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Whatcom County Council
Special Surface Water Work Session

January 19, 2010

Council Chair Sam Crawford called the meeting to order at 10:30 a.m. in the Whatcom County Civic Center Annex, Second Floor Meeting Room, 322 N. Commercial, Bellingham, Washington.

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bob Knutzen, Ken Mann, L. Ward Nelson and Carl Weimer
Absent: None

SURFACE WATER WORK SESSION (AB2010-024)

1. REVIEW PUBLIC WORKS SURFACE WATER PROGRAM FINANCES AND BUDGETING

Crawford stated concerns that include funding for total maximum daily load (TMDL) response and whether or not Flood Control Zone District Advisory Board members representing special districts need to be officers of their respective districts. They also need to deal with how to structure the Flood Control Zone District Advisory Committee this year. One question is whether they really need alternates. Another question is whether the Council wants to meet in a surface water work session every month, or change the water resources schedule.

Jon Hutchings, Public Works Department, submitted and read from a presentation (*on file*). For the river and flood program, priorities one and two are public safety and public infrastructure. The stormwater program is largely about the Nooksack River, developed from federal and State mandates to governments to clean up their water bodies. The national pollutant discharge elimination system (NPDES) permit was applied to Whatcom County and the City of Bellingham. It's about managing pollution at its source and managing runoff that carries those sources to the water bodies. The Natural Resources program includes the shellfish protection districts.

Paula Cooper, Public Works Department, continued the presentation on the River and Flood Program, described the program areas, and showed photos that represent the flood program areas.

Hutchings continued the presentation on the stormwater program and described the program's role in the four program areas of the TMDL study, NPDES, Birch Bay Watershed and Aquatic Resource Management (BBWARM) District, and Lake Samish stormwater planning. He showed photos that represent the stormwater areas. Stormwater quality efforts have a benefit in managing stormwater flow, such as retention. At the point it exceeds engineered capacity, they want to route the water in a predictable way. There is no program solely for reducing stormwater quantity.

He continued the presentation on the natural resources programs and described the program's role in various program areas and surface water program revenues since 1993.

Nelson asked if the road funds are included in the slide on the surface water program revenues. Hutchings stated they are not.

1
2 Cooper stated they are, if they are doing a road project related to stormwater.
3

4 Hutchings stated that when they talk about building new roads, there are
5 requirements for mitigation for changes to the stormwater regime. Here, they are dealing
6 with stormwater problems, and fixing stormwater problems that already exist. He will
7 provide more detail.
8

9 Hutchings continued the presentation on the surface water program expenditures
10 since 1993.
11

12 Nelson stated include information on expenditures for plan development versus
13 expenditures on construction and implementation. He would like to see how they compare.
14

15 Hutchings continued the presentation on the year end balance in the water resource
16 funds since 1993.
17

18 Brenner stated the Birch Bay watershed fee is really a tax. It's not assessed by
19 direct benefit or impact. It's not different from the flood fee, which became a flood tax.
20

21 Weimer asked if much of the stormwater fund from the last two years is BBWARM
22 money. Hutchings stated it is not. The BBWARM money is a separate fund.
23

24 Weimer asked if it is included in the last two columns for year end flood balance.
25 Hutchings stated it is in the fund balance for the Flood Control Zone District, because it is a
26 cost center of that district. It generates about \$700,000 per year. Collection started in
27 2009.
28

29 Nelson stated this presentation is on information countywide. BBWARM is restricted
30 to that district.
31

32 Kershner asked why the year end balances are high. She asked if there is a
33 minimum amount to keep in these funds. Hutchings stated they generally want to keep \$5
34 million in the fund to respond to one catastrophic event, or two back-to-back modest
35 events, while retaining enough money to operate. He doesn't have an answer about why
36 fund balances were allowed to accumulate until 2001.
37

38 Nelson asked if the fund reserve is used to pay warrants, such as salaries. Hutchings
39 stated the reserve is not used to pay warrants. That comes from funds above the reserve.
40

41 There is a history to the flood fund and water resource program. Keep that in mind
42 as they discuss later what the future will look like. It's characterized by the ability of local
43 government to deal with flood issues, State mandated requirements to do water resource
44 planning, and a need to get stormwater work done. That colors the situation in which they
45 are now.
46

47 A question is where this money has gone over the course of history. He continued
48 the presentation on the cumulative Flood Control Zone District and water resources
49 expenditures.
50

51 Crawford asked if the funding breakdown for stormwater programs is the same as
52 river and flood, where about 50 percent of funding is going to project construction.
53 Hutchings stated it is, until recently. Now they are shifting funding to projects.

1
2 Crawford stated the Washington State Department of Transportation (WSDOT) sets
3 goals and is now spending over 86 percent on projects and 14 percent on overhead. If the
4 County is spending half on overhead and planning, that's concerning. Cooper stated that is
5 50 percent only of Flood Control Zone District fund monies, and doesn't include grants and
6 other work done by agencies such as the Army Corps of Engineers. A lot of the study
7 money has recently been spent on designs.

8
9 Crawford stated it would be nice to know how other counties do things, in terms of
10 their level of spending money on bricks and mortar as opposed to studies.

11
12 Brenner asked if 22 percent for administration is high, low, or average for any
13 business, government, or agency. Cooper stated it also includes all vehicles, space, and
14 other things.

15
16 Hutchings stated they can gather and present that information.

17
18 Crawford stated he wants to propose they reduce the flood tax imposed last year by
19 the end of this meeting. Reduce it back to where it was for 2011. A question is whether
20 they are being as efficient as possible with every dollar. Hutchings stated his presentation
21 will now be about how they do budgeting.

22
23 Brenner stated she heard recently of current adjudication. With all the money they
24 spent on water resource inventory area (WRIA), get water rights for farmers. She's
25 concerned about Whatcom County not participating on this adjudication. She wants an
26 update on these issues as soon as possible. Hutchings stated it is a settlement discussion,
27 not adjudication, and the parties are among the Tribes, State, and City of Bellingham.

28
29 Brenner stated farmers shouldn't have to rely on those agencies and jurisdictions for
30 their water rights.

31
32 Crawford asked how the County is involved in this settlement regarding the middle
33 fork diversion. Hutchings stated the County's interest is maintaining a level playing field for
34 all entities that may have a stake in the issue. In terms of a legal conversation, the County
35 is not at the table.

36
37 Brenner stated the County is at the table because it spent millions of dollars on
38 WRIA, primarily to negotiate water rights for the farmers.

39
40 Nelson stated the intent of WRIA was quantification issues and agriculture. A lot of
41 unused water rights were on the desk of the State Department of Ecology, and the County
42 wanted that cleaned up. It hasn't been. The water right issues regarding agriculture exist.
43 Because of those issues, the Tribes were brought on board. The Tribes' interest is to
44 maintain as large a water right as possible. Indirectly, there is a relationship between the
45 diversion and the quantity of water coming into the main channels. All jurisdictions have an
46 interest. Before the County can become involved, it has to see what happens between the
47 City of Bellingham and Tribes.

48
49 Hutchings stated they can have an executive session briefing if necessary.

50
51 Crawford asked if the majority of the session wants to discuss that in executive
52 session.

1 ***The Council concurred.***

2
3 Crawford stated the Council can schedule that topic toward the end of February.

4
5 Brenner stated they can also schedule a special meeting for executive session.

6
7 Roland Middleton, Public Works Department, continued the presentation on the water
8 resources integration project (CWRIP) and described the history of the project. The County
9 has done a lot of planning, and is now trying to shift toward implementation.

10
11 Crawford stated they have been saying they are going to make that shift for the past
12 ten years. Middleton stated he agrees. He described the origin and structure of the CWRIP.

13
14 Brenner asked how many of the projects will be outdated once they get to the point
15 of being ready for implementation. Hutchings stated they won't be outdated.

16
17 Middleton stated that the policy filters are up to the Council as the Board. As they go
18 through budgets, the Board will see where each project fits in the benefit ranking. Many
19 people and agencies ask the Board for funding for their water resource projects. Run all
20 those proposed projects through this ranking system. They are trying to shift away from
21 reactive decision-making, and be proactive about how decisions are made.

22
23 Knutzen asked the benefit ranking criteria. Middleton stated he can provide that
24 information.

25
26 Kershner asked if the database is fluid. Middleton stated it is. He works with the
27 administration and Council to park lower-ranked items that also don't have priority.

28
29 Nelson asked if they evaluate stormwater projects with water resource projects.
30 Hutchings stated they do. They are separate for budgeting efforts. The idea is to lead to
31 objective decision-making and determine the appropriate level of service.

32
33 Middleton stated advisory committees also have recommended priorities separate
34 from the CWRIP database. Those recommendations are taken into account. The benefit
35 evaluation score is one tool to figure out what to work on.

36
37 Brenner stated she doesn't always agree with the score of some things on the list of
38 projects.

39
40 Nelson asked where these things fit into standing Council committees. He asked if
41 stormwater and river and flood would be more appropriate with the Council Public Works
42 Committee. Hutchings stated they can talk about that more.

43
44 Nelson asked about a National Oceanic and Atmospheric Administration (NOAA)
45 weather collecting plane. Cooper stated that helps NOAA forecasters, which will help her
46 forecasts and predictions. It will fill holes in the data.

47
48 Nelson stated he wants more information on integration of the road fund with
49 stormwater and various projects, planning, and budgeting. In the past, it was easy to
50 identify road fund projects. Now, there is more pressure on the use and responsibility of
51 the road fund. He would like more information on the relationships of those funds.

52
53 **2. ESTABLISH 2010 SURFACE WATER WORK SESSION SCHEDULE**

1
2 Hutchings continued the presentation on the proposed surface water work session
3 schedule. At the March meeting, they would conduct a river tour.
4

5 Mann asked about Academy Road. Hutchings stated that during last January's flood,
6 lots of water sluiced down the road and came out through backyards in the City. It caused
7 a lot of private property-related problems, and the City asked about better stormwater
8 controls.
9

10 Mann asked if the road was built to standard, but there are still problems. Hutchings
11 stated that is correct.
12

13 Crawford stated there are questions about how that road got approved by the City.
14

15 There was discussion about the history and construction of Academy Road and
16 associated problems with private property and the City of Bellingham.
17

18 Mann asked for a quick summary of issues surrounding Swift Creek.
19

20 Crawford asked to include Swift Creek on the flood tour.
21

22 Hutchings described the history of and issues with Swift Creek.
23

24 Crawford asked about TMDL response, including \$300,000 for continued work on
25 TMDL response. He asked if they can have that discussion in the Finance Committee,
26 separate from financial implications.
27

28 He asked about Flood Control Zone District Advisory Committee geographic
29 representation members. He would like to revisit that issue and get a status update. They
30 are in a situation of disarray and confusion about the appointment process. They made
31 appointments for 2010. Revamp the board representation and make things clearer for
32 2011. Hutchings stated it's probably worthwhile to look at the geographic and special
33 district positions, as represented on the committee now. Note that there is a paucity of
34 representation from agriculture and the lower portion of the river. Those are two interests
35 they ought to consider when refilling vacated positions. They may provide balance through
36 that appointment process.
37

38 Crawford stated he wants to clear the confusion by the time they appoint positions
39 for 2011. Hutchings stated it depends on how the Board chooses to fund the water
40 resources fund. This year, he intends to bring the stormwater budget to the Advisory
41 Committee for some kind of review and advice. However, they were not seated as advisory
42 on stormwater issues. When they get to the end of the budget conversation in May, they
43 can begin discussing representation.
44

45 Brenner stated she needs specific answers on special districts. They shouldn't be
46 different from small cities. She asked if the special districts represented have elected
47 officials. Cooper stated diking and drainage districts have elected representatives.
48 Historically, the Advisory Committee positions haven't had to have one of those persons.
49

50 Brenner stated they should be elected district representatives.
51

52 Ron Bronsema, Flood Control Zone District Advisory Committee Chair, said that when
53 the committee was originally formed, there were no applicants for special district positions,
54

1 so they loosened the requirement to be a resident of the special district, not an elected
2 official of the district.

3
4 Brenner stated do one or the other, either elected representative or resident of, so it
5 is the same for small cities and special districts.

6
7 Crawford stated he would like to reconcile the Flood Control Zone District Board of
8 Supervisors with the County Council, creating a situation compatible with the Charter to
9 allow the Executive veto power. Reduce the flood tax increase that the Council did last
10 year. When they have the Committee of the Whole meeting next week, a half hour will be a
11 discussion with Council Policy Analyst Rebecca Craven on how she has been hired, how her
12 projects have evolved, and what projects she should continue to work on or begin to work
13 on. The discussion with Ms. Craven next week should be on which projects they want her to
14 work on, including the priorities of all councilmembers. He wants to bring the Flood Control
15 Zone District Board of Supervisors in line with the Council, rather than having a separate
16 Chair, if legally possible. Incorporate the Executive's role. Once they revisit the issue of
17 the new flood tax, they will have to discuss continuing the \$940,000 per year tax, which he
18 would like to eliminate. That is related to the discussion of budgeting.

19
20 Weimer stated an audit finding in the 1990's said the County Council and Flood
21 Control Zone District had to be separate entities. They were trying to fix that. He doesn't
22 know how the Executive can fit into that. Those are questions to ask. The audit last week
23 made it clear that they need to be separate in the books.

24
25 Crawford stated Prosecutor Dan Gibson felt there may be some latitude to include
26 the Executive if they desire. These are financial issues that will relate to the things in
27 today's presentation.

28
29 Brenner asked if that would be a big project.

30
31 Rebecca Craven, Council Policy Analyst, stated it may be a big project to work with
32 legal staff and figure it out. When they originally looked at it, the current Executive had no
33 interest in having veto power.

34
35 Crawford stated he heard that the Executive would have vetoed the tax increase if he
36 had veto power. That is something they will have to discuss.

37
38 **ADJOURN**

39
40 The meeting adjourned at 12:30 p.m.

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43 _____
44 Jill Nixon, Minutes Transcription

45
46 The Council approved these minutes on February 9, 2010.

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