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WHATCOM COUNTY COUNCIL  
**Regular County Council**

July 21, 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**

Fleetwood announced there was **discussion with Senior Deputy Prosecutor Karen Frakes and attorney David Bricklin regarding pending litigation (AB2009-018)** in executive session during the Committee of the Whole meeting.

**MINUTES CONSENT**

*Caskey-Schreiber moved* to approve the Minutes Consent items.

*Motion carried 7-0.*

1. **REGULAR COUNTY COUNCIL (AFTERNOON SESSION) FOR JUNE 23, 2009**
2. **REGULAR COUNTY COUNCIL (EVENING SESSION) FOR JUNE 23, 2009**
3. **BOARD OF HEALTH FOR JUNE 30, 2009**
4. **COMMITTEE OF THE WHOLE FOR JULY 7, 2009**

**OPEN SESSION**

Brady Webb, 7464 Olsen Drive, Glacier, submitted and read from his testimony (*on file*). He thanked the Council for not approving mini-initiative proposed by Brett Bonner. Reconsider removing the Columbia Valley urban growth area (UGA).

*(Clerk's Note: The speaker following Brady Webb requested that his/her testimony not be included in the minutes.)*

Bob Wiesen, 3314 Douglas Road, Ferndale, stated that when he was on the Planning Commission, the Planning Commission reviewed all the limited areas of more intense rural

1 development (LAMIRDs), but they called them urban enclaves, small towns, and crossroads.  
2 They used the same criteria. Former Planning Manager Sylvia Goodwin was very critical and  
3 said they have to justify how they draw these boundaries. It's amazing that this staff can  
4 come up with such a different set of information and proposal. It makes no sense to  
5 downzone within those areas. It will potentially increase pressure on five-acre lots outside  
6 the boundary. He asked whose quality of life they are protecting. They have rural people  
7 who aren't going to be city people. They are going to look for places where they can be  
8 rural. Some people would be happy with one and two acre lots if they're available. If they  
9 aren't available, those people will have to live on five-acre tracts. This thing makes no  
10 sense.

11  
12 Also, they are not using the 1990 criteria. They are taking out businesses along the  
13 Guide Meridian that have been there for 30 or 40 years. Last year, the Planning  
14 Department was supposed to work on nonconforming uses. It indicated that those  
15 nonconforming uses already allowed were too generous. Often, they allowed some of them  
16 to expand. However, staff didn't think the nonconforming issue was significant when it  
17 came out to the public. It is very significant. He asked why they would make existing  
18 things nonconforming when they don't have to.

19  
20 Dennis Jones, 142 Windward Drive, Sudden Valley, stated one issue is the urban  
21 growth area (UGA) versus the LAMIRD. The 1990 Growth Management Act is a very  
22 complex issue. The Columbia Valley discussion and debate was very good. The Council  
23 made good decisions. He doesn't know of any County Council better than this one. They  
24 have made a great start on Lake Whatcom protection. They need to do more.

## 25 26 27 **PUBLIC HEARINGS**

### 28 29 **1. ORDINANCE REGARDING ESTABLISHMENT OF SPEED LIMIT ON HAXTON** 30 **WAY FROM SLATER ROAD TO KWINA ROAD (AB2009-284)**

31  
32 Fleetwood opened the public hearing and the following people spoke:

33  
34 Henry Cagey, Lummi Nation Chairman, stated he supports lowering the speed limit.

35  
36 Richard Jefferson, Lummi Nation Planning Director, stated he supports lowering the  
37 speed limit. The trail design requires a lower speed limit. If they don't lower the speed  
38 limit, either redesign this section of the road or get their money back. This short section of  
39 road has had a number of fatalities. Pedestrians must get off the road and onto sidewalks,  
40 where they'll be safer. The request is to build a detached bicycle and pedestrian path from  
41 Kwina Road to the Shell Station at Slater Road.

42  
43 Crawford asked why the Tribe created a 35 miles per hour design on a road that is  
44 50 miles per hour. Jefferson stated the reason had to do with funding and Army Corps of  
45 Engineers requirements to not fill wetlands. This was the design the Tribe and County came  
46 up with.

47  
48 Cagey stated there is a safety issue on this road. Many people walk on that road.  
49 There is no sidewalk. Many Lummi Island people speed down that road when trying to  
50 catch the ferry.

51  
52 Fleetwood stated he acknowledges the condition of the road and the dangers of  
53 higher speeds.

1  
2 Caskey-Schreiber stated the Public Works Committee doesn't support the  
3 recommendation from the County Engineer. The Committee voted to recommend the 35  
4 miles per hour zone. There have been many fatal accidents. The road is getting much  
5 more use. If the Lummi Nation is willing to do enforcement and will enable them to build a  
6 better project, there is no reason to oppose the speed limit.  
7

8 Hearing no on else, Fleetwood closed the public hearing.  
9

10 **Brenner moved** to adopt the ordinance. There have been many complaints about a  
11 lack of pedestrian access. They can't get that access unless they work with the Tribe and  
12 lower the speed limit.  
13

14 Crawford stated he understands that line of thinking. However, the road meets all  
15 the engineering standards. He would like to see if the Public Works Department can work  
16 with the Tribe on this application for this project. The Council has received input from folks  
17 who are concerned about lowering the speed limit. Lowering the speed limit won't make  
18 people actually drive slower, according to the engineers. The road is designed for 50 miles  
19 per hour, and the cars going this speed are in the 85<sup>th</sup> percentile. He won't vote for this  
20 ordinance.  
21

22 Brenner stated engineers are required to provide this kind of study. It has nothing  
23 to do with pedestrian safety, which is the issue. She received only two comments, and they  
24 both said the biggest problem is pedestrian safety.  
25

26 Caskey-Schreiber stated the speed limit was lowered elsewhere, even though it met  
27 the 85<sup>th</sup> percentile. Since, there hasn't been any accident. There's no harm in helping the  
28 Tribe build another way for people in their community to get around.  
29

30 Fleetwood stated the distance between Kwina Road and Slater Road is not great. A  
31 lower speed limit will add only a few seconds for people who are trying to catch the ferry.  
32

33 Nelson asked the impact of the design and use of the road on properties located  
34 along the road.  
35

36 Joe Rutan, Public Works Road Engineer, stated one factor in this decision is his  
37 engineer report. It is not the only decision factor. The Council must also listen to what the  
38 community wants. The Lummi Nation has worked very hard on this pedestrian and bike  
39 safety project. The plan to do an offsite trail is in lieu of developing road shoulders on  
40 Haxton Road. He would like to still build those road shoulders for vehicle safety. The  
41 difference in the design has to do with the need for a beam guardrail at a certain location.  
42 That costs money.  
43

44 Nelson asked if this is a cost saving measure. Rutan stated he is also very  
45 concerned about safety. People drive a comfortable speed, not at the posted speed. People  
46 will drive 50 miles per hour on the road, and they won't have a guardrail. The cost of a  
47 guardrail is about \$50,000.  
48

49 A speed limit of 35 miles per hour will work. The Lummi Nation made many good  
50 arguments for that speed limit. It is their community.  
51

52 Bill Elfo, Sheriff, stated he can't think of a more dangerous stretch of roadway in the  
53 County involving fatalities, pedestrians, and bicycles.

1  
2 **Motion carried 7-0.**  
3

- 4 2. **ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20, ON AN**  
5 **INTERIM BASIS, TO MODIFY THE DATES OF SEASONAL RESTRICTIONS ON**  
6 **CLEARING ACTIVITIES FROM SEPTEMBER 1 THROUGH APRIL 30 TO**  
7 **OCTOBER 1 THROUGH MAY 31, AND IMPOSING A DEADLINE ON THE**  
8 **ISSUANCE OF DEVELOPMENT PERMITS TO TWO WEEKS PRIOR TO THE**  
9 **SEASONAL CLOSURE DATE IN THE WATER RESOURCE SPECIAL**  
10 **MANAGEMENT AREAS (AB2009-314)**

11  
12 Fleetwood opened the public hearing and, hearing no one, closed the public hearing.

13  
14 **Brenner moved** to adopt the ordinance.

15  
16 Weimer reported for the Natural Resources Committee.

17  
18 **Motion carried 7-0.**  
19

- 20 3. **RESOLUTION ADOPTING A BUDGET AND WORK PLAN FOR THE BIRCH BAY**  
21 **WATERSHED AND AQUATIC RESOURCES MANAGEMENT DISTRICT FOR THE**  
22 **REMAINDER OF 2009 (AB2009-315)**

23  
24 *(Clerk's Note: Council acting as the Whatcom County Flood Control Zone District*  
25 *Board of Supervisors. Board Chair Weimer assumed the duties of the Chair for this portion*  
26 *of the meeting.)*  
27

28 Weimer opened the hearing and the following people spoke:

29  
30 Don Monfort, 8323 Harborview Road, Birch Bay, stated he thanks the Council for  
31 showing faith in the advisory committee. It is very concerned about how that money is  
32 spent.  
33

34 Brenner asked if the advisory committee looked at the costs, especially for the full-  
35 time person. Montfort stated they did. It creates options. They are trying to exert  
36 whatever influence they can over the decision. That isn't necessarily where the money will  
37 go, even though it's budgeted. They need input from the Human Resources (HR) Division to  
38 tell them where the job description will fall.  
39

40 Hearing no on else, Weimer closed the public hearing.

41  
42 Brenner asked about the job description and the pay scale for the new hire.  
43

44 Kraig Olason, Public Works Department, stated they reviewed that budget item. He  
45 talked to HR about it. HR has to go through a more thorough review, but it could possibly  
46 be a Planner II range rather than a Senior Planner range. HR said they wouldn't go forward  
47 with any analysis until the budget is established and the position is identified. The dollar  
48 amount depends on the final determination. HR identified the number of years of  
49 experience required for the position, which is three years, based on the Snohomish County  
50 job description. A Senior Planner typically has five years' experience.  
51

52 Weimer stated another question was related to the percent for personnel benefits,  
53 which is 65 percent of wages. That seems remarkably high. Olason stated the County

1 administration provides that formula. This budget is just through the end of 2009.

2  
3 Kelly asked if there was discussion in the past about this position being similar to a  
4 North Sound Baykeeper. However, it seems that the position may be more of an  
5 administrative position to handle staff and scopes of work. He asked which this staff would  
6 most resemble. Olason stated two Snohomish County Watershed Stewards attended the  
7 Birch Bay Watershed Aquatic Resource Management (BBWARM) Advisory Committee  
8 meeting last week. They do a lot of one-on-one contact, educational programming, and  
9 provide some onsite technical advice. Those activities are similar. They are not wedded to  
10 the term "watershed keeper" and will probably change it to "watershed steward."

11  
12 Brenner asked about the potential to contract with the Baykeepers instead of hiring  
13 staff. Olason stated they considered a contract. His department isn't thrilled with the idea  
14 of having to manage a contract. It's a very customized program. If the Board of  
15 Supervisors is set on that option, staff would reconsider. Managing a contract would create  
16 more administrative overhead and provide less control in the field than a staff person. The  
17 BBWARM Advisory Committee discussed it as well. The position would be involved in  
18 sensitive issues. If the position were contracted, it could cause some conflicts.

19  
20 **Weimer** stated he wants clarity on the salary amount and benefit range. He *moved*  
21 to amend the resolution to add language, "BE IT RESOLVED that position will not be  
22 advertised until the Human Resources Division explains the actual wage range and benefit  
23 percentage." Hopefully that won't slow the process. It's a matter of the administration  
24 getting the Council information. Olason stated the administration can't do the review until  
25 the Council tells them it's a real position. The administration reviews and approves what is  
26 advertised, anyway. It may be redundant.

27  
28 **Caskey-Schreiber suggested a friendly amendment hold** this item in committee  
29 for two weeks instead and ask the administration to ask the HR Division to explain the  
30 benefits and salary. They need to know what the benefits are and why they are such a high  
31 percentage of the salary. Schedule this item in the Natural Resources Committee and  
32 Council.

33  
34 **Weimer accepted** the friendly amendment.

35  
36 Peggy Leviton, Public Works Department, stated the 65 percent is the Public Works  
37 Department allocation for all its employees. It includes vacation, sick leave, medical,  
38 dental, the County benefit package, unemployment, payroll taxes, and all other payroll  
39 costs.

40  
41 Dewey Desler, Deputy Administrator, stated the administration can provide the  
42 specific information on the job costs. If the Council is committed to moving forward with  
43 the position, and the staff provides clear assistance identifying tasks, duties, skill levels, and  
44 responsibilities, then the administration can create a draft job description. The  
45 administration will do that and bring it forward at the next meeting.

46  
47 **Motion to refer to committee carried 6-1 with Crawford opposed.**

48  
49 **4. RESOLUTION AMENDING THE 2009 WHATCOM COUNTY FLOOD CONTROL**  
50 **ZONE DISTRICT BUDGET, FOURTH REQUEST, IN THE AMOUNT OF \$29,020**  
51 **(AB2009-319)**

1 (Clerk's Note: Council acting as the Whatcom County Flood Control Zone District  
2 Board of Supervisors. Board Chair Weimer assumed the duties of the Chair for this portion  
3 of the meeting.)  
4

5 Weimer opened the public hearing and, hearing no one, closed the public hearing.  
6

7 **Fleetwood moved** to approve the resolution.  
8

9 **Motion carried 7-0.**  
10

11 **5. ORDINANCE PROHIBITING, ON AN INTERIM BASIS, THE ILLEGAL AND**  
12 **ILLICIT DISCHARGE OF HAZARDOUS MATERIALS AND NON-STORMWATER**  
13 **RUN-OFF TO THE COUNTY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM**  
14 **(MS4) (AB2009-320)**  
15

16 Fleetwood opened public hearing and the following people spoke:  
17

18 Dennis Jones, 142 Windward Drive, Sudden Valley, the poisons they put in surface  
19 water and stormwater are what makes a difference in Lake Whatcom. Everyone realizes  
20 that. To make progress, they get people, such as the people in Sudden Valley, to become  
21 stewards of the lake. Educate those people. A question is how to get Sudden Valley  
22 residents and board members to address this issue. They know what is going into the  
23 stormwater. He asks this County to get together with others, including Sudden Valley, on a  
24 program called Stewards of the Lake, with the County in the lead position. The Sudden  
25 Valley people don't get it yet.  
26

27 Christina McGinnis, Department of Ecology, stated she thanks County staff for  
28 bringing this forward to meet permit requirements. Consider adding language to section  
29 four to mention the accompanying resolution that directs staff on how to enforce the  
30 ordinance. Also, apply this ordinance to the entire Lake Whatcom watershed, in addition to  
31 the phase two areas. Adopt the interim ordinance before the permit deadline of August 16.  
32 Have staff continue to work through the public process in the next few months to adopt the  
33 ordinance permanently.  
34

35 Caskey-Schreiber stated modifying this ordinance to include the entire watershed  
36 would delay the process, and they wouldn't meet the August 16 deadline.  
37

38 Fleetwood stated the Council would have to introduce tonight another ordinance to  
39 cover the entire watershed, and have a public hearing and adopt at the next Council  
40 meeting. Introduce this ordinance as the template with the changes described.  
41

42 **Brenner moved** to hold a public hearing in two weeks and include the provision that  
43 this would be adopted with a reference to the resolution regarding enforcement issues and  
44 include the entire watershed.  
45

46 (Clerk's Note: this item was not voted on during this hearing and discussion. Council  
47 moved the item to the list of Introduction Items.)  
48

49 Hearing no one else, Fleetwood closed the public hearing.  
50

51 Pete Kremen, County Executive, stated he commends his staff and the Council for  
52 working on this. It is a very beneficial action. He doesn't want to impede the adoption of  
53 this ordinance. However, it would be prudent for the Council to be briefed on the possible

1 fiscal impacts of the changes. It doesn't do any good to have an ordinance on the books  
2 without some tangible, meaningful enforcement.  
3

4 Kelly stated he agrees with Executive Kremen. The State agencies may look  
5 favorably at a late adoption if the Council considers adding the entire watershed to the  
6 program. Have a discussion with the administration about fiscal impacts.  
7

8 Fleetwood stated they can introduce the item, and change it if necessary.  
9

10 Crawford asked for clarification of the list of items in subsection 3(c). He may want  
11 to add language to item 28, "...uncontaminated water, other than those associated with  
12 natural, organic, and inorganic material indigenous to the area." Elaborate a little more to  
13 indicate that the County doesn't intend to find people who are doing truly innocent things.  
14 Items 24, 25, and the first two items in item 26 are a high level. He's not concerned about  
15 removing lawn clippings. When they are talking about leaves, branches, and bark, he  
16 questions at what point natural conditions are allowed to occur. This is not something they  
17 are using to beat up citizens. Interpret debris, as manmade in item one. Make it clear that  
18 they're addressing negative impacts caused by bad practices and bad behavior by people.  
19

20 Fleetwood stated make such motions to amend that ordinance at the appropriate  
21 time. They're past that now.  
22

23 Brenner stated Bill Querhn appreciates that so many things are listed because it  
24 clarifies what the Council is talking about.  
25

26 Crawford stated he is thinking of the homeowner.  
27

28 Nelson stated the National Pollution Discharge Elimination System (NPDES) was  
29 meant for urban areas. Now they're talking about expanding it into rural areas. Many of  
30 those properties are five acres or larger, and include forestry practices. This proposal  
31 prohibits discharges in all places in the Lake Whatcom watershed.  
32

33 Chip Anderson, Public Works Department, stated the ordinance proposed originally is  
34 for the NPDES phase two areas, which are the urbanized areas and urban growth areas.  
35 The Washington State Department of Ecology (DOE) requested this morning to include the  
36 entire watershed, based on the total maximum daily load (TMDL) study. The list in the  
37 ordinance came from a DOE guide, which really wanted the County to enunciate these items  
38 as they appear in the guide.  
39

40 Nelson asked if they are going to eliminate forestry practices in the watershed.  
41 Anderson stated that if the Council includes the entire watershed, that could be a potential.  
42

43 Nelson stated they will eliminate almost all agricultural practices, which are currently  
44 going on in the watershed in rural areas. He would like to know how this connects with  
45 stormwater and the natural progression off land. He doesn't see clarity. He doesn't know  
46 how they would enforce that. He doesn't know the economic impact to the entire  
47 community. Initially, this is worse than septic system regulations or stormwater  
48 regulations. Include a list as examples, but it's too unclear why they would jump from  
49 NPDES areas to 40-acre properties. Before the Council approves such an ordinance, think  
50 about what it means to the rural lifestyle.  
51

52 Weimer stated he has specific questions for answering when the permanent  
53 ordinance comes forward. He asked why pipeline hydrostatic test water is included. He is

1 unclear about the conditional discharge section, and whether it's automatic or if someone  
2 has to ask permission.

3  
4 Brenner asked about discharges with logging. She asked if the Landscape Plan  
5 covers that discharge.

6  
7 Kelly stated they are trying to second-guess and replace Washington State rule  
8 packages. Forest practices have their own set of rules and regulations, such as what is in  
9 the Clean Water Act. This morning's discussion included a question of why they would do  
10 this without adequate enforcement. He would like to have a discussion on whether the  
11 Council can help the Executive make that enforcement happen. They need more time. He  
12 asked what happens if they're late. They may need to be late. It may be worth being late.

13  
14 ***Brenner moved*** to adopt the interim ordinance tonight as presented in the packet.

15  
16 McGinnis stated the change focuses only on the ditches and the stormwater system  
17 that runs throughout the Lake Whatcom watershed. It doesn't focus on individual  
18 properties that may hold separate permits for logging or have animals. It's about what  
19 comes off the property and goes into the County system, which will find its way into Lake  
20 Whatcom and affect the reduction of nonpoint sources to the lake, as required by the TMDL  
21 action plan. That's why she asks that the ordinance be expanded to cover the entire  
22 watershed. Many areas besides Hillsdale, Geneva, and the urban growth areas impact the  
23 lake and have many nonpoint sources.

24  
25 Nelson stated he understands that. The problem is that DOE won't supply  
26 enforcement. Also, people in the community will interpret this to the letter of the law and  
27 report on every little thing. That costs taxpayer dollars for little result. He's already having  
28 discussions with the DOE on the 303(d) listing source studies in rural areas. Those numbers  
29 are exaggerated, in his opinion. The DOE has enough on its plate, trying to support that  
30 information. Also, they are trying to get the public to work in a concerted effort to do the  
31 right thing with the lake instead of hammering them over the head and causing the  
32 taxpayers more grief.

33  
34 Fleetwood asked if the Council could adopt the ordinance as it is tonight, introduce  
35 an ordinance that would apply to the entire watershed, and have a public hearing on that  
36 ordinance in two weeks. McGinnis stated this is an interim ordinance, so the Council has  
37 time to adopt changes to a final ordinance. If the Council doesn't meet the deadline, it has  
38 an extra 30 days to pass it before it becomes a permit noncompliance issue.

39  
40 Caskey-Schreiber stated she's not opposed to applying the regulation to the entire  
41 watershed, but she wants to consider whether this list is appropriate for rural areas. She  
42 knows the list is right for the urbanized areas. She wants to discuss how they will enforce it  
43 and what the financial implications may be.

44  
45 ***Motion carried 6-1 with Crawford opposed.***

46  
47  
48 **CONSENT AGENDA**

49  
50 ***Crawford*** reported for the Finance and Administrative Services Committee and  
51 ***moved*** to approve Consent Agenda items one through seven.

52  
53 ***Motion carried 7-0.***

1  
2 (Clerk's Note: Later in the meeting, Council Chair announced that the Council acted  
3 as the Flood Control Zone District Board of Supervisors when approving Consent Agenda  
4 items four and five.)  
5

- 6 1. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A  
7 CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND THE  
8 OPPORTUNITY COUNCIL FOR WHATCOM HOMELESS SERVICE CENTER  
9 ADMINISTRATIVE SERVICES, FOR THE ADDITIONAL AMENDED AMOUNT OF  
10 \$157,500 (AB2009-322)  
11
- 12 2. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #09-38  
13 TO LOW BIDDER FOSS MARITIME COMPANY FOR ANNUAL DRY DOCK  
14 REPAIRS AND MAINTENANCE OF THE WHATCOM CHIEF, IN THE AMOUNT OF  
15 \$170,275 (AB2009-323)  
16
- 17 3. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A  
18 CONTRACT WITH RMC ARCHITECTS FOR DESIGN SERVICES FOR THE SILVER  
19 LAKE PARK SHOWER AND RESTROOM FACILITY, IN THE AMOUNT OF  
20 \$50,621 (AB2009-324)  
21
- 22 4. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO AN  
23 INTERLOCAL AGREEMENT BETWEEN WESTERN WASHINGTON UNIVERSITY  
24 AND THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT TO  
25 PERFORM HYDROLOGIC MODELING OF THE NOOKSACK RIVER TO EVALUATE  
26 VARIOUS CLIMATE CHANGE SCENARIOS, IN THE AMOUNT OF \$15,000  
27 (AB2009-325)  
28
- 29 5. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A  
30 COOPERATION AGREEMENT BETWEEN THE US ARMY CORPS OF ENGINEERS  
31 AND WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT FOR  
32 REHABILITATION AND SETBACK OF THE HOVANDER PARK LEVEE, IN THE  
33 AMOUNT OF \$429,000 (AB2009-326)  
34
- 35 6. RESOLUTION AMENDING CRP #908014 AND AUTHORIZING ADDITIONAL  
36 FUNDS FOR, AND AUTHORIZING THE COUNTY EXECUTIVE TO AWARD A  
37 CONTRACT FOR, HANNEGAN ROAD SCOTT DITCH BRIDGE NO. 245  
38 REPLACEMENT TO LOW BIDDER, MAX J. KUNEY COMPANY, IN THE AMOUNT  
39 OF \$805,522.40 (AB2009-327)  
40
- 41 7. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A  
42 CONTRACT WITH CTED FOR THE BENEFIT OF HOUSING AFFORDABILITY IN  
43 WHATCOM COUNTY (THROUGH KULSHAN COMMUNITY LAND TRUST'S HOME  
44 OWNERSHIP OPPORTUNITIES PROGRAM), IN THE AMOUNT OF \$500,000  
45 (AB2009-330)  
46
- 47 8. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO SIGN A  
48 SUBRECIPIENT AGREEMENT BETWEEN WHATCOM COUNTY AND KULSHAN  
49 COMMUNITY LAND TRUST FOR THE BENEFIT OF HOUSING AFFORDABILITY  
50 IN WHATCOM COUNTY (THROUGH THE HOME OWNERSHIP OPPORTUNITIES  
51 PROGRAM) (AB2009-330A)  
52

53 This item was withdrawn from the agenda.

1  
2  
3 **OTHER ITEMS**  
4

5 **1. RESOLUTION ESTABLISHING POLICIES REGARDING DETECTION AND**  
6 **ASSESSMENT OF ILLEGAL AND ILLICIT DISCHARGE OF HAZARDOUS**  
7 **MATERIALS AND NON-STORMWATER RUN OFF TO THE COUNTY'S**  
8 **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) AND ENFORCEMENT**  
9 **OF PROHIBITIONS AGAINST SUCH DISCHARGES IN DESIGNATED NPDES**  
10 **PHASE II AREAS (AB2009-320A)**  
11

12 *Weimer* reported for the Natural Resources Committee and *moved* to approve the  
13 resolution with one of the amendments recommended by the committee to add language to  
14 the resolution, "Be It Further Resolved that the County Council request the County  
15 Executive ensure all enforcement positions existing and budgeted for within PDS are filled,  
16 and report the status of those positions to the County Council every month until positions  
17 are filled."  
18

19 Crawford stated he doesn't necessarily agree yet with saying they will fill this  
20 position, until he hears about the salary and benefits issues. He asked if Councilmember  
21 Weimer would consider withdrawing the committee amendment and simply make the  
22 request a status update from the administration, without firmly saying this has to be filled.  
23 He supports the resolution, but not with that language.  
24

25 *Brenner moved* to amend to remove the committee amendment to add language to  
26 the resolution.  
27

28 *Motion to amend carried 6-1 with Kelly opposed.*

29 *Motion to approve the resolution with no amendments carried 7-0.*  
30

31  
32 Fleetwood announced that the Council acted as the Flood Control Zone District Board  
33 of Supervisors when approving Consent Agenda items four and five.  
34

35 **2. ORDINANCE ESTABLISHING A YEW STREET ROAD CONSTRUCTION FUND**  
36 **(AB2009-316)**  
37

38 *Crawford* reported for the Finance and Administrative Services Committee and  
39 *moved* to adopt the ordinance.  
40

41 Brenner stated she supports having roads in front of schools, but the County has no  
42 business being a purveyor of extraordinary City standard services. The cost will be nearly  
43 \$4 million for 1,500 feet of road. There are other, more essential services in crisis.  
44 Postpone this project, or come back with a less fancy design.  
45

46 Dewey Desler, Deputy Administrator, stated the real estate excise tax (REET) fund  
47 will have about \$5 million by the end of the year, after they appropriated all the other items  
48 from that fund. This doesn't hinder any of the other projects the Council approved.  
49

50 Fleetwood asked if this project assumes that the urban growth area will develop in  
51 that area. Desler stated the area is in the urban growth area, which qualified the project for  
52 federal funding.  
53

1 Fleetwood stated it's possible that area may be removed from the urban growth  
2 area. Desler stated that's a Council decision. He described the history of the area and  
3 school district decision to develop there.

4  
5 Crawford stated it's not just about the urban growth area. The long term plan from  
6 the Council of Governments is to develop an additional north-south corridor through  
7 Bellingham, other than Interstate 5. This segment from Lake Padden to this school is the  
8 last remaining road section that is not all-weather and does not have shoulders or  
9 improvements. This project was originally supposed to be improved all the way to Samish  
10 Way, but construction costs spiraled and they lost Transportation Improvement Board (TIB)  
11 funding. Also, the school district has had a lot of comment about putting a school in an  
12 area that may not now be an urban growth area. He has a lot of confidence that the City  
13 Council will have a balance of more common sense about that area, beginning in January.

14  
15 Brenner stated the County has no business develop city-level services. The County  
16 should improve the road, but it doesn't need to do everything planned. Plenty of schools in  
17 Whatcom County have either no sidewalks or only one sidewalk. School zones are 20 miles  
18 per hour, and the sidewalk is on the school-side of the street.

19  
20 *Nelson moved* to call the question.

21  
22 *Motion to call the question carried 6-1 with Brenner opposed.*

23  
24 *Motion to adopt the ordinance carried 5-2 with Kelly and Brenner opposed.*

25  
26 **3. ORDINANCE APPROVING 2009 PROJECT BUDGET REQUEST #2 (AB2009-  
27 317)**

28  
29 *Crawford* reported for the Finance and Administrative Services Committee and  
30 *moved* to adopt the ordinance.

31  
32 Brenner stated she is against the motion for the same reason she just stated.

33  
34 *Motion carried 5-2 with Kelly and Brenner opposed.*

35  
36 **4. ORDINANCE AMENDING THE 2009 WHATCOM COUNTY BUDGET, EIGHTH  
37 REQUEST, IN THE AMOUNT OF \$2,624,307 (AB2009-318)**

38  
39 *Crawford* reported for the Finance and Administrative Services Committee and  
40 *moved* to adopt the ordinance.

41  
42 Caskey-Schreiber stated she would like the administration to provide a detailed  
43 report on the status of the budget, with a comparison of where the shortfalls are. She  
44 would like to get a big picture idea of where they're at. She would like to know where they  
45 are and where they need to be to deal with the next half of the year.

46  
47 Dewey Desler, Deputy Administrator, stated they are preparing a presentation for  
48 the Finance Committee at the August 4, 2009 meeting.

49  
50 *Motion carried 7-0.*

51  
52 **5. RESOLUTION TO INITIATE AMENDMENTS TO THE SIX YEAR CAPITAL  
53 IMPROVEMENT PLAN (AB2009-328)**

1  
2 **Caskey-Schreiber** reported for the Planning and Development Committee and  
3 **moved** to approve the resolution.  
4

5 Brenner asked why this went to the Planning Committee instead of the Public Works  
6 Committee when it's specifically a capital projects discussion.  
7

8 David Stalheim, Planning and Development Services Director, stated the capital  
9 improvement program is required to go through the Planning Commission as an element of  
10 the Comprehensive Plan. The traditional route for all amendments that go through the  
11 Planning Commission is to go through the Planning Committee. If any of these capital  
12 improvement program amendments need to go elsewhere, the Council can indicate that.  
13 This is an amendment of the overall Comprehensive Plan and is for the docket, the Planning  
14 Commission, and back to the Council.  
15

16 **Motion carried 7-0.**  
17

18 **Caskey-Schreiber** stated the Planning Committee recommends that the Council ask  
19 the administration and Planning Department staff to put forward an option for urban growth  
20 area (UGA) discussions regarding which proposed growth option should go to the  
21 Washington State Department of Community, Trade, and Economic Development (CTED) for  
22 review. She **moved** to ask the administration to develop a recommendation about which  
23 option it wishes to send to CTED for review.  
24

25 Fleetwood stated the County Council is concerned about the appearance of  
26 expressing a preference for one alternative before it's finished the public process.  
27 Therefore, the Council asks the Executive and Planning Director choose an option for CTED.  
28

29 Pete Kremen, County Executive, stated he and the Planning Director would work with  
30 the Council and all municipalities to come up with the best policy that everyone can live with  
31 and that would still generate the best county in the future.  
32

33 **Motion carried 6-1 with Crawford opposed.**  
34

35  
36 **INTRODUCTION ITEMS**  
37

38 **Nelson moved** to accept the Introduction Items, including the ordinance regarding  
39 illicit hazardous material discharge in the entire Lake Whatcom watershed.  
40

41 **Motion carried 7-0.**  
42

- 43 1. RECEIPT OF AN APPEAL OF THE HEARING EXAMINER'S DECISION (APL2001-  
44 0009), FILED BY PHILIP BURI ON BEHALF OF THE CONCERNED NEIGHBORS  
45 OF LAKE SAMISH, REGARDING MOTION TO DISMISS (SLEEPY HOLLOW  
46 SUBDIVISION) (AB2009-321)  
47
- 48 2. ORDINANCE TO AMEND TITLE 20; WCC 20.34 RURAL RESIDENTIAL ISLAND;  
49 AMENDMENT WILL REDUCE THE DENSITY AND MAKE OTHER CHANGES TO  
50 THE RRI ZONE FOR LUMMI ISLAND (AB2009-286A)  
51
- 52 3. ORDINANCE TO AMEND TITLE 16; WCC 16.16: AREAS WITHIN THE RURAL  
53 RESIDENTIAL DISTRICT OF LUMMI ISLAND; THE AMENDMENTS ADD A NEW

1 SECTION (WCC 1616.540) TO THE WHATCOM COUNTY CRITICAL AREAS  
2 ORDINANCE REGULATING NEW WELLS ON NORTHERN LUMMI ISLAND  
3 (AB2009-285A)  
4

- 5 4. ORDINANCE AUTHORIZING PLACEMENT OF TEMPORARY STOP SIGNS ON  
6 ABBOTT AND VAN DYK ROADS AT THE INTERSECTION OF THIEL ROAD AND  
7 IMPLEMENTATION OF TEMPORARY WEIGHT RESTRICTIONS ON PORTIONS  
8 OF ABBOTT, THIEL, AND VAN DYK ROADS FOR THE HANNEGAN ROAD SCOTT  
9 DITCH BRIDGE NO. 245 REPLACEMENT PROJECT (AB2009-304A)  
10  
11 5. ORDINANCE AMENDING THE 2009 WHATCOM COUNTY BUDGET, NINTH  
12 REQUEST, IN THE AMOUNT OF \$474,174 (AB2009-329)  
13  
14 6. ORDINANCE PROHIBITING, ON AN INTERIM BASIS, THE ILLEGAL AND  
15 ILLICIT DISCHARGE OF HAZARDOUS MATERIALS AND NON-SOTRMWATER  
16 RUN-OFF TO THE COUNTY'S MUNICIPAL SEPARATE STORM SEWER SYSTEM  
17 (MS4) (AB2009-320B)  
18  
19

20 **OTHER BUSINESS**  
21

22 *Weimer moved* to get an update of vacant and filled enforcement positions at the  
23 same time as the budget update at the August 4 Finance Committee.  
24

25 *(Clerk's Note: The Council did not vote on the motion.)*  
26

27 Crawford stated they don't need a motion on that. The administration would be  
28 happy to respond to a request. It doesn't need to be formalized.  
29

30 Dewey Desler, Deputy Administrator, stated they will include a report on all positions  
31 in the organization.  
32

33 Brenner stated her vote against the Yew Street Road project has nothing to do with  
34 the school and children. They could have spent half the money doing a safe upgrade,  
35 without designing it to city standards. It's not the County's job to do that. The County  
36 doesn't have the money. They need money for other essential services, such as a jail.  
37

38 Crawford stated he will be gone in two weeks and asked the Council Chair for an  
39 excused absence.  
40

41 Fleetwood excused Councilmember Crawford from meetings on August 4, 2009.  
42  
43

44 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**  
45

46 There were no reports or other items from councilmembers.  
47  
48

1 **ADJOURN**

2  
3 The meeting adjourned at 9:02 p.m.  
4

5  
6 \_\_\_\_\_  
7 Jill Nixon, Minutes Transcription  
8

9 The Council approved these minutes on September 15, 2009.  
10

11 ATTEST \_\_\_\_\_ WHATCOM COUNTY COUNCIL

12 Please contact the Council Office to obtain an  
13 official, signed copy:  
14 360-676-6690 or [council@co.whatcom.wa.us](mailto:council@co.whatcom.wa.us)  
15