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3
4 WHATCOM COUNTY COUNCIL
5 **Regular County Council**
6

7 March 30, 2010
8
9

10 **CALL TO ORDER**

11
12 Council Chair Sam Crawford called the meeting to order at 6:58 p.m. in the Council
13 Chambers, 311 Grand Avenue, Bellingham, Washington.
14
15

16
17 **ROLL CALL**

18
19 **Present:** Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken
20 Mann, Carl Weimer, L Ward Nelson
21 **Absent:** None
22
23
24

25 **FLAG SALUTE**
26
27

28
29 **ANNOUNCEMENTS**

30
31 Crawford stated the Committee of the Whole had a **discussion regarding the**
32 **proposed ordinance amending Whatcom County Code 2.02, County Council**
33 **(AB2010-143A)** and a **discussion regarding the proposed ordinance amending**
34 **Whatcom County Code 2.03, Boards and Commissions (AB2010-143B)**. They are
35 working on the appointment process in the Code.
36
37

38 **MINUTES CONSENT**

39
40 ***Brenner moved*** to approve the Minutes Consent Items.
41

42 The motion carried by the following vote:

43 **Ayes:** Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (6)

44 **Nays:** None (0)

45 **Absent:** Nelson (out of the room)(1)
46

- 47 1. **SURFACE WATER WORK SESSION FOR FEBRUARY 16, 2010**
48
49 2. **COMMITTEE OF THE WHOLE FOR FEBRUARY 23, 2010**
50
51 3. **REGULAR COUNTY COUNCIL FOR FEBRUARY 23, 2010**
52
53 4. **COMMITTEE OF THE WHOLE FOR MARCH 16, 2010**

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2
3 **OPEN SESSION**
4

5 The following people spoke:
6

- 7
- 8 • *(Clerk's Note: The first speaker requested that his/her testimony not be*
 - 9 *included in the minutes.)*
 - 10 • Mike Gleason, 4161 Mosquito Lake Road, spoke E-Verify.
 - 11 • Jeff McKay, 4216 Sucia Drive, spoke on E-Verify.
 - 12 • Jeremiah Chaussee, 6079 Shannon Avenue, Ferndale, spoke on E-verify.
 - 13 • Elizabeth Gleeson, 4161 Mosquito Lake Road, spoke on E-Verify.
 - 14 • Bob Wiesen, 3314 Douglas Road, spoke on limited areas of more intense rural
 - 15 development (LAMIRDS) and the pipeline ordinance.
 - 16 • Paul Issacson, 3940 Issacson Road, spoke on councilmembers treating people
 - 17 with respect.
 - 18 • Joan Carson, Resident, spoke on E-Verify.

19 Brenner stated she would like an update on E-Verify.
20

21 Crawford stated the Human Resources Division sent a lengthy memo regarding E-
22 Verify. Conceptually, most councilmembers seem to approve the idea, but there is more to
23 implementation than they thought. The administration is still pursuing E-Verify. They are
24 working on the issue. There is no evidence that the County or any of its contractors have
25 ever hired an illegal alien. No evidence has been presented for that. They are making it a
26 priority, but the Council also has a lot of priorities, and the myriad of Council issues is
27 broader than imaginable. Congress and many governments are going through this same
28 struggle. Congress is trying to fix some of the things that are broken with E-Verify. That
29 doesn't dissuade the County Council from implementing it as it is practical.
30

31 Kershner stated she met with Human Resources staff recently to talk about E-Verify.
32 That's the reason they received a memo.
33

34
35 **PUBLIC HEARINGS**
36

37 **1. RESOLUTION ADOPTING THE WHATCOM COUNTY COMPREHENSIVE SOLID &**
38 **HAZARDOUS WASTE MANAGEMENT PLAN (AB2010-141)**
39

40 Crawford opened the public hearing and, hearing no one, closed the public hearing.
41

42 ***Kershner moved*** to approve the resolution.
43

44 Knutzen asked where they are on the goal of 50 percent recycling.
45

46 John Hutchings, Public Works Department, stated 40 to 50 percent is the range of
47 where they are at, according to records at the Department of Ecology.
48

49 Weimer stated he is against the resolution, as a protest. It doesn't seem to make
50 any difference. The Department of Ecology doesn't seem to care. There are no specific
51 programs, concerns, priorities, or budgets. The plan is for 2008 through 2012, so the plan
52 is almost half over before they even received it. Waste prevention, the highest priority,
53 has no programs associated with it. It's copied from the Snohomish County plan verbatim.

1 They didn't even tweak it for Whatcom County. The Department of Ecology doesn't really
2 approve of the plan. County staff is about to be cut in half. All the programs for waste and
3 pollution prevention have been eliminated. This plan doesn't discuss any of those problems.
4 All the Department of Ecology grant money now goes to a lower priority, the Disposal of
5 Toxics Program, which serves less than five percent of the county population. There is no
6 discussion of cost control, so they could proceed with other projects. They have a goal for
7 recycling rates, but they haven't done any studies to know their true recycling rate. They
8 don't even know where the recycled materials from this community go. It's not much of a
9 plan. The plan has a list of good ideas, but no priorities or good movement forward. The
10 Department of Ecology doesn't have the staff to help write it well. The Department of
11 Ecology suggested that Whatcom County approve the plan, because it would be easier to
12 amend it without solid waste staff than to start over. He described the history of the plan.
13 The Washington Utilities and Transportation Commission rebuked Whatcom County because
14 the County's solid waste ordinances conflict with what is actually happening.
15

16 Brenner asked if the Solid Waste Advisory Committee approved the plan. Hutchings
17 said it did. This has been in the works since 2004. There was a move to get an outside
18 consulting firm to develop the document. At that point, staff decided that the Solid Waste
19 Division staff would work on it, with the help of the Department of Ecology and the Solid
20 Waste Advisory Committee (SWAC). That went on for quite some time. A couple of years
21 ago, the document was mostly complete. It underwent State Environmental Policy Act
22 (SEPA) review, which took a little while. It was discussed extensively by the Solid Waste
23 Advisory Committee. Review by the Department of Ecology took nearly a year. Public
24 Works staff integrated additional information into the appendix of this document. It
25 remains a 2008 document because they would have to redo a number of those
26 conversations to make it a 2010 document. The analysis in the appendices remain the
27 status quo as of 2008, when the initial draft was put forward. It's unfortunate that it has
28 taken this long. A plan is in place now. This would be the third update to the existing plan.
29 The Department of Ecology gave guidance to the County to get away from some of the
30 specificity that was provided for in the earlier documents. In some cases, certain activities
31 were called out. It was suggested that certain organizations could accommodate the needs
32 of the County. That wasn't necessarily appropriate. Those solid waste objectives ought to
33 be written in a generic fashion so work plans could be developed to deal with the level of
34 specificity that is necessary. He agrees that it would behoove Whatcom County to have
35 more discussion about how to implement some of these activities. They have to do some
36 prioritization to do that. He continued to describe the history of the plan. He suggests the
37 Council approve the plan today. They can have more detailed discussion about what to do
38 next during the budget cycle.
39

40 Knutzen asked about the Health Department implementing small quantity
41 generators. Hutchings stated small quantity generators are businesses that produce
42 moderate hazardous waste. The Disposal of Toxics Waste Facility has been successful, but
43 the question is whether the County is providing an inexpensive mechanism for people to get
44 rid of their moderate risk waste, as opposed to investing in trying to reduce the use of those
45 wastes. There is a philosophical question.
46

47 **Brenner** stated she would like to table this item. She has issues that might need to
48 be discussed in Executive Session. She **moved** to refer the resolution to Committee of the
49 Whole, possibly in Executive Session, for 15 minutes in two weeks.
50

51 Karen Frakes, Prosecutor's Office, stated the type of issue Councilmember Brenner
52 wants to discuss should be discussed in Executive Session.
53

1 Nelson stated this motion is out of order at this time. They haven't had adequate
2 discussion of the merits of the information. He would like to get some clarity on timelines.
3

4 The motion to refer to Committee of the Whole failed by the following vote:

5 **Ayes:** Brenner and Weimer (2)

6 **Nays:** Nelson, Crawford, Knutzen, Mann and Kershner (5)
7

8 Crawford stated he supports the resolution. As they discuss budget priorities, they
9 can talk about taking on some of these things. There isn't much harm in copying
10 Snohomish County's plans. That County faces similar issues. The State Department of
11 Ecology sent a letter saying it worked for a year on the plan, to its satisfaction.
12

13 The motion to approve the resolution carried by the following vote:

14 **Ayes:** Nelson, Crawford, Knutzen, Mann and Kershner (5)

15 **Nays:** Brenner and Weimer (2)
16
17

18 **CONSENT AGENDA**

19
20 **Mann** reported for the Finance and Administrative Services Committee and **moved**
21 to approve Consent Agenda Items one through nine.
22

23 The motion carried by the following vote:

24 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

25 **Nays:** None (0)
26

- 27 1. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
28 **SERVICES AGREEMENT BETWEEN WHATCOM COUNTY AND SIEMENS**
29 **INDUSTRY, INC. FOR TECHNICAL SUPPORT FOR THE HVAC CONTROLS FOR**
30 **THE COUNTY COURTHOUSE, JAIL, JAIL WORK CENTER AND NW ANNEX, IN**
31 **THE AMOUNT OF \$21,771 (AB2010-150)**
32
- 33 2. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A LEASE**
34 **BETWEEN WHATCOM COUNTY AND WHATCOM COUNTY FIRE PROTECTION**
35 **DISTRICT NO. 21 FOR THE COST OF RENT AND UTILITIES AT THE LAUREL**
36 **FIRE STATION, IN THE AMOUNT OF \$44,222.75 (AB2010-151)**
37
- 38 3. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD THE BID AND**
39 **ENTER INTO A CONTRACT WITH SINGLE SOURCE BIDDER, THE BELLINGHAM**
40 **HERALD, FOR OFFICIAL PRINTING SERVICES (AB2010-152)**
41
- 42 4. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A**
43 **CONTRACT WITH SOLE SOURCE VENDOR, THOMSON WEST, FOR ON LINE**
44 **AND HARD BOUND RESEARCH TOOLS FOR THE WHATCOM COUNTY LAW**
45 **LIBRARY, IN THE AMOUNT OF \$25,291 (AB2010-153)**
46
- 47 5. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #10-06**
48 **TO LOW BIDDER, MCASPHALT INDUSTRIES, FOR DELIVERY AND SUPPLY OF**
49 **ASPHALTIC EMULSIONS, IN THE ESTIMATED AMOUNT OF \$840,000**
50 **(AB2010-154)**
51
- 52 6. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AUTHORIZE THE**
53 **PURCHASE OF THE ANNUAL 2010 SUPPLY OF WATERBORNE TRAFFIC LINE**

1 PAINT BY PUBLIC WORKS MAINTENANCE AND OPERATIONS USING AN
2 INTERLOCAL AGREEMENT WITH PIERCE COUNTY, THROUGH VENDOR PERVO
3 PAINT PRODUCTS, IN THE AMOUNT OF APPROXIMATELY \$450,000
4 (AB2010-155)
5

6 7. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A LOCAL
7 AGENCY STANDARD AGREEMENT BETWEEN WHATCOM COUNTY AND CH2M
8 HILL, INC. FOR GEOTECHNICAL INVESTIGATION, ANALYSIS, AND DESIGN
9 SERVICES FOR THE SOUTH PASS ROAD STRUCTURAL SLOPE REPAIR
10 PROJECT, IN THE AMOUNT OF \$39,990.03 (AB2010-156)
11

12 8. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO AN
13 INTERLOCAL AGREEMENT BETWEEN LUMMI NATION AND WHATCOM
14 COUNTY RELATED TO THEIR AMERICAN RECOVERY AND REINVESTMENT ACT
15 FUNDED PROJECT TO RAISE A SEGMENT OF MARINE DRIVE BETWEEN
16 LUMMI SHORE ROAD AND COUNTY BRIDGE #5 (AB2010-157)
17

18 9. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
19 PURCHASE AND SALE AGREEMENT WITH THE NATURE CONSERVANCY FOR
20 THE ACQUISITION OF APPROXIMATELY 146 ACRES FOR PARK PURPOSES AT
21 LILY POINT, IN THE AMOUNT OF \$1,316,915 (AB2010-158)
22

23
24 **OTHER ITEMS**
25

26 1. ORDINANCE AMENDING THE 2010 WHATCOM COUNTY BUDGET, EIGHTH
27 REQUEST, IN THE AMOUNT OF ~~\$462,943~~ \$542,943 (AB2010-142)
28

29 *Mann* reported for the Finance and Administrative Services Committee and *moved*
30 to adopt the ordinance.
31

32 The motion carried by the following vote:

33 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

34 **Nays:** None (0)
35

36 2. RESOLUTION APPROVING THE ALLOCATION RECEIVED FROM THE STATE OF
37 WASHINGTON OF RECOVERY ZONE FACILITY BOND TO THE PORT OF
38 BELLINGHAM (AB2010-148)
39

40 *Mann* reported for the Finance and Administrative Services Committee and *moved*
41 to approve the resolution.
42

43 The motion carried by the following vote:

44 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

45 **Nays:** None (0)
46

47 3. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO EXECUTE A
48 QUITCLAIM DEED WITH THE STATE OF WASHINGTON DEPARTMENT OF
49 TRANSPORTATION FOR THE SALE OF APPROXIMATELY 10,424 SQUARE FEET
50 OF PROPERTY AT THE INTERSECTION OF MOUNT BAKER HIGHWAY AND
51 SMITH ROAD FOR THE COMPLETION OF A ROUNDABOUT, IN THE AMOUNT
52 OF \$12,600 (AB2010-149)

1
2 **Mann** reported for the Finance and Administrative Services Committee and *moved*
3 to approve the request.

4
5 The motion carried by the following vote:

6 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

7 **Nays:** None (0)

8
9 **4. RESOLUTION DESIGNATING A RECOVERY ZONE FOR PURPOSES OF**
10 **SECTIONS 1400U-1 AND 1400U-2 OF THE INTERNAL REVENUE SERVICE**
11 **CODE OF 1986, AS AMENDED, AND THE AMERICAN RECOVERY AND**
12 **REINVESTMENT ACT OF (AB2010-167)**

13
14 **Mann** reported for the Finance and Administrative Services Committee and *moved*
15 to approve the resolution.

16
17 The motion carried by the following vote:

18 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

19 **Nays:** None (0)

20
21 **5. NOMINATIONS AND APPOINTMENT TO FILL VACANCY ON DRAINAGE**
22 **IMPROVEMENT DISTRICT #3. APPLICANTS: LOREN VANDERYACHT**
23 **(AB2010-120)**

24
25 **Nelson moved** to appoint Loren Vanderyacht by acclamation.

26
27 The motion carried by the following vote:

28 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

29 **Nays:** None (0)

30
31 **6. NOMINATIONS AND APPOINTMENT TO FILL VACANCY ON DRAINAGE**
32 **IMPROVEMENT DISTRICT #15. APPLICANTS: JERALD VISSER (AB2010-**
33 **121)**

34
35 **Nelson moved** to appoint Jerald Visser by acclamation.

36
37 The motion carried by the following vote:

38 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

39 **Nays:** None (0)

40
41 **7. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE'S APPOINTMENT OF**
42 **BETH MORGAN AND GERALD KERN TO THE FOOTHILLS SUB-AREA PLAN**
43 **ADVISORY COMMITTEE (AB2010-161)**

44
45 **Nelson moved** to confirm the appointments.

46
47 The motion carried by the following vote:

48 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

49 **Nays:** None (0)

50
51 **8. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE'S APPOINTMENT OF**
52 **ALTHEA WILSON AND TERESA BOSTETER TO THE WHATCOM COUNTY**
53 **SUBSTANCE ABUSE ADVISORY BOARD (AB2010-162)**

1
2 **Brenner moved** to confirm the appointments.
3

4 The motion carried by the following vote:

5 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

6 **Nays:** None (0)
7

- 8 **9. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE'S RE-APPOINTMENT**
9 **OF SHERI EMERSON AND CHERIE STUTSMAN TO THE BELLINGHAM-**
10 **WHATCOM COUNTY COMMISSION AGAINST DOMESTIC VIOLENCE (AB2010-**
11 **163)**
12

13 **Mann moved** to confirm the reappointments.
14

15 The motion carried by the following vote:

16 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

17 **Nays:** None (0)
18

- 19 **10. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE'S APPOINTMENTS OF**
20 **HEATHER MCPHEE, ARTHUR REBER, DWAYNE HUNT, LOUISE MUGAR AND**
21 **MARCO AURILIO TO THE POINT ROBERTS COMMUNITY ADVISORY**
22 **COMMITTEE (AB2010-164)**
23

24 **Brenner moved** to confirm the appointments.
25

26 The motion carried by the following vote:

27 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

28 **Nays:** None (0)

29 Motion carried 7-0
30

- 31 **11. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE'S REAPPOINTMENT,**
32 **CONCURRENT WITH THE CITY OF BELLINGHAM, OF BARBARA PLASKETT, TO**
33 **THE BELLINGHAM-WHATCOM COUNTY HOUSING AUTHORITIES BOARD OF**
34 **COMMISSIONERS (AB2010-165)**
35

36 **Nelson moved** to confirm the reappointment.
37

38 The motion carried by the following vote:

39 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

40 **Nays:** None (0)
41

42
43 **INTRODUCTION ITEMS**
44

45 Crawford stated Introduction Items three and four are withdrawn, item seven
46 includes a substitute version, and item eight has been added, for a total of six Introduction
47 Items.
48

49 **Mann moved** to accept the Introduction Items.
50

51 The motion carried by the following vote:

52 **Ayes:** Nelson, Crawford, Brenner, Weimer, Knutzen, Mann and Kershner (7)

53 **Nays:** None (0)

- 1
- 2 1. RECEIPT OF AN APPEAL OF THE HEARING EXAMINER'S DECISION ON
- 3 APL2009-0023, FILED BY WESLEY MUSSIO (AB2010-052)
- 4
- 5 2. RECEIPT OF AN APPEAL OF THE HEARING EXAMINER'S ON APL2009-0024,
- 6 FILED BY DANIEL JOHNSON (AB2010-114)
- 7
- 8 3. ORDINANCE AMENDING WHATCOM COUNTY CODE 2.02, COUNTY COUNCIL
- 9 (AB2010-143A)
- 10
- 11 4. ORDINANCE AMENDING WHATCOM COUNTY CODE 2.03, BOARDS AND
- 12 COMMISSIONS (AB2010-143B)
- 13
- 14 5. ORDINANCE IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF
- 15 NEW APPLICATIONS FOR WIND ENERGY SYSTEMS (WES) GREATER THAN
- 16 500 KILOWATTS, OR MULTIPLE WES PER PARCEL WITH A CUMULATIVE
- 17 RATED OUTPUT ABOVE 100 KILOWATTS (AB2010-116A)
- 18
- 19 6. ORDINANCE AMENDING WHATCOM COUNTY CODE 20.80.210, MINIMUM
- 20 SETBACKS, TO IMPLEMENT A TEN FOOT SETBACK FOR PROPERTIES ALONG
- 21 THE US-CANADA BORDER (AB2010-166)
- 22
- 23 7. RESOLUTION AMENDING THE 2010 ANNUAL CONSTRUCTION PROGRAM TO
- 24 INCLUDE POTENTIAL FEDERALLY GRANT FUNDED STRUCTURAL
- 25 REHABILITATION OF VARIOUS COUNTY HIGH VOLUME ROADWAYS
- 26 (AB2010-160)
- 27
- 28 8. ORDINANCE AMENDING THE WHATCOM COUNTY CODE, TITLE 20, TO
- 29 CLARIFY AND REVISE THE DEFINITION AND STANDARDS OF HOME
- 30 OCCUPATIONS (AB2010-047)
- 31

32 **OTHER BUSINESS**

33
34
35 Crawford stated there was discussion in the Planning and Development Committee
36 about final approval of plat applications. This item needs to go through the Planning
37 Commission.

38
39 David Stalheim, Planning and Development Services Department Director, stated the
40 extension does not go into effect until June 10.

41
42 Knutzen stated there is a settlement conference meeting beginning at 10 a.m. on
43 Monday, April 12, 2010 at Cornwall Church regarding appeals against the County due to the
44 urban growth area vote on November 24, 2009. The Cornwall Church can accommodate
45 everyone.

46 47 **REPORTS AND OTHER ITEMS FROM COUNCILMEMBERS**

48
49
50 Crawford stated he attended a community meeting on Lummi Island that was well-
51 attended. Ferry negotiation continues.

1 **ADJOURN**

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5
6

The meeting adjourned at 8:01 p.m.

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

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Dana Brown-Davis, Council Clerk

Sam Crawford, Council Chair