

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2009-204

| CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to: |
|------------------------------|---------|--------|--|-------------|----------------|
| Originator: Cathy Craver | | | <p>RECEIVED</p> <p>APR -7 2009</p> <p>WHATCOM COUNTY COUNCIL</p> | 4/14/09- | (introduction) |
| Division Head: Oliver Grah | | | | 4/28/09 | NR /Council |
| Dept. Head: David Stalheim | D.S. | 4-3-09 | | 5/12/09 | Council |
| Prosecutor: Royce Buckingham | R.B. | 4-6-09 | | | |
| Purchasing/Budget: | | | | | |
| Executive: Pete Kremen | P.K. | 4-7-09 | | | |

TITLE OF DOCUMENT:
Ordinance amending the Whatcom County Comprehensive Plan to recognize the significance of Lake Whatcom as a drinking water source, the state listing of Lake Whatcom as an impaired waterbody, and the role of forestry in the Lake Whatcom watershed.

ATTACHMENTS: Ordinance

| | |
|---|---|
| SEPA review required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO SEPA review completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO | Should Clerk schedule a hearing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> NO Requested Date: |
|---|---|

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

Ordinance amending the Whatcom County Comprehensive Plan to recognize the significance of Lake Whatcom as a drinking water source, the state listing of Lake Whatcom as an impaired waterbody, and the role of forestry in the Lake Whatcom watershed.

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| <p>COMMITTEE ACTION: 4/28/2009: Forwarded to Council for approval</p> | <p>COUNCIL ACTION: 4/14/2009: Introduced 4/28/2009: Council forwarded to concurrency 7-0 5/12/2009: Council Adopted 7-0 Ord. 2009-039</p> |
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|-----------------------------------|------------------------------|---|
| Related County Contract #: | Related File Numbers: | Ordinance or Resolution Number: Ord. 2009-039 |
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Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

SPONSORED BY: Consent
PROPOSED BY: PDS
INTRODUCTION DATE: 4/14/09

ORDINANCE NO. 2009-039

**AMENDING THE WHATCOM COUNTY COMPREHENSIVE PLAN TO
RECOGNIZE THE SIGNIFICANCE OF LAKE WHATCOM AS A DRINKING
WATER SOURCE, THE STATE LISTING OF LAKE WHATCOM AS AN
IMPAIRED WATERBODY, AND THE ROLE OF FORESTRY IN THE LAKE
WHATCOM WATERSHED**

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

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

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

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

WHEREAS, Whatcom County Code 20.71 has established the Lake Whatcom watershed as part of a Watershed Resource Protection Overlay District that provides additional controls to preserve and protect unique and important water resources within Whatcom County; and

WHEREAS, Whatcom County Code 20.80.635 has established the Lake Whatcom watershed as part of a Stormwater Special District that provides additional stormwater controls to preserve and protect unique and important water resources within Whatcom County; and

WHEREAS, Whatcom County Code 20.80.735 includes the Lake Whatcom watershed as part of a Water Resource Special Management Area that establishes a more stringent standard for clearing activity in highly valued water resource areas within Whatcom County; and

WHEREAS, the Department of Natural Resources Lake Whatcom Landscape Plan was adopted in 2004, and provides additional protections on State managed lands within the Lake Whatcom watershed; and

WHEREAS, the Draft Lake Whatcom Watershed Total Phosphorus and Bacteria Total Maximum Daily Load (TMDL) Water Quality Findings were released in April 2008; and

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3 **WHEREAS**, the Whatcom County Comprehensive Plan does not currently reference
4 the Department of Ecology's listing of Lake Whatcom as an impaired waterbody, the Lake
5 Whatcom Watershed Total Phosphorus and Bacteria TMDL, or the Department of Natural
6 Resources Lake Whatcom Landscape Plan; and
7

8 **WHEREAS**, RCW 36.70.795 requires the adoption of Findings of Fact to justify
9 Council action, the Council makes the following Finding of Facts:
10

- 11 1. Notice of the Planning Commission hearing for the Comprehensive Plan
12 Amendment was published in the Bellingham Herald July 13, 2008.
13
- 14 2. Notice of the subject amendment was sent to the Department of Community
15 Trade and Economic Development (CTED) and other State agencies on July
16 15, 2008.
17
- 18 3. Since 1990 Whatcom County has been meeting with the City of Bellingham
19 and the Lake Whatcom Water and Sewer District (formerly known as Water
20 District 10) to develop long-term management for Lake Whatcom.
21
- 22 4. Lake Whatcom was listed as an impaired water body in 1997 by the
23 Department of Ecology, and put on the Federal Clean Water Act's 303(d) list.
24
- 25 5. By 1998, Whatcom County, City of Bellingham, and the Lake Whatcom Water
26 and Sewer District formalized their joint commitment to protect and manage
27 the lake through the adoption of an interlocal agreement concerning the joint
28 management of the lake creating the Lake Whatcom Management Program
29 (LWMP).
30
- 31 6. In 1999, the first LWMP Work Plan for the lake was developed, followed by
32 five-year plans starting in 2000 with ten specific program areas focused on
33 water quality protection.
34
- 35 7. From 1999 until present, Whatcom County has been implementing land use
36 regulations to protect the water quality of Lake Whatcom through the
37 development of the *Water Resource Special Management Area*, *Water*
38 *Resource Protection Overlay District*, *Special Stormwater District*.
39
- 40 8. In 2004, the Department of Natural Resources (DNR) Board of Natural
41 Resources adopted the Lake Whatcom Landscape Plan, which provides
42 additional protection on State managed lands within the Lake Whatcom
43 watershed.
44
- 45 9. The Interjurisdictional Coordinating Team (ICT) is the committee of multi-
46 jurisdictional staff coordinating on the Lake Whatcom Management Program
47 Work Plans, and is assisting in the development of a strategy to respond to
48 the pollutant discharge requirements set forth in the TMDL.

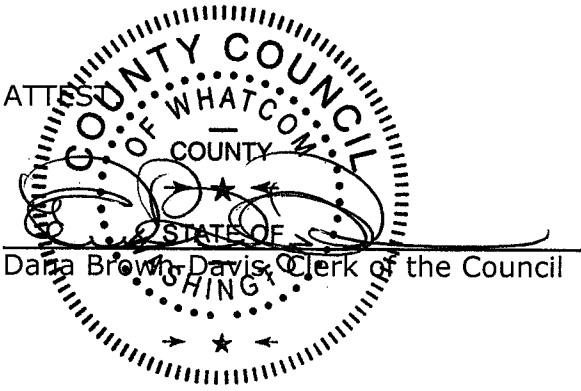
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10. The Whatcom County Comprehensive Plan should contain language to reflect the listing of Lake Whatcom on the 303(d) list of impaired water bodies, and the impacts of forestry and development on water quality of the lake.

11. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 3, 2009.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Comprehensive Plan is hereby amended as indicated in Exhibit A of this ordinance.

ADOPTED this 12th day of May, 2009.

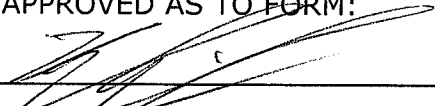


Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Seth Fleetwood, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

Civil Deputy Prosecutor


Pete Kremen, County Executive

() Approved () Denied

Date Signed: (5-14-09)

maintain acceptable traffic flow in terms of safety, capacity, and travel speed while still providing an appropriate level of access.

Policy 2NN-7: Consider additional industrial development if there is a demonstrated community need, appropriate in-filling is occurring and a logical outer boundary can be established in accordance with RCW 36.70A.070(5).

Policy 2NN-8: With citizen involvement, develop design criteria and appropriate uses along the Guide Meridian corridor (300 feet on each side of the right-of-way, excluding the road itself) that minimize impacts on local communities.

Special Study Areas

Lake Whatcom

Lake Whatcom is the drinking water source for approximately half of Whatcom County. Recent studies on Lake Whatcom indicate water quality in the lake has declined. Oxygen levels in Lake Whatcom are declining to lower levels, and are declining faster than in the past. In 1997, the Washington State Department of Ecology 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. 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. The TMDL goals will require a variety of planning, pollution prevention, pollution reduction and technical approaches. Meeting the TMDL goals will be required in order to stabilize water quality in Lake Whatcom.

The primary cause of declining oxygen levels had been from residential development in the watershed. Past development permitted by the City of Bellingham and Whatcom County has led to increased phosphorus loading into the lake, which in turn has led to lower oxygen levels in the lake. Poorly managed forest practices can also lead to significant increases in phosphorus loading to the lake.

In November/December 1992, a joint resolution was passed by the Bellingham City Council, Whatcom County Council, and Water District 10 Commissioners, which reaffirmed this position with six general goal statements and a set of specific goal statements in various categories. The specific goal statements for urbanization were the following:

- Prevent water quality degradation associated with development within the watershed.
- Review and recommend changes in zoning and development potential that are compatible with a drinking-water reservoir environment.
- In addition to zoning identify and promote other actions to minimize potential for increased development in the watershed (i.e. land trust, development rights, cost incentives, etc.).
- Develop specific standards which reduce the impacts of urbanization, such as minimal lot clearing; clustered development to reduce infrastructure; collection and treatment of stormwater before entering the lake.

- Develop appropriate interlocal agreements with governing agencies to prohibit the potential for additional development once an agreed upon level is set.

The joint resolution included goals for watershed management that extended beyond urbanization. Goals were included for stormwater management, on-site waste systems, conservation, forest management, spill response, hazardous materials transport and handling, data/information management, education/public involvement, and other topics. A joint strategy was agreed to for developing specific plans to meet the adopted goals. Eight high priority goals were selected first and plans have been completed and jointly adopted for each of the goals.

In 1998, the City, County, and District 10 formalized their joint commitment to protect and manage the lake through the joint adoption of an interlocal agreement and allocation of funding toward protection and management efforts in the watershed. A five-year program plan was developed for ten program areas. Specific priority was placed on activities related to watershed ownership, stormwater management, and urbanization/land development.

The watershed contains four urban areas: the City of Bellingham, which straddles the upper portion of the northern-most basin of the lake; Geneva, which is immediately south and east of Bellingham's city limits and is part of the city's urban growth area; Hillsdale, which is immediately north and east of Bellingham's city limits and is also part of the city's urban growth areas; and the Sudden Valley provisional urban growth area. In addition, it includes a variety of other zones, including resource, rural, and suburban zones. Over 75% of the watershed is in Forestry zoning and more than 73% of the current land use is forestry.

In 2003, there were approximately 2,730 existing dwelling units in the Lake Whatcom watershed located outside of the Bellingham UGA. Under the zoning adopted in January 2004, the gross potential build-out in this area is about 6,507 total dwelling units. Therefore, even under the more restrictive zoning adopted in January of 2004, there could be a significant amount of new development in the watershed.

Water and sewer service are provided by Water District 10. Capacity problems in the district's sewer line, which serves Geneva and Sudden Valley, have caused overflows into the lake in the past. An aggressive program to preclude stormwater infiltration has eliminated the overflow problems to a large extent. In addition, the district has a contractually limited flow capacity to Bellingham. The Lake Louise Road sewage interceptor was constructed in January 2003 to carry waste water from Sudden Valley and Geneva and serves as a complement to the Lake Whatcom Boulevard trunk line. The interceptor was designed to service full build-out of Sudden Valley and Geneva. Properties with septic tanks are required to connect to the sewer system within five years of completion of the project.

There are several pending subdivisions in the area which are being proposed at less than full density but which will increase the overall development level outside of urban areas to a significant degree.

In 2004, the Department of Natural Resources (DNR) Board on Natural Resources adopted the Lake Whatcom Landscape Plan. This plan provides additional protections on state managed lands within the Lake Whatcom watershed. The plan provides additional protections on streams and potentially unstable slopes not normally included in forest practices in Washington State. If the DNR exchanges land from the watershed, the protections provided by the plan would not be applicable to the new owner.

In 2006 the Whatcom County Council approved funding to study reconveyance of DNR managed County Forest Board Lands.

Chapter 11: Environment, contains more discussion of Lake Whatcom issues and includes additional goals and policies related to watershed management, stormwater, and water quality.

GOAL 2PP: **Prioritize the Lake Whatcom area as an area to minimize development, repair existing storm water problems, specifically for phosphorus, and ensure forestry practices do not negatively impact water quality. Provide sufficient funding and support to be successful.**

Policy 2PP-1: Work with property owners to find acceptable development solutions at lower overall densities than the present zoning allows.

Policy 2PP-2: Develop a storm drainage utility district or other funding mechanism to deal with the unique problems of development in a drinking water watershed.

Policy 2PP-3: Recognize that all users of Lake Whatcom water have an interest in the resource and should share in the cost of its protection.

Policy 2PP-4: Work cooperatively with the City and Water District 10 to identify, review, and, as appropriate, recommend changes to existing monitoring programs that will address the needs of the various jurisdictions. Place a particular focus on the information needed to evaluate the impacts of additional development in the watershed. Include an analysis of the diversion from the Middle Fork of the Nooksack. Coordinate effort with the Lake Whatcom Management Committee process.

Policy 2PP-5: Evaluate and pursue, as appropriate, the use of incentives to encourage voluntary lot consolidation, transfer or purchase of development rights, current use taxation, and participation in open space conservation programs.

Policy 2PP-6: Do not allow density bonuses within the Lake Whatcom Watershed.

Policy 2PP-7: Work cooperatively with the City and Water District 10 to develop benchmarks to determine the effectiveness of management options; when goals have been achieved; or when additional actions are necessary.

Policy 2PP-8: Continue to develop and refine structural and non-structural best management practices (BMPs), both voluntary and required, to minimize development impacts within the Lake Whatcom watershed.

Policy 2PP-9: Work to keep Whatcom County Forest Board and Forest Purchase lands within the Lake Whatcom watershed in public ownership, and support managing forestry on said lands in a manner that minimizes sediment and phosphorus yields from streams.