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WHATCOM COUNTY COUNCIL
Special Committee Of The Whole

April 27, 2010

CALL TO ORDER

Council Chair Sam Crawford called the meeting to order at 1:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner, L. Ward Nelson and Carl Weimer.

Absent: None.

1. UPDATE ON URBAN GROWTH AREA ISSUES AND DISCUSSION OF THE COUNCIL PLANNING AND POLICY ANALYST'S ROLE IN PREPARING ORDINANCES (AB2010-054)

Crawford stated the Council approved a resolution to amend the urban growth areas (UGAs). The Council received communication from the Executive that it was more appropriate for the Council staff to generate an ordinance, rather than Planning Department staff. The Executive sent another email stating that if any portion of Caitac were included in an ordinance, he would be inclined to veto the ordinance unless it passed with five or more votes. The City of Ferndale sent correspondence that asked the County to consider the Ferndale UGA separate from all other requests. The City of Blaine doesn't want the Shintaffer properties in the urban growth area (UGA). Given those developments, he called this meeting to decide where they are headed with how they create an ordinance. If they are going to amend an ordinance that is responsive to the settlement process, Council Policy Analyst Rebecca Craven should work on it. The Committee must discuss and agree on what that ordinance should look like and to assign that task to Ms. Craven.

Rebecca Craven, Council Policy Analyst, stated other issues will result from the geographic decision, such as the record to support allocating additional population to expanded areas or adjusting the land capacity analysis. There are questions about boundaries if the three private proposals in the Blaine UGA are granted. They are not contiguous to the Blaine boundary right now. There is a question of the application of the current Whatcom County Code provision requiring transfer of development rights for UGA expansion. There is the question of the other two Ferndale areas for provisional UGA or urban reserve designation.

Discussion included not including Shintaffer Road at Blaine's request; developing an ordinance with Caitac and another ordinance without Caitac, and holding two hearings; the

1 process of developing and adopting an amending ordinance; whether the Council can adopt
2 an ordinance for each individual Comprehensive Plan amendment; waiting to review these
3 issues in 2011, and; the risk they run if the Council takes no action on settlement issues.
4

5 Mann stated he doesn't understand why they are doing this at all. They have an
6 ordinance. Wait until the review in 2011, when they have to review these things anyway,
7 with public input. No one is clear how to proceed at this point. They are doing something
8 they don't have to do. He doesn't want Ms. Craven to spend her time on these crazy,
9 possible permutations of different UGAs and land capacity analyses.
10

11 Weimer stated he agrees with Councilmember Mann. Few of these areas received
12 five votes from the councilmembers. It takes five votes to direct Ms. Craven to do
13 anything. He has no intention of voting in favor of any of them. If there aren't five votes to
14 direct her to include a particular area in an ordinance, it won't go forward.
15

16 Kershner stated they are talking about settling with more than 20 petitioners who
17 aren't happy with the decision made November, 2009. They are talking about a
18 Comprehensive Plan that must be considered all together. If they don't take action, 20
19 petitioners will legally challenge the County. They need to develop an ordinance that the
20 Council can reasonably support, forward it to the Executive, and let the process work. The
21 Executive isn't supposed to tell the Council what it should do. The Council is independent
22 from the Executive and elected by constituents to make decisions and move things forward.
23 The Council is obligated to do something.
24

25 Crawford stated they will assume that the common ground for any ordinance they
26 request from Ms. Craven is five votes on each area.
27

28 Craven read the voting results on each area from the April 12, 2010 settlement
29 conference.
30

31 Crawford stated the Council will go through these area-by-area. Even if an area
32 received four votes on April 12, see if another councilmember will agree to allow Ms. Craven
33 to work on the area. Go through the list of areas to see which areas have five vote or four
34 votes plus a reluctant councilmember who will allow an area into the ordinance, so they can
35 get the ordinance out to the public.
36

37 ***The Council concurred.***
38

39 City of Sumas, Hovel Road area only from reserve to UGA
40

41 Crawford asked the votes from April 12. They don't need to vote, because they've
42 already passed a resolution. Craven stated the vote from April 12 was six-to-one.
43

44 Crawford stated they are done with that. He asked if the councilmembers agree
45 they are done with it, or if they want to go back and revisit all these. They are done with it.
46

47 Mann asked how he voted on that item on April 12. Craven stated Councilmember
48 Mann voted yes.
49

50 Mann stated that if they were going to vote again, he would vote against all these,
51 because this is a complete waste of time.
52

1 Crawford stated they have five votes in favor of this area. This area will go into a
2 draft ordinance if they get to that point.

3
4 The City of Nooksack, the area east of the city

5
6 Craven stated there were five votes in favor of this area on April 12. Councilmember
7 Mann voted against it.

8
9 Mann stated he will keep his "no" vote.

10
11 Crawford stated they have five votes there.

12
13 Birch Bay UGA, Anchor Manor

14
15 Craven stated the Anchor Manor area received seven votes in favor on April 12.

16
17 Crawford stated it now has six votes.

18
19 Weimer stated it has five votes, because he is opposed.

20
21 West Blaine

22
23 Craven stated the vote for West Blaine on April 12 was not five votes. It was two-
24 to-two, with three abstentions.

25
26 Nelson stated he now has information that supports a vote, so he will vote "yes."

27
28 Crawford stated that's still not five votes. This area doesn't make the cut.

29
30 Blaine UGA - Beachmont, Windward, Foster

31
32 Craven stated the vote count for the three areas in the Blaine UGA included some
33 conditional votes. Councilmembers Nelson and Brenner stated they may want Windward
34 out.

35
36 Crawford stated Councilmember Mann is now a "no" vote.

37
38 Nelson stated his vote on this item is now a "no" vote.

39
40 Crawford stated they don't have five votes.

41
42 City of Ferndale

43
44 Craven stated the vote for these three areas on April 12 were three "yes" votes, two
45 conditional "yes" votes, and two "no" votes. Councilmember Nelson questioned the water
46 supply, and Councilmember Knutzen questioned sewer planning. Councilmembers Weimer
47 and Mann were opposed.

48
49 Nelson asked about water supply in Ferndale area. He asked if the City will have
50 sufficient supply for these proposed areas when wells are put in.

51
52 Jori Burnett, City of Ferndale, stated the City has capacity with the Public Utilities
53 District (PUD) contract. Wells would maintain that same capacity, and give added capacity.

1 There is no concern that the PUD would withdraw. This is a voluntary thing the City is doing
2 to make sure it has capacity now and in the future. They haven't yet drilled all the wells,
3 but the City has the water rights to the wells. The City has dug two of the wells.

4
5 Nelson asked if two wells already dug will meet needs for these urban growth areas
6 now and in the future. Burnett stated that's correct.

7
8 Knutzen stated the City has adequate sewer to meet the needs.

9
10 Crawford asked if the analysis is for their capital facilities plan. Burnett stated it is.

11
12 Crawford asked how the councilmembers vote now.

13
14 Kershner stated she votes "yes."

15
16 Nelson stated he votes "yes."

17
18 Mann stated he votes "no."

19
20 Crawford stated he votes "yes."

21
22 Brenner stated she votes "yes."

23
24 Knutzen stated he votes "yes."

25
26 Weimer stated he votes "no."

27
28 Crawford stated these areas are in.

29
30 Craven stated that the areas for the City of Ferndale include changing Vista Malloy
31 from UGA reserve to UGA and including the provisional additions of Enterprise Road in the
32 north and Slater Road in the South, as shown on the map entitled "Proposed 2010 County
33 Action" and submitted by the City.

34
35 Bellingham UGA – Yew Street Road, reserve to UGA

36
37 Craven stated the votes for this area on April 12 were four-to-two, plus one
38 conditional yes, depending on urban levels of service.

39
40 There was discussion on the change to Yew street from UGA reserve to UGA;
41 developing the road improvements to City standards and who would pay for that upgrade,
42 and; developing an interlocal agreement for annexation that obligates the City to pay for
43 City standard upgrades.

44
45 Crawford stated that for this purpose today, they won't have a new negotiated
46 interlocal agreement with the City. Therefore, he will take Councilmember Brenner's vote
47 as a "no" vote.

48
49 Weimer stated he's against this area today because they don't know what would be
50 reimbursed at the time of annexation. There is much more to do at Yew Street Road. Put
51 this off until 2011 until it's more developed.

1 Nelson stated the County already put in projects at Yew Street Road, to City
2 standards. Those are areas that have always been planned for. He asked what that area
3 is, if it isn't a UGA.
4

5 Brenner stated that if it isn't a UGA, there's no legal requirement of the County to
6 upgrade the road to City standards. If the area is in the UGA, the County does have a legal
7 requirement. Either take the area out of the UGA, or create an interlocal agreement that
8 says the upgrades will be done at the time of annexation, if legal. Put this on hold until
9 they get a legal opinion. Developers can still develop to those standards, and obtain
10 latecomer fees. She doesn't want the County to be on the hook.
11

12 Crawford asked if the councilmembers want to change the Yew Street Road area
13 from its current reserve status to full UGA status, as it has been for the last 15 years.
14

15 Kershner stated she votes "yes."
16

17 Nelson stated he votes "yes."
18

19 Mann stated he votes "no."
20

21 Crawford stated he votes "yes."
22

23 Brenner stated she votes "no."
24

25 Knutzen stated he votes "yes."
26

27 Weimer stated he votes "no."
28

29 Crawford stated they did not get five votes.
30

31 Bellingham UGA – Caitac 32

33 There was discussion about the benefits of the Caitac development; whether the
34 process to approve Caitac is more complex than other changes; revisiting the population
35 allocation if Caitac were included; the cumulative effect of adding all these areas back into
36 the UGA; restoring areas that used to be in the urban growth areas; not forcing the Caitac
37 area on the City of Bellingham; where the City will put its growth; the Caitac development
38 being in the City of Bellingham's Comprehensive Plan, and; whether or not the City of
39 Bellingham wants Caitac in the UGA.
40

41 Kershner stated she votes "yes."
42

43 Nelson stated he votes "yes."
44

45 Mann stated he votes "no."
46

47 Crawford stated he votes "yes."
48

49 Brenner stated she votes "no."
50

51 Knutzen stated he votes "yes."
52

53 Weimer stated he votes "no."

1
2 Crawford stated there were not five votes for the full Caitac development.
3

4 Craven stated the following areas received five or more votes: Sumas/Hovel Road;
5 Nooksack, east of the city; Birch Bay/Anchor Manor, and; Ferndale's Vista Malloy and the
6 north and south commercial areas.
7

8 There was discussion about revisiting the question of West Blaine and whether the
9 planned unit development (PUD) process is complete.
10

11 **Kershner moved** to include the West Blaine area, and then remove it after
12 Councilmember Brenner's tour, if necessary.
13

14 Brenner stated she's not interested in that.
15

16 **Kershner withdrew** her motion. She **moved** to reconsider the Caitac proposal of
17 the 25/30 percent solution in the southern area, to include that portion in the UGA.
18

19 The motion failed for lack of a supermajority by the following vote:
20

21 **Ayes:** Crawford, Knutzen, Kershner and Nelson (4)

22 **Nays:** Brenner, Mann and Weimer (3)
23

24 Crawford asked about the Department of Commerce 60-day review requirement and
25 June 1 deadline. He asked what happens when the County doesn't meet the deadline.
26

27 Karen Frakes, Prosecutor's Office, stated the County will have to ask for another
28 extension.
29

30 Brenner asked the Hearings Board's usual reaction if they see real progress being
31 made. Frakes stated she has no reason to believe the Hearings Board won't grant a
32 continuance, if all parties to the case are supportive. It would be silly to force everyone to
33 litigate something that no one wants to litigate.
34

35 Craven stated there is a remaining question of the application of the transfers of
36 development rights (TDRs) ordinance. A couple of aspects include the requirement for
37 TDRs in certain circumstances or the availability of a waiver in certain circumstances, and a
38 staff review for determination of whether or not expansion areas should be designated as
39 receiving areas.
40

41 Crawford stated have another Committee of the Whole meeting in two weeks for an
42 update on those topics. Hopefully they can prepare an ordinance two weeks after that. In
43 the meantime, talk to the Hearings Board about an extension.
44

45
46 **OTHER BUSINESS**
47

48 There was no other business.
49
50

1 **ADJOURN**

2

3 The meeting adjourned at 2:14 p.m.

4

5

6

7 _____
Bill Nixon, Minutes Transcription

Please contact the Council Office to obtain an
official, signed copy:

360-676-6690 or council@co.whatcom.wa.us

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17 _____
Dana Brown-Davis, Council Clerk

Sam Crawford, Council Chair