

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

WHATCOM COUNTY COUNCIL
Regular County Council

July 7, 2009

Council Chair Seth Fleetwood called the meeting to order at 7:00 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
Seth Fleetwood

Absent:

None

FLAG SALUTE

ANNOUNCEMENTS

There were no announcements.

MINUTES CONSENT

Weimer moved to approve the Minutes Consent Items.

Motion carried 7-0.

1. **SPECIAL COMMITTEE OF THE WHOLE FOR OCTOBER 28, 2008**
2. **SPECIAL COUNTY COUNCIL (9:15 A.M.) FOR NOVEMBER 4, 2008**
3. **SPECIAL COUNTY COUNCIL (10:50 A.M.) FOR NOVEMBER 4, 2008**
4. **SPECIAL COMMITTEE OF THE WHOLE FOR NOVEMBER 12, 2008**
5. **SPECIAL COUNTY COUNCIL FOR NOVEMBER 18, 2008**
6. **SURFACE WATER WORK SESSION FOR MAY 19, 2009**
7. **REGULAR COUNTY COUNCIL FOR MAY 26, 2009**
8. **COMMITTEE OF THE WHOLE FOR JUNE 9, 2009**
9. **REGULAR COUNTY COUNCIL FOR JUNE 9, 2009**
10. **SURFACE WATER WORK SESSION FOR JUNE 16, 2009**
11. **SPECIAL COUNTY COUNCIL AND PLANNING COMMISSION FOR JUNE 16, 2009**

1
2
3 **PUBLIC HEARINGS**
4

5 **1. ORDINANCE AUTHORIZING PLACEMENT OF TEMPORARY STOP SIGNS ON**
6 **ABBOTT ROAD AT THE INTERSECTION OF THIEL ROAD AND**
7 **IMPLEMENTATION OF TEMPORARY ROAD WEIGHT RESTRICTIONS ON**
8 **PORTIONS OF ABBOTT, THIEL, AND VAN DYK ROADS (AB2009-304)**
9

10 This item was withdrawn from the agenda.
11
12

13 **OPEN SESSION**
14

15 Odai Johnson, 1210 Bowman Road, Acme, submitted information (*on file*). Quite a
16 number of people in the audience are here to talk about the Saxon Gravel Pit expansion
17 proposal. There are a few people who live out there. There is a list of 48 signatures, with
18 more to come. He described the topography, which is steep. There would be runoff
19 damage to key water sources. The headwater of the Samish River is inside this overlay
20 project. The water table will be affected. Everyone has a well. The proponent has done
21 five core samples for water. Four of them reached the water table in less than 20 feet. All
22 the resident wells are less than 20 feet deep. This is a rural area. He urges the County to
23 do an environmental review early on.
24

25 Crawford stated this has been docketed to go to the Planning Commission. This is
26 not a proposal to do gravel mining. This proposal is to reserve the area as a mineral
27 resource overlay, which simply designates that there is mineral potential for future use.
28

29 Caskey-Schreiber stated Mr. Johnson should also go to the Planning Commission
30 hearing.
31

32 Becky Robertson, 1165 Bowman Road, stated she urges the Council to do every
33 environmental study that is needed regarding the Saxon Gravel Pit proposal. She has lived
34 there 20 years. She was told they would never run out of water, but she ran out of water
35 within two years. She continues to save rainwater and conserve water. There are 20
36 homes on Durham Road and 20 or more homes on Bowman Road. She does not want to
37 lose water. She wants to continue to live there and use her water.
38

39 Brenner asked how deep Ms. Robertson's well is. Robertson stated it is 52 feet deep.
40 They have about 2 to 3 feet of water now.
41

42 Brenner asked what they did when it went dry. Robertson stated she got water from
43 the neighbors. She catches the rainwater and has learned to conserve and catch the
44 rainwater. She has done much to preserve her water.
45

46 Dennis Jones, 142 Windward Drive, Sudden Valley, stated the Council needs to check
47 into things regarding Lake Whatcom. He would like the Council to ask the Sudden Valley
48 Community Association Board of Directors to join the County Council in the letter regarding
49 the Northwest Straits Marine Conservation Initiative to Washington State's federal
50 legislators.
51

52 He also supports the land clearing timing as it is. It also supports the timing as it's
53 proposed in the Introduction Items.

1
2 Last, the purchase of development rights (PDR) program is important if people are
3 going to down plat further. They need to compensate people for moving out of the
4 watershed.
5

6 Jack Hovenier, Holly and Associates and S.C. Goshen LLC, stated the subarea
7 committee asked for some type of mixed use zoning for his project in the **ordinance**
8 **amending a portion of the official Whatcom County zoning map from Rural**
9 **Forestry (RF) to Urban Residential 4 (UR4) on 80 acres within the**
10 **Columbia/Kendall Urban Growth Area (AB2009-302)**. The only land in the Columbia
11 Valley urban growth area (UGA) not zoned compliant is his area, except for the land
12 designated light industrial. His land is the only land that is nonconforming. This application
13 is three years old. It's important to move forward now. The zoning must be consistent with
14 the UGA. He shouldn't be at a disadvantage with other land owners who have appropriate
15 zoning. He would be happy with any urban zoning. He is not asking for a short-term
16 planning area. He is asking for a long-term planning area, so that other issues can get
17 resolved.
18

19 Kevin Zender, 2181 Sutton Road, Everson, stated his 80 acres in the **ordinance**
20 **amending a portion of the official Whatcom County zoning map from Rural**
21 **Forestry (RF) to Urban Residential 4 (UR4) on 80 acres within the**
22 **Columbia/Kendall Urban Growth Area (AB2009-302)** are relatively flat. He described
23 the location of the property. He thanked the Council for its work on this issue.
24

25 Heather Wolf, Attorney, stated the **ordinance amending a portion of the official**
26 **Whatcom County zoning map from Rural Forestry (RF) to Urban Residential 4**
27 **(UR4) on 80 acres within the Columbia/Kendall Urban Growth Area (AB2009-302)**
28 is purely a legal issue. They need to bring the zoning into compliance with the Growth
29 Management Act.
30

31 CONSENT AGENDA

32
33
34 *Crawford* reported for the Finance and Administrative Services Committee and
35 *moved* to approve the Consent Agenda items.
36

37 *Motion carried 7-0.*
38

- 39 1. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A
40 CONTRACT BETWEEN WHATCOM COUNTY AND EDUCATIONAL SERVICE
41 DISTRICT 105 FOR THE ANNUAL HIDTA GRANT AWARD FOR PARTIAL
42 FUNDING OF THE DRUG COURT COORDINATOR, IN THE AMOUNT OF \$30,000
43 (AB2009-310)
44
- 45 2. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A GRANT
46 AGREEMENT BETWEEN THE WASHINGTON STATE DEPARTMENT OF ECOLOGY
47 AND WHATCOM COUNTY NORTHWEST STRAITS PROJECT: MARINE
48 RESOURCES COMMITTEE FOR GRANT FUNDING FOR ADMINISTRATIVE AND
49 ACTION PROJECTS, IN THE AMOUNT OF \$235,544 (AB2009-311)
50

51 OTHER ITEMS

52
53

1 **1. RESOLUTION DECLARING THE COUNTY COUNCIL'S GOALS FOR FARMLAND**
2 **PRESERVATION, ITS PRIORITIES FOR CONSIDERATION AND ADOPTION OF**
3 **POLICIES TO FURTHER FARMLAND PRESERVATION, AND REQUESTING THE**
4 **COUNTY ADMINISTRATOR TO ALLOCATE STAFF SUPPORT TO ACCOMMODATE**
5 **THIS IMPORTANT POLICY INITIATIVE (AB2009-308)**
6

7 *Weimer* reported for the Natural Resources Committee and *moved* to approve the
8 resolution.
9

10 Crawford stated he's given this a lot of thought. He is going to support the
11 resolution. However, he will take it at face value that this doesn't necessarily mean they
12 will go out there and downzone areas. It means they will look for creative, thoughtful, and
13 fair solutions for landowners. Balance the community's values of agricultural sustainability
14 and the interests of the property owners. That is very important. He will take the
15 arguments of other councilmembers at face value and believe in them.
16

17 Brenner stated an entire new resolution would have to come forward if it were a
18 downzone. It's not an issue. She is very comfortable with the minimum threshold for
19 agricultural land. Make sure all lands with really good soils are considered. Use small
20 acreage properties and niche agriculture as a buffer to larger agricultural operations with
21 more intensive uses. Every acre is important. Farming is diverse. The soil is the most
22 important thing.
23

24 Caskey-Schreiber stated she is thrilled that Councilmember Crawford has come to
25 the light. In the last ten years, the farm gate value has increased. The industry can
26 continue if the land base is protected. They have to work to get more. The County Council
27 can comment to the U.S. Department of Agriculture (USDA) about the change in the match
28 requirements to meet the purchase of development rights (PDR) program requirements.
29 She asked the Executive to have staff draft comments on things that the County would like
30 to change. The County Council would be more than willing to sign a letter asking the USDA
31 to reconsider its decision to not match Whatcom County funding of the PDR program. Also,
32 seriously consider bonding the conservation futures fund. Land prices are hitting record
33 lows. Farmers need equity right now. This is a pivotal time when they can make a
34 difference.
35

36 Pete Kremen, County Executive, stated he wholeheartedly supports the resolution.
37 He thanked the committees that worked on this. Agricultural land needs to be protected
38 and preserved. His political record shows he supports polices that enable agriculture to
39 survive and thrive. He commends the members of the agricultural community for their
40 recommendations.
41

42 *Motion carried 7-0.*
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 *Crawford* reported for the Finance and Administrative Services Committee and
49 *moved* to adopt the ordinance.
50

51 *Motion carried 7-0.*
52

1 3. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A
2 COOPERATIVE AGREEMENT BETWEEN THE US ARMY CORPS OF ENGINEERS
3 AND WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT FOR
4 REHABILITATION OF A NON-FEDERAL FLOOD CONTROL WORK JOB NO. NSK-
5 4-09, IN THE AMOUNT OF \$241,000 (AB2009-309)
6

7 (Clerk's Note: Council acting as the Whatcom County Flood Control Zone District
8 Board of Supervisors. Board Chair Weimer assumed the duties of the Chair for this portion
9 of the meeting.)
10

11 Crawford reported for the Finance and Administrative Services Committee and
12 moved to approve the request.
13

14 Motion carried 7-0.
15

16 4. REQUEST REVIEW AND APPROVAL OF THE 2009-2010 INTEGRATED
17 ROADSIDE VEGETATION MANAGEMENT PLAN (AB2009-312)
18

19 Brenner reported for the Public Works and Safety Committee and moved to
20 approve the request.
21

22 Motion carried 7-0.
23

24 5. ORDINANCE AMENDING A PORTION OF THE OFFICIAL WHATCOM COUNTY
25 ZONING MAP FROM RURAL FORESTRY (RF) TO URBAN RESIDENTIAL 4
26 (UR4) ON 80 ACRES WITHIN THE COLUMBIA/KENDALL URBAN GROWTH
27 AREA (AB2009-302)
28

29 Crawford reported for the Planning and Development Committee. The committee
30 does not recommend approval.
31

32 Crawford moved to adopt the ordinance.
33

34 Caskey-Schreiber described the history of this proposal. This is resource land and is
35 in an urban growth area (UGA). She asked if resource land can be in a UGA. She asked
36 what it means to leave this land designated as a long-term planning area. She asked if they
37 can still apply some kind of transfer of development right (TDR), purchase of development
38 right (PDR), or impact fee if the Council adopts this into the Comprehensive Plan. She
39 asked if this is not the top priority area to remove from the UGA.
40

41 David Stalheim, Planning and Development Services Department Director, stated the
42 Growth Management Act does not allow resource lands in UGA's unless there is a transfer of
43 development rights program. Whatcom County kind of has a TDR program, but he doesn't
44 know if it would qualify. The TDR program is focused on Lake Whatcom and doesn't really
45 apply to the Columbia Valley area. This property is designated as an urban growth area,
46 not a resource land. Urban growth anticipates density of four units per acre as a minimum
47 residential density, so there is clearly a conflict between the zoning and the Comprehensive
48 Plan.
49

50 The application is in the long term planning area, so the density would be one unit
51 per five acres, not four units per acre. The owner would have to come back through the
52 process for consideration of four units per acre. At that point, they could consider a
53 development agreement for mitigation issues. He is troubled at this point about having a

1 Comprehensive Plan policy in place on this application, versus an application to extend an
2 urban growth area. It's not very clear. To get to a density of four units per acre, the
3 applicant would clearly have to go through the Planning Commission again.

4
5 Regarding the priority, the Foothills Advisory Committee wanted to support the initial
6 recommendation. However, the committee recognized that staff had been doing a land
7 capacity analysis and the Council had done a population allocation that was less than its
8 recommendation. Therefore, the committee suggested areas that had other limitations,
9 which were focused on areas not within a utility service area and that had critical area
10 limitations. This property does not have those types of limitations.

11
12 Brenner stated she is going to support the motion. She is a strong proponent of
13 forest practices. Rural forestry is very important. However, this application evens out the
14 boundary, which has been scaled back. Also, she would be more concerned if there were
15 development limitations. Last, any urban development will have to come back for Council
16 approval.

17
18 Fleetwood stated he is going to oppose the ordinance because of the process. He
19 voted earlier to not include this area in the limited area of more intense rural development
20 (LAMIRD) or urban growth area. He will vote consistently. Also, the Council will make
21 decisions on UGA sizes later this year. This could be considered for a limitation. It's
22 premature to adopt this ordinance at this time.

23
24 Kelly stated this is clearly a conversion from forestry land to residential land. This
25 goes against protecting rural character.

26
27 Caskey-Schreiber stated she is going to support the ordinance. The conversion was
28 done when the area was included in the UGA. They are shrinking the UGA, but not in this
29 area, which has available services. It will remain in the long-term planning area until the
30 Council approves development. The Council should be able to extract mitigation funds to
31 protect other forestry resource lands or agricultural resource lands.

32
33 Weimer stated he is going to support the ordinance. He agrees with Councilmember
34 Caskey-Schreiber. He is concerned about the timing and whether they should first decide
35 the boundary of the urban growth area. At that point, they will know how much land they
36 need out there. It sounds like other properties are more appropriate for being removed
37 from the UGA. This property seems to have utility service. A zone with a density this low
38 should not be in the UGA.

39
40 ***Motion carried 5-2 with Fleetwood and Kelly opposed.***

41
42 **6. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE'S APPOINTMENT OF**
43 **DAVE REYNOLDS TO THE CHEMICAL DEPENDENCY/MENTAL HEALTH**
44 **PROGRAM FUND OVERSIGHT ADVISORY COMMITTEE (AB2009-313)**

45
46 ***Caskey-Schreiber moved*** to approve the request.

47
48 ***Motion carried 7-0.***

49
50
51 **CORRESPONDENCE APPROVAL**

- 1 1. APPROVAL OF LETTERS TO BE SENT TO SENATOR CANTWELL, SENATOR
2 MURRAY, AND REPRESENTATIVE LARSEN IN SUPPORT OF THE
3 REAUTHORIZATION OF THE NORTHWEST STRAITS MARINE CONSERVATION
4 INITIATIVE (AB2009-027)

5
6 *Caskey-Schreiber moved* to approve the letters.

7
8 *Motion carried 7-0.*

9
10
11 **INTRODUCTION ITEMS**

12
13 *Crawford moved* to accept the Introduction Items.

14
15 *Motion carried 7-0.*

- 16
17 1. ORDINANCE ESTABLISHING A NO SHOOTING ZONE IN THE COLUMBIA
18 VALLEY URBAN GROWTH AREA (AB2009-251A)
- 19
20 2. ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20, ON AN
21 INTERIM BASIS, TO MODIFY THE DATES OF SEASONAL RESTRICTIONS ON
22 CLEARING ACTIVITIES FROM SEPTEMBER 1 THROUGH APRIL 30 TO
23 OCTOBER 1 THROUGH MAY 31, AND IMPOSING A DEADLINE ON THE
24 ISSUANCE OF DEVELOPMENT PERMITS TO TWO WEEKS PRIOR TO THE
25 SEASONAL CLOSURE DATE IN THE WATER RESOURCE SPECIAL
26 MANAGEMENT AREAS (AB2009-314)
- 27
28 3. RESOLUTION ADOPTING A BUDGET AND WORK PLAN FOR THE BIRCH BAY
29 WATERSHED AND AQUATIC RESOURCES MANAGEMENT DISTRICT FOR THE
30 REMAINDER OF 2009 (AB2009-315)
- 31
32 4. ORDINANCE ESTABLISHING A YEW STREET ROAD CONSTRUCTION FUND
33 (AB2009-316)
- 34
35 5. ORDINANCE FOR 2009 PROJECT BUDGET REQUEST #2 (AB2009-317)
- 36
37 6. ORDINANCE AMENDING THE 2009 WHATCOM COUNTY BUDGET, EIGHTH
38 REQUEST, IN THE AMOUNT OF \$2,624,307 (AB2009-318)
- 39
40 7. RESOLUTION AMENDING THE 2009 WHATCOM COUNTY FLOOD CONTROL
41 DISTRICT BUDGET, FOURTH REQUEST, IN THE AMOUNT OF \$29,020
42 (AB2009-319)
- 43
44 8. ORDINANCE PROHIBITING, ON AN INTERIM BASIS, THE ILLEGAL AND
45 ILLICIT DISCHARGE OF HAZARDOUS MATERIALS AND NON-STORMWATER
46 RUN-OFF TO THE COUNTY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM
47 (MS4) (AB2009-320)

48
49
50 **OTHER BUSINESS**

51
52 Caskey-Schreiber reported for the Planning and Development Committee regarding
53 the discussion regarding the Urban Growth Area review process (AB2009-052). A

1 range of options will come forward mid-October. The Council and Planning Commission will
2 have a public hearing on those options on September 8, 2009. The Planning Committee will
3 begin discussions simultaneous with the Planning Commission, which should make an
4 official recommendation by the second County Council meeting in October. She continued
5 to describe the proposed timeline.
6

7 Fleetwood stated there was **discussion with Chief Civil Deputy Prosecutor**
8 **Randall Watts regarding pending litigation (AB2009-018)** in executive session during
9 the Committee of the Whole meeting.
10

11 **Crawford moved** to authorize coverage for employees in the Donald Kelvin
12 litigation.
13

14 **Motion carried 7-0.**
15

16 Brenner stated she attended the Public Defender Advisory Committee. She read the
17 case load standards. The case loads are above standard. The committee recommends that
18 the County Council talk about reestablishing the Law and Justice Council with a different
19 configuration. Work loads are okay, but District Court caseloads need to be reviewed. It's
20 getting tight. The department is doing an excellent job.
21

22
23 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**
24

25 There were no reports or other items from councilmembers.
26

27
28 **ADJOURN**
29

30 The meeting adjourned at 7:55 p.m.
31

32
33 _____
34 Jill Nixon, Minutes Transcription
35

36 The Council approved these minutes on September 15, 2009.
37

38
39 Please contact the Council Office to obtain an
40 official, signed copy:
41 360-676-6690 or council@co.whatcom.wa.us
42
43