Council took a ten-minute break at 8:25 p.m.)*  
19

20  
21 **2. RECEIPT OF PUBLIC AND AGENCY TESTIMONY ON THE INITIAL URBAN**  
22 **GROWTH AREA (UGA) PROPOSALS RECEIVED BY WHATCOM COUNTY (UGA**  
23 **REVIEW IS BEING COMPLETED FOR ALL CITIES WITHIN WHATCOM**  
24 **COUNTY, AS WELL AS THE UNINCORPORATED URBAN GROWTH AREAS FOR**  
25 **BIRCH BAY, COLUMBIA VALLEY, AND CHERRY POINT) (AB2009-052D)**  
26

27 *(Clerk's Note: Continued from earlier in the meeting.)*  
28

29 Dan McShane, 1451 Grant Street, Bellingham, stated the land capacity analysis  
30 should guide the Council. If there is a clear objection on any given area, demand very clear  
31 information from the cities, not arbitrary or anecdotal information. Decide based on the  
32 math. Otherwise, they are just playing politics with the cities.  
33

34 If they conclude that a UGA needs to expand, they really need a purchase of  
35 development rights (PDR) program to expand a UGA. With a really high estimated value on  
36 farmland and a very low estimated value on residential property, they increase the value of  
37 an area zoned agriculture by seven times when it's added into a UGA. That is a huge  
38 windfall. There should be a benefit back to the community.  
39

40 He submitted a letter he gave to the Bellingham City Council. Do the right think for  
41 Lake Whatcom and Lake Padden. Minimize urban development in those areas.  
42

43 Brenner stated they received a land capacity analysis from the County. The analyses  
44 from the Cities were different. The math changes. McShane stated the County did a land  
45 capacity analysis. Rely on those numbers unless a City provides really good information  
46 about why the County land capacity analysis should be adjusted. There could be reasons  
47 for small adjustments, but not for a large adjustment that some cities want to leave their  
48 UGA's in place. The County land capacity analysis will lead the Council toward shrinking the  
49 UGA's.  
50

51 Brenner stated it's not as effective for a small landowner to plat three or four lots as  
52 it is to plat one large lot. She would like to know if there would still be a windfall, given  
53 what people have to go through to set up plats. McShane stated he's not suggesting any

1 formula. Hopefully they can work out a formula that is fair to the large property owners and  
2 small property owners. There will be different costs. Determining what is fair is the hard  
3 part.  
4

5 Paul Grey, Whatcom Farm Friends Board, stated the critical question is where the  
6 urban growth should be directed to preserve the character they love about Whatcom  
7 County. The majority of study respondents affirmed that it's important to protect  
8 agriculture for many reasons. They must compromise as long as there is no net loss of  
9 farm land. His organization works to expand preservation tools available to policy makers,  
10 land owners, and land buyers. He asked the County to ask the Cities of Everson and  
11 Lynden to consider alternatives to expanding the UGA's. Ask those Cities to work with farm  
12 preservation tools, grow with more urban density, or direct growth to other urban areas.  
13

14 Brenner asked if Farm Friends has done a survey on farmable lands that isn't zoned  
15 for agriculture. There are pockets of farming areas that aren't counted. Grey stated that  
16 information is probably available. He will provide that information.  
17

18 Dominique Zervas, 709 Dupont, Bellingham, stated she represents Caitac USA. The  
19 land capacity analysis and methodology are at the center of the issue. The County needs to  
20 listen to the cities about the problems with the analysis and methodology. Somehow the  
21 idea came up early in the process that all the UGA's will all be reduced. Everything has  
22 come out to support that idea. The outcome supports this early conclusion. The Cities have  
23 looked at their land to determine what has been developed, the densities, and all other  
24 aspects of their lands. The issue of whether the UGA's are too big or too small can't be  
25 resolved yet. They don't have the final word on that land capacity analysis. The City of  
26 Bellingham analysis contained in its Comprehensive Plan is still valid and in place. It hasn't  
27 been challenged. It included all the five-year review areas, including the Caitac property.  
28 Consider that these are important lands. That's where the City can accommodate its single-  
29 family housing. Those are the areas under one ownership and can be master planned.  
30

31 Brenner asked if the City recommends leaving it as it is now. She didn't know that  
32 Caitac is still in the equation. Zervas stated the City Comprehensive Plan is still in place.  
33 The City land capacity analysis does not support reduction, and the City political bodies do  
34 not support expansion.  
35

36 Dave Pros, 1466 Roy Road, Bellingham, asked where the public process was for  
37 these UGA discussions. There wasn't a public process for population projections and  
38 allocations. The numbers given are estimates added together for a less accurate total  
39 estimate. The process is flawed. They don't have valid net in-migration data for Whatcom  
40 County. That information won't be available until after 2010. They don't know if straight-  
41 line trends are the best predictors of population numbers. They don't know the validity of  
42 the Office of Management and Budget (OMB) projections and estimates. There is little  
43 evidence that a change in external zoning was seen as a way to absorb larger populations.  
44 No mechanisms were presented to encourage people to locate in the small towns.  
45

46 Mary Dickinson, Building Industry Association Governmental Affairs Director, stated  
47 she is concerned about the lack of public involvement for many reasons. The Cities don't  
48 necessarily agree with the conclusions of the County Planning staff. They were forced to  
49 make a determination on their land supplies without a complete DEIS. The proposed land  
50 capacity analysis had a predetermined outcome. The County's deadline for the Cities was  
51 too short to meet internal requirements of their own comprehensive plans. The entire  
52 process ignored Growth Management Act requirements for public involvement to be early  
53 and continuous. Respect the public process. Don't take staff's answers verbatim.

1  
2 Jim Hansen, 2418 Keesling Street, Bellingham, stated he urges the Council to deny  
3 all UGA expansions into agricultural land. Farmland is a national strategic asset. There is a  
4 world food crisis right now. Food and agriculture is a national security issue. Preserve  
5 every acre of arable ground in this county.  
6

7 Todd Donovan, Futurewise Whatcom Steering Committee, stated give priority to  
8 prevent excess residential development in rural areas. Protect critical areas. Decisions  
9 about UGA requests should give priority to increasing density inside existing UGA's where  
10 feasible. Consider UGA requests with a goal of no net loss to agricultural lands. Take  
11 seriously the County staff's numbers on the land capacity analysis. The UGA proposals are  
12 based on a high population projection. The Bellingham UGA has been oversized. The City  
13 deals with that in some extent with its request for no net increase. Reconsider removing  
14 the Padden and Yew Street area from the UGA. The existing Blaine UGA is oversized.  
15 There are problems with the West Blaine area. Reconsider the entire Birch Bay UGA.  
16 Everson's UGA proposal should emphasize no net loss of agricultural lands and remove  
17 areas in the Nooksack River 100-year flood plain. Columbia Valley UGA should avoid critical  
18 areas and forest areas. Ferndale's UGA is oversized. Portions to the south should be  
19 removed. Lynden should be commended for achieving densities within its existing city  
20 limits. However, it's surrounded by agricultural lands. Assign growth targets that can be  
21 met entirely within its existing boundaries, or produce no net loss of farmlands. He thanked  
22 the County staff for all their work.  
23

24 Sherm Polinder, Farm Friends President, stated Lynden and Everson can't grow at  
25 the rates they want to while being serious about protecting farmland. He is opposed to the  
26 expansion of Everson and Lynden urban growth boundaries. Expansion clogs up the roads  
27 for farm equipment. It's improper to cover rich farmland, which is a nonrenewable natural  
28 resource. The county has other places with marginal soil that are better to place houses.  
29 Towns in the middle of agricultural land that continually ask for more land for development  
30 is a problem. Deal with it courageously. Originally, Lynden residents wanted to preserve its  
31 small town atmosphere and agricultural roots. The current request doesn't meet this vision.  
32 Lines between towns and farmland should be unwavering, as in Europe.  
33

34 Clayton Petree, 1132 Birch Falls Drive, Bellingham, submitted and read from a  
35 handout (*on file*). Adequately size the UGA's to accommodate growth in the next 20 years.  
36 Reduce sprawl patterns with appropriately-sized UGA's.  
37

38 Jack Petree, 2955 Sunset Drive, Bellingham, submitted and read from a presentation  
39 (*on file*). Listen to the cities. There are significant deficiencies in the land capacity analysis.  
40 Much more work needs to be done before making this decision. Allow more public input.  
41 Decisions are based on unavailable data. Reevaluate the process when the time comes with  
42 a fresh mind.  
43

44 John Steensma, 9295 Axling Road, Lynden, stated he is a third generation Whatcom  
45 County dairy farmer. He is opposed to the Lynden UGA expansion. They could not ever  
46 again ask for a matching government grant. This ideal opposes the ideal that approved the  
47 PDR program. They don't need to destroy agricultural areas to build homes for future  
48 populations.  
49

50 Lou Piotrowski, Glacier, stated there has been much public input in the last four  
51 years on their subarea plan. The Columbia Valley UGA is now sized correctly to  
52 accommodate expected growth. He thanks County staff for their work on having those  
53 meetings. Because of the EIS and the maximum number, the ratio of jobs to people is still

1 down. They started at a very low amount. The request of 605 jobs is still fewer jobs than  
2 they need. That is what they had to choose given the available options. He supports  
3 alternative Y. Also, the UGA needs greenways, open spaces, and zoning to allow more jobs.  
4 He supports the Planning staff proposal.  
5

6 Bob Wiesen, 3314 Douglas Road, Ferndale, stated they are not dealing in reality.  
7 The GMA has 13 goals with no priority. They've made it much harder to create affordable  
8 housing and good jobs. There is a shortage in the affordable, buildable land supply. The  
9 Planning Department should develop a more helpful attitude. When land is needed, it  
10 should be available. Bellingham has failed to provide an affordable, buildable land supply  
11 when needed. That resulted in sprawl and other problems the GMA was designed to solve.  
12 Lynden seems to have the best planning process, which provides five years of buildable land  
13 supply at all times. He is concerned that Lynden can grow only into prime farmland.  
14 Bellingham does not have that problem. Time will prove that this process is flawed, due to  
15 the unrealistic time frame. Consider why the Columbia Valley area is growing so fast.  
16

17 Roland Harper, 1323 Lincoln Street, Bellingham, stated the Everson UGA proposal  
18 included a land swap. Land with a bigger portion of agricultural land would be removed,  
19 and a smaller portion of land would be added. There is no expansion of the Everson UGA.  
20

21 The County is the keeper of the land capacity spreadsheets. Since March, the  
22 County has been working out the bugs in the analysis. It hasn't anything to do with the  
23 City saying that the analysis should be different. The Cities of Everson, Nooksack, and  
24 Sumas received the County's best version of the analysis at the end of May. The numbers  
25 from March don't match. They are still working out the bugs with the County.  
26

27 Hearing no one else, Fleetwood closed the public hearing.  
28

29 David Stalheim, Planning and Development Services Department Director, stated  
30 comments on the Draft EIS were due June 22, 2009. He gave a summary of the process  
31 and proposed deadlines.  
32

33 Brenner asked that the comment period on the DEIS be extended to July 22, 2009.  
34

35 Stalheim stated the County deadline is set and published. They must move on with  
36 the process to prepare a final EIS. Many cities asked to develop their proposals before the  
37 County writes the EIS, so they have something specific to write about. They can't wait any  
38 longer. The County deadline is December 1. They have to get into hearings and formal  
39 response proposals at the beginning of September.  
40

41 Brenner stated she would like a one-week extension to comment on the DEIS. It's a  
42 lot to look through. Forty-five days isn't long enough to go through it. She's spent many  
43 hours on it and isn't done. The time frame is too short. She doubts any other  
44 councilmembers have read it.  
45

46 ***The Council did not concur.***  
47

48 Brenner stated she's really upset this is happening. There was only one copy for the  
49 Council Office. If the Planning Department had provided copies for all councilmembers, it  
50 would have been different. People want to make notes and mark things up, but they can't  
51 do that on the computer. This whole process is being rushed too much. The finding from  
52 the Growth Management Hearings Board didn't mean they have to do all this stuff by the  
53 end of the year. It's exploded into more stuff. She wanted to take more time on it.

1  
2 Caskey-Schreiber asked whether Bellingham recommends that Caitac be included in  
3 the Bellingham UGA. Caitac is the one suing the County via the Growth Management  
4 Hearings Board and have forced the County into this box.  
5

6 Tim Stewart, City of Bellingham Planning and Community Development Director,  
7 stated the County staff has done a great job responding to the City's comments. The  
8 County staff listened to the City, made adjustments, and has gotten them a better land  
9 supply.  
10

11 The City has taken three specific actions regarding the UGA. As a result of this  
12 process, the City recommendation to the County does not include the five-year review area,  
13 which includes Caitac, with a population of at least 113,000 people.  
14

15 Before that most recent action, the City resolved to support the County Council  
16 action to not include the five-year review area. Caitac is in the five-year review area. Part  
17 of that City resolution includes a statement that the City will update its Comprehensive Plan  
18 following final action on the UGA. Once that final action is taken, the City will follow the  
19 GMA process and update its Comprehensive Plan to be consistent with the county's decision.  
20

21 The first decision, made in 2006, was a recommendation to include Caitac and  
22 expand the UGA. That was done when the City adopted its Comprehensive Plan. That is  
23 the initial recommendation, which the County Council did not adopt.  
24

25 Caskey-Schreiber asked if the City's most recent action is what the County Council  
26 should consider. Stewart stated that is correct. They are now dealing with the next land  
27 supply and the next planning period. They are now going to be engaged in the 2011 update  
28 of the City Comprehensive Plan, using the County's land supply decision. It will hopefully  
29 finally yield an agreement between the City and County on the land supply, UGA, and future  
30 population of Bellingham.  
31

32  
33 **INTRODUCTION ITEMS**  
34

35 *Caskey-Schreiber moved* to accept the Introduction Items.  
36

37 *Motion carried 7-0.*  
38

- 39 **1. ORDINANCE AMENDING A PORTION OF THE OFFICIAL WHATCOM COUNTY**  
40 **ZONING MAP FROM RURAL FORESTRY (RF) TO URBAN RESIDENTIAL 4**  
41 **(UR4) ON 80 ACRES WITHIN THE COLUMBIA/KENDALL URBAN GROWTH**  
42 **AREA (AB2009-302)**  
43  
44 **2. ORDINANCE AMENDING WHATCOM COUNTY CODE SECTION 6.04, ANIMAL**  
45 **CONTROL, INCLUDING A NEW PROCESS FOR CONTESTED MEETINGS**  
46 **(AB2009-303)**  
47  
48 **3. ORDINANCE AUTHORIZING PLACEMENT OF TEMPORARY STOP SIGNS ON**  
49 **ABBOTT ROAD AT THE INTERSECTION OF THIEL ROAD AND**  
50 **IMPLEMENTATION OF TEMPORARY ROAD WEIGHT RESTRICTIONS ON**  
51 **PORTIONS OF ABBOTT, THIEL, AND VAN DYK ROADS (AB2009-304)**  
52  
53

1 **OTHER BUSINESS**

2  
3 There was no other business.  
4

5  
6 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

7  
8 There were no reports or other items.  
9

10  
11 **ADJOURN**

12  
13 The meeting adjourned at 9:35 p.m.

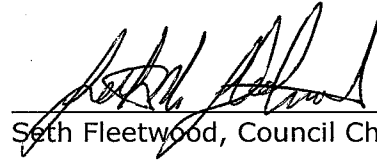
14  
15   
16 \_\_\_\_\_  
17 Jill Nixon, Minutes Transcription

18  
19 The Council approved these minutes on July 21, 2009.

20  
21 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

22  
23   
24 \_\_\_\_\_  
25 Dana Brown-Davis, Council Clerk  
26  
27

  
\_\_\_\_\_  
Seth Fleetwood, Council Chair