

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2008 - 114 C

CLEARANCES	Date	Date Received in Council Office	Agenda Date	Assigned To
Orig. Dept.: County Council	2/18/2009		2/24/2009	Introduction
Division Head:			3/17/09	Public Hearing
Dept. Head:				
Prosecutor:				
Budget:				
Executive:				

SUBJECT:

Ord. Imposing interim moratorium on new apps within Lake Whatcom Watershed

ATTACHMENTS

Ordinance

SUMMARY STATEMENT:

Related County Contract #:	Should the Clerk schedule a hearing? (Y/N) Y	Requested Date: 3/17/2009
----------------------------	--	---------------------------

Imposing an interim moratorium on the acceptance of new applications for divisions of land resulting in lots smaller than five acres within the Lake Whatcom watershed.

RECOMMENDED MOTION (for final action):

COMMITTEE ACTION TAKEN:

3/17/2009: Rebecca Craven gave a brief update.

COUNCIL ACTION TAKEN

2/24/2009: Introduced

3/17/2009: Council Adopted 5-2 Nelson & Crawford opposed
Ord. 2009-011

Related File Numbers:

Ordinance or Resolution Number (this item only):

Ord. 2009-011

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

SPONSORED BY: Consent

PROPOSED BY: PDS

INTRODUCTION DATE: February 24, 2009

ORDINANCE # 2009-011

IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR DIVISIONS OF LAND RESULTING IN LOTS SMALLER THAN FIVE ACRES WITHIN THE LAKE WHATCOM WATERSHED

WHEREAS, oxygen levels in Lake Whatcom are declining to lower levels and declining faster than in the past; and

WHEREAS, lower oxygen levels and more rapid decline in oxygen in Lake Whatcom are related to increased rates of sediment and phosphorus loading into the lake; and

WHEREAS, increased availability of phosphorus has limited the nitrogen availability in the lake, making the lake more susceptible to blue-green algae blooms; and

WHEREAS, longer durations of very low oxygen levels increase the rate of methylization of mercury and other anaerobic compounds; and

WHEREAS, increased productivity in the upper waters of the lake lead to increased disinfection byproducts such as total trihalomethanes (TTHMs); and

WHEREAS, longer durations of very low oxygen levels release phosphorus bound in the lake sediments resulting in increased availability of phosphorus and further increasing biological production in the lake;

WHEREAS, Washington State Department of Ecology has listed Lake Whatcom as an impaired water body and placed Lake Whatcom on the federal Clean Water Act 303(d) list because of low oxygen levels; and

WHEREAS, the 303(d) listing requires the establishment of a Total Maximum Daily Load (TMDL) that designates loading capacity of the lake such that there will be no measurable change in oxygen levels from natural lake conditions; and

WHEREAS, a TMDL requires meeting Water Quality Standards and, for lakes, the dissolved oxygen criterion requires no decline from natural conditions;

WHEREAS, other pollutants identified and monitored within the Lake Whatcom watershed have the highest concentrations in the most developed areas of the watershed; and

WHEREAS, meeting the TMDL goals and improving oxygen levels in Lake Whatcom will require variety of comprehensive planning, pollution prevention, pollution reduction and technical approaches; and

51 **WHEREAS**, continued development while the TMDL goals are established and while
52 approaches for meeting those goals are developed will increase the size of the reductions
53 and will increase the costs that will be necessary to meet the TMDL goals; and
54

55 **WHEREAS**, Lake Whatcom County Code 20.71 establishes the Lake Whatcom
56 Watershed as a Water Resource Protection Overlay District; and
57

58 **WHEREAS**, Lake Whatcom is the drinking water source for approximately half the
59 residents of Whatcom County; and
60

61 **WHEREAS**, the preservation and protection of drinking water is a high priority for
62 Whatcom County; and
63

64 **WHEREAS**, the Whatcom County Comprehensive Plan, adopted on May 20, 1997,
65 establishes the Lake Whatcom watershed as a Special Study Area; and
66

67 **WHEREAS**, Lake Whatcom is a valuable recreation lake for swimming, boating and
68 fishing, and enhances the property values in the area as long as the lake maintains high
69 water quality; and
70

71 **WHEREAS**, declining oxygen levels poses a risk to the water quality of Lake
72 Whatcom that could harm drinking water quality, recreational opportunities and, lake
73 property values; and
74

75 **WHEREAS**, actions required under the 303(d) listing and TMDL goals as well as
76 declining water quality will cause a hardship to tax payers, local property owners in the
77 watershed and water consumers and those hardships may be limited by effective planning,
78 prevention and remediation programs established prior to the establishment of the TMDL
79 goals; and
80

81 **WHEREAS**, the Whatcom County SEPA Official issued a Determination of Non-
82 significance on January 24, 2005; and
83

84 **WHEREAS**, the Council makes the following findings of fact to justify its actions as
85 required by RCW 36.70.795:
86

- 87 1. This interim moratorium on the acceptance of applications for division of land
88 into lots of smaller than five (5) acres is necessary to avoid future
89 degradation of the Lake Whatcom watershed and the associated threat to the
90 drinking water supply of approximately half of the citizens of Whatcom County
91 as well as recreational and lake property values.
92
- 93 2. Without a moratorium additional development lots may be created within the
94 Lake Whatcom Watershed that will lead to negative hydrologic and storm
95 water impacts that may cause irreversible harm to Lake Whatcom and
96 therefore cause harm to the health and welfare of the public.
97
- 98 3. The Whatcom County Council desires the opportunity to evaluate the impacts
99 of future development in relation to reducing phosphorus loads to Lake
100 Whatcom and meeting the TMDL goal of reversing the declining oxygen trends
101 in Lake Whatcom. This evaluation may include but are not limited to the
102 following:

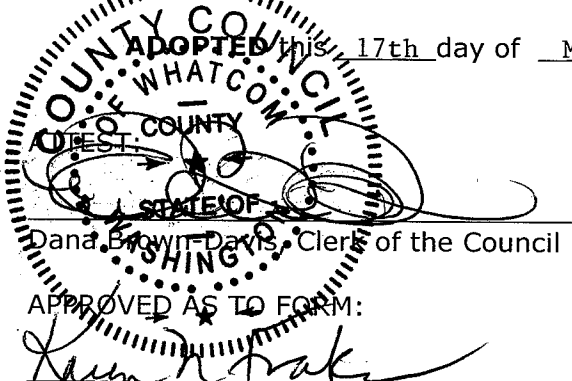
- 103 ~ Storm water management plans, implementation and maintenance.
- 104 ~ Storm water funding in the watershed.
- 105 ~ Review existing zoning densities and development standards within the
- 106 Bellingham Urban Growth Areas in the Lake Whatcom watershed.
- 107 ~ Review existing zoning densities outside the Bellingham Urban Growth
- 108 Areas within county jurisdiction.
- 109 ~ Storm water management in areas that cross City of Bellingham and
- 110 Whatcom County jurisdictions.
- 111 ~ Transfer of development rights programs.
- 112 ~ Land acquisition.
- 113 ~ Reviewing the proposed TMDL from the Department of Ecology and its
- 114 implications for additional county land use regulations .
- 115 ~ Reviewing the ongoing monitoring studies on the Lake and its
- 116 tributaries to understand the extent to which new monitoring data
- 117 further informs our understanding of the relationships between
- 118 development and other land use activities and Lake Whatcom water
- 119 quality.

121 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that a
 122 moratorium is hereby imposed on the acceptance of new applications for divisions of land
 123 into lots smaller than five (5) acres in the Lake Whatcom watershed, as identified on the
 124 map attached as Exhibit A.

126 **BE IT FURTHER ORDAINED** that divisions resulting in lots all of which are five (5)
 127 acres or larger shall be exempt from this division moratorium.

129 **BE IT FINALLY ORDAINED** by the Whatcom County Council that, pursuant to RCW
 130 36.70.795, this moratorium may be renewed for one or more six-month periods if
 131 subsequent public hearings are held and findings of fact are made prior to each renewal.

133 ADOPTED this 17th day of March, 2009.



139 Dana Brown-Davis, Clerk of the Council

141 APPROVED AS TO FORM:
 142 [Signature]
 143 [Signature]
 144 Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
 WHATCOM COUNTY, WASHINGTON

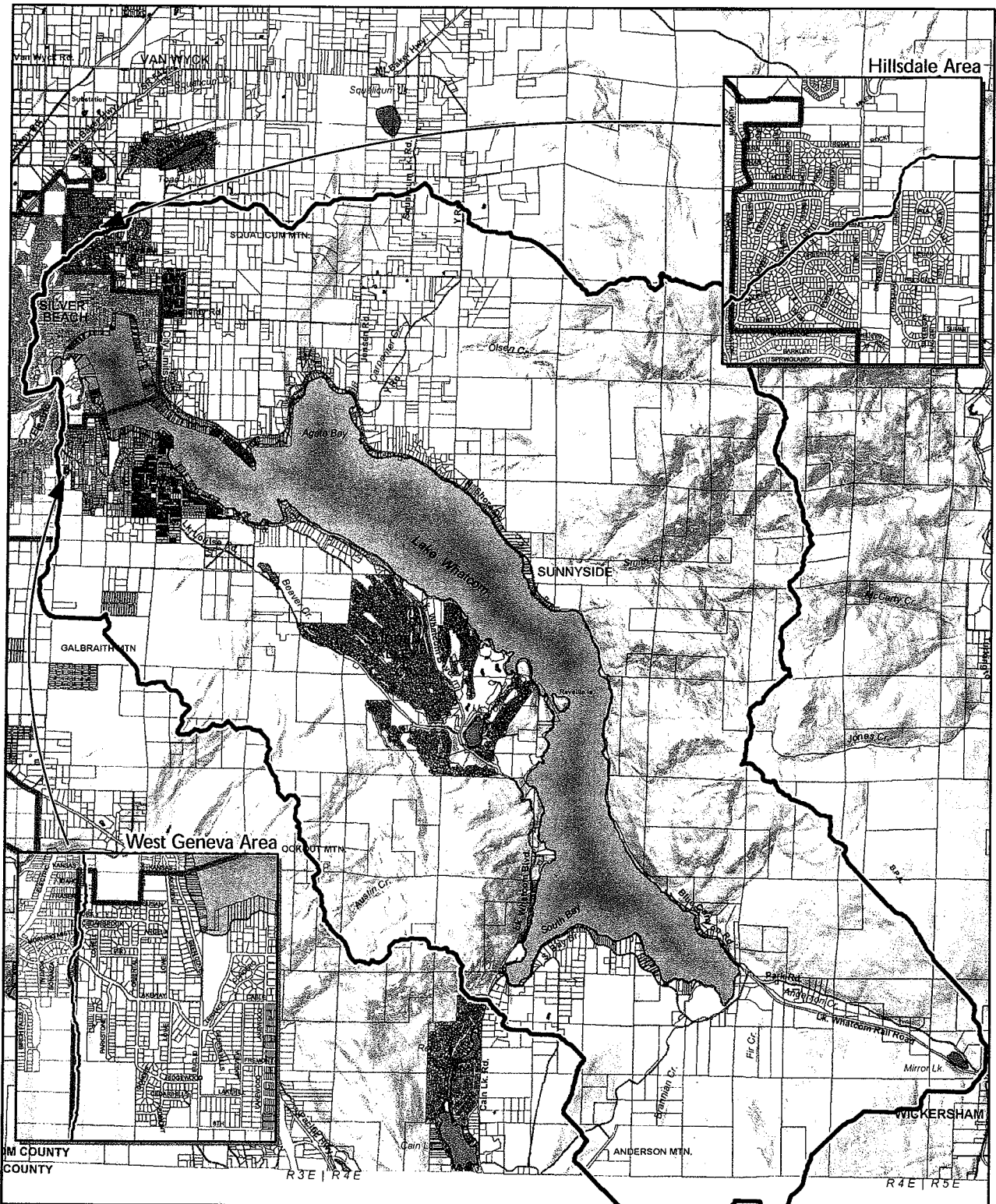
[Signature]
 Seth Fleetwood, Council Chair

[Signature]
 Pete Kremen, Executive

() Approved () Denied

Date: 3-20-09

145
146
147
148



Lake Whatcom Watershed

USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:

Whatcom County makes no warranty of merchantability or warranty of fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damages, loss, or liability arising from any use of this map.

Source:
 Whatcom County PDS
 Whatcom County Assessor

February 2008 sbw.

0 0.25 0.5 1 1.5 2 Miles

